

VILLAGE OF LAKE ZURICH
Board of Trustees
70 East Main Street

Tuesday, February 4, 2014, 7:00 p.m.

AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL:** Mayor Thomas Poynton, Trustee Jim Beaudoin, Trustee Jeff Halen, Trustee Mark Loewes, Trustee Jonathan Sprawka, Trustee Dan Stanovich and Trustee Steve O'Connor.

- 3. PLEDGE OF ALLEGIANCE**

- 4. PUBLIC COMMENT**

(This is an opportunity for residents to comment briefly on matters included on the agenda and otherwise of interest to the Board of Trustees.)

- 5. PRESIDENT'S REPORT**

(This is an opportunity for the Mayor to report on matters of interest to the Village.)

- A. Community Update**

- B. Proclamation Honoring 40 Year Employee Marie McBride**

- 6. CONSENT AGENDA**

(These titles will be read by the Village Clerk and approved by a single Roll Call Vote. Any item may be pulled from the Consent Agenda for discussion by any member of the Board)

- A. Approval of Minutes of the Village Board Meeting, January 20, 2014**

- B. Release of Letter of Credit for 1200 Flex Court.**

Summary: Village staff has reviewed the submitted Letter of Credit release request and has inspected and approved the completed site improvements. Staff concurs with the request and recommends that the Letter of Credit in the amount of \$6,333.25 be returned.

- C. Countryside Fire Protection District Agreement**

Summary: The Countryside Fire Protection District has requested that the Lake Zurich Dispatch Public Safety Answering Point (PSAP) agree to be their backup PSAP. The Village currently provides dispatch services for Kildeer, Hawthorn Woods, Island Lake, and the Lake Zurich Fire Protection District, as well as backup dispatch services for Wauconda. The Village dispatch center has the ability to provide the requested service without any disruption to the service provided to current service areas.

Recommended Action: Motion to approve the Consent Agenda as presented. (Roll Call Vote)

7. OLD BUSINESS

(This agenda item includes matters for action by the Board of Trustees.)

None at this time.

8. NEW BUSINESS

(This agenda item includes matters coming to the Board of Trustees for discussion and possible action.)

A. Semi-Monthly Warrant Register Dated February 4, 2014 Totaling \$763,343.61 (Trustee Halen)

Recommended Action: A motion to approve the semi-monthly warrant register dated February 4, 2014 totaling \$763,343.61.

B. An Ordinance Approving a Zoning Code Text Amendment with Regard to Medical Cannabis Dispensaries and Cultivation Centers (Assign Ord. #2014-2-957) (Trustee Loewes)

Summary: The proposed zoning application for a text amendment to allow medical cannabis cultivation centers and medical cannabis dispensaries as a special use within the I-Industrial District was unanimously approved by the Plan Commission on January 15th, 2014. The amendment establishes minimum distances of 2,500 feet from residential properties and 1,500 feet from nurseries, day cares, schools, parks, and places of worship. This amendment is based on recommendations of the Lake County Medical Marijuana Task Force.

Recommended Action: A motion to approve Ordinance # 2014-2-957 approving a zoning code text amendment with regard to medical cannabis dispensaries and cultivation centers.

C. An Ordinance Approving Budget Amendment No. 1 for Fiscal Year 2013/14 Budget (Assign Ord. #2014-2-958) (Trustee Halen)

Summary: An evaluation of the financial projections for the current fiscal year reveal a number of necessary budget amendments for the current fiscal year. These amendments are based on either actual figures or projected year-end estimates. The proposed Ordinance to amend the budget requires a two-thirds vote of the Village Board to be enacted.

Recommended Action: A motion to approve Ordinance # 2014-2-958, approving budget amendment number one for the fiscal year 2013/14 budget.

D. Supplementary Purchase of Salt and De-Icing Liquid (Trustee Stanovich)

Summary: Due to the large amount of salt and de-icing liquids that have been used so far this season, the approved budget amount is insufficient to last the remainder of the winter season. Staff is requesting a \$75,000 supplementary purchase in addition to the \$100,000 approved amount in the current budget.

Recommended Action: A motion to approve an increase of \$70,000 for the purchase of salt and an increase in \$5,000 for the purchase of de-icing liquid for a total supplementary purchase of \$75,000.

**E. Courtesy Review for Davenport Family Funeral Homes and Crematory
(Trustee Loewes)**

Summary: The owner of Davenport Family Funeral Home and Crematory is considering filing a zoning application for a proposed development for Lot 2 of the Plaza on the Pond Subdivision on South Old Rand Road. This would require a zoning code text amendment and a Special Use Permit. The Village Board can make a determination as to whether the application merits a hearing and consideration by the Plan Commission or should be summarily denied.

Recommended Action: A motion to forward the application from Jack Davenport to the Plan Commission for a public hearing.

9. TRUSTEE REPORTS

(This is an opportunity for Trustees to report on matters of interest to the Board of Trustees.)

10. VILLAGE MANAGER'S REPORT

(This is an opportunity for the Village Manager to report on matters of interest to the Board of Trustees.)

11. ATTORNEY'S REPORT

(This is an opportunity for the Village Attorney to report on legal matters of interest to the Board of Trustees.)

12. DEPARTMENT HEAD REPORTS

(This is an opportunity for department heads to report on matters of interest to the Board of Trustees.)

13. ADJOURNMENT

The Village of Lake Zurich is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations so that they can observe and participate in this meeting, or who have questions regarding the accessibility of the meeting or the Village's facilities, should contact the Village's ADA Coordinator at 847.438.5141 (TDD 847.438.2349) promptly to allow the Village to make reasonable accommodations for those individuals.

UNAPPROVED
VILLAGE OF LAKE ZURICH
BOARD OF TRUSTEES
70 EAST MAIN STREET
MONDAY, JANUARY 20, 2014, 7:00 P.M.

1. **CALL TO ORDER** by Mayor Thomas M. Poynton at 7.00pm.
2. **ROLL CALL:** Mayor Thomas Poynton, Trustee Jim Beaudoin, Trustee Jeff Halen, Trustee Mark Loewes, Trustee Jonathan Sprawka, and Trustee Dan Stanovich. Also present: Village Manager Jason Slowinski, Asst, Village Manager Roy Witherow, Community Services Dir. Mike Earl, Finance Dir. Jodie Hartman, I/T Dir. Michael Duebner, Fire Chief Dave Wheelock, Police Chief Kevin Finlon, Park and Rec. Manager Dave Peterson.
3. **PLEDGE OF ALLEGIANCE**
4. **PUBLIC COMMENT**
5. **PRESIDENT'S REPORT**
 - A. **Mayoral Appointment to Fill Unexpired Term of Trustee Seat.**
Mayor Poynton reported on the received resumes and stated that Steve O'Connor was to be presented as the appointee to the Board, with their advice and consent.
Motion was made by Mayor Poynton, seconded by Trustee Halen, to appoint Steve O'Connor to fill the unexpired term of Trustee until 4/30/2015.
AYES: 5 Trustees Beaudoin, Halen, Loewes, Sprawka, Stanovich.
NAYS: 0
ABSENT: 0
MOTION CARRIED.
Mayor Poynton gave the oath of office to Steve O'Connor who then took his seat on the dais.
 - B. **County Representative Craig Taylor** reported on items of interest from the Lake County Board.
 - C. **Community Update**
Mayor Poynton stated that there are new businesses in town; thanked Community Services for their snow removal efforts; sign up for Benchmarks e-newsletter
6. **CONSENT AGENDA**
 - A. **Approval of Minutes of the Village Board Meeting, January 6, 2014**
 - B. **An Ordinance Amending the Village Liquor Code to Increase the Number of Authorized Class B Liquor Licenses (Mariano's) ORD. #2014-1-952**
Summary: Mariano's has requested a Class B liquor license, authorizing the retail sale of beer and wine by restaurants when such sales are incidental to and complementary to the sale and service of food, for consumption on the premises where sold. The proposed Ordinance increases the number of Class B liquor licenses by one.
 - C. **An Ordinance Amending the Village Liquor Code to Increase the Number of Authorized Class C Liquor Licenses (Mariano's) ORD. #2014-1-953**
Summary: Mariano's has requested a Class C liquor license, authorizing the retail sale of alcoholic liquors, in original package form,

for consumption off premises where sold. The proposed Ordinance increases the number of Class C liquor licenses by one.

D. An Ordinance Amending the Village Liquor Code to Increase the Number of Authorized Class H-2 Liquor Licenses (Mariano's) ORD. #2014-1-954

Summary: Mariano's has requested a Class H-2 liquor license, authorizing the unlimited number of tastings, subject to the same conditions applicable to an H-1 retail/office single special event license. The proposed Ordinance increases the number of Class H-2 liquor licenses by one.

E. An Ordinance Amending the Village Liquor Code to Amend the "Number of Liquor Licenses" ORD. #2014-1-955

Summary: With the above Ordinances amending the number of liquor licenses issued by the Village, this Ordinance clarifies the total number of licenses and classifications used by the Village.

F. Reduction in Escrow Funds for Ryan Companies US, Inc

Summary: The developer of the Zurich Meadows Senior Housing project has requested a reduction in the funds held (\$86,416.00) for improvements connected to this project. Improvements were approved by Village staff and a Certificate of Occupancy was issued on May 17th, 2012. Staff recommends that bond #105517108 in the amount of \$86,416.00 be returned to Ryan Companies US, Inc.

G. Approval of Engineering Services with Manhard Consulting

Summary: With a restructuring of the municipal engineering function in 2013, the Village sought proposals from area municipal engineering firms. Ten responses were received from notable firms throughout the Chicago metropolitan area. After an evaluation of all the proposals, staff the Village Board enter into an agreement with Manhard Consulting to provide municipal engineering services beginning February 1, 2014 through January 31, 2015.

Recommended Action: Motion was made by Trustee Sprawka, seconded by Trustee Halen, to approve the Consent Agenda as presented.

AYES: 6 Trustees Beaudoin, Halen, Loewes, O'Connor, Sprawka, Stanovich.

NAYS: 0

ABSENT: 0

MOTION CARRIED.

7. OLD BUSINESS

None at this time.

8. NEW BUSINESS

A. Semi-Monthly Warrant Register Dated January 20, 2014 Totaling \$703,227.31

Recommended Action: A motion made by Trustee Halen, seconded by Trustee Loewes, to approve the semi-monthly warrant register dated January 20, 2014 totaling \$703,227.31

AYES: 6 Trustees Beaudoin, Halen, Loewes, O'Connor, Sprawka,

NAYS: 0

ABSENT: 0

MOTION CARRIED.

B. An Ordinance Restricting Parking on Clair View Court ORD. #2014-1-956

Summary: Residents on Clair View Court have had ongoing problems with vehicular parking obstructing the roadway and interfering with the flow of traffic, particularly at times when students are arriving and leaving nearby school grounds. The proposed Ordinance is a result of discussions between residents and the Community Police Advisory Committee to address resident concerns.

Recommended Action: A motion made by Trustee Beaudoin, seconded by Trustee Stanovich, to approve Ordinance #2014-1-956 restricting parking on Clair View Court.

AYES: 6 Trustees Beaudoin, Halen, Loewes, O'Connor, Sprawka, .

NAYS: 0

ABSENT: 0

MOTION CARRIED.

9. TRUSTEE REPORTS

Trustee Sprawka requested an update on the RFQ applicant. Village Manager Jason Slowinski reported that Teska Assoc. and the staff have been reviewing the application.

10. VILLAGE MANAGER'S REPORT

A. Monthly Department Reports and an updated Six point Downtown Action Plan which includes a column for status update.

11. ATTORNEY'S REPORT

There was none.

12. DEPARTMENT HEAD REPORTS

A. Community Services Department – Retail Vacancy Report, 4th Quarter 2013
Community Services Dir. Mike Earl reviewed the report and answered the Board's questions.

Mayor Poynton made a motion to change the next Board meeting to Tuesday, February 4th 2014 from Monday, February 3rd 2014, seconded by Trustee Beaudoin.

AYES: 6 Trustees Beaudoin, Halen, Loewes, O'Connor, Sprawka, .

NAYS: 0

ABSENT: 0

MOTION CARRIED.

13. ADJOURNMENT

Motion to adjourn was made by Trustee Sprawka, seconded by Trustee Loewes.

AYES: 6 Trustees Beaudoin, Halen, Loewes, O'Connor, Sprawka, .

NAYS: 0

ABSENT: 0

MOTION CARRIED.

Meeting adjourned at 7.37pm.

Respectfully submitted: Kathleen Johnson, Village Clerk.

Approved by:

Thomas M. Poynton, Village Mayor

Date.

70 E. Main Street
Lake Zurich, IL 60047



Phone: (847) 438-5141
Fax: (847) 540-1768
Web: www.LakeZurich.org

MEMORANDUM

Date: January 15, 2014

To: Jason T. Slowinski, Village Manager *JS*

From: Michael Brown, Public Works Manager

Copy: Michael J. Earl, Director of Community Services

Subject: Agenda item for Village Board Meeting on February 3, 2014

Issue:

The Village has received a copy of the correspondence from Tuf-Tite, Inc. requesting the return of the outstanding cash deposit for the Tuf-Tite addition at 1200 Flex Court.

Analysis:

Village staff has reviewed the request dated January 13, 2014 from Theodore Meyers of Tuf-Tite, Inc. A Final Inspection of the improvements has been completed and the Certificate of Occupancy was issued in the last quarter of 2012.

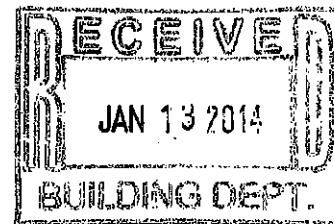
Recommendation:

Based on the aforementioned analysis, the Community Services Department finds the improvements to be acceptable. Therefore, we concur with the request and recommend that the cash deposit in the amount of \$ 6,333.25 be returned. This reduction will conclude the maintenance guaranty period.

w/ Attachments: Developer's release request dated January 13, 2014. (1 page)



January 13, 2014



Mr. Jason Slowinski, Village Administrator
VILLAGE OF LAKE ZURICH
70 E. Main Street
Lake Zurich, IL 60047

RE: Letter of Credit Release
Tuf-Tite Addition – 1200 Flex Court

Dear Mr. Slowinski,

Please accept this letter as our formal request to release and return the cash deposit that was accepted in lieu of a Letter of Credit for the Tuf-Tite Addition at 1200 Flex Court, Lake Zurich, IL.

The cash deposit was submitted in January of 2013 in the amount of \$6,333.25. This project was finished and occupancy obtained in January of 2013. All site work was completed early 4th Quarter 2012, and the landscaping has had a full year to stabilize.

Please advise if the Board will need to authorize the release and return of this deposit and, if so, when this item will be placed on the agenda.

Thank you for your cooperation. Should you have any questions or comments please do not hesitate to contact me.

Sincerely,

TUF-TITE, INC.

Theodore Meyers
President

Cc: Daniel Peterson, Manager Building and Zoning
Mike Brown, Manager Public Works

70 E. Main Street
Lake Zurich, IL 60047



AGENDA ITEM

6C

Phone: (847) 438-5141
Fax: (847) 540-1768
Web: www.LakeZurich.org

MEMORANDUM

Date: January 28, 2014

To: Jason T. Slowinski, Village Manager *JS*

From: Kevin Finlon, Interim Chief of Police

Subject: Countryside Fire Protection District PSAP backup

Issue: The Countryside Fire Protection District has requested that the Lake Zurich Dispatch PSAP (Public Safety Answering Point) agree to be the backup PSAP for the Countryside Fire Protection District PSAP.

Analysis: The Countryside Fire Protection District provides communications and dispatching services for fire and emergency medical service agencies. As a PSAP the Countryside Fire Protection District is required to have a backup PSAP in the event of a disruption to service at their facility. The Lake Zurich Dispatch Center, PSAP, currently is the backup PSAP for the Wauconda Police Department. Our dispatch center has the ability to provide the requested service without any disruption to the service provided to current service areas. The Countryside Fire Protection District acknowledges that any cost required to upgrade equipment to provide backup PSAP services is their sole responsibility.

Recommendation: Approve the Intergovernmental Agreement with amendments as recommended by Village Counsel.

w/ Attachments:

Intergovernmental Agreement between the Countryside Fire Protection District and the Village of Lake Zurich for Backup Emergency Communications as amended by the Lake Zurich Village Attorney.

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE COUNTRYSIDE FIRE PROTECTION DISTRICT AND THE
VILLAGE OF LAKE ZURICH
FOR BACKUP EMERGENCY COMMUNICATIONS**

THIS AGREEMENT is hereby made and entered into this _____ day of _____, 2014, by and between the Village of Lake Zurich, Illinois, a municipal corporation (hereinafter referred to as "Lake Zurich"), and the Countryside Fire Protection District, an Illinois special district, (hereinafter referred to as "Countryside").

WHEREAS, Countryside was created and exists under the terms of the Illinois Fire Protection District Act, 70 ILCS 705/1 and as part of its fire protection service provides communications and dispatching services for fire and emergency medical service agencies; and

WHEREAS, Lake Zurich provides emergency communications and dispatching services for the Lake Zurich Police Department, the Kildeer Police Department, the Hawthorn Woods Police Department, the Island Lake Police Department, the Lake Zurich Fire Department and the Lake Zurich Fire Protection District; and

WHEREAS, Countryside and Lake Zurich are each Public Safety Answering Points ("PSAPs") for purposes of the E9-1-1 system, which requires that each PSAP have a backup agency to provide emergency communications and dispatch services in the event of a disruption in the PSAP's abilities to provide those services at its own primary facility; and

WHEREAS, in order to ensure continuity of emergency communications and dispatch services in the event that Countryside is unable to provide services due to an emergency such as fire, flood, earthquake, attack, equipment malfunction or any other such cause, Countryside and Lake Zurich have agreed that Lake Zurich shall serve as the backup facility for Countryside until services can be restored; and

WHEREAS, the parties wish to set forth their agreement in writing and the parties have authority to enter into intergovernmental agreements for this purpose under 5 ILCS 220 of the Illinois Compiled Statutes.

NOW, THEREFORE, in consideration of the mutual benefits to be derived under this Agreement and the promises and agreements contained herein, the parties hereto agree as follows:

1. **Recitals**: The above recitals are hereby incorporated into this Agreement and made a part hereof as if fully recited herein.
2. **Purpose**: The purpose of this Agreement is to ensure the continuity of emergency communications and the response to 9-1-1 calls during periods of emergency in which Countryside is temporarily unable to provide for its own communications at its own primary facility. Under this Agreement, Lake Zurich will temporarily provide emergency communications service on Countryside's behalf and will provide space within its communications

facilities for the Countryside to operate emergency communications until normal service can be restored.

3. **Space and Improvements at Lake Zurich:** Lake Zurich shall provide space at its communications center at 200 Mohawk Trail in the Village of Lake Zurich, Illinois, for a backup communications center for use by Countryside. It is not anticipated that any significant improvements to the space will be required for Countryside's use. In the event that improvements are required, Countryside and Lake Zurich will agree on the scope of the improvements and construction or installation. Any furnishings or equipment required by Countryside will be the sole responsibility of Countryside to procure and install.
4. **Use of Space Not Exclusive:** Lake Zurich retains the right to use the space in its facility provided to Countryside during times when the space is not needed for backup emergency communications. Countryside shall take reasonable care to avoid damaging the Lake Zurich's furnishings and equipment and shall be liable for any damage sustained during that party's use.
5. **Backup Communications Service:** In the event an emergency occurs that results in the inability of Countryside to provide emergency communications and response to 9-1-1 calls at its own facilities, backup communications service shall be provided as follows:
 - a. Countryside will contact Lake Zurich to advise Lake Zurich of the need for services. Lake Zurich shall advise Countryside of Lake Zurich's ability to provide the services and, if Lake Zurich is in a position to do so, all emergency communications services for Countryside shall be switched to Lake Zurich. Upon switchover, Lake Zurich shall, to the extent of its abilities and resources, temporarily provide emergency communications services consisting of the following:
 - i. Receiving 9-1-1 calls and routine calls for fire and medical services for agencies served by Countryside; and
 - ii. Directing a response to said calls by either dispatching the appropriate fire or medical unit or forwarding the call to the appropriate agency for response; and
 - iii. Providing ongoing communications support to personnel in the field.
 - b. The services provided under subsection shall be provided until such time as communications personnel from Countryside arrive at Lake Zurich's facility to assist in handling calls for service.

- c. Upon restoration of normal emergency communications services at Countryside's primary facility, communications shall be switched back to the primary facility, and the use of the backup facility will cease.
- d. It is understood that each party to this Agreement has finite resources and that backup communications services may not be able to be provided under all circumstances. It is also understood that Lake Zurich may not be able to provide service at the same level as the Countryside during the temporary service period. Neither party hereto makes any guarantees or warranties of any kind to the other regarding the availability or level of service. It is understood by the parties that priority will continue to be given by the Village to its own emergency communication needs, in the event of a conflict between a need by the Countryside and the Village. At all times during the term of this Agreement, the Village shall maintain exclusive control, supervision and direction over Village personnel.

6. **Responsibility for Costs:** Except as expressly provided in Section 3 above, each party shall be solely responsible for its own costs in providing the services and fulfilling the terms of this Agreement.

7. **Property:** No real or personal property shall be acquired jointly by the parties hereto. Any improvements to building space made pursuant to Section 3 above shall become the property of the building owner, except that trade fixtures, furnishings and equipment that can be removed without causing damage to the building may be removed by the party at whose cost they were purchased or installed.

8. **Indemnity:** Each party shall indemnify, defend and hold harmless the other party, its officers, officials, employees, agents and volunteers from any and all claims, injuries, damages, losses or suits, including attorney's fees, arising out of the acts, errors or omissions of the indemnifying party, its officers, officials, employees, agents and volunteers in the performance of its obligations under this Agreement, except to the extent the injuries or damages were caused by the indemnified party. The provisions of this paragraph shall survive any expiration or termination of this Agreement.

Countryside hereby agrees to indemnify, defend and hold harmless the Village and its officers, appointed and elected officials, mayor/president and trustees, agents, attorneys, volunteers and employees from liabilities and related expenses (including reasonable attorney's fees and litigation expenses) of any kind, which may arise out of the failure of Countryside to provide fire protection and/or ambulance services, Countryside's providing of fire protection and/or ambulance services, or Countryside's implementation of and performance under this Agreement.

Notwithstanding any other provision of law, in no event shall the Village, its officers, appointed and elected officials, mayor/president and trustees,

employees, agents, attorneys and volunteers be liable for any kind of civil damages or criminal liability that directly or indirectly results from, or is caused by, any act or omission in the development, design, installation, operation, maintenance, performance or provision of any services covered by this Agreement, unless the act or omission constitutes willful and wanton conduct.

The Village, its officers, appointed and elected officials, mayor/president and trustees, employees, agents, attorneys and volunteers shall not be liable for any kind of civil damages or criminal liability that directly or indirectly results from, or is caused by, the release of subscriber information to any governmental entity as required under any provisions of the law, unless the release constitutes gross willful and wanton conduct.

Each Party shall notify the other Party in the event any person shall in any way notify either Party of any claim or demand from which the other Party may be subject to liability for acts, omissions or conduct relating to any matter covered by this Agreement. The undertaking in connection with this Section includes liabilities or claims of liability with respect to property damage, personal injury, death, invasions of the right of privacy or any other right of any person, or the failure of Countryside or the Village to comply with the provisions of any federal, state or local statute, ordinance, rule or regulation in connection with this Agreement.

9. **Insurance:** Each party shall be responsible for maintaining, and hereby agrees to maintain, its own liability and property insurance against losses or liability related to this Agreement, including the following insurance coverage's relative to its municipal/governmental operations, including but not limited to its performance under this Agreement and the provision of fire protection and ambulance services, during the duration of this Agreement, and upon written request shall provide a copy of the insurance certificate to the other:

General Comprehensive Liability
Public Liability
Automobile Liability
Workers' Compensation
Employer's Liability
Excess Liability (as applicable)

If either party's coverage, as provided by its insurer, is terminated for any reason, such party shall promptly notify the other in writing of receipt of any such notice.

10. **No Third Party Beneficiaries:** There are no third party beneficiaries to this Agreement. No person or entity other than a party to this Agreement shall have any rights hereunder or any authority to enforce its provisions and any such rights or enforcement must be consistent with and subject to the terms of

this Agreement. This Agreement shall not be construed so as to create any special duty to any entity not a party to this Agreement.

11. **Duration – Termination:** This Agreement shall remain in effect unless terminated by either party pursuant to this Section. Either party may terminate this Agreement upon ninety (90) days written notice to the other party for any reason without penalty. No later than the 90th day following the notice of termination, Countryside shall remove its trade fixtures, furnishings and equipment from the backup space provided by Lake Zurich.
12. **Notices:** Notice of the need for backup services under Section 5 of this Agreement will be in person, by telephone or by such other means as may be reasonably used to apprise Lake Zurich of Countryside's need for services. All other notices under this Agreement, with the exception of equipment testing, shall be given in writing, addressed to the following persons:

To Countryside:

Chief Jeff Steingart
Countryside Fire Department
600 North Deerpath Drive
Vernon Hills, IL 60061

To Lake Zurich:

Chief of Police
Lake Zurich Police Department
200 Mohawk Trail
Lake Zurich, IL 60047

Written notices shall be deemed received three (3) days after the same are deposited in the United States Mail, postage prepared, addressed as provided above.

13. **Administration:** No separate legal or administrative entity is created by this Agreement. The Countryside Fire Chief and the Chief of Police of Lake Zurich will jointly administer this Agreement.
14. **Immunities:** It is agreed and understood that the services to be provided pursuant to this Agreement are intended to be the same services generally available to the general public and that no additional legal obligations or duties are intended or shall be construed to have been created by this Agreement. It is further understood and agreed that this Agreement is not intended nor shall be construed to alter, limit or constitute a waiver of any of the civil immunities afforded to Countryside or Lake Zurich pursuant to the Local Governmental and Governmental Employees Tort Immunity Act at 745 ILCS 10/1-101 *et seq.*, as amended; the Emergency Telephone System Act at 50 ILCS 750/0.01 *et seq.*, as amended; the Emergency Medical Services Systems Act at 210 ILCS 50/1 *et seq.*, as amended; and/or otherwise provided by law, it being agreed that all of the civil immunities as set forth in such Acts, as amended, and/or otherwise provided by law, shall fully apply to any and all claims asserted or which might be asserted against Countryside and/or Lake Zurich and/or their respective officials, officers, employees and/or agents as a result of this Agreement or any of the actions of the parties pursuant to this Agreement. Without limiting the foregoing and notwithstanding anything to the contrary in this Agreement, it is agreed and understood that no third-party beneficiaries are intended to be created by the

provisions of this Agreement and it is the intention of the parties hereto that no action may be commenced by any person or entity against Countryside and/or Lake Zurich and/or their respective officials, officers, employees, agents and/or other related persons or entities for monetary damages for any alleged breach or failure to provide services described in this Agreement.

15. **Severability:** If any section, sentence, clause or phrase of this Agreement is held to be invalid, unconstitutional or otherwise unenforceable by a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect the validity, constitutionality or enforceability of any other section, sentence, clause or phrase of this Agreement.
16. **Entire Agreement:** This Agreement represents the entire understanding and agreement of the parties concerning its subject matter and supersedes all prior discussions and understandings. This Agreement may be modified only by written instrument signed by both parties.

IN WITNESS WHEREOF, this Agreement has been executed by each party on the date set forth below:

Countryside Fire Protection District

Village of Lake Zurich

By: _____

By: _____

ATTEST

District Secretary

City Clerk

VILLAGE OF LAKE ZURICH
Semi-Monthly Warrant Report
February 04, 2014
Warrant Total \$763,343.61

Payment Request(s) Exceeding 5% of Total Warrant

• Payment to:

Vendor: Horizon Brothers Painting Corp., Inc
Fund: Water / Sewer
Reference: Page 15
Amount: \$292,095.00
% Warrant: 38.27%

Water Tower – Church Street

• Payment to:

Vendor: United HealthCare Insurance Co.
Fund: Medical Self Insurance & Payroll Clearing
Reference: Pages 20 & Last Page
Amount: \$174,871.69
% Warrant: 22.91%

Health, Life, Dental & Vision Insurance

Scheduled Payments \$466,966.69 or 61.17% of Total Warrant Presented for Payment.

Village of Lake Zurich
Semi-Monthly Warrant Report
Combined Total by Fund
Warrant Dated February 04, 2014

Fund	Fund Title	Total
101	GENERAL FUND	125,230.41
202	MOTOR FUEL TAX	32,308.21
210	TIF TAX ALLOCATION FUND	39.00
310	TIF DEBT SERVICE	3,923.12
401	CAPITAL PROJECT	24,989.40
402	PARK IMPROVEMENT	4,466.25
40S	NHRST CAPITAL PROJECTS	10,681.93
501	WATER/SEWER	336,236.73
601	MEDICAL SELF INSURANCE	197,082.58
603	RISK MANAGEMENT INS	531.00
710	PERFORMANCE ESCROW	10,152.81
720	PAYROLL CLEARING	17,702.17

Warrant Total - \$ 763,343.61

Village of Lake Zurich
Semi-Monthly Warrant Report
Total by Fund - Warrant Dated February 04, 2014

Printed Date: 1/28/2014

Fund	Fund Title	Total
101	GENERAL FUND	117,802.42
202	MOTOR FUEL TAX	32,308.21
210	TIF TAX ALLOCATION FUND	39.00
310	TIF DEBT SERVICE	3,923.12
401	CAPITAL PROJECT	24,989.40
402	PARK IMPROVEMENT	3,966.25
405	NHRST CAPITAL PROJECTS	10,681.93
501	WATER/SEWER	336,236.73
601	MEDICAL SELF INSURANCE	33,086.04
603	RISK MANAGEMENT INS	531.00
710	PERFORMANCE ESCROW	10,152.81
720	PAYROLL CLEARING	9,465.85

Warrant Total - \$583,182.76

Village of Lake Zurich
Semi-Monthly Warrant Report
Warrant Date: 2/04/2014

Report Run Date: 1/28/2014

Time: 11:29AM

Fund: 101 - GENERAL FUND

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 101 -GENERAL FUND				
2037	EMPLOYER-UNDIST LIFE	UNITED HEALTHCARE INSURANCE CO.	LIFE INS - ER	1,296.56
2102	AMBULANCE FEES PAYABLE	HEALTHCARE & FAMILY SERVICES	RUN#12322874 MCGHEE	118.80
2102	AMBULANCE FEES PAYABLE	HEALTHCARE & FAMILY SERVICES	RUN#12322873 MCGHEE	118.80
2055	UNDIST-BUS LIC	A H MANAGEMENT GROUP INC	BUSLIC REFUND	50.00
2012	RECREATION CREDIT PAYABLE	THOMPSON, PAULINE/TOM	PRG CXL-WEIGHT LOSS	45.00
1502	PREPAID EXPENSES	GRYPHON TRAINING GROUP INC	GYPSY/TRAVEL.ER AND THE E	145.00
2012	RECREATION CREDIT PAYABLE	ROMO, ELIZABETH	PRG CXL- WEIGHT LOSS	45.00
2102	AMBULANCE FEES PAYABLE	LZ RURAL FIRE PROTECTION DIST.	NOVEMBER 2013 REIMBURSEME	175.00
<u>Program Total</u>				<u>1,994.16</u>
Program: 10111008 -BOARD & COMMISSIONS				
5219	OTHER PROFESSIONAL SVCS	SUSAN R. PILAR CSR	PC 1-16 COURT REP	150.00
<u>Program Total</u>				<u>150.00</u>
Program: 10112001 -ADMIN				
5211	VILLAGE ATTORNEY RETAINER	KLEIN THORPE & JENKINS	LEGAL FEES - NOV	4,656.20
5211	VILLAGE ATTORNEY RETAINER	ZUKOWSKI ROGERS FLOOD MC ARDLE	LEGAL FEES - DEC	1,265.00
<u>Program Total</u>				<u>5,921.20</u>
Program: 10112012 -HUMAN RESOURCES				
5213	LABOR ATTORNEY	CLARK BAIRD SMITH LLP	LEGAL FEES - NOV	1,121.25
5213	LABOR ATTORNEY	CLARK BAIRD SMITH LLP	LEGAL FEES - DECEMBER	315.00
<u>Program Total</u>				<u>1,436.25</u>
Program: 10113001 -FINANCIAL ADMIN				
5155	MEMBERSHIPS & SUBSCRIP	ILLINOIS GFOA	2014 MEMBERSHIP FEE FOR O	250.00
5274	MAINT-EQUIPMENT	PITNEY BOWES - LEASE	METER LEASE	59.00
5353	OFFICE SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT	MISC ITEMS	21.66
5353	OFFICE SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT	NAME PLATE	12.50
5153	TRAINING & BUSINESS MTGS	PETTY CASH - BLDG & ZONING	SHIPPING	11.85
5353	OFFICE SUPPLIES	STAPLES BUSINESS ADVANTAGE	MISC ITEMS	57.06
<u>Program Total</u>				<u>412.07</u>
Program: 10113016 -ACCOUNTING SERVICES				
5353	OFFICE SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT	1099 SUPPLIES	49.37
<u>Program Total</u>				<u>49.37</u>
Program: 10117017 -TECHNOLOGY				
5313	TELEPHONE	COMCAST CABLE	VH INTERNET SERVICE	139.85
5570	CAPITAL LEASE	US BANK NATIONAL ASSOC.	COPIER LEASE	1,007.36
5550	MACHINERY & EQUIPMENT	INSIGHT PUBLIC SECTOR, INC	HARD DRIVES	686.52
5219	OTHER PROFESSIONAL SVCS	KOVACH, VERONICA L	1-6-14 VB MTG	15.00
5321	COMPUTER SUPPLIES	CDW GOVERNMENT INC.	TONER	281.56
5321	COMPUTER SUPPLIES	DOCUMENT IMAGING DIMENSIONS	TONER	198.00
5550	MACHINERY & EQUIPMENT	DELL USA LP	DESKTOP	981.68

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5313	TELEPHONE	COMCAST CABLE	PW - INTERNET	161.26
5219	OTHER PROFESSIONAL SVCS	KOVACH, VERONICAL	12-18 PC MTG	15.00
5313	TELEPHONE	CALL ONE	ANALOG LINES	1,913.75
5219	OTHER PROFESSIONAL SVCS	LEADINGIT SOLUTIONS, INC	SUPPORT AGREEMENT	2,863.00
5219	OTHER PROFESSIONAL SVCS	GRANICUS, INC	WEB HOSTING - FEB	1,020.00
5550	MACHINERY & EQUIPMENT	INSIGHT PUBLIC SECTOR, INC	SERVER	823.77
			Program Total	10,106.75

Program: 10124001 -POLICE ADMIN

5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	HOST SUPPLIES; 11/12/2013	19.18
5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	HOST SUPPLIES; 11/7/2013	15.97
5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	HOST SUPPLIES; 10/22/2013	22.12
5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	HOST SUPPLIES; 10/18/2013	7.99
5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	LCCPA MEETING; P FINLON,	40.00
5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	473.08
5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	HOST SUPPLIES; 11/18/2013	3.05
5156	EMPLOYEE RECOGNITION	PETTY CASH - POLICE DEPARTMENT	NAME PLATE	6.00
5155	MEMBERSHIPS & SUBSCRIP	I A C P	MEMB - FINLON	120.00
5155	MEMBERSHIPS & SUBSCRIP	I A C P	MEMB DUES - QUINONES	120.00
5271	MAINT-BLDGS & GROUNDS	METRO DOOR & DOCK, INC	GARAGE DOOR REPAIRS - SAL	579.65
5355	UNIFORMS	STREICHER'S, INC	UNDER VEST UNIFORM SHIRT	41.99
5155	MEMBERSHIPS & SUBSCRIP	LAKE COUNTY CHIEFS OF POLICE	MEMB DUES - FINLON/QU	50.00
5155	MEMBERSHIPS & SUBSCRIP	C A L E A	CACE - L UPDATE	130.00
5271	MAINT-BLDGS & GROUNDS	BEST QUALITY CLEANING INC.	PD - CLEANING SERVICE	1,295.00
5271	MAINT-BLDGS & GROUNDS	OTIS ELEVATOR COMPANY	ELEVATOR MAINTENANCE AGRR	822.78
5550	MACHINERY & EQUIPMENT	ARLINGTON POWER EQUIPMENT INC.	SNOWBLOWER	497.00
			Program Total	4,243.81

Program: 10124021 -OPERATIONS

5153	TRAINING & BUSINESS MTGS	NORTHEAST MULTI-REGIONAL TRNG.	LAWS OF ARREST, SEARCH, A	50.00
5355	UNIFORMS	GALL'S INC.	THIERGOOD: HOOD.	27.64
5359	OTHER SUPPLIES	KIESLER POLICE SUPPLY, INC.	45 CAL AMMUNITION, 4 CASE	1,694.28
5359	OTHER SUPPLIES	KIESLER POLICE SUPPLY, INC.	380 CAL AMMUNITION, 1 CAS	537.76
5359	OTHER SUPPLIES	KIESLER POLICE SUPPLY, INC.	40 CAL AMMUNITION	385.83
5359	OTHER SUPPLIES	KIESLER POLICE SUPPLY, INC.	AMMUNITION - 1 CASE 38SPL	492.05
5355	UNIFORMS	GALL'S INC.	THIERGOOD: PATROL RAIN PA	101.36
5355	UNIFORMS	STREICHER'S, INC	MITCH: NIPAS MFF UNIFORM	69.98
5355	UNIFORMS	GALL'S INC.	HUMISTON: HOOD AND DRESS	83.77
5355	UNIFORMS	THE UPS STORE	HUZSEK: RETURN UNIFORM PA	14.84
5355	UNIFORMS	THE UPS STORE	MITCH: RETURN TO STREICHE	11.20
5355	UNIFORMS	JG UNIFORMS INC.	MITCH: WINTER HAT.	29.99
5355	UNIFORMS	STREICHER'S, INC	JOHNSON: KEYRING HOLDER F	9.99
			Program Total	3,508.69

Program: 10124022 -COMMUNICATIONS

5355	UNIFORMS	RAY O'HERRON COMPANY INC.	SHIPPING	7.15
5355	UNIFORMS	GALL'S INC.	LYON: THREE UNIFORM SHIRT	122.35
5355	UNIFORMS	GALL'S INC.	MJOEN: NAMETAG.	10.20
5354	SMALL TOOLS & EQUIP	RUNCO OFFICE SUPPLY & EQUIPMENT	HEADSETS, MONO, CRD, OTE	178.00
5354	SMALL TOOLS & EQUIP	RUNCO OFFICE SUPPLY & EQUIPMENT	HEADSETS - CORDED	476.00
5355	UNIFORMS	GALL'S INC.	MJOEN: FLEECE AND BOOTS.	162.35

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5354	SMALL TOOLS & EQUIP	HOME DEPOT CREDIT SERVICES	MICROWAVE - DISPATCH	89.97
5355	UNIFORMS	RAY O'HERRON COMPANY INC.	UNIFORM BELT - KULIG, UNI	19.99
			<u>Program Total</u>	<u>1,066.01</u>

Program: 10124023 -CRIME PREVENTION

5219	OTHER PROFESSIONAL SVCS	WEST PUBLISHING GROUP	CLEAR FEE - BACKGROUND IN	144.32
5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	CITIZEN POLICE ACADEMY GR	19.32
5359	OTHER SUPPLIES	PETTY CASH - POLICE DEPARTMENT	RED RIBBON WEEK SUPPLIES	8.56
5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	LATINO COALITION MEETING	7.00
5352	PRINTING-STATIONERY/FORMS	P F PETTIBONE & COMPANY	CONCEALED CARRY STICKERS	101.75
5153	TRAINING & BUSINESS MTGS	PETTY CASH - POLICE DEPARTMENT	SRO MEETING; PARLBERG	12.07
			<u>Program Total</u>	<u>293.02</u>

Program: 10124024 -INTERGOVERNMENTAL

5359	OTHER SUPPLIES	KIESLER POLICE SUPPLY, INC.	45 CAL AMMUNITION, 1 CASE	423.57
			<u>Program Total</u>	<u>423.57</u>

Program: 10125001 -FIRE/RESCUE-ADMIN

5211	VILLAGE ATTORNEY RETAINER	KLEIN THORPE & JENKINS	LEGAL FEES - NOV	575.00
5153	TRAINING & BUSINESS MTGS	IL FIRE CHIEFS ASSOCIATION	DC TRAINING	287.50
5353	OFFICE SUPPLIES	STAPLES BUSINESS ADVANTAGE	MISC ITEMS	138.25
5153	TRAINING & BUSINESS MTGS	IL FIRE CHIEFS ASSOCIATION	DC TRAINING	287.50
5153	TRAINING & BUSINESS MTGS	IL FIRE CHIEFS ASSOCIATION	DC TRAINING	287.50
5152	CONFERENCES & SEMINARS	I P E L R A	SEMINAR:WHEL,GOLU,KEL	540.00
5151	LICENSING/CERTIFICATIONS	STATE OF WISCONSIN	FEES FOR WISC. DRIVERS LIC	2.00
5155	MEMBERSHIPS & SUBSCRIP	METROPOLITAN EMERGENCY SUPPORT	MESS DUES	600.00
5359	OTHER SUPPLIES	WOODSTOCK LUMBER COMPANY	OPERATOR ARM	70.80
5413	EMPLOYEE EXAMS	HEALTH ENDEAVORS, SC	MUHLBACH, BENE, KRAUS	2,205.00
5313	TELEPHONE	CALL ONE	ANALOG LINES	238.78
5155	MEMBERSHIPS & SUBSCRIP	IL FIRE CHIEFS ASSOCIATION	2014 DUES	450.00
5213	LABOR ATTORNEY	CLARK BAIRD SMITH LLP	LEGAL FEES - NOV	2,726.25
5271	MAINT-BLDGS & GROUNDS	ADOR COMPANY, INC	OHD TRANSMITTER	43.95
5213	LABOR ATTORNEY	CLARK BAIRD SMITH LLP	LEGAL FEES - DECEMBER	1,028.75
5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	229.72
5413	EMPLOYEE EXAMS	PERSONNEL STRATEGIES, LLC	KRAUS EXAM	500.00
5325	BLDG & GROUND MAINT SUPPL	A STARS & STRIPES FLAG COMPANY	STATION FLAGS	321.50
5570	CAPITAL LEASE	US BANK NATIONAL ASSOC.	COPIER LEASE	217.59
5152	CONFERENCES & SEMINARS	PETTY CASH - FIRE/RESCUE #1	PARKING FOR CLASS	61.00
5274	MAINT-EQUIPMENT	PETTY CASH - FIRE/RESCUE #1	STEREO CABLE	5.34
5153	TRAINING & BUSINESS MTGS	PETTY CASH - FIRE/RESCUE #1	CHIEF'S MTG - LK CTY	20.00
5359	OTHER SUPPLIES	PETTY CASH - FIRE/RESCUE #1	CELL PHONE CASE	22.49
			<u>Program Total</u>	<u>10,858.92</u>

Program: 10125031 -EMERGENCY MANAGEMENT

5155	MEMBERSHIPS & SUBSCRIP	NI GOVERNMENT SERVICES, INC	DECEMBER SERVICE	25.28
			<u>Program Total</u>	<u>25.28</u>

Program: 10125032 -FIRE SUPPRESSION

5277	MAINT-OTHER	UNITED PARCEL SERVICE	SHIPPING COST FOR POSICHE	113.14
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5355	UNIFORMS	HOME DEPOT CREDIT SERVICES	GEAR	43.07
5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	197.43
5277	MAINT-OTHER	UNITED PARCEL SERVICE	SHIPPING	6.79
5355	UNIFORMS	GREAT LAKES FIRE & SAFETY	SHIPPING	6.00
5355	UNIFORMS	TODAY'S UNIFORMS INC.	SKALSKI UNIFORMS	134.85
5277	MAINT-OTHER	AIR ONE EQUIPMENT	BREATHING AIR QUALITY TES	120.00
5354	SMALL TOOLS & EQUIP	MUNICIPAL EMERGENCY SERVICES, IN	SHIPPING	16.39
5354	SMALL TOOLS & EQUIP	MUNICIPAL EMERGENCY SERVICES, IN	RESCUE SAW	1,421.00
5355	UNIFORMS	GREAT LAKES FIRE & SAFETY	BADGES	505.50
			<u>Program Total</u>	<u>2,564.17</u>

Program: 10125033 -EMS

5155	MEMBERSHIPS & SUBSCRIPTIONS	NORTHWEST COMMUNITY HOSPITAL E	QUARTERLY ADMIN	1,012.50
5153	TRAINING & BUSINESS MTGS	HAUTZINGER, MIKE	PARAMEDIC REFRESHER C	165.24
5355	UNIFORMS	TODAY'S UNIFORMS INC.	CHRISTOPHERSON	39.18
5355	UNIFORMS	TODAY'S UNIFORMS INC.	CHRISTOPHERSON	44.95
5153	TRAINING & BUSINESS MTGS	NORTHWEST COMMUNITY HOSPITAL E	CONTINUE ED	3,600.00
5357	MEDICAL SUPPLIES	HENRY SCHEIN EMS	BLOOD PRESSURE KIT	318.95
5357	MEDICAL SUPPLIES	ENCOMPASS MED & SPEC GASES LTD	OXYGEN	105.98
5355	UNIFORMS	TODAY'S UNIFORMS INC.	PILGARD	32.28
5355	UNIFORMS	GREAT LAKES FIRE & SAFETY	BADGES	500.00
5275	MAINT - SOFTWARE	NORTHWEST COMMUNITY HOSPITAL E	AMBULANCE RUNS	493.92
5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	120.11
5355	UNIFORMS	RED WING SHOE STORE	HENRIKSEN SHOE	119.00
5357	MEDICAL SUPPLIES	HENRY SCHEIN EMS	SPIDER STRAP NYLON THREE	216.00
5355	UNIFORMS	GREAT LAKES FIRE & SAFETY	SHIPPING	6.00
5219	OTHER PROFESSIONAL SVCS	ANDRES MEDICAL BILLING LTD.	AMB FEES - DEC	2,239.43
5219	OTHER PROFESSIONAL SVCS	NC INC.	AMB COLLECTION FEES	601.10
			<u>Program Total</u>	<u>9,614.64</u>

Program: 10125034 -SPECIAL RESCUE

5155	MEMBERSHIPS & SUBSCRIPTIONS	LAKE/MCHENRY FIRE DEPTS.	ANNUAL DUES FOR SRT	4,975.00
5354	SMALL TOOLS & EQUIP	MUNICIPAL EMERGENCY SERVICES, IN	CBRN CAP 1 CANISTERS	1,008.00
5355	UNIFORMS	GALL'S INC.	BDU PANTS AND SHIRT	70.34
			<u>Program Total</u>	<u>6,053.34</u>

Program: 10125035 -FIRE PREVENTION BUREAU

5155	MEMBERSHIPS & SUBSCRIPTIONS	NORTHERN IL FIRE INSPECTORS	FISCAL YEAR 2014 DUES	50.00
5152	CONFERENCES & SEMINARS	IL FIRE INSPECTORS ASSOCIATION	BZDUSEK KLEINHEINZ SEMINA	75.00
5355	UNIFORMS	ELEGANT EMBROIDERY/MELON INK	UNIFORM EMBROIDERY	20.00
5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	145.90
5359	OTHER SUPPLIES	PETTY CASH - FIRE/RESCUE #1	BUSINESS AFTER HOURS SUPP	59.40
5359	OTHER SUPPLIES	PETTY CASH - FIRE/RESCUE #1	OPEN HOUSE SUPPLIES	17.60
			<u>Program Total</u>	<u>367.90</u>

Program: 10128001 -B & Z ADMIN

5219	OTHER PROFESSIONAL SVCS	ROLF CAMPBELL & ASSOCIATES	LANDSCAPE REVIEWS 885 TEL	337.50
5219	OTHER PROFESSIONAL SVCS	MICROSYSTEMS INC.	RECORDS STORAGE 2014	1,066.30
5219	OTHER PROFESSIONAL SVCS	ROLF CAMPBELL & ASSOCIATES	LANDSCAPE REVIEW 440 S RA	145.00
5570	CAPITAL LEASE	KIP AMERICA INC	WIDE FORMAT COPIER LEASE	260.81

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5353	OFFICE SUPPLIES	PETTY CASH - BLDG & ZONING	OFFICE SUPPLIES	49.75
5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	196.15
			<u>Program Total</u>	<u>2,055.51</u>

Program: 10128081 -INSPECTIONS

5354	SMALL TOOLS & EQUIP	GRAINGER	BOOT BRUSH	75.51
5152	CONFERENCES & SEMINARS	S B O C	SBOC CODE ENFORCEMENT	125.00
5353	OFFICE SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT	ADA AND ENERGY STAMPS	63.00
5155	MEMBERSHIPS & SUBSCRIPTIONS	AMERICAN ASSN. OF CODE ENFORCEMENT	MEMB - PETERSON	75.00
5353	OFFICE SUPPLIES	HOME DEPOT CREDIT SERVICES	STEEL SHELF - BZ OFFICE	99.00
5155	MEMBERSHIPS & SUBSCRIPTIONS	IACE	MEMB - MEYER/PETERSON	50.00
5155	MEMBERSHIPS & SUBSCRIPTIONS	S B O C	2014 MEMB - PETERSON	75.00
5219	OTHER PROFESSIONAL SVCS	THOMPSON ELEVATOR INSP SERVICE	3 SEMI ANNUAL INSPECTIONS	129.00
5155	MEMBERSHIPS & SUBSCRIPTIONS	NWBOMA	2014 MEMB - PETERSON	50.00
5353	OFFICE SUPPLIES	PETTY CASH - BLDG & ZONING	OFFICE SUPPLIES	33.78
5153	TRAINING & BUSINESS MTGS	PETTY CASH - BLDG & ZONING	TRAINING	88.00
			<u>Program Total</u>	<u>863.29</u>

Program: 10136001 -COMMUNITY SERVICES ADMIN

5355	UNIFORMS	CINTAS CORPORATION LOC. 355	UNIFORMS	37.18
5155	MEMBERSHIPS & SUBSCRIPTIONS	ZIMMERMAN, RYAN	WEATHER - FEB	175.00
5355	UNIFORMS	CUTLER HARDWARE/WORKWEAR	COLD WEATHER GEAR	55.76
5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	154.55
5413	EMPLOYEE EXAMS	ADVOCATE OCCUPATIONAL HEALTH	RTW - ANDERSON	80.00
5155	MEMBERSHIPS & SUBSCRIPTIONS	APWA	MEMB-EARL	157.00
5153	TRAINING & BUSINESS MTGS	I R M A	TRAINING- MB/BH	10.00
5413	EMPLOYEE EXAMS	NORTHWEST COMMUNITY HEALTH SVCS	DOT TESTING	115.00
5155	MEMBERSHIPS & SUBSCRIPTIONS	IL MUTUAL AID NETWORK	MUTUAL AID DUES	250.00
5155	MEMBERSHIPS & SUBSCRIPTIONS	PADDOCK PUBLICATIONS INC.	DAILY HERALD	34.00
5355	UNIFORMS	CINTAS CORPORATION LOC. 355	UNIFORMS	37.18
			<u>Program Total</u>	<u>1,105.67</u>

Program: 10136041 -FORESTRY

5560	VEHICLES	R.A. ADAMS ENTERPRISES, INC.	DEFLECTORS	163.80
			<u>Program Total</u>	<u>163.80</u>

Program: 10136042 -PARK MAINTENANCE

5311	ELECTRICITY	COMMONWEALTH EDISON	CONCESSION ELECTRIC	1.58
5311	ELECTRICITY	COMMONWEALTH EDISON	BARN ELECTRIC	74.06
5271	MAINT-BLDGS & GROUNDS	BEST QUALITY CLEANING INC.	PK - CLEANING SERVICE	1,365.00
5311	ELECTRICITY	COMMONWEALTH EDISON	WICKLOW SOCCAR ELECTRIC	17.66
5311	ELECTRICITY	COMMONWEALTH EDISON	7 E MAIN ELECTRIC	84.12
5325	BLDG & GROUND MAINT SUPPL	GRAINGER	CREDIT	(35.36)
			<u>Program Total</u>	<u>1,507.06</u>

Program: 10136043 -MUNICIPAL PROPERTY MAINT

5311	ELECTRICITY	COMMONWEALTH EDISON	11 SOUTH OLD RAND ELECTRIC	44.02
5325	BLDG & GROUND MAINT SUPPL	HOME DEPOT CREDIT SERVICES	COMMUNITY SERVICES TAPCO	4.21
5271	MAINT-BLDGS & GROUNDS	METRO DOOR & DOCK, INC	COMMUNITY SERVICES WEST D	1,535.34

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5311	ELECTRICITY	COMMONWEALTH EDISON	15 SOUTH OLD RAND ELECTRI	76.79
5271	MAINT-BLDGS & GROUNDS	BEST QUALITY CLEANING INC.	PW - CLEANING SERVICES	745.00
5311	ELECTRICITY	COMMONWEALTH EDISON	15 SOUTH OLD RAND ELECTRI	59.02
5311	ELECTRICITY	COMMONWEALTH EDISON	133 W MAIN ELECTRIC	43.38
5325	BLDG & GROUND MAINT SUPPL	AIRGAS USA, LLC	CUTTING TORCHES	48.20
5271	MAINT-BLDGS & GROUNDS	CINTAS CORPORATION LOC. 355	UNIFORMS	60.75
5271	MAINT-BLDGS & GROUNDS	CINTAS CORPORATION LOC. 355	UNIFORMS	65.75
5311	ELECTRICITY	COMMONWEALTH EDISON	15 SOUTH OLD RAND ELECTRI	61.96
5311	ELECTRICITY	COMMONWEALTH EDISON	11 SOUTH OLD RAND ELECTRI	20.24
5271	MAINT-BLDGS & GROUNDS	BEST QUALITY CLEANING INC.	VH - CLEANING SERVICES	795.00
			<u>Program Total</u>	<u>3,559.66</u>

Program: 10136044 -RIGHT OF WAY MAINT

5358	SAFETY SUPPLIES	SHERWIN INDUSTRIES INC.	BARRICADES	173.80
			<u>Program Total</u>	<u>173.80</u>

Program: 10136046 -STREET/TRAFFIC LIGHTING

5324	STREET SUPPLIES	CRESCENT ELECTRIC SUPPLY CO.	STREET LIGHT BULBS	264.46
			<u>Program Total</u>	<u>264.46</u>

Program: 10136048 -ENGINEERING

5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	GENERAL ENGINEERING SERVI	3,555.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	GENERAL ENGINEERING SERVI	1,137.50
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	ENGINEERING SERVICES CMAQ	594.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	GENERAL ENGINEERING SERVI	525.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	885 TELSER	720.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	GENERAL ENGINEERING SERVI	6,932.50
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	COVENTRY CREEK SITE VISIT	180.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	1408 CONRAD, 1456 CONRAD,	250.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	1161 Sycamore	50.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	LINDEN SUBDVSN PERMIT PLA	140.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	1001-1005 SAMANTHA PERMIT	150.00
5216	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	LZ SHOPS	120.00
			<u>Program Total</u>	<u>14,354.00</u>

Program: 10136071 -VEHICLE MAINTENANCE

5342	FUELS	BELL FUELS INC.	FUEL	9,144.96
5355	UNIFORMS	CUTLER HARDWARE/WORKWEAR	BOOTS ANDERSON	152.96
5355	UNIFORMS	CUTLER HARDWARE/WORKWEAR	BOOTS MATHESON	152.96
5326	AUTO PARTS & SUPPLIES	RAY O'HERRON COMPANY INC.	CREDIT - BRKT HOLDER	(158.10)
5342	FUELS	BELL FUELS INC.	FUEL	10,485.34
5327	EQUIP MAINT PART&SUPPLIES	HYDRAULIC SERVICES & REPAIRS	LIFT CYLINDER 323	558.00
5326	AUTO PARTS & SUPPLIES	POMP'S TIRE SERVICE	TIRES 117	805.18
5328	OTHER MAINT PARTS&SUPPLY	LAWSON PRODUCTS INC.	HARDWARE	612.86
5219	OTHER PROFESSIONAL SVCS	RUNNION EQUIPMENT COMPANY	OSHA INSPECTION 433	495.00
5326	AUTO PARTS & SUPPLIES	WHOLESALE DIRECT, INC	WARNING LIGHTS	281.79
5328	OTHER MAINT PARTS&SUPPLY	LAWSON PRODUCTS INC.	CUTT OFF WHEELS	83.06
5328	OTHER MAINT PARTS&SUPPLY	LAWSON PRODUCTS INC.	CREDIT - HEX NUT	(9.44)
5326	AUTO PARTS & SUPPLIES	WICKSTROM FORD	CREDIT - CORE RTN	(10.00)
5326	AUTO PARTS & SUPPLIES	GLOBAL EMERGENCY PRODUCTS INC.	PILOT VALVE KIT 3211	207.43

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Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
5219	OTHER PROFESSIONAL SVCS	MIKE'S TOWING, INC AUTO & TRUCK RI	SAFETY INSPECTIONS	50.00
5326	AUTO PARTS & SUPPLIES	GLOBAL EMERGENCY PRODUCTS INC.	SWELL LATCH 3210	76.79
5326	AUTO PARTS & SUPPLIES	LAKE ZURICH RADIATOR & A/C	RADIATOR 331	255.00
5354	SMALL TOOLS & EQUIP	GRAINGER	CORD REEL	66.38
5327	EQUIP MAINT PART&SUPPLIES	R.A. ADAMS ENTERPRISES, INC.	HITCH PARTS 434/336	258.60
5355	UNIFORMS	CINTAS CORPORATION LOC. 355	UNIFORMS	30.63
5355	UNIFORMS	CINTAS CORPORATION LOC. 355	UNIFORMS	35.63
5327	EQUIP MAINT PART&SUPPLIES	BURRIS EQUIPMENT COMPANY	SAW PARTS	27.66
5328	OTHER MAINT PARTS&SUPPLY	AIRGAS USA, LLC	CUTTING TORCHES	48.20
5327	EQUIP MAINT PART&SUPPLIES	FASTENAL COMPANY	PLOW CHAIN	171.45
5327	EQUIP MAINT PART&SUPPLIES	BONNELL INDUSTRIES	FILTERS	348.77
5326	AUTO PARTS & SUPPLIES	WICKSTROM FORD	LAMP ASSB.112	73.68
5326	AUTO PARTS & SUPPLIES	GLOBAL EMERGENCY PRODUCTS INC.	PILOT VALVE KIT 3212	146.18
5326	AUTO PARTS & SUPPLIES	GLOBAL EMERGENCY PRODUCTS INC.	DRAIN REPAIR KIT	93.53
5326	AUTO PARTS & SUPPLIES	GLOBAL EMERGENCY PRODUCTS INC.	STRAINER 3211	112.02
5326	AUTO PARTS & SUPPLIES	RAY O'HERRON COMPANY INC.	CONSOLE BOX 330	166.79
5326	AUTO PARTS & SUPPLIES	GROSSINGER CHEVROLET	CABLE 331	16.17
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	RTN-ACTUATOR 331	(71.24)
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	PEDEL PAD	8.48
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	CREDIT - PWR STG PUMP	(35.00)
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	CREDIT - CORE DEP	(345.79)
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	CREDIT - CORE DEP	(350.33)
5346	LUBRICANTS & FLUIDS	O'REILLY AUTOMOTIVE STORES, INC	ANTIFREEZE	50.97
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	PLUGS/WIRES 3270	131.46
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	ACTUATOR 331	71.24
5326	AUTO PARTS & SUPPLIES	WICKSTROM FORD	CREDIT - CORE RTN	(30.00)
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	WIPER BLADES	144.70
5351	POSTAGE & SHIPPING	THE UPS STORE	SHIPPING	9.87
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	ACTUATOR 331	71.24
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	WATER PUMP 331	97.15
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	FILTERS	208.57
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	FAN CLUTCH 7492	62.25
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	BRAKE ROTORS 108	345.90
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	FAN CLUTCH 331	51.49
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	HEADLAMP 107	53.64
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	DOOR HANDLE 336	13.59
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	ALTERNATOR 109	350.33
5326	AUTO PARTS & SUPPLIES	PRECISION SERVICE & PARTS, INC	BRAKE PADS 108	99.71
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	CLAMP KIT 332	6.24
5326	AUTO PARTS & SUPPLIES	PRECISION SERVICE & PARTS, INC	ALTERNATOR 109	426.02
5326	AUTO PARTS & SUPPLIES	POMP'S TIRE SERVICE	SQUAD TIRES	574.12
5326	AUTO PARTS & SUPPLIES	POMP'S TIRE SERVICE	TIRES 108	522.20
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	FILTERS	178.18
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	BRAKE ROTORS 106	220.70
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	ANTENNA ADAPTER 343	5.81
5327	EQUIP MAINT PART&SUPPLIES	R.A. ADAMS ENTERPRISES, INC.	DEFLECTORS	457.06
5326	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	CLAMP 332	7.03
5326	AUTO PARTS & SUPPLIES	RUSH TRUCK CENTER -GRAYSLAKE	SHOCK 325	67.31
5346	LUBRICANTS & FLUIDS	O'REILLY AUTOMOTIVE STORES, INC	ANTI GEL	125.88
5346	LUBRICANTS & FLUIDS	O'REILLY AUTOMOTIVE STORES, INC	OIL	143.92
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	BATTERY 3298	109.49
5326	AUTO PARTS & SUPPLIES	O'REILLY AUTOMOTIVE STORES, INC	WIPER BLADE 117	6.11
5326	AUTO PARTS & SUPPLIES	WICKSTROM FORD	FUEL MODULE 3290	122.75
5326	AUTO PARTS & SUPPLIES	WICKSTROM FORD	P/S RESIVOIR 7492	99.02

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5326	AUTO PARTS & SUPPLIES	PRECISION SERVICE & PARTS, INC	WATER PUMP 331	180.24
5326	AUTO PARTS & SUPPLIES	WICKSTROM FORD	SHIFT CABLE 108	77.38
5351	POSTAGE & SHIPPING	THE UPS STORE	SHIPPING	9.67
5326	AUTO PARTS & SUPPLIES	WHOLESALE DIRECT, INC	HEADLAMPS	46.62
5327	EQUIP MAINT PART&SUPPLIES	WINTER EQUIPMENT COMPANY	CURB SHOES	1,283.26
5326	AUTO PARTS & SUPPLIES	DULTMEIER SALES LLC	PRE WET PARTS 324	54.12
5326	AUTO PARTS & SUPPLIES	POMP'S TIRE SERVICE	CREDIT - TIRES	(489.00)
			Program Total	29,951.84

Program: 10148082 -ECONOMIC DEVELOPMENT

5417	SALES TAX REBATES	MIDWEST MOTORS INC	QTR 4 2013 SALES TAX REBA	4,353.95
			Program Total	4,353.95

Program: 10167001 -PARK & REC ADMIN

5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	0.23
			Program Total	0.23

Program: 10167975 -SPECIAL INTEREST & EVENTS

5241	PROGRAM SVCS	BARNETT, JENA	ART CLASSES	360.00
			Program Total	360.00

Fund Total	117,802.42
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Fund: 202 - MOTOR FUEL TAX

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 20236045 -SNOW AND ICE CONTROL				
5345	SALT & DEICING SUPPLIES	MORTON SALT, INC	BULK ROAD SALT	10,349.71
			<u>Program Total</u>	<u>10,349.71</u>
Program: 20236046 -STREET/TRAFFIC LIGHTS				
5311	ELECTRICITY	COMMONWEALTH EDISON	SURRYSE STREETLIGHTS	49.13
5311	ELECTRICITY	COMMONWEALTH EDISON	JUNE TERR STREETLIGHTS	59.57
5311	ELECTRICITY	COMMONWEALTH EDISON	MAIN ST STREETLIGHTS	137.61
5311	ELECTRICITY	COMMONWEALTH EDISON	MOHAWK STREETLIGHTS	74.13
5261	MAINT-STREETS	IL DEPARTMENT OF TRANSPORTATION	TRAFFIC SIGNAL MAINT IDOT	9,941.34
5311	ELECTRICITY	CONSTELLATION NEW ENERGY, INC.	MILLER STREETLIGHTS	11,085.54
5311	ELECTRICITY	COMMONWEALTH EDISON	CLAIRVIEW STREETLIGHTS	40.91
5311	ELECTRICITY	COMMONWEALTH EDISON	ROSE ROAD STREETLIGHTS	32.85
5311	ELECTRICITY	COMMONWEALTH EDISON	ALPINE STREETLIGHTS	477.44
5311	ELECTRICITY	COMMONWEALTH EDISON	JUNE TERR STREETLIGHTS	55.33
5311	ELECTRICITY	COMMONWEALTH EDISON	LIONS DR STREETLIGHTS	4.65
			<u>Program Total</u>	<u>21,958.50</u>
				Fund Total
				32,308.21

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Fund: 210 - TIF TAX ALLOCATION FUND

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 21012001 -TIF - ADMINISTRATION				
5211	VILLAGE ATTORNEY RETAINER	KLEIN THORPE & JENKINS	LEGAL FEES - NOV	39.00
			<u>Program Total</u>	<u>39.00</u>
			Fund Total	39.00

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Fund: 310 - TIF DEBT SERVICE

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 31070049 -TIF DEBT				
5630	BOND ISSUE FEES	SPEER FINANCIAL INC	LIMITED DISCLOSURE SV	423.12
5630	BOND ISSUE FEES	SPEER FINANCIAL INC	FIN SVC '13 BOND ISSU	3,500.00
Program Total				3,923.12
				Fund Total
				3,923.12

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Fund: 401 - CAPITAL PROJECT

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 40125001 -CIP - FIRE/RESCUE - ADMIN				
5530	BLDG & BLDG IMPROVEMENTS	PJ'S WINDOWS & DOORS, INC	WINDOW REPLACEMENT PER BI	17,500.00
			<u>Program Total</u>	<u>17,500.00</u>
Program: 40136043 -CIP - MUNICIPAL PROPERTY				
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILDOUT TRI	76.09
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILDOUT TRI	471.92
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILDOUT CEI	8.46
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILD OUT DR	2.65
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILDOUT TRI	39.90
5530	BLDG & BLDG IMPROVEMENTS	ZEPEDA, RUDY	VILLAGE HALL BUILDOUT PAI	3,300.00
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILDOUT ELE	939.34
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILD OUT DR	41.48
5530	BLDG & BLDG IMPROVEMENTS	MENARDS - LONG GROVE	VILLAGE HALL BUILDOUT CEI	248.32
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILDOUT DRY	2.52
5530	BLDG & BLDG IMPROVEMENTS	HOME DEPOT CREDIT SERVICES	VILLAGE HALL BUILDOUT CEI	758.72
			<u>Program Total</u>	<u>5,889.40</u>
Program: 40136044 -RIGHT OF WAY MAINTENANCE				
5540	INFRASTRUCTURE IMPROVEMENTS	MANHARD CONSULTING LTD	ENGINEERING SERVICES RT12	240.00
5540	INFRASTRUCTURE IMPROVEMENTS	MANHARD CONSULTING LTD	ENGINEERING SERVICES SRTS	1,360.00
			<u>Program Total</u>	<u>1,600.00</u>
			Fund Total	24,989.40

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Fund: 402 - PARK IMPROVEMENT

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 40267900 -PARK IMP				
5520	LAND IMPROVEMENTS	MANHARD CONSULTING LTD	ENGINEERING SERVICES C WE	3,966.25
			<u>Program Total</u>	<u>3,966.25</u>
				Fund Total
				3,966.25

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Fund: 405 - NHRST CAPITAL PROJECTS

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 40536044 -NHR PW ROW				
5540	INFRASTRUCTURE IMPROVEMT	MANHARD CONSULTING LTD	ENGINEERING SERVICES MIDL	360.00
5540	INFRASTRUCTURE IMPROVEMT	SUPERIOR ROAD STRIPING	THERMOPLASTIC STRIPING	2,662.92
5540	INFRASTRUCTURE IMPROVEMT	MANHARD CONSULTING LTD	ENGINEERING SERVICES ROAD	6,869.50
			<u>Program Total</u>	<u>9,892.42</u>
Program: 40536046 -NHR PW ST/TRAFFIC LIGHTNG				
5540	INFRASTRUCTURE IMPROVEMT	MEADE ELECTRIC COMPANY INC.	STREETLIGHT CABLE FAULT R	789.51
			<u>Program Total</u>	<u>789.51</u>
			Fund Total	10,681.93

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Fund: 501 - WATER/SEWER

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 501 -WATER/SEWER				
2037	EMPLOYER-UNDIST LIFE	UNITED HEALTHCARE INSURANCE CO. LIFE INS - ER		112.74
			<u>Program Total</u>	<u>112.74</u>
Program: 50156001 -UTILITIES-ADMIN				
5570	CAPITAL LEASE	US BANK NATIONAL ASSOC.	COPIER LEASE	40.30
5211	VILLAGE ATTORNEY RETAINER	KLEIN THORPE & JENKINS	LEGAL FEES - NOV	575.00
5313	TELEPHONE	CALL ONE	ANALOG LINES	112.96
5314	CELL PHONES & PAGERS	VERIZON WIRELESS LLC	CELL PHONES	252.13
5355	UNIFORMS	CINTAS CORPORATION LOC. 355	UNIFORMS	33.41
5155	MEMBERSHIPS & SUBSCRIP	J U L I E I N C.	JULIE LOCATE QUARTERLY AS	1,952.89
5355	UNIFORMS	CINTAS CORPORATION LOC. 355	UNIFORMS	33.41
			<u>Program Total</u>	<u>3,000.10</u>
Program: 50156054 -WATER PROD/STORAGE				
5540	INFRASTRUCTURE IMPROVEMT	CORPRO COMPANIES INC.	HORIZONTALLY SUSPENDED PE	9,215.00
5560	VEHICLES	R.A. ADAMS ENTERPRISES, INC.	DEFLECTORS	163.20
5312	NATURAL GAS	NICOR GAS	WELL 7	718.75
5325	BLDG & GROUND MAINT SUPPL	BCB GROUP, INC	SLAA6-14A BATTERY	27.95
5341	CHEMICALS	MORTON SALT, INC	BULK WATER CONDITIONING R	2,064.78
5325	BLDG & GROUND MAINT SUPPL	HOME DEPOT CREDIT SERVICES	INTERIOR PAINT & SUPPLIES	304.20
5359	OTHER SUPPLIES	BCB GROUP, INC	SLAA12-7F	16.95
5289	WATER SAMPLE ANALYSIS	SUBURBAN LABORATORIES, INC.	LAB ANAYSIS/WATER	186.50
5332	PUMP REPAIR SUPPLIES	U S A BLUEBOOK	DWYER DIGITAL GAUGE 0-100	98.00
5332	PUMP REPAIR SUPPLIES	U S A BLUEBOOK	WATER GAUGE 4.5" DIAL LIQ	115.67
5359	OTHER SUPPLIES	BCB GROUP, INC	SLAA6-7.2F	35.90
5325	BLDG & GROUND MAINT SUPPL	HOME DEPOT CREDIT SERVICES	VARIOUS LIGHT BULBS FOR B	23.91
5540	INFRASTRUCTURE IMPROVEMT	HORIZON BROTHERS PAINTING CORP.	WTR TOWER - CHURCH ST	292,095.00
5414	RENTALS	RENTAL MAX LLC	PROPANE HEATER, TANK RENT	154.50
5325	BLDG & GROUND MAINT SUPPL	HOME DEPOT CREDIT SERVICES	QUIKRETE QUICK-SETTING CE	11.55
5325	BLDG & GROUND MAINT SUPPL	HOME DEPOT CREDIT SERVICES	LEAK STOPPER RUBBER PATCH	15.06
5325	BLDG & GROUND MAINT SUPPL	HOME DEPOT CREDIT SERVICES	LEAK STOPPER RUBBER PATCH	16.07
5325	BLDG & GROUND MAINT SUPPL	HOME DEPOT CREDIT SERVICES	52" CEILING FAN	46.97
5327	EQUIP MAINT PART&SUPPLIES	HOME DEPOT CREDIT SERVICES	WATER HEATER JACKET-WELL	20.49
5359	OTHER SUPPLIES	AIRGAS USA, LLC	CUTTING TORCHES	48.19
5327	EQUIP MAINT PART&SUPPLIES	RENTAL MAX LLC	PROPANE HEATER, TANK RENT	692.62
5327	EQUIP MAINT PART&SUPPLIES	HOME DEPOT CREDIT SERVICES	1/2 HP SUM PUMP	130.15
5341	CHEMICALS	MORTON SALT, INC	BULK WATER CONDITIONING R	2,005.02
			<u>Program Total</u>	<u>308,206.43</u>
Program: 50156055 -WATER DISTRIBUTION				
5328	OTHER MAINT PARTS&SUPPLY	BLACKBURN MANUFACTURING CO.	JULIE LOCATE MARKING FLAG	154.50
			<u>Program Total</u>	<u>154.50</u>
Program: 50156065 -INTERCEPTOR SEWER				
5282	MAINT-PUMPS	HYDRO AIRE SERVICE INC.	NORTHWEST PUMP REPAIR PER	24,080.00

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Fund: 501 - WATER/SEWER

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				<u>Program Total</u> 24,080.00

Program: 50156066 -LIFT STATIONS

5311	ELECTRICITY	COMMONWEALTH EDISON	MIDLOTHIAN SEWER FLOW MET	29.89
5311	ELECTRICITY	COMMONWEALTH EDISON	FLOW CONTROL STRUCTURE	33.87
5311	ELECTRICITY	COMMONWEALTH EDISON	CHURCH ST. LIFT STATION	258.34
5253	WASTE REMOVAL	GROOT INDUSTRIES INC.	DECEMBER GRIT BOX RENTAL	75.00
5311	ELECTRICITY	COMMONWEALTH EDISON	VACUUM PRIMING STRUCTURE	83.44
			<u>Program Total</u>	480.54

Program: 50156067 -COLLECTION SYSTEM

5328	OTHER MAINT PARTS&SUPPLY	BLACKBURN MANUFACTURING CO.	SHIPPING	47.92
5328	OTHER MAINT PARTS&SUPPLY	BLACKBURN MANUFACTURING CO.	GREEN JULIE LOCATE MARKIN	154.50
			<u>Program Total</u>	202.42

	Fund Total	336,236.73
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Fund: 601 - MEDICAL SELF INSURANCE

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 60112010 -MEDICAL SELF INS FUND				
5232	LOCAL 150 HEALTH INS PREM	MIDWEST OPERATING ENG L/150	LOCAL 150 - SINGLE	5,953.59
5232	LOCAL 150 HEALTH INS PREM	MIDWEST OPERATING ENG L/150	LOCAL 150- FAMILY	27,132.45
Program Total				33,086.04

	Fund Total	33,086.04
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Fund: 603 - RISK MANAGEMENT INS

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 60312010 -RISK MANAGEMENT INS FUND				
5222	INSURANCE CLAIMS	IRMA	VOLUNTEER COVERAGE	531.00
			<u>Program Total</u>	<u>531.00</u>
				Fund Total
				531.00

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Fund: 710 - PERFORMANCE ESCROW

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 710 -PERFORMANCE ESCROW				
2501	BUILDING DEPOSITS	AMERICAN CRAWLSPACES CORP	BLD REF-1099 MIDLOTHI	50.00
2501	BUILDING DEPOSITS	DIogenes, Jacinta	BLD REEF-690 E RT 22	200.00
2501	BUILDING DEPOSITS	PROLINE EXTERIORS INC.	BLD REF-808 HANDLEY	100.00
2501	BUILDING DEPOSITS	PROLINE EXTERIORS INC.	BLD REF-1064 O'MALLEY	100.00
2501	BUILDING DEPOSITS	SALAMONDRA, PAUL	BLD REF-1201 TRACIE D	100.00
2501	BUILDING DEPOSITS	ATLAS RESTORATION, LLC	BLD REF-755 BURR OAK	100.00
2501	BUILDING DEPOSITS	WINDOW WORKS	BLD REF-600 CHESTERFL	100.00
2501	BUILDING DEPOSITS	FELDCO FACTORY DIRECT LLC	BLD REF-721 WARWICK	100.00
2501	BUILDING DEPOSITS	LANKFORD CONSTRUCTION CO.	BLD REF-670 S RAND RD	500.00
2501	BUILDING DEPOSITS	BADAL, ALISON	BLD REF-1020 PHEASNT	100.00
2507	ENGINEERING DEPOSITS	BAXTER & WOODMAN	BRADFORD TOWN CROSSING	4,711.85
2507	ENGINEERING DEPOSITS	BAXTER & WOODMAN	PNC PLAN REVIEW	158.00
2501	BUILDING DEPOSITS	FOUR SEASONS HOME SERVICES, LLC	BLD REF-11 JONATHAN	100.00
2528	VH CABLE TV EQUIP REPL	COMCAST CABLE	ADDITIONAL OUTLET	10.54
2501	BUILDING DEPOSITS	D&G DEVELOPMENT & RESTORATIONS	BLD REF-606 BRAEMAR	100.00
2501	BUILDING DEPOSITS	G2 BUILDERS	BLD REF-275 S RAND RD	500.00
2501	BUILDING DEPOSITS	CTI INDUSTRIES CORPORATION	BLD REF-800 N CHURCH	50.00
2501	BUILDING DEPOSITS	DISCOUNT HEATING & COOLING	BLD REF-859 WINDEMERE	100.00
2501	BUILDING DEPOSITS	ABSOLUTE CONSTRUCITON, INC	BLD REF-13 PAMELA RD	100.00
2501	BUILDING DEPOSITS	PYSZYNSKI, PAWEŁ	BLD REF-3 JEAN TER	100.00
2501	BUILDING DEPOSITS	WASMUND, GAIL	BLD REF-4 E HARBOR DR	100.00
2528	VH CABLE TV EQUIP REPL	MEDIASTAR	CABLES, VDA	282.42
2501	BUILDING DEPOSITS	MURPHY & MILLER	BLD REF-490 E RT 22	150.00
2053	UNDIST AR SUSPENSE	KLEIN THORPE & JENKINS	LEGAL FEES - NOV	1,640.00
2501	BUILDING DEPOSITS	NELSON, CHARLES	BLD REF-152 FOREST AV	100.00
2501	BUILDING DEPOSITS	DNW DESIGN & BUILD INC.	BLD REF-716 FOXMOOR L	100.00
2501	BUILDING DEPOSITS	EASTERDAY, KATHRYN	BLD REF-1171 DONEGAL	100.00
2501	BUILDING DEPOSITS	NEXT DOOR & WINDOW COMPANY	BLD REF-1105 BRITTANY	100.00
2501	BUILDING DEPOSITS	MACGYVER DEVELOPMENT	BLD REF-898 WARWICK L	100.00
2501	BUILDING DEPOSITS	OSIPOV, VLADIMIR	BLD REF-205 FOXFIRE D	100.00
Program Total				10,152.81

Fund Total	10,152.81
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Village of Lake Zurich
Semi-Monthly Warrant Report
Warrant Date: 2/04/2014

Report Run Date: 1/28/2014
Time: 11:29AM

Fund: 720 - PAYROLL CLEARING

Account Code	Account Title	Vendor Name	Payable Description	Payment Amount
Program: 720 -PAYROLL CLEARING				
2039	100% EE COVERED BENEFITS	UNITED HEALTHCARE INSURANCE CO.	VISION - ADJ	22.30
2039	100% EE COVERED BENEFITS	UNITED HEALTHCARE INSURANCE CO.	DENTAL -ADJ	103.90
2043	LIFE INS DED	UNITED HEALTHCARE INSURANCE CO.	LIFE INS - EE	1,685.85
2039	100% EE COVERED BENEFITS	UNITED HEALTHCARE INSURANCE CO.	DENTAL - JAN '14	6,522.29
2039	100% EE COVERED BENEFITS	UNITED HEALTHCARE INSURANCE CO.	VISION - JAN '14	1,131.51
Program Total				9,465.85
				Fund Total
				9,465.85

YTD Vendor Payments

Date: 1/28/2014

Vendor Number	Vendor Name	Current Payment	YTD Amount Paid
BL000004	A H MANAGEMENT GROUP INC	50.00	50.00
5611	A STARS & STRIPES FLAG COMPANY	321.50	627.50
99189	ABSOLUTE CONSTRUCITON, INC	100.00	100.00
66730	ADOR COMPANY, INC	43.95	990.94
32041	ADVOCATE OCCUPATIONAL HEALTH	80.00	3,852.00
2451	AIR ONE EQUIPMENT	120.00	6,277.00
2460	AIRGAS USA, LLC	144.59	724.54
3642	AMERICAN ASSN. OF CODE ENFORCEMENT	75.00	75.00
99869	AMERICAN CRAWLSPACES CORP	50.00	50.00
4180	ANDRES MEDICAL BILLING LTD.	2,239.43	15,481.58
4953	APWA	157.00	785.00
5104	ARLINGTON POWER EQUIPMENT INC.	497.00	1,923.79
5740	ATLAS RESTORATION, LLC	100.00	150.00
99905	BADAL, ALISON	100.00	100.00
70800	BARNETT, JENA	360.00	1,661.00
8415	BAXTER & WOODMAN	4,869.85	78,747.53
8390	BCB GROUP, INC	80.80	965.64
8850	BELL FUELS INC.	19,630.30	275,677.26
9219	BEST QUALITY CLEANING INC.	4,200.00	42,839.00
9850	BLACKBURN MANUFACTURING CO.	356.92	808.84
10275	BONNELL INDUSTRIES	348.77	18,121.37
11750	BURRIS EQUIPMENT COMPANY	27.66	6,164.30
12390	C A L E A	130.00	4,195.00
12503	CALL ONE	2,265.49	24,282.81
15280	CDW GOVERNMENT INC.	281.56	11,134.34
14252	CINTAS CORPORATION LOC. 355	333.94	5,184.99
14645	CLARK BAIRD SMITH LLP	5,191.25	26,898.75
15258	COMCAST CABLE	311.65	1,852.98
15271	COMMONWEALTH EDISON	1,819.99	16,166.72
26590	CONSTELLATION NEW ENERGY, INC.	11,085.54	307,667.80
15921	CORRPRO COMPANIES INC.	9,215.00	9,215.00
16070	CRESCENT ELECTRIC SUPPLY CO.	264.46	3,569.41
99681	CTI INDUSTRIES CORPORATION	50.00	10,150.00
16570	CUTLER HARDWARE/WORKWEAR	361.68	3,400.74
99904	D&G DEVELOPMENT & RESTORATIONS LLC	100.00	100.00
17950	DELL USA LP	981.68	9,592.69
18583	DIOGENES, JACINTA	200.00	200.00
18599	DISCOUNT HEATING & COOLING	100.00	100.00
18760	DNW DESIGN & BUILD INC.	100.00	100.00
18805	DOCUMENT IMAGING DIMENSIONS	198.00	3,018.04
19525	DULTMEIER SALES LLC	54.12	145.91
99907	EASTERDAY, KATHRYN	100.00	100.00
23225	ELEGANT EMBROIDERY/MELON INK	20.00	6,052.50
75333	ENCOMPASS MED & SPEC GASES LTD	105.98	1,077.38
27515	FASTENAL COMPANY	171.45	1,875.77
27750	FELDCO FACTORY DIRECT LLC	100.00	1,272.00
99206	FOUR SEASONS HOME SERVICES, LLC	100.00	100.00
99867	G2 BUILDERS	500.00	500.00

YTD Vendor Payments

Date: 1/28/2014

Vendor Number	Vendor Name	Current Payment	YTD Amount Paid
30240	GALL'S INC.	578.01	11,071.11
30953	GLOBAL EMERGENCY PRODUCTS INC.	635.95	14,362.97
96120	GRAINGER	106.53	4,813.49
32395	GRANICUS, INC	1,020.00	10,200.00
32602	GREAT LAKES FIRE & SAFETY	1,017.50	4,986.25
32955	GROOT INDUSTRIES INC.	75.00	1,363.17
27540	GROSSINGER CHEVROLET	16.17	4,485.30
33140	GRYPHON TRAINING GROUP INC	145.00	145.00
35065	HAUTZINGER, MIKE	165.24	205.24
35425	HEALTH ENDEAVORS, SC	2,205.00	19,265.00
35423	HEALTHCARE & FAMILY SERVICES	237.60	426.97
77315	HENRY SCHEIN EMS	534.95	1,637.81
37025	HOME DEPOT CREDIT SERVICES	3,145.73	18,808.10
37267	HORIZON BROTHERS PAINTING CORP, IN	292,095.00	292,095.00
38565	HYDRAULIC SERVICES & REPAIRS	558.00	3,673.17
38570	HYDRO AIRE SERVICE INC.	24,080.00	47,208.00
38845	I A C P	240.00	240.00
42760	I P E L R A	540.00	1,440.00
43110	I R M A	541.00	726,114.60
38843	IACE	50.00	50.00
39720	IL DEPARTMENT OF TRANSPORTATION	9,941.34	34,594.78
41784	IL FIRE CHIEFS ASSOCIATION	1,312.50	1,649.50
41786	IL FIRE INSPECTORS ASSOCIATION	75.00	630.00
41808	IL MUTUAL AID NETWORK	250.00	250.00
30951	ILLINOIS GFOA	250.00	565.00
42369	INSIGHT PUBLIC SECTOR, INC	1,510.29	15,973.99
47670	J U L I E INC.	1,952.89	7,448.11
46350	JG UNIFORMS INC.	29.99	9,199.74
49172	KIESLER POLICE SUPPLY, INC.	3,533.49	13,910.70
49340	KIP AMERICA INC	260.81	2,608.10
49830	KLEIN THORPE & JENKINS	7,485.20	76,738.70
50265	KOVACH, VERONICA L	30.00	546.00
51270	LAKE COUNTY CHIEFS OF POLICE	50.00	50.00
51277	LAKE ZURICH RADIATOR & A/C	255.00	978.68
51246	LAKE/MCHENRY FIRE DEPTS.	4,975.00	4,975.00
99356	LANKFORD CONSTRUCTION CO.	500.00	500.00
51730	LAWSON PRODUCTS INC.	686.48	7,164.42
51810	LEADINGIT SOLUTIONS, INC	2,863.00	28,630.00
51290	LZ RURAL FIRE PROTECTION DIST.	175.00	2,153.34
99390	MACGYVER DEVELOPMENT	100.00	300.00
54490	MANHARD CONSULTING LTD	27,149.75	213,066.60
56400	MEADE ELECTRIC COMPANY INC.	789.51	1,118.77
56523	MEDIASTAR	282.42	55,877.42
56660	MENARDS - LONG GROVE	248.32	537.16
66731	METRO DOOR & DOCK, INC	2,114.99	11,832.36
56798	METROPOLITAN EMERGENCY SUPPORT	600.00	600.00
57017	MICROSYSTEMS INC.	1,066.30	1,197.00
57036	MIDWEST MOTORS INC	4,353.95	16,320.60

YTD Vendor Payments

Date: 1/28/2014

Vendor Number	Vendor Name	Current Payment	YTD Amount Paid
57045	MIDWEST OPERATING ENG L/150	33,086.04	96,250.26
57095	MIKE'S TOWING, INC AUTO & TRUCK REP	50.00	2,343.00
58269	MORTON SALT, INC	14,419.51	160,567.62
30950	MUNICIPAL EMERGENCY SERVICES, INC	2,445.39	14,538.95
99872	MURPHY & MILLER	150.00	150.00
59770	NAPA AUTO PARTS	816.09	17,062.79
59907	NC INC.	601.10	1,935.16
99871	NELSON, CHARLES	100.00	100.00
99445	NEXT DOOR & WINDOW COMPANY	100.00	100.00
60747	NI GOVERNMENT SERVICES, INC	25.28	279.52
61214	NICOR GAS	718.75	35,264.86
61205	NORTHEAST MULTI-REGIONAL TRNG.	50.00	5,675.00
61208	NORTHERN IL FIRE INSPECTORS	50.00	50.00
61225	NORTHWEST COMMUNITY HEALTH SVC	115.00	5,466.00
61224	NORTHWEST COMMUNITY HOSPITAL EMS	5,106.42	5,256.42
61670	NWBODA	50.00	370.00
66520	O'REILLY AUTOMOTIVE STORES, INC	845.92	10,724.69
99906	OSIPOV, VLADIMIR	100.00	100.00
695	OTIS ELEVATOR COMPANY	822.78	3,624.63
70390	P F PETTIBONE & COMPANY	101.75	218.25
68771	PADDOCK PUBLICATIONS INC.	34.00	1,444.55
70035	PERSONNEL STRATEGIES, LLC	500.00	4,500.00
70251	PETTY CASH - BLDG & ZONING	183.38	323.21
70249	PETTY CASH - FIRE/RESCUE #1	185.83	185.83
70254	PETTY CASH - POLICE DEPARTMENT	161.26	161.26
70901	PITNEY BOWES - LEASE	59.00	590.00
56201	PJ'S WINDOWS & DOORS, INC	17,500.00	17,500.00
71345	POMP'S TIRE SERVICE	1,412.50	11,041.08
71753	PRECISION SERVICE & PARTS, INC	705.97	7,360.59
71989	PROLINE EXTERIORS INC.	200.00	200.00
99874	PYSZYNSKI, PAWEŁ	100.00	100.00
73175	R.A. ADAMS ENTERPRISES, INC.	1,042.66	20,822.42
73540	RAY O'HERRON COMPANY INC.	35.83	2,929.65
73661	RED WING SHOE STORE	119.00	2,819.56
74018	RENTAL MAX LLC	847.12	5,207.74
75550	ROLF CAMPBELL & ASSOCIATES	482.50	482.50
75620	ROMO, ELIZABETH	45.00	45.00
76143	RUNCO OFFICE SUPPLY & EQUIPMENT CO.	800.53	12,987.20
76090	RUNNION EQUIPMENT COMPANY	495.00	2,144.97
76344	RUSH TRUCK CENTER -GRAYSLAKE	67.31	67.31
77220	S B O C	200.00	200.00
99868	SALAMONDRAS, PAUL	100.00	100.00
78543	SHERWIN INDUSTRIES INC.	173.80	16,479.49
80590	SPEER FINANCIAL INC	3,923.12	3,923.12
81070	STAPLES BUSINESS ADVANTAGE	195.31	6,600.35
94790	STATE OF WISCONSIN	2.00	2.00
81921	STREICHER'S, INC	121.96	1,377.15
82073	SUBURBAN LABORATORIES, INC.	186.50	4,603.00

YTD Vendor Payments

Date: 1/28/2014

Vendor Number	Vendor Name	Current Payment	YTD Amount Paid
82235	SUPERIOR ROAD STRIPING	2,662.92	2,662.92
70839	SUSAN R. PILAR CSR	150.00	1,687.50
54419	THE UPS STORE	45.58	456.38
84200	THOMPSON ELEVATOR INSP SERVICE	129.00	4,084.00
99709	THOMPSON, PAULINE/TOM	45.00	45.00
84885	TODAY'S UNIFORMS INC.	251.26	2,727.21
88845	U S A BLUEBOOK	213.67	1,117.11
88131	UNITED HEALTHCARE INSURANCE CO.	10,875.15	1,537,262.33
88132	UNITED PARCEL SERVICE	119.93	119.93
88855	US BANK NATIONAL ASSOC.	1,265.25	12,652.50
90050	VERIZON WIRELESS LLC	1,769.30	19,238.32
99873	WASMUND, GAIL	100.00	100.00
93160	WEST PUBLISHING GROUP	144.32	2,517.12
93823	WHOLESALE DIRECT, INC	328.41	6,291.97
93900	WICKSTROM FORD	332.83	4,855.54
99836	WINDOW WORKS	100.00	200.00
94680	WINTER EQUIPMENT COMPANY	1,283.26	1,283.26
95309	WOODSTOCK LUMBER COMPANY	70.80	70.80
98605	ZEPEDA, RUDY	3,300.00	17,650.00
98875	ZIMMERMAN, RYAN	175.00	700.00
98905	ZUKOWSKI ROGERS FLOOD MC ARDLE	1,265.00	6,625.00

Report Total: 583,182.76

Village of Lake Zurich
Semi-Monthly Warrant Report
Manual Checks 1-13-14 thru 1-27-14

WT000143	AFLAC	01/15/2014	8,236.32
WT000144	INLAND BANK	01/17/2014	4,398.99
96304	BAYTREE LEASING COMPANY	01/27/2014	2,863.00
96305	BAYTREE LEASING COMPANY	01/27/2014	666.00
96306	UNITED HEALTHCARE INSURANCE	01/27/2014	163,996.54

Report Total: **\$ 180,160.85**

Community Services Dept.

- Building & Zoning
- Public Works

505 Telser Road
Lake Zurich, IL 60047



Phone: (847) 438-5141
Fax: (847) 540-1768
Web: www.LakeZurich.org

MEMORANDUM

Date: January 28, 2014

To: Jason T. Slowinski, Village Administrator

From: Sam Hubbard, Village Planner

Cc: Michael J. Earl, Director of Community Services
Daniel A. Peterson, Manager of Building and Zoning

Subject: Zoning Application for a Text Amendment for Medical Cannabis Uses.

Issue: The Village of Lake Zurich (the "Applicant") has filed a zoning application for a text amendment to allow medical cannabis cultivation centers and medical cannabis dispensaries as a special use within the I Industrial District (the "Application"). The "Compassionate Use of Medical Cannabis Pilot Program Act", passed by the Illinois State Legislature in 2013, is the impetus for this text amendment. The Act allows municipalities to enact reasonable zoning restrictions that regulate medical cannabis cultivation centers and dispensaries; however, it prohibits any municipality from banning these uses entirely.

Analysis: Staff has been part of the Lake County Medical Marijuana Task Force, a countywide effort that produced a set of model regulations to address medical cannabis uses. Using this model as a template, staff has prepared restrictions within the proposed text amendment that limit these uses to the most appropriate locations within the Village.

The proposed text amendment requires these uses to receive a special use permit and requires that they be located away from nurseries, day cares, schools, parks, and places of worship. It should be noted that there is no zoning district within the Village that can meet the State's distance requirement for cultivation centers. Therefore, the Village is not eligible for a cultivation center.

At the January 15th Plan Commission hearing, commissioners voted 7-0 to recommend approval of the Application with only one minor change to the section 6-109.M.7. The recommended change included a minimum allowable text size for the message stating that entrance is restricted to persons 18 years of age and older, which must be posted on a sign at all dispensary entrances. This change has been incorporated into the approval ordinance.

Recommendation: The Plan Commission has recommended a motion to approve the ordinance authorizing the Zoning Text Amendment to Chapters 6 and 24 of the Zoning Code.

w/ Attachments:

1. Approval Ordinance (including the Staff Report from the 1/15/14 Plan Commission Meeting as an exhibit)
2. Village Review comments from:
 - a. Zoning, dated 1/7/2014
 - b. Public Works, dated 12/31/2013
 - c. Police Department, dated 1/7/2014
 - d. Manhard Engineering, dated 1/3/2014

ORDINANCE NO. 2014-2-957

AN ORDINANCE APPROVING
A ZONING CODE TEXT AMENDMENT WITH REGARD TO MEDICAL CANNABIS
DISPENSARIES AND CULTIVATION CENTERS

WHEREAS, a courtesy review was conducted by the Village Board on January 6, 2014 and the Village Board voted unanimously to refer the application for the following amendments, to the Plan Commission:

(i) text amendments to Chapters 6 and 24 of the Zoning Code,

WHEREAS, the Village of Lake Zurich filed PC 2014-01 #2 Zoning Application for these text amendments, dated December 16, 2013 (the "Application") seeking approval; and

WHEREAS, notice was published on December 26, 2013, in *The Lake Zurich Courier*, of a public hearing to be held before the Lake Zurich Plan Commission on January 15, 2014, to consider the Application; and

WHEREAS, the Plan Commission held a public hearing on January 15, 2014, to consider the Application and all of the facts and circumstances affecting the application, and recommended adoption and approval of PC 2014-01 #2 as described in the staff report and recommendations set forth in the January 10, 2014 STAFF REPORT, consisting of 63 pages, along with the additions, changes and modifications to said STAFF REPORT adopted by the Plan Commission in its one-page written approval dated January 15, 2014, all 64 pages attached hereto as **Exhibit A**; and

WHEREAS, the President and Board of Trustees of the Village of Lake Zurich have considered the findings and recommendations of the Plan Commission, including the STAFF REPORT dated January 10, 2014, consisting of 63 pages and setting forth the findings and recommendations of the Plan Commission and having considered all of the facts and circumstances affecting the application and amendment, the President and Board of Trustees have determined that the applicable standards set forth in Chapter 18 of the Code, particularly Subchapter 18-103 "STANDARDS FOR AMENDMENTS", related to the approval of a text amendment, have been met.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Lake Zurich, Lake County and State of Illinois, as follows:

SECTION 1: RECITALS. The foregoing recitals are incorporated herein as the findings of the President and Board of Trustees which further find that the public good requires that these amendments be made, the amendments are consistent with the purposes of the Code and there is a community need for the amendment.

SECTION 2: APPROVAL OF TEXT AMENDMENT – MEDICAL CANNABIS CULTIVATION CENTERS. The President and Board of Trustees, pursuant to the authority vested in them under the laws of the State of Illinois and Chapter 18 of the Lake Zurich Zoning Code, hereby approve the following amendment to Subsection A (“Agricultural Services”) of Section 6-103 (“**SPECIAL USES**”) of Chapter 6 (“**INDUSTRIAL DISTRICT**”) of the Lake Zurich Zoning Code to add a new sub-subsection “3. Medical Cannabis Cultivation Centers”, at the end of and immediately following the current 2 numbered sub-sections to read in its entirety:

“3. Medical Cannabis Cultivation Centers S”

SECTION 3: APPROVAL OF TEXT AMENDMENT – MEDICAL CANNABIS DISPENSARIES. The President and Board of Trustees, pursuant to the authority vested in them under the laws of the State of Illinois and Chapter 18 of the Lake Zurich Zoning Code, hereby approve the following amendment to Subsection A (“Services”) of Section 6-103 (“**SPECIAL USES**”) of Chapter 6 (“**INDUSTRIAL DISTRICT**”) of the Lake Zurich Zoning Code to add a new sub-subsection “16. Medical Cannabis Dispensaries”, at the end of and immediately following the current 15 numbered sub-sections to read in its entirety:

“16. Medical Cannabis Dispensaries S”

SECTION 4: APPROVAL OF TEXT AMENDMENT – CHAPTER 6. The President and Board of Trustees, pursuant to the authority vested in them under the laws of the State of Illinois and Chapter 18 of the Lake Zurich Zoning Code, hereby approve the following amendment to Section 6-109 (“**SPECIAL DEVELOPMENT AND USE REGULATIONS**”) of Chapter 6 (“**INDUSTRIAL DISTRICT**”) of the Lake Zurich Zoning Code to add two new sub-subsections at the end of and immediately following the current 12 lettered sub-sections to read in their entirety:

“M. Medical Cannabis Dispensary Restrictions.

1. Compliance With State Regulations and Rules. All Medical Cannabis Dispensary establishments shall comply with the Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122) and any rules adopted in accordance thereto.
2. Single Use Property. Medical Cannabis Dispensaries shall not be established in multiple use or tenant property or on a property that shares parking with other uses.
3. Minimum Distance from Incompatible Uses: No Medical Cannabis Dispensary shall be located, established, maintained, or operated on any lot that has a property line within 1,500 feet of the property line of the following:
 - a. A church, synagogue, mosque, or other place of worship.

- b. A public or private nursery, elementary, or secondary school.
- c. A child care facility, licensed by the Illinois Department of Children and Family Services.
- d. A public park, playground, playing field, or forest preserve.
- e. A Residential Property.

4. **Measurement.** For the purposes of this Section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the Medical Cannabis Dispensary is located to the nearest point on a property line of the uses described in 6-109M3.

5. **Parking.** Client parking shall be located in an area which is visible from a public road or a private road that is accessible to the public. It cannot be screened from the roadway with vegetation, fencing, or other obstructions.

6. **Exterior Display.** No medical cannabis dispensary shall be maintained or operated in a manner that causes, creates, or allows the public viewing of medical cannabis, medical cannabis infused products, or cannabis paraphernalia from any sidewalk, public or private right-of-way, or any property other than the lot on which the dispensary is located.

7. **Signage.** A sign shall be posted in a conspicuous place at or near all dispensary entrances and shall include the following language: "Only cardholders, designated caregivers, and staff may enter these premises. Persons under the age of 18 are prohibited from entering." The required text shall be no larger than 1 inch in height and no smaller than $\frac{1}{4}$ inch in height.

8. **Hours of Operation.** Medical cannabis dispensaries shall only operate between the hours of 8 a.m. and 6 p.m.

9. **Drive-Through Windows.** A medical cannabis dispensary may not have a drive-through service.

N. Medical Cannabis Cultivation Center Restrictions.

1. Compliance With State Regulations and Rules. All Medical Cannabis Cultivation Centers shall comply with the Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122) and any rules adopted in accordance thereto.
2. Single Use Property. Medical Cannabis Cultivation Center establishments shall not be established in multiple use or tenant property or on a property that shares parking with other uses.
3. Minimum Distance From Residential Property. No Medical Cannabis Cultivation Center shall be located, established, maintained, or operated on any lot that has a property line within 2,500 feet of the property line of any Residential Property.
4. Measurement. For the purposes of this Section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the Medical Cannabis Cultivation Center is located to the nearest point on a property line of a Residential Property.”

SECTION 5: APPROVAL OF TEXT AMENDMENT – DEFINITION OF CARDHOLDER. The President and Board of Trustees, pursuant to the authority vested in them under the laws of the State of Illinois and Chapter 18 of the Lake Zurich Zoning Code, hereby approve the following amendment to Subsection C of Section 24-102 (“**DEFINITIONS**”) of Chapter 24 (“**USAGE AND DEFINITIONS**”) of the Lake Zurich Zoning Code to add a new definition (“Cardholder”) in the appropriate alphabetical order at the end of and immediately following the current definition of “Canopy” to read in its entirety:

“**CARDHOLDER**. A qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card by the Department of Public Health.”

SECTION 6: APPROVAL OF TEXT AMENDMENT – DEFINITION OF DESIGNATED CAREGIVER. The President and Board of Trustees, pursuant to the authority vested in them under the laws of the State of Illinois and Chapter 18 of the Lake Zurich Zoning Code, hereby approve the following amendment to Subsection D of Section 24-102 (“**DEFINITIONS**”) of Chapter 24 (“**USAGE AND DEFINITIONS**”) of the Lake Zurich Zoning Code to add a new definition (“Designated Caregiver”) in the appropriate alphabetical order at the end of and immediately following the current definition of “Depth of Lot” to read in its entirety:

“**DESIGNATED CAREGIVER**. A person who: (1) is at least 21 years of age; (2) has agreed to assist with a patient’s medical use of cannabis; (3) has not been convicted of

an excluded offense; and (4) assists no more than one registered qualifying patient with his or her medical use of cannabis.”

SECTION 7: APPROVAL OF TEXT AMENDMENT – DEFINITION OF MEDICAL CANNABIS CULTIVATION CENTER AND MEDICAL CANNABIS DISPENSARY. The President and Board of Trustees, pursuant to the authority vested in them under the laws of the State of Illinois and Chapter 18 of the Lake Zurich Zoning Code, hereby approve the following amendment to Subsection M of Section 24-102 (“**DEFINITIONS**”) of Chapter 24 (“**USAGE AND DEFINITIONS**”) of the Lake Zurich Zoning Code to add two new definitions (“Medical Cannabis Cultivation Center” and “Medical Cannabis Dispensary”) in the appropriate alphabetical order at the end of and immediately following the current definition of “Marquee or Canopy” to read in their entirety:

“MEDICAL CANNABIS CULTIVATION CENTER. A facility authorized by Illinois law and operated by an organization or business registered by the Department of Agriculture to grow, and/or cultivate, and/or perform necessary activities to provide registered medical cannabis dispensing organizations with usable medical cannabis, in accordance with all Illinois and Village statutes, ordinances, and regulations..

MEDICAL CANNABIS DISPENSARY. A facility authorized by Illinois law and operated by an organization or business registered by the Department of Financial and Professional Regulation to acquire, and/or sell, and/or dispense medical cannabis from a registered medical cannabis cultivation facility, in accordance with all Illinois and Village statutes, ordinances, and regulations.”

SECTION 8: EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its adoption and publication in pamphlet form as provided by law.

SECTION 9: CONFLICTS. Any and all ordinances, sections or subsections of ordinances in conflict herewith are hereby repealed.

SECTION 10: SEVERABILITY. In the event any part or parts of this Ordinance shall be found to be unconstitutional by a court of competent jurisdiction, such unconstitutionality shall not affect the validity of the remaining parts of this Ordinance.

PASSED this 4th day of February, 2014.

AYES:

NAYS:

ABSENT:

APPROVED this 4th day of February, 2014.

Tom Poynton,
Village Mayor

ATTEST:

Kathleen Johnson,
Village Clerk

Exhibit A

Staff Report and Plan Commission Written Approval

APPLICATION PC 2014-01 #2

AGENDA ITEM 3B

Community Services Dept.
• Building & Zoning
• Public Works
505 Telser Road
Lake Zurich, IL 60047



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STAFF REPORT

To: Chairperson Jackson and Members of the Plan Commission
From: Sam Hubbard, Village Planner
CC: Daniel A. Peterson, Manager of Building & Zoning
Date: January 10, 2014
Re: **PC 2014-01 #2 Zoning Application for a Text Amendment to allow Medical Cannabis Dispensaries and Cultivation Centers**

Summary: The Village of Lake Zurich (the “*Applicant*”) is the Applicant for a Zoning Code text amendment to allow for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensaries within the I Industrial Zoning District. The Applicant filed this application on December 16, 2013, (the “*Application*”) seeking the following approvals:

(i) text amendment to Chapters 2 and 24 of the Zoning Code,

Pursuant to Section 14-103, since no specific parcel was the subject of the Application, no public hearing sign was posted and no notice was sent to adjacent taxpayers of record.

Pursuant to Section 14-103, a public notice was published on December 26, 2013, in *The Lake Zurich Courier*, notifying the public that a public hearing with the Lake Zurich Plan Commission was schedule for January 15, 2014, to consider the Application.

Pursuant to Section 18-102 of the Zoning Code, the Applicant appeared before the Village Board for a courtesy review on January 6, 2014. The Village Board referred the Application to the Plan Commission for consideration.

Background: On August 1, 2013, the Governor of the State of Illinois signed House Bill 1 into law, which is known as the “Compassionate Use of Medical Cannabis Pilot Program Act.” This Act allows the lawful use of cannabis by a registered qualifying patient and allows the establishment of registered cannabis cultivation centers and registered dispensing organizations without prosecution or penalty for growing or dispensing cannabis.

The Act allows twenty two (22) cultivation centers to receive permits, one (1) each in the twenty two (22) Illinois State Police Districts in the State. The Village is located in State Police District 2, which covers Lake County, DeKalb County, DuPage County, Kane County, and McHenry County. The Act also allows sixty

(60) cannabis dispensaries to receive permits, which are to be geographically dispersed throughout the State to allow all registered qualifying patients reasonable proximity and access to a dispensing organization.

The Act has taken effect as of January 1, 2014, however, the State is still drafting administrative rules for licensing and inspection procedures and will not be issuing permits to cultivation and dispensing organizations until sometime after April 1, 2014. Under the terms of the Act, no municipality within the State of Illinois has the authority to completely prohibit these facilities from locating within their community. However, municipalities may enact reasonable zoning restrictions that can regulate registered medical cannabis cultivation centers and medical cannabis dispensaries. Currently, the Village of Lake Zurich Municipal Code does not allow these uses within the community.

The Act includes several baseline restrictions regarding the location of medical cannabis cultivation centers and dispensaries. With regards to cultivation centers, they may not be located:

1. within 2,500 feet of a public or private preschool, elementary, or secondary school,
2. within 2,500 feet of a day care center, day care home, group day care home, or part day child care facility,
3. within 2,500 feet of any area zoned for residential use,
4. within any residential zoning district.

With regards to dispensing organizations, the Act requires that they may not be located:

1. within 1,000 feet of a public or private preschool, elementary, or secondary school,
2. within 1,000 feet of a day care center, day care home, group day care home, or part day child care facility,
3. within any residential zoning district.

Proposed Text Amendment: The proposed text amendment allows cultivation centers and dispensaries only within the I Industrial Zoning District. Staff has outlined some of the the major areas of interest within the proposed text amendment:

Chapter 6: Both medical cannabis cultivation centers and dispensaries have been classified as special uses due to the plethora of secondary effects that they can have on nearby properties. Special consideration and careful review of any application to determine the appropriateness of the location, design, configuration, and impact of any proposed cultivation center or dispensary is warranted due to their special impact and uniqueness.

Staff has included additional locational restrictions for medical cannabis dispensaries to prohibit their location:

1. within 1,500 feet of a synagogue, mosque, or other place of worship,
2. within 1,500 feet of a public or private preschool, elementary, or secondary school,
3. within 1,500 feet of a child care facility licensed by the Illinois Department of Children and Family Services,
4. within 1,500 feet of a public park, playground, playing field, or forest preserve,
5. within 1,500 feet of any residential property.

The adverse secondary effects of medical cannabis dispensaries have been well documented in other states where medical cannabis has been legal for several years (**Exhibit B**). Some of these secondary

effects include street dealers lurking about dispensaries to offer a lower price to arriving patrons, cannabis smoking in public locations in front of children in the vicinity of dispensaries, loitering and nuisances, increased traffic and traffic accidents involving driving while intoxicated, robberies, and burglaries at or near dispensaries.

The additional locational restrictions within the proposed text amendment are reasonable given the adverse secondary impacts associated with medical cannabis dispensing establishments. The restrictions are intended to isolate all potential adverse secondary impacts to the most appropriate location and to protect the general public from exposure while at the same time allowing medical cannabis dispensing uses as required by the Act.

The locational restrictions regarding cultivation centers do not go beyond what is included in the Act. There is no zoning district within the Village of Lake Zurich that can meet the States' locational requirements for cultivation centers and therefore the Village of Lake Zurich is not eligible for cultivation uses. Because it is the States' regulations that have prohibited cultivation centers, this prohibition is lawful.

Chapter 24: The changes proposed within this chapter only relate to the definition of aspects associated with medical cannabis production. These definitions are reasonable and help to clarify how the regulations are to be applied.

Preliminary Findings: Detailed staff reviews from the Building and Zoning Division, Public Works Division, and Engineering consultant are attached. The Police Department and Fire/Rescue Department did not have any formal comments or concerns with the proposed text amendment.

Recommendation: Your recommendations should be based on the standards included in Section 18-103 Standards for Amendments.

Please refer to Exhibit A for Staff's responses to these zoning standards. Based on staff's analysis, the standards for approval have been met. Staff requests the Plan Commission to make these standards a part of the official record for the Application.

Approval can be recommended subject to any suggested changes to the proposed text amendment that may be discussed at the public hearing.

Should you have any questions, please call me at 847-540-1759.

EXHIBIT A

REVIEW OF COMPLIANCE WITH ZONING STANDARDS FOR MEDICAL CANNABIS TEXT AMENDMENT

18-103 STANDARDS FOR AMENDMENTS

Amending the Zoning Map or the text of this Code is a matter committed to the sound legislative discretion of the Board of Trustees and is not dictated by any set standard. However, in determining whether a proposed amendment should be granted or denied, the Board of Trustees shall act in what it reasonably believes to be in the best interest of the general public, and may consider, among other factors, the following factors as they may be relevant to a particular application:

- A. The consistency of the proposed amendment with the purposes of this Code.

Staff Response: Standard met. One of the purposes of the Zoning Code is to "Promote and protect the public health, safety, morals, and general welfare of the Village". Specific to the text amendment, the required buffer distances at 1,500 feet for dispensaries and 2,500 feet for cultivation centers, protect the public health, safety, morals, and general welfare by restricting these uses to the most appropriate locations within the Village due to their well-documented adverse secondary effects (**Exhibit B**). Locations that comply with the buffer restrictions are in areas of the Village that are not frequented by the general public and this will limit their exposure to potentially adverse secondary effects.

Another goal of the Zoning Code is to "Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible uses". Again, due to the adverse secondary effects of medical cannabis cultivation centers and dispensaries, they can be considered incompatible with most other uses and therefore the restriction to single tenant properties will protect existing development.

- B. The community need for the proposed amendment and for the uses and development it would allow.

Staff Response: Standard met. The State of Illinois, in its passage of the "Compassionate Use of Medical Cannabis Pilot Program Act", has demonstrated that the Illinois community as a whole has a need for the uses and development allowed by the proposed text amendment. Additionally, the requirement within the Act that requires all municipalities to allow for medical cannabis cultivation and dispensing further illustrates this need. To be in compliance with the Act, Lake Zurich needs the proposed amendment.

- C. If a specific parcel of property is the subject of the proposed amendment, then the following factors:

1. Existing Uses and Classifications. The existing uses and zoning classifications for properties in the immediate vicinity of the subject property.

Staff Response: Not applicable. No specific property is the subject of this amendment.

2. Trend of Development. The trend of development in the immediate vicinity of the subject property, including changes, if any, in such trend since the subject property was placed in its present zoning classification.

Staff Response: Not applicable. No specific property is the subject of this amendment.

3. **Diminution of Values.** The extent to which the value of the subject property is diminished by the existing zoning classification applicable to it.

Staff Response: Not applicable. No specific property is the subject of this amendment.

4. **Increase in Health, Safety, and Welfare.** The extent to which any such diminution in value is offset by an increase in the public health, safety, and welfare.

Staff Response: Not applicable. No specific property is the subject of this amendment.

5. **Effects on Adjacent Properties.** The extent to which the use and enjoyment of adjacent properties would be affected by the proposed amendment.

Staff Response: Not applicable. No specific property is the subject of this amendment.

6. **Value of Adjacent Properties.** The extent to which the value of adjacent properties would be affected by the proposed amendment.

Staff Response: Not applicable. No specific property is the subject of this amendment.

7. **Future Development.** The extent, if any, to which the future orderly development of adjacent properties would be affected by the proposed amendment.

Staff Response: Not applicable. No specific property is the subject of this amendment.

8. **Suitability of Text Amendment.** The suitability of the proposed text amendment for the zoning district in which the amendment is being proposed.

Staff Response: Not applicable. No specific property is the subject of this amendment.

9. **Ingress and Egress.** The availability, where relevant, of adequate ingress to and egress from the subject property and the extent to which traffic conditions in the immediate vicinity of the subject property would be affected by the proposed amendment.

Staff Response: Not applicable. No specific property is the subject of this amendment.

10. **Utilities and Services.** The availability, where relevant, of adequate utilities and essential public services to the subject property to accommodate the uses permitted or permissible under its present zoning classification.

Staff Response: Not applicable. No specific property is the subject of this amendment.

11. **Length of Vacancy.** The length of time, if any, that the subject property has been vacant, considered in the context of the pace of development in the vicinity of the subject property.

Staff Response: Not applicable. No specific property is the subject of this amendment.

12. **Positive Effect:** The proposed amendment creating a positive effect for the zoning district, its purposes, and adjacent properties shall be placed before the benefits of the petitioner.

Staff Response: Not applicable. No specific property is the subject of this amendment.

EXHIBIT B

WHITE PAPER ON MARIJUANA DISPENSARIES

by

**CALIFORNIA POLICE CHIEFS ASSOCIATION'S
TASK FORCE ON MARIJUANA DISPENSARIES**

ACKNOWLEDGMENTS

Beyond any question, this White Paper is the product of a major cooperative effort among representatives of numerous law enforcement agencies and allies who share in common the goal of bringing to light the criminal nexus and attendant societal problems posed by marijuana dispensaries that until now have been too often hidden in the shadows. The critical need for this project was first recognized by the California Police Chiefs Association, which put its implementation in the very capable hands of CPCA's Executive Director Leslie McGill, City of Modesto Chief of Police Roy Wasden, and City of El Cerrito Chief of Police Scott Kirkland to spearhead. More than 30 people contributed to this project as members of CPCA's Medical Marijuana Dispensary Crime/Impact Issues Task Force, which has been enjoying the hospitality of Sheriff John McGinnis at regular meetings held at the Sacramento County Sheriff's Department's Headquarters Office over the past three years about every three months. The ideas for the White Paper's components came from this group, and the text is the collaborative effort of numerous persons both on and off the task force. Special mention goes to Riverside County District Attorney Rod Pacheco and Riverside County Deputy District Attorney Jacqueline Jackson, who allowed their Office's fine White Paper on Medical Marijuana: History and Current Complications to be utilized as a partial guide, and granted permission to include material from that document. Also, Attorneys Martin Mayer and Richard Jones of the law firm of Jones & Mayer are thanked for preparing the pending legal questions and answers on relevant legal issues that appear at the end of this White Paper. And, I thank recently retired San Bernardino County Sheriff Gary Penrod for initially assigning me to contribute to this important work.

Identifying and thanking everyone who contributed in some way to this project would be well nigh impossible, since the cast of characters changed somewhat over the years, and some unknown individuals also helped meaningfully behind the scenes. Ultimately, developing a *White Paper on Marijuana Dispensaries* became a rite of passage for its creators as much as a writing project. At times this daunting, and sometimes unwieldy, multi-year project had many task force members, including the White Paper's editor, wondering if a polished final product would ever really reach fruition. But at last it has! If any reader is enlightened and spurred to action to any degree by the White Paper's important and timely subject matter, all of the work that went into this collaborative project will have been well worth the effort and time expended by the many individuals who worked harmoniously to make it possible.

Some of the other persons and agencies who contributed in a meaningful way to this group venture over the past three years, and deserve acknowledgment for their helpful input and support, are:

George Anderson, California Department of Justice
Jacob Appelsmith, Office of the California Attorney General
John Avila, California Narcotics Officers Association
Phebe Chu, Office of San Bernardino County Counsel
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Cathy Coyne, California State Sheriffs' Association
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Kent Shaw, California Department of Justice/Bureau of Narcotics Enforcement
Crystal Spencer, California Department of Justice, Conference Planning Unit
Sam Spiegel, Folsom Police Department
Valerie Taylor, ONDCP
Thomas Toller, California District Attorneys Association
Martin Vranicar, Jr., California District Attorneys Association

April 22, 2009

Dennis Tilton, Editor

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WHITE PAPER ON MARIJUANA DISPENSARIES

by

CALIFORNIA POLICE CHIEFS ASSOCIATION'S TASK FORCE ON MARIJUANA DISPENSARIES

EXECUTIVE SUMMARY

INTRODUCTION

Proposition 215, an initiative authorizing the limited possession, cultivation, and use of marijuana by patients and their care providers for certain medicinal purposes recommended by a physician without subjecting such persons to criminal punishment, was passed by California voters in 1996. This was supplemented by the California State Legislature's enactment in 2003 of the Medical Marijuana Program Act (SB 420) that became effective in 2004. The language of Proposition 215 was codified in California as the Compassionate Use Act, which added section 11362.5 to the California Health & Safety Code. Much later, the language of Senate Bill 420 became the Medical Marijuana Program Act (MMPA), and was added to the California Health & Safety Code as section 11362.7 *et seq.* Among other requirements, it purports to direct all California counties to set up and administer a voluntary identification card system for medical marijuana users and their caregivers. Some counties have already complied with the mandatory provisions of the MMPA, and others have challenged provisions of the Act or are awaiting outcomes of other counties' legal challenges to it before taking affirmative steps to follow all of its dictates. And, with respect to marijuana dispensaries, the reaction of counties and municipalities to these nascent businesses has been decidedly mixed. Some have issued permits for such enterprises. Others have refused to do so within their jurisdictions. Still others have conditioned permitting such operations on the condition that they not violate any state or federal law, or have reversed course after initially allowing such activities within their geographical borders by either limiting or refusing to allow any further dispensaries to open in their community. This White Paper explores these matters, the apparent conflicts between federal and California law, and the scope of both direct and indirect adverse impacts of marijuana dispensaries in local communities. It also recounts several examples that could be emulated of what some governmental officials and law enforcement agencies have already instituted in their jurisdictions to limit the proliferation of marijuana dispensaries and to mitigate their negative consequences.

FEDERAL LAW

Except for very limited and authorized research purposes, federal law through the Controlled Substances Act absolutely prohibits the use of marijuana for any legal purpose, and classifies it as a banned Schedule I drug. It cannot be legally prescribed as medicine by a physician. And, the federal regulation supersedes any state regulation, so that under federal law California medical marijuana statutes do not provide a legal defense for cultivating or possessing marijuana—even with a physician's recommendation for medical use.

CALIFORNIA LAW

Although California law generally prohibits the cultivation, possession, transportation, sale, or other transfer of marijuana from one person to another, since late 1996 after passage of an initiative (Proposition 215) later codified as the Compassionate Use Act, it has provided a limited affirmative defense to criminal prosecution for those who cultivate, possess, or use limited amounts of marijuana for medicinal purposes as qualified patients with a physician's recommendation or their designated primary caregiver or cooperative. Notwithstanding these limited exceptions to criminal culpability, California law is notably silent on any such available defense for a storefront marijuana dispensary, and California Attorney General Edmund G. Brown, Jr. has recently issued guidelines that generally find marijuana dispensaries to be unprotected and illegal drug-trafficking enterprises except in the rare instance that one can qualify as a true cooperative under California law. A primary caregiver must consistently and regularly assume responsibility for the housing, health, or safety of an authorized medical marijuana user, and nowhere does California law authorize cultivating or providing marijuana—medical or non-medical—for profit.

California's Medical Marijuana Program Act (Senate Bill 420) provides further guidelines for mandated county programs for the issuance of identification cards to authorized medical marijuana users on a voluntary basis, for the chief purpose of giving them a means of certification to show law enforcement officers if such persons are investigated for an offense involving marijuana. This system is currently under challenge by the Counties of San Bernardino and San Diego and Sheriff Gary Penrod, pending a decision on review by the U.S. Supreme Court, as is California's right to permit any legal use of marijuana in light of federal law that totally prohibits any personal cultivation, possession, sale, transportation, or use of this substance whatsoever, whether for medical or non-medical purposes.

PROBLEMS POSED BY MARIJUANA DISPENSARIES

Marijuana dispensaries are commonly large money-making enterprises that will sell marijuana to most anyone who produces a physician's written recommendation for its medical use. These recommendations can be had by paying unscrupulous physicians a fee and claiming to have most any malady, even headaches. While the dispensaries will claim to receive only donations, no marijuana will change hands without an exchange of money. These operations have been tied to organized criminal gangs, foster large grow operations, and are often multi-million-dollar profit centers.

Because they are repositories of valuable marijuana crops and large amounts of cash, several operators of dispensaries have been attacked and murdered by armed robbers both at their storefronts and homes, and such places have been regularly burglarized. Drug dealing, sales to minors, loitering, heavy vehicle and foot traffic in retail areas, increased noise, and robberies of customers just outside dispensaries are also common ancillary byproducts of their operations. To repel store invasions, firearms are often kept on hand inside dispensaries, and firearms are used to hold up their proprietors. These dispensaries are either linked to large marijuana grow operations or encourage home grows by buying marijuana to dispense. And, just as destructive fires and unhealthful mold in residential neighborhoods are often the result of large indoor home grows designed to supply dispensaries, money laundering also naturally results from dispensaries' likely unlawful operations.

LOCAL GOVERNMENTAL RESPONSES

Local governmental bodies can impose a moratorium on the licensing of marijuana dispensaries while investigating this issue; can ban this type of activity because it violates federal law; can use zoning to control the dispersion of dispensaries and the attendant problems that accompany them in unwanted areas; and can condition their operation on not violating any federal or state law, which is akin to banning them, since their primary activities will always violate federal law as it now exists—and almost surely California law as well.

LIABILITY

While highly unlikely, local public officials, including county supervisors and city council members, could potentially be charged and prosecuted for aiding and abetting criminal acts by authorizing and licensing marijuana dispensaries if they do not qualify as “cooperatives” under California law, which would be a rare occurrence. Civil liability could also result.

ENFORCEMENT OF MARIJUANA LAWS

While the Drug Enforcement Administration has been very active in raiding large-scale marijuana dispensaries in California in the recent past, and arresting and prosecuting their principals under federal law in selective cases, the new U.S. Attorney General, Eric Holder, Jr., has very recently announced a major change of federal position in the enforcement of federal drug laws with respect to marijuana dispensaries. It is to target for prosecution only marijuana dispensaries that are exposed as fronts for drug trafficking. It remains to be seen what standards and definitions will be used to determine what indicia will constitute a drug trafficking operation suitable to trigger investigation and enforcement under the new federal administration.

Some counties, like law enforcement agencies in the County of San Diego and County of Riverside, have been aggressive in confronting and prosecuting the operators of marijuana dispensaries under state law. Likewise, certain cities and counties have resisted granting marijuana dispensaries business licenses, have denied applications, or have imposed moratoria on such enterprises. Here, too, the future is uncertain, and permissible legal action with respect to marijuana dispensaries may depend on future court decisions not yet handed down.

Largely because the majority of their citizens have been sympathetic and projected a favorable attitude toward medical marijuana patients, and have been tolerant of the cultivation and use of marijuana, other local public officials in California cities and counties, especially in Northern California, have taken a “hands off” attitude with respect to prosecuting marijuana dispensary operators or attempting to close down such operations. But, because of the life safety hazards caused by ensuing fires that have often erupted in resultant home grow operations, and the violent acts that have often shadowed dispensaries, some attitudes have changed and a few political entities have reversed course after having previously licensed dispensaries and authorized liberal permissible amounts of marijuana for possession by medical marijuana patients in their jurisdictions. These “patients” have most often turned out to be young adults who are not sick at all, but have secured a physician’s written recommendation for marijuana use by simply paying the required fee demanded for this document without even first undergoing a physical examination. Too often “medical marijuana” has been used as a smokescreen for those who want to legalize it and profit off it, and storefront dispensaries established as cover for selling an illegal substance for a lucrative return.

WHITE PAPER ON MARIJUANA DISPENSARIES

by

CALIFORNIA POLICE CHIEFS ASSOCIATION

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INTRODUCTION

In November of 1996, California voters passed Proposition 215. The initiative set out to make marijuana available to people with certain illnesses. The initiative was later supplemented by the Medical Marijuana Program Act. Across the state, counties and municipalities have varied in their responses to medical marijuana. Some have allowed businesses to open and provide medical marijuana. Others have disallowed all such establishments within their borders. Several once issued business licenses allowing medical marijuana stores to operate, but no longer do so. This paper discusses the legality of both medical marijuana and the businesses that make it available, and more specifically, the problems associated with medical marijuana and marijuana dispensaries, under whatever name they operate.

FEDERAL LAW

Federal law clearly and unequivocally states that all marijuana-related activities are illegal. Consequently, all people engaged in such activities are subject to federal prosecution. The United States Supreme Court has ruled that this federal regulation supersedes any state's regulation of marijuana – even California's. (*Gonzales v. Raich* (2005) 125 S.Ct. 2195, 2215.) “The Supremacy Clause unambiguously provides that if there is any conflict between federal law and state law, federal law shall prevail.” (*Gonzales v. Raich, supra.*) Even more recently, the 9th Circuit Court of Appeals found that there is no fundamental right under the United States Constitution to even use medical marijuana. (*Raich v. Gonzales* (9th Cir. 2007) 500 F.3d 850, 866.)

In *Gonzales v. Raich*, the High Court declared that, despite the attempts of several states to partially legalize marijuana, it continues to be wholly illegal since it is classified as a Schedule I drug under federal law. As such, there are no exceptions to its illegality. (21 USC secs. 812(c), 841(a)(1).) Over the past thirty years, there have been several attempts to have marijuana reclassified to a different schedule which would permit medical use of the drug. All of these attempts have failed. (See *Gonzales v. Raich* (2005) 125 S.Ct. 2195, fn 23.) The mere categorization of marijuana as “medical” by some states fails to carve out any legally recognized exception regarding the drug. Marijuana, in any form, is neither valid nor legal.

Clearly the United States Supreme Court is the highest court in the land. Its decisions are final and binding upon all lower courts. The Court invoked the United States Supremacy Clause and the Commerce Clause in reaching its decision. The Supremacy Clause declares that all laws made in pursuance of the Constitution shall be the “supreme law of the land” and shall be legally superior to any conflicting provision of a state constitution or law.¹ The Commerce Clause states that “the

Congress shall have power to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”²

Gonzales v. Raich addressed the concerns of two California individuals growing and using marijuana under California’s medical marijuana statute. The Court explained that under the Controlled Substances Act marijuana is a Schedule I drug and is strictly regulated.³ “Schedule I drugs are categorized as such because of their high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment.”⁴ (21 USC sec. 812(b)(1).) The Court ruled that the Commerce Clause is applicable to California individuals growing and obtaining marijuana for their own personal, medical use. Under the Supremacy Clause, the federal regulation of marijuana, pursuant to the Commerce Clause, supersedes any state’s regulation, including California’s. The Court found that the California statutes did not provide any federal defense if a person is brought into federal court for cultivating or possessing marijuana.

Accordingly, there is no federal exception for the growth, cultivation, use or possession of marijuana and all such activity remains illegal.⁵ California’s Compassionate Use Act of 1996 and Medical Marijuana Program Act of 2004 do not create an exception to this federal law. All marijuana activity is absolutely illegal and subject to federal regulation and prosecution. This notwithstanding, on March 19, 2009, U.S. Attorney General Eric Holder, Jr. announced that under the new Obama Administration the U.S. Department of Justice plans to target for prosecution only those marijuana dispensaries that use medical marijuana dispensing as a front for dealers of illegal drugs.⁶

CALIFORNIA LAW

Generally, the possession, cultivation, possession for sale, transportation, distribution, furnishing, and giving away of marijuana is unlawful under California state statutory law. (See Cal. Health & Safety Code secs. 11357-11360.) But, on November 5, 1996, California voters adopted Proposition 215, an initiative statute authorizing the medical use of marijuana.⁷ The initiative added California Health and Safety code section 11362.5, which allows “seriously ill Californians the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician . . .”⁸ The codified section is known as the Compassionate Use Act of 1996.⁹ Additionally, the State Legislature passed Senate Bill 420 in 2003. It became the Medical Marijuana Program Act and took effect on January 1, 2004.¹⁰ This act expanded the definitions of “patient” and “primary caregiver”¹¹ and created guidelines for identification cards.¹² It defined the amount of marijuana that “patients,” and “primary caregivers” can possess.¹³ It also created a limited affirmative defense to criminal prosecution for qualifying individuals that collectively gather to cultivate medical marijuana,¹⁴ as well as to the crimes of marijuana possession, possession for sale, transportation, sale, furnishing, cultivation, and maintenance of places for storage, use, or distribution of marijuana for a person who qualifies as a “patient,” a “primary caregiver,” or as a member of a legally recognized “cooperative,” as those terms are defined within the statutory scheme. Nevertheless, there is no provision in any of these laws that authorizes or protects the establishment of a “dispensary” or other storefront marijuana distribution operation.

Despite their illegality in the federal context, the medical marijuana laws in California are specific. The statutes craft narrow affirmative defenses for particular individuals with respect to enumerated marijuana activity. All conduct, and people engaging in it, that falls outside of the statutes’ parameters remains illegal under California law. Relatively few individuals will be able to assert the affirmative defense in the statute. To use it a person must be a “qualified patient,” “primary caregiver,” or a member of a “cooperative.” Once they are charged with a crime, if a person can prove an applicable legal status, they are entitled to assert this statutory defense.

Former California Attorney General Bill Lockyer has also spoken about medical marijuana, and strictly construed California law relating to it. His office issued a bulletin to California law enforcement agencies on June 9, 2005. The office expressed the opinion that *Gonzales v. Raich* did not address the validity of the California statutes and, therefore, had no effect on California law. The office advised law enforcement to not change their operating procedures. Attorney General Lockyer made the recommendation that law enforcement neither arrest nor prosecute “individuals within the legal scope of California’s Compassionate Use Act.” Now the current California Attorney General, Edmund G. Brown, Jr., has issued guidelines concerning the handling of issues relating to California’s medical marijuana laws and marijuana dispensaries. The guidelines are much tougher on storefront dispensaries—generally finding them to be unprotected, illegal drug-trafficking enterprises if they do not fall within the narrow legal definition of a “cooperative”—than on the possession and use of marijuana upon the recommendation of a physician.

When California’s medical marijuana laws are strictly construed, it appears that the decision in *Gonzales v. Raich* does affect California law. However, provided that federal law does not preempt California law in this area, it does appear that the California statutes offer some legal protection to “individuals within the legal scope of” the acts. The medical marijuana laws speak to patients, primary caregivers, and true collectives. These people are expressly mentioned in the statutes, and, if their conduct comports to the law, they may have some state legal protection for specified marijuana activity. Conversely, all marijuana establishments that fall outside the letter and spirit of the statutes, including dispensaries and storefront facilities, are not legal. These establishments have no legal protection. Neither the former California Attorney General’s opinion nor the current California Attorney General’s guidelines present a contrary view. Nevertheless, without specifically addressing marijuana dispensaries, Attorney General Brown has sent his deputies attorney general to defend the codified Medical Marijuana Program Act against court challenges, and to advance the position that the state’s regulations promulgated to enforce the provisions of the codified Compassionate Use Act (Proposition 215), including a statewide database and county identification card systems for marijuana patients authorized by their physicians to use marijuana, are all valid.

1. Conduct

California Health and Safety Code sections 11362.765 and 11362.775 describe the conduct for which the affirmative defense is available. If a person qualifies as a “patient,” “primary caregiver,” or is a member of a legally recognized “cooperative,” he or she has an affirmative defense to possessing a defined amount of marijuana. Under the statutes no more than eight ounces of dried marijuana can be possessed. Additionally, either six mature or twelve immature plants may be possessed.¹⁵ If a person claims patient or primary caregiver status, and possesses more than this amount of marijuana, he or she can be prosecuted for drug possession. The qualifying individuals may also cultivate, plant, harvest, dry, and/or process marijuana, but only while still strictly observing the permitted amount of the drug. The statute may also provide a limited affirmative defense for possessing marijuana for sale, transporting it, giving it away, maintaining a marijuana house, knowingly providing a space where marijuana can be accessed, and creating a narcotic nuisance.¹⁶

However, for anyone who cannot lay claim to the appropriate status under the statutes, all instances of marijuana possession, cultivation, planting, harvesting, drying, processing, possession for the purposes of sales, completed sales, giving away, administration, transportation, maintaining of marijuana houses, knowingly providing a space for marijuana activity, and creating a narcotic nuisance continue to be illegal under California law.

2. Patients and Cardholders

A dispensary obviously is not a patient or cardholder. A “qualified patient” is an individual with a physician’s recommendation that indicates marijuana will benefit the treatment of a qualifying illness. (Cal. H&S Code secs. 11362.5(b)(1)(A) and 11362.7(f).) Qualified illnesses include cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or *any other illness for which marijuana provides relief.*¹⁷ A physician’s recommendation that indicates medical marijuana will benefit the treatment of an illness is required before a person can claim to be a medical marijuana patient. Accordingly, such proof is also necessary before a medical marijuana affirmative defense can be claimed.

A “person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card issued by the State Department of Health Services. (Cal. H&S Code secs. 11362.7(c) and 11362.7(g).)

3. Primary Caregivers

The only person or entity authorized to receive compensation for services provided to patients and cardholders is a primary caregiver. (Cal. H&S Code sec. 11362.77(c).) However, nothing in the law authorizes any individual or group to cultivate or distribute marijuana for profit. (Cal. H&S Code sec. 11362.765(a).) It is important to note that it is almost impossible for a storefront marijuana business to gain true primary caregiver status. Businesses that call themselves “cooperatives,” but function like storefront dispensaries, suffer this same fate. In *People v. Mower*, the court was very clear that the defendant had to prove he was a primary caregiver in order to raise the medical marijuana affirmative defense. Mr. Mower was prosecuted for supplying two people with marijuana.¹⁸ He claimed he was their primary caregiver under the medical marijuana statutes. This claim required him to prove he “consistently had assumed responsibility for either one’s housing, health, or safety” before he could assert the defense.¹⁹ (Emphasis added.)

The key to being a primary caregiver is not simply that marijuana is provided for a patient’s health; the responsibility for the health must be consistent; it must be independent of merely providing marijuana for a qualified person; and such a primary caregiver-patient relationship must begin before or contemporaneously with the time of assumption of responsibility for assisting the individual with marijuana. (*People v. Mentch* (2008) 45 Cal.4th 274, 283.) Any relationship a storefront marijuana business has with a patient is much more likely to be transitory than consistent, and to be wholly lacking in providing for a patient’s health needs beyond just supplying him or her with marijuana.

A “primary caregiver” is an individual or facility that has “consistently assumed responsibility for the housing, health, or safety of a patient” over time. (Cal. H&S Code sec. 11362.5(e).) “Consistency” is the key to meeting this definition. A patient can elect to patronize any dispensary that he or she chooses. The patient can visit different dispensaries on a single day or any subsequent day. The statutory definition includes some clinics, health care facilities, residential care facilities, and hospices. But, in light of the holding in *People v. Mentch, supra*, to qualify as a primary caregiver, more aid to a person’s health must occur beyond merely dispensing marijuana to a given customer.

Additionally, if more than one patient designates the same person as the primary caregiver, all individuals must reside in the same city or county. And, in most circumstances the primary caregiver must be at least 18 years of age.

The courts have found that the act of signing a piece of paper declaring that someone is a primary caregiver does not necessarily make that person one. (*See People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1390: “One maintaining a source of marijuana supply, from which all members of the public qualified as permitted medicinal users may or may not discretionarily elect to make purchases, does not thereby become the party ‘who has consistently assumed responsibility for the housing, health, or safety’ of that purchaser as section 11362.5(e) requires.”)

The California Legislature had the opportunity to legalize the existence of dispensaries when setting forth what types of facilities could qualify as “primary caregivers.” Those included in the list clearly show the Legislature’s intent to restrict the definition to one involving a significant and long-term commitment to the patient’s health, safety, and welfare. The only facilities which the Legislature authorized to serve as “primary caregivers” are clinics, health care facilities, residential care facilities, home health agencies, and hospices which actually provide medical care or supportive services to qualified patients. (Cal. H&S Code sec. 11362.7(d)(1).) Any business that cannot prove that its relationship with the patient meets these requirements is not a primary caregiver. Functionally, the business is a drug dealer and is subject to prosecution as such.

4. Cooperatives and Collectives

According to the California Attorney General’s recently issued *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, unless they meet stringent requirements, dispensaries also cannot reasonably claim to be cooperatives or collectives. In passing the Medical Marijuana Program Act, the Legislature sought, in part, to enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation programs. (*People v. Urziceanu* (2005) 132 Cal.App.4th 747, 881.) The Act added section 11362.775, which provides that “Patients and caregivers who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions” for the crimes of marijuana possession, possession for sale, transportation, sale, furnishing, cultivation, and maintenance of places for storage, use, or distribution of marijuana. However, there is no authorization for any individual or group to cultivate or distribute marijuana for profit. (Cal. H&S Code sec. 11362.77(a).) If a dispensary is only a storefront distribution operation open to the general public, and there is no indication that it has been involved with growing or cultivating marijuana for the benefit of members as a non-profit enterprise, it will not qualify as a cooperative to exempt it from criminal penalties under California’s marijuana laws.

Further, the common dictionary definition of “collectives” is that they are organizations jointly managed by those using its facilities or services. Legally recognized cooperatives generally possess “the following features: control and ownership of each member is substantially equal; members are limited to those who will avail themselves of the services furnished by the association; transfer of ownership interests is prohibited or limited; capital investment receives either no return or a limited return; economic benefits pass to the members on a substantially equal basis or on the basis of their patronage of the association; members are not personally liable for obligations of the association in the absence of a direct undertaking or authorization by them; death, bankruptcy, or withdrawal of one or more members does not terminate the association; and [the] services of the association are furnished primarily for the use of the members.”²⁰ Marijuana businesses, of any kind, do not normally meet this legal definition.

Based on the foregoing, it is clear that virtually all marijuana dispensaries are not legal enterprises under either federal or state law.

LAWS IN OTHER STATES

Besides California, at the time of publication of this White Paper, thirteen other states have enacted medical marijuana laws on their books, whereby to some degree marijuana recommended or prescribed by a physician to a specified patient may be legally possessed. These states are Alaska, Colorado, Hawaii, Maine, Maryland, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington. And, possession of marijuana under one ounce has now been decriminalized in Massachusetts.²¹

STOREFRONT MARIJUANA DISPENSARIES AND COOPERATIVES

Since the passage of the Compassionate Use Act of 1996, many storefront marijuana businesses have opened in California.²² Some are referred to as dispensaries, and some as cooperatives; but it is how they operate that removes them from any umbrella of legal protection. These facilities operate as if they are pharmacies. Most offer different types and grades of marijuana. Some offer baked goods that contain marijuana.²³ Monetary donations are collected from the patient or primary caregiver when marijuana or food items are received. The items are not technically sold since that would be a criminal violation of the statutes.²⁴ These facilities are able to operate because they apply for and receive business licenses from cities and counties.

Federally, all existing storefront marijuana businesses are subject to search and closure since they violate federal law.²⁵ Their mere existence violates federal law. Consequently, they have no right to exist or operate, and arguably cities and counties in California have no authority to sanction them.

Similarly, in California there is no apparent authority for the existence of these storefront marijuana businesses. The Medical Marijuana Program Act of 2004 allows *patients* and *primary caregivers* to grow and cultivate marijuana, and no one else.²⁶ Although California Health and Safety Code section 11362.775 offers some state legal protection for true collectives and cooperatives, no parallel protection exists in the statute for any storefront business providing any narcotic.

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Actual medical dispensaries are commonly defined as offices in hospitals, schools, or other institutions from which medical supplies, preparations, and treatments are dispensed. Hospitals, hospices, home health care agencies, and the like are specifically included in the code as primary caregivers as long as they have "consistently assumed responsibility for the housing, health, or safety" of a patient.²⁸ Clearly, it is doubtful that any of the storefront marijuana businesses currently

existing in California can claim that status. Consequently, they are not primary caregivers and are subject to prosecution under both California and federal laws.

HOW EXISTING DISPENSARIES OPERATE

Despite their clear illegality, some cities do have existing and operational dispensaries. Assuming, *arguendo*, that they may operate, it may be helpful to review the mechanics of the business. The former Green Cross dispensary in San Francisco illustrates how a typical marijuana dispensary works.²⁹

A guard or employee may check for medical marijuana cards or physician recommendations at the entrance. Many types and grades of marijuana are usually available. Although employees are neither pharmacists nor doctors, sales clerks will probably make recommendations about what type of marijuana will best relieve a given medical symptom. Baked goods containing marijuana may be available and sold, although there is usually no health permit to sell baked goods. The dispensary will give the patient a form to sign declaring that the dispensary is their "primary caregiver" (a process fraught with legal difficulties). The patient then selects the marijuana desired and is told what the "contribution" will be for the product. The California Health & Safety Code specifically prohibits the sale of marijuana to a patient, so "contributions" are made to reimburse the dispensary for its time and care in making "product" available. However, if a calculation is made based on the available evidence, it is clear that these "contributions" can easily add up to millions of dollars per year. That is a very large cash flow for a "non-profit" organization denying any participation in the retail sale of narcotics. Before its application to renew its business license was denied by the City of San Francisco, there were single days that Green Cross sold \$45,000 worth of marijuana. On Saturdays, Green Cross could sell marijuana to forty-three patients an hour. The marijuana sold at the dispensary was obtained from growers who brought it to the store in backpacks. A medium-sized backpack would hold approximately \$16,000 worth of marijuana. Green Cross used many different marijuana growers.

It is clear that dispensaries are running as if they are businesses, not legally valid cooperatives. Additionally, they claim to be the "primary caregivers" of patients. This is a spurious claim. As discussed above, the term "primary caregiver" has a very specific meaning and defined legal qualifications. A primary caregiver is an individual who has "consistently assumed responsibility for the housing, health, or safety of a patient."³⁰ The statutory definition includes some clinics, health care facilities, residential care facilities, and hospices. If more than one patient designates the same person as the primary caregiver, all individuals must reside in the same city or county. In most circumstances the primary caregiver must be at least 18 years of age.

It is almost impossible for a storefront marijuana business to gain true primary caregiver status. A business would have to prove that it "consistently had assumed responsibility for [a patient's] housing, health, or safety."³¹ The key to being a primary caregiver is not simply that marijuana is provided for a patient's health: the responsibility for the patient's health must be **consistent**.

As seen in the Green Cross example, a storefront marijuana business's relationship with a patient is most likely transitory. In order to provide a qualified patient with marijuana, a storefront marijuana business must create an instant "primary caregiver" relationship with him. The very fact that the relationship is instant belies any consistency in their relationship and the requirement that housing, health, or safety is consistently provided. Courts have found that a patient's act of signing a piece of paper declaring that someone is a primary caregiver does not necessarily make that person one. The

consistent relationship demanded by the statute is mere fiction if it can be achieved between an individual and a business that functions like a narcotic retail store.

ADVERSE SECONDARY EFFECTS OF MARIJUANA DISPENSARIES AND SIMILARLY OPERATING COOPERATIVES

Of great concern are the adverse secondary effects of these dispensaries and storefront cooperatives. They are many. Besides flouting federal law by selling a prohibited Schedule I drug under the Controlled Substances Act, marijuana dispensaries attract or cause numerous ancillary social problems as byproducts of their operation. The most glaring of these are other criminal acts.

ANCILLARY CRIMES

A. ARMED ROBBERIES AND MURDERS

Throughout California, many violent crimes have been committed that can be traced to the proliferation of marijuana dispensaries. These include armed robberies and murders. For example, as far back as 2002, two home occupants were shot in Willits, California in the course of a home-invasion robbery targeting medical marijuana.³² And, a series of four armed robberies of a marijuana dispensary in Santa Barbara, California occurred through August 10, 2006, in which thirty dollars and fifteen baggies filled with marijuana on display were taken by force and removed from the premises in the latest holdup. The owner said he failed to report the first three robberies because “medical marijuana is such a controversial issue.”³³

On February 25, 2004, in Mendocino County two masked thugs committed a home invasion robbery to steal medical marijuana. They held a knife to a 65-year-old man’s throat, and though he fought back, managed to get away with large amounts of marijuana. They were soon caught, and one of the men received a sentence of six years in state prison.³⁴ And, on August 19, 2005, 18-year-old Demarco Lowrey was “shot in the stomach” and “bled to death” during a gunfight with the business owner when he and his friends attempted a takeover robbery of a storefront marijuana business in the City of San Leandro, California. The owner fought back with the hooded home invaders, and a gun battle ensued. Demarco Lowery was hit by gunfire and “dumped outside the emergency entrance of Children’s Hospital Oakland” after the shootout.³⁵ He did not survive.³⁶

Near Hayward, California, on September 2, 2005, upon leaving a marijuana dispensary, a patron of the CCA Cannabis Club had a gun put to his head as he was relieved of over \$250 worth of pot. Three weeks later, another break-in occurred at the Garden of Eden Cannabis Club in September of 2005.³⁷

Another known marijuana-dispensary-related murder occurred on November 19, 2005. Approximately six gun- and bat-wielding burglars broke into Les Crane’s home in Laytonville, California while yelling, “This is a raid.” Les Crane, who owned two storefront marijuana businesses, was at home and shot to death. He received gunshot wounds to his head, arm, and abdomen.³⁸ Another man present at the time was beaten with a baseball bat. The murderers left the home after taking an unknown sum of U.S. currency and a stash of processed marijuana.³⁹

Then, on January 9, 2007, marijuana plant cultivator Rex Farrance was shot once in the chest and killed in his own home after four masked intruders broke in and demanded money. When the homeowner ran to fetch a firearm, he was shot dead. The robbers escaped with a small amount of

cash and handguns. Investigating officers counted 109 marijuana plants in various phases of cultivation inside the house, along with two digital scales and just under 4 pounds of cultivated marijuana.⁴⁰

More recently in Colorado, Ken Gorman, a former gubernatorial candidate and dispenser of marijuana who had been previously robbed over twelve times at his home in Denver, was found murdered by gunshot inside his home. He was a prominent proponent of medical marijuana and the legalization of marijuana.⁴¹

B. BURGLARIES

In June of 2007, after two burglarizing youths in Bellflower, California were caught by the homeowner trying to steal the fruits of his indoor marijuana grow, he shot one who was running away, and killed him.⁴² And, again in January of 2007, Claremont Councilman Corey Calaycay went on record calling marijuana dispensaries “crime magnets” after a burglary occurred in one in Claremont, California.⁴³

On July 17, 2006, the El Cerrito City Council voted to ban all such marijuana facilities. It did so after reviewing a nineteen-page report that detailed a rise in crime near these storefront dispensaries in other cities. The crimes included robberies, assaults, burglaries, murders, and attempted murders.⁴⁴ Even though marijuana storefront businesses do not currently exist in the City of Monterey Park, California, it issued a moratorium on them after studying the issue in August of 2006.⁴⁵ After allowing these establishments to operate within its borders, the City of West Hollywood, California passed a similar moratorium. The moratorium was “prompted by incidents of armed burglary at some of the city’s eight existing pot stores and complaints from neighbors about increased pedestrian and vehicle traffic and noise . . .”⁴⁶

C. TRAFFIC, NOISE, AND DRUG DEALING

Increased noise and pedestrian traffic, including nonresidents in pursuit of marijuana, and out of area criminals in search of prey, are commonly encountered just outside marijuana dispensaries,⁴⁷ as well as drug-related offenses in the vicinity—like resales of products just obtained inside—since these marijuana centers regularly attract marijuana growers, drug users, and drug traffickers.⁴⁸ Sharing just purchased marijuana outside dispensaries also regularly takes place.⁴⁹

Rather than the “seriously ill,” for whom medical marijuana was expressly intended,⁵⁰ “perfectly healthy” young people frequenting dispensaries are a much more common sight.⁵¹ Patient records seized by law enforcement officers from dispensaries during raids in San Diego County, California in December of 2005 “showed that 72 percent of patients were between 17 and 40 years old . . .”⁵² Said one admitted marijuana trafficker, “The people I deal with are the same faces I was dealing with 12 years ago but now, because of Senate Bill 420, they are supposedly legit. I can totally see why cops are bummed.”⁵³

Reportedly, a security guard sold half a pound of marijuana to an undercover officer just outside a dispensary in Morro Bay, California.⁵⁴ And, the mere presence of marijuana dispensaries encourages illegal growers to plant, cultivate, and transport ever more marijuana, in order to supply and sell their crops to these storefront operators in the thriving medical marijuana dispensary market, so that the national domestic marijuana yield has been estimated to be 35.8 billion dollars, of which a 13.8 billion dollar share is California grown.⁵⁵ It is a big business. And, although the operators of some dispensaries will claim that they only accept monetary contributions for the products they

dispense, and do not sell marijuana, a patron will not receive any marijuana until an amount of money acceptable to the dispensary has changed hands.

D. ORGANIZED CRIME, MONEY LAUNDERING, AND FIREARMS VIOLATIONS

Increasingly, reports have been surfacing about organized crime involvement in the ownership and operation of marijuana dispensaries, including Asian and other criminal street gangs and at least one member of the Armenian Mafia.⁵⁶ The dispensaries or “pot clubs” are often used as a front by organized crime gangs to traffic in drugs and launder money. One such gang whose territory included San Francisco and Oakland, California reportedly ran a multi-million dollar business operating ten warehouses in which vast amounts of marijuana plants were grown.⁵⁷ Besides seizing over 9,000 marijuana plants during surprise raids on this criminal enterprise’s storage facilities, federal officers also confiscated three firearms,⁵⁸ which seem to go hand in hand with medical marijuana cultivation and dispensaries.⁵⁹

Marijuana storefront businesses have allowed criminals to flourish in California. In the summer of 2007, the City of San Diego cooperated with federal authorities and served search warrants on several marijuana dispensary locations. In addition to marijuana, many weapons were recovered, including a stolen handgun and an M-16 assault rifle.⁶⁰ The National Drug Intelligence Center reports that marijuana growers are employing armed guards, using explosive booby traps, and murdering people to shield their crops. Street gangs of all national origins are involved in transporting and distributing marijuana to meet the ever increasing demand for the drug.⁶¹ Active Asian gangs have included members of Vietnamese organized crime syndicates who have migrated from Canada to buy homes throughout the United States to use as grow houses.⁶²

Some or all of the processed harvest of marijuana plants nurtured in these homes then wind up at storefront marijuana dispensaries owned and operated by these gangs. Storefront marijuana businesses are very dangerous enterprises that thrive on ancillary grow operations.

Besides fueling marijuana dispensaries, some monetary proceeds from the sale of harvested marijuana derived from plants grown inside houses are being used by organized crime syndicates to fund other legitimate businesses for profit and the laundering of money, and to conduct illegal business operations like prostitution, extortion, and drug trafficking.⁶³ Money from residential grow operations is also sometimes traded by criminal gang members for firearms, and used to buy drugs, personal vehicles, and additional houses for more grow operations,⁶⁴ and along with the illegal income derived from large-scale organized crime-related marijuana production operations comes widespread income tax evasion.⁶⁵

E. POISONINGS

Another social problem somewhat unique to marijuana dispensaries is poisonings, both intentional and unintentional. On August 16, 2006, the Los Angeles Police Department received two such reports. One involved a security guard who ate a piece of cake extended to him from an operator of a marijuana clinic as a “gift,” and soon afterward felt dizzy and disoriented.⁶⁶ The second incident concerned a UPS driver who experienced similar symptoms after accepting and eating a cookie given to him by an operator of a different marijuana clinic.⁶⁷

OTHER ADVERSE SECONDARY IMPACTS IN THE IMMEDIATE VICINITY OF DISPENSARIES

Other adverse secondary impacts from the operation of marijuana dispensaries include street dealers lurking about dispensaries to offer a lower price for marijuana to arriving patrons; marijuana smoking in public and in front of children in the vicinity of dispensaries; loitering and nuisances; acquiring marijuana and/or money by means of robbery of patrons going to or leaving dispensaries; an increase in burglaries at or near dispensaries; a loss of trade for other commercial businesses located near dispensaries; the sale at dispensaries of other illegal drugs besides marijuana; an increase in traffic accidents and driving under the influence arrests in which marijuana is implicated; and the failure of marijuana dispensary operators to report robberies to police.⁶⁸

SECONDARY ADVERSE IMPACTS IN THE COMMUNITY AT LARGE

A. UNJUSTIFIED AND FICTITIOUS PHYSICIAN RECOMMENDATIONS

California's legal requirement under California Health and Safety Code section 11362.5 that a physician's recommendation is required for a patient or caregiver to possess medical marijuana has resulted in other undesirable outcomes: wholesale issuance of recommendations by unscrupulous physicians seeking a quick buck, and the proliferation of forged or fictitious physician recommendations. Some doctors link up with a marijuana dispensary and take up temporary residence in a local hotel room where they advertise their appearance in advance, and pass out medical marijuana use recommendations to a line of "patients" at "about \$150 a pop."⁶⁹ Other individuals just make up their own phony doctor recommendations,⁷⁰ which are seldom, if ever, scrutinized by dispensary employees for authenticity. Undercover DEA agents sporting fake medical marijuana recommendations were readily able to purchase marijuana from a clinic.⁷¹ Far too often, California's medical marijuana law is used as a smokescreen for healthy pot users to get their desired drug, and for proprietors of marijuana dispensaries to make money off them, without suffering any legal repercussions.⁷²

On March 11, 2009, the Osteopathic Medical Board of California adopted the proposed decision revoking Dr. Alfonso Jimenez's Osteopathic Physician's and Surgeon's Certificate and ordering him to pay \$74,323.39 in cost recovery. Dr. Jimenez operated multiple marijuana clinics and advertised his services extensively on the Internet. Based on information obtained from raids on marijuana dispensaries in San Diego, in May of 2006, the San Diego Police Department ran two undercover operations on Dr. Jimenez's clinic in San Diego. In January of 2007, a second undercover operation was conducted by the Laguna Beach Police Department at Dr. Jimenez's clinic in Orange County. Based on the results of the undercover operations, the Osteopathic Medical Board charged Dr. Jimenez with gross negligence and repeated negligent acts in the treatment of undercover operatives posing as patients. After a six-day hearing, the Administrative Law Judge (ALJ) issued her decision finding that Dr. Jimenez violated the standard of care by committing gross negligence and repeated negligence in care, treatment, and management of patients when he, among other things, issued medical marijuana recommendations to the undercover agents without conducting adequate medical examinations, failed to gain proper informed consent, and failed to consult with any primary care and/or treating physicians or obtain and review prior medical records before issuing medical marijuana recommendations. The ALJ also found Dr. Jimenez engaged in dishonest behavior by preparing false and/or misleading medical records and disseminating false and misleading advertising to the public, including representing himself as a "Cannabis Specialist" and "Qualified Medical Marijuana Examiner" when no such formal specialty or qualification existed. Absent any

requested administrative agency reconsideration or petition for court review, the decision was to become effective April 24, 2009.

B. PROLIFERATION OF GROW HOUSES IN RESIDENTIAL AREAS

In recent years the proliferation of grow houses in residential neighborhoods has exploded. This phenomenon is country wide, and ranges from the purchase for purpose of marijuana grow operations of small dwellings to "high priced McMansions . . ."⁷³ Mushrooming residential marijuana grow operations have been detected in California, Connecticut, Florida, Georgia, New Hampshire, North Carolina, Ohio, South Carolina, and Texas.⁷⁴ In 2007 alone, such illegal operations were detected and shut down by federal and state law enforcement officials in 41 houses in California, 50 homes in Florida, and 11 homes in New Hampshire.⁷⁵ Since then, the number of residences discovered to be so impacted has increased exponentially. Part of this recent influx of illicit residential grow operations is because the "THC-rich 'B.C. bud' strain" of marijuana originally produced in British Columbia "can be grown only in controlled indoor environments," and the Canadian market is now reportedly saturated with the product of "competing Canadian gangs," often Asian in composition or outlaw motorcycle gangs like the Hells Angels.⁷⁶ Typically, a gutted house can hold about 1,000 plants that will each yield almost half a pound of smokable marijuana; this collectively nets about 500 pounds of usable marijuana per harvest, with an average of three to four harvests per year.⁷⁷ With a street value of \$3,000 to \$5,000 per pound⁷⁸ for high-potency marijuana, and such multiple harvests, "a successful grow house can bring in between \$4.5 million and \$10 million a year . . ."⁷⁹ The high potency of hydroponically grown marijuana can command a price as much as six times higher than commercial grade marijuana.⁷⁹

C. LIFE SAFETY HAZARDS CREATED BY GROW HOUSES

In Humboldt County, California, structure fires caused by unsafe indoor marijuana grow operations have become commonplace. The city of Arcata, which sports four marijuana dispensaries, was the site of a house fire in which a fan had fallen over and ignited a fire; it had been turned into a grow house by its tenant. Per Arcata Police Chief Randy Mendosa, altered and makeshift "no code" electrical service connections and overloaded wires used to operate high-powered grow lights and fans are common causes of the fires. Large indoor marijuana growing operations can create such excessive draws of electricity that PG&E power pole transformers are commonly blown. An average 1,500-square-foot tract house used for growing marijuana can generate monthly electrical bills from \$1,000 to \$3,000 per month. From an environmental standpoint, the carbon footprint from greenhouse gas emissions created by large indoor marijuana grow operations should be a major concern for every community in terms of complying with Air Board AB-32 regulations, as well as other greenhouse gas reduction policies. Typically, air vents are cut into roofs, water seeps into carpeting, windows are blacked out, holes are cut in floors, wiring is jury-rigged, and electrical circuits are overloaded to operate grow lights and other apparatus. When fires start, they spread quickly.

The May 31, 2008 edition of the *Los Angeles Times* reported, "Law enforcement officials estimate that as many as 1,000 of the 7,500 homes in this Humboldt County community are being used to cultivate marijuana, slashing into the housing stock, spreading building-safety problems and sowing neighborhood discord." Not surprisingly, in this bastion of liberal pot possession rules that authorized the cultivation of up to 99 plants for medicinal purpose, most structural fires in the community of Arcata have been of late associated with marijuana cultivation.⁸⁰ Chief of Police Mendosa clarified that the actual number of marijuana grow houses in Arcata has been an ongoing subject of public debate. Mendosa added, "We know there are numerous grow houses in almost every neighborhood in and around the city, which has been the source of constant citizen complaints." House fires caused by

grower-installed makeshift electrical wiring or tipped electrical fans are now endemic to Humboldt County.⁸¹

Chief Mendosa also observed that since marijuana has an illicit street value of up to \$3,000 per pound, marijuana grow houses have been susceptible to violent armed home invasion robberies. Large-scale marijuana grow houses have removed significant numbers of affordable houses from the residential rental market. When property owners discover their rentals are being used as grow houses, the residences are often left with major structural damage, which includes air vents cut into roofs and floors, water damage to floors and walls, and mold. The June 9, 2008 edition of the *New York Times* shows an unidentified Arcata man tending his indoor grow; the man claimed he can make \$25,000 every three months by selling marijuana grown in the bedroom of his rented house.⁸² Claims of ostensible medical marijuana growing pursuant to California's medical marijuana laws are being advanced as a mostly false shield in an attempt to justify such illicit operations.

Neither is fire an uncommon occurrence at grow houses elsewhere across the nation. Another occurred not long ago in Holiday, Florida.⁸³ To compound matters further, escape routes for firefighters are often obstructed by blocked windows in grow houses, electric wiring is tampered with to steal electricity, and some residences are even booby-trapped to discourage and repel unwanted intruders.⁸⁴

D. INCREASED ORGANIZED GANG ACTIVITIES

Along with marijuana dispensaries and the grow operations to support them come members of organized criminal gangs to operate and profit from them. Members of an ethnic Chinese drug gang were discovered to have operated 50 indoor grow operations in the San Francisco Bay area, while Cuban-American crime organizations have been found to be operating grow houses in Florida and elsewhere in the South. A Vietnamese drug ring was caught operating 19 grow houses in Seattle and Puget Sound, Washington.⁸⁵ In July of 2008, over 55 Asian gang members were indicted for narcotics trafficking in marijuana and ecstasy, including members of the Hop Sing Gang that had been actively operating marijuana grow operations in Elk Grove and elsewhere in the vicinity of Sacramento, California.⁸⁶

E. EXPOSURE OF MINORS TO MARIJUANA

Minors who are exposed to marijuana at dispensaries or residences where marijuana plants are grown may be subtly influenced to regard it as a generally legal drug, and inclined to sample it. In grow houses, children are exposed to dangerous fire and health conditions that are inherent in indoor grow operations.⁸⁷ Dispensaries also sell marijuana to minors.⁸⁸

F. IMPAIRED PUBLIC HEALTH

Indoor marijuana grow operations emit a skunk-like odor,⁸⁹ and foster generally unhealthy conditions like allowing chemicals and fertilizers to be placed in the open, an increased carbon dioxide level within the grow house, and the accumulation of mold,⁹⁰ all of which are dangerous to any children or adults who may be living in the residence,⁹¹ although many grow houses are uninhabited.

G. LOSS OF BUSINESS TAX REVENUE

When business suffers as a result of shoppers staying away on account of traffic, blight, crime, and the undesirability of a particular business district known to be frequented by drug users and traffickers, and organized criminal gang members, a city's tax revenues necessarily drop as a direct consequence.

H. DECREASED QUALITY OF LIFE IN DETERIORATING NEIGHBORHOODS, BOTH BUSINESS AND RESIDENTIAL

Marijuana dispensaries bring in the criminal element and loiterers, which in turn scare off potential business patrons of nearby legitimate businesses, causing loss of revenues and deterioration of the affected business district. Likewise, empty homes used as grow houses emit noxious odors in residential neighborhoods, project irritating sounds of whirring fans,⁹² and promote the din of vehicles coming and going at all hours of the day and night. Near harvest time, rival growers and other uninvited enterprising criminals sometimes invade grow houses to beat "clip crews" to the site and rip off mature plants ready for harvesting. As a result, violence often erupts from confrontations in the affected residential neighborhood.⁹³

ULTIMATE CONCLUSIONS REGARDING ADVERSE SECONDARY EFFECTS

On balance, any utility to medical marijuana patients in care giving and convenience that marijuana dispensaries may appear to have on the surface is enormously outweighed by a much darker reality that is punctuated by the many adverse secondary effects created by their presence in communities, recounted here. These drug distribution centers have even proven to be unsafe for their own proprietors.

POSSIBLE LOCAL GOVERNMENTAL RESPONSES TO MARIJUANA DISPENSARIES

A. IMPOSED MORATORIA BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

While in the process of investigating and researching the issue of licensing marijuana dispensaries, as an interim measure city councils may enact date-specific moratoria that expressly prohibit the presence of marijuana dispensaries, whether for medical use or otherwise, and prohibiting the sale of marijuana in any form on such premises, anywhere within the incorporated boundaries of the city until a specified date. Before such a moratorium's date of expiration, the moratorium may then either be extended or a city ordinance enacted completely prohibiting or otherwise restricting the establishment and operation of marijuana dispensaries, and the sale of all marijuana products on such premises.

County supervisors can do the same with respect to marijuana dispensaries sought to be established within the unincorporated areas of a county. Approximately 80 California cities, including the cities of Antioch, Brentwood, Oakley, Pinole, and Pleasant Hill, and 6 counties, including Contra Costa County, have enacted moratoria banning the existence of marijuana dispensaries. In a novel approach, the City of Arcata issued a moratorium on any new dispensaries in the downtown area, based on no agricultural activities being permitted to occur there.⁹⁴

B. IMPOSED BANS BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

While the Compassionate Use Act of 1996 permits seriously ill persons to legally obtain and use marijuana for medical purposes upon a physician's recommendation, it is silent on marijuana dispensaries and does not expressly authorize the sale of marijuana to patients or primary caregivers.

Neither Proposition 215 nor Senate Bill 420 specifically authorizes the dispensing of marijuana in any form from a storefront business. And, no state statute presently exists that expressly permits the licensing or operation of marijuana dispensaries.⁹⁵ Consequently, approximately 39 California cities, including the Cities of Concord and San Pablo, and 2 counties have prohibited marijuana dispensaries within their respective geographical boundaries, while approximately 24 cities, including the City of Martinez, and 7 counties have allowed such dispensaries to do business within their jurisdictions. Even the complete prohibition of marijuana dispensaries within a given locale cannot be found to run afoul of current California law with respect to permitted use of marijuana for medicinal purposes, so long as the growing or use of medical marijuana by a city or county resident in conformance with state law is not proscribed.⁹⁶

In November of 2004, the City of Brampton in Ontario, Canada passed The Grow House Abatement By-law, which authorized the city council to appoint inspectors and local police officers to inspect suspected grow houses and render safe hydro meters, unsafe wiring, booby traps, and any violation of the Fire Code or Building Code, and remove discovered controlled substances and ancillary equipment designed to grow and manufacture such substances, at the involved homeowner's cost.⁹⁷ And, after state legislators became appalled at the proliferation of for-profit residential grow operations, the State of Florida passed the Marijuana Grow House Eradication act (House Bill 173) in June of 2008. The governor signed this bill into law, making owning a house for the purpose of cultivating, packaging, and distributing marijuana a third-degree felony; growing 25 or more marijuana plants a second-degree felony; and growing "25 or more marijuana plants in a home with children present" a first-degree felony.⁹⁸ It has been estimated that approximately 17,500 marijuana grow operations were active in late 2007.⁹⁹ To avoid becoming a dumping ground for organized crime syndicates who decide to move their illegal grow operations to a more receptive legislative environment, California and other states might be wise to quickly follow suit with similar bills, for it may already be happening.¹⁰⁰

C. IMPOSED RESTRICTED ZONING AND OTHER REGULATION BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

If so inclined, rather than completely prohibit marijuana dispensaries, through their zoning power city and county officials have the authority to restrict owner operators to locate and operate so-called "medical marijuana dispensaries" in prescribed geographical areas of a city or designated unincorporated areas of a county, and require them to meet prescribed licensing requirements before being allowed to do so. This is a risky course of action though for would-be dispensary operators, and perhaps lawmakers too, since federal authorities do not recognize any lawful right for the sale, purchase, or use of marijuana for medical use or otherwise anywhere in the United States, including California. Other cities and counties have included as a condition of licensure for dispensaries that the operator shall "violate no federal or state law," which puts any applicant in a "Catch-22" situation since to federal authorities any possession or sale of marijuana is automatically a violation of federal law.

Still other municipalities have recently enacted or revised comprehensive ordinances that address a variety of medical marijuana issues. For example, according to the City of Arcata Community

Development Department in Arcata, California, in response to constant citizen complaints from what had become an extremely serious community problem, the Arcata City Council revised its Land Use Standards for Medical Marijuana Cultivation and Dispensing. In December of 2008, City of Arcata Ordinance #1382 was enacted. It includes the following provisions:

“Categories:

1. Personal Use
2. Cooperatives or Collectives

Medical Marijuana for Personal Use: An individual qualified patient shall be allowed to cultivate medical marijuana within his/her private residence in conformance with the following standards:

1. Cultivation area shall not exceed 50 square feet and not exceed ten feet (10') in height.
 - a. Cultivation lighting shall not exceed 1200 watts;
 - b. Gas products (CO₂, butane, etc.) for medical marijuana cultivation or processing is prohibited.
 - c. Cultivation and sale is prohibited as a Home Occupation (sale or dispensing is prohibited).
 - d. Qualified patient shall reside in the residence where the medical marijuana cultivation occurs;
 - e. Qualified patient shall not participate in medical marijuana cultivation in any other residence.
 - f. Residence kitchen, bathrooms, and primary bedrooms shall not be used primarily for medical marijuana cultivation;
 - g. Cultivation area shall comply with the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation.
 - h. The medical marijuana cultivation area shall not adversely affect the health or safety of the nearby residents.
2. City Zoning Administrator may approve up to 100 square foot:
 - a. Documentation showing why the 50 square foot cultivation area standard is not feasible.
 - b. Include written permission from the property owner.
 - c. City Building Official must inspect for California Building Code and Fire Code.
 - d. At a minimum, the medical marijuana cultivation area shall be constructed with a 1-hour firewall assembly of green board.
 - e. Cultivation of medical marijuana for personal use is limited to detached single family residential properties, or the medical marijuana cultivation area shall be limited to a garage or self-contained outside accessory building that is secured, locked, and fully enclosed.

Medical Marijuana Cooperatives or Collectives.

1. Allowed with a Conditional Use Permit.
2. In Commercial, Industrial, and Public Facility Zoning Districts.
3. Business form must be a cooperative or collective.
4. Existing cooperative or collective shall be in full compliance within one year.
5. Total number of medical marijuana cooperatives or collectives is limited to four and ultimately two.
6. Special consideration if located within
 - a. A 300 foot radius from any existing residential zoning district,
 - b. Within 500 feet of any other medical marijuana cooperative or collective.

c. Within 500 feet from any existing public park, playground, day care, or school.

7. Source of medical marijuana.

- a. Permitted Cooperative or Collective. On-site medical marijuana cultivation shall not exceed twenty-five (25) percent of the total floor area, but in no case greater than 1,500 square feet and not exceed ten feet (10') in height.
- b. Off-site Permitted Cultivation. Use Permit application and be updated annually.
- c. Qualified Patients. Medical marijuana acquired from an individual qualified patient shall receive no monetary remittance, and the qualified patient is a member of the medical marijuana cooperative or collective. Collective or cooperative may credit its members for medical marijuana provided to the collective or cooperative, which they may allocate to other members.

8. Operations Manual at a minimum include the following information:

- a. Staff screening process including appropriate background checks.
- b. Operating hours.
- c. Site, floor plan of the facility.
- d. Security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification.
- e. Screening, registration and validation process for qualified patients.
- f. Qualified patient records acquisition and retention procedures.
- g. Process for tracking medical marijuana quantities and inventory controls including on-site cultivation, processing, and/or medical marijuana products received from outside sources.
- h. Measures taken to minimize or offset energy use from the cultivation or processing of medical marijuana.
- i. Chemicals stored, used and any effluent discharged into the City's wastewater and/or storm water system.

9. Operating Standards.

- a. No dispensing medical marijuana more than twice a day.
- b. Dispense to an individual qualified patient who has a valid, verified physician's recommendation. The medical marijuana cooperative or collective shall verify that the physician's recommendation is current and valid.
- c. Display the client rules and/or regulations at each building entrance.
- d. Smoking, ingesting or consuming medical marijuana on the premises or in the vicinity is prohibited.
- e. Persons under the age of eighteen (18) are precluded from entering the premises.
- f. No on-site display of marijuana plants.
- g. No distribution of live plants, starts and clones on through Use Permit.
- h. Permit the on-site display or sale of marijuana paraphernalia only through the Use Permit.
- i. Maintain all necessary permits, and pay all appropriate taxes. Medical marijuana cooperatives or collectives shall also provide invoices to vendors to ensure vendor's tax liability responsibility;
- j. Submit an "Annual Performance Review Report" which is intended to identify effectiveness of the approved Use Permit, Operations Manual, and Conditions of Approval, as well as the identification and implementation of additional procedures as deemed necessary.
- k. Monitoring review fees shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.

10. Permit Revocation or Modification. A use permit may be revoked or modified for non-compliance with one or more of the items described above."

LIABILITY ISSUES

With respect to issuing business licenses to marijuana storefront facilities a very real issue has arisen: counties and cities are arguably aiding and abetting criminal violations of federal law. Such actions clearly put the counties permitting these establishments in very precarious legal positions. Aiding and abetting a crime occurs when someone commits a crime, the person aiding that crime knew the criminal offender intended to commit the crime, and the person aiding the crime intended to assist the criminal offender in the commission of the crime.

The legal definition of aiding and abetting could be applied to counties and cities allowing marijuana facilities to open. A county that has been informed about the *Gonzales v. Raich* decision knows that all marijuana activity is federally illegal. Furthermore, such counties know that individuals involved in the marijuana business are subject to federal prosecution. When an individual in California cultivates, possesses, transports, or uses marijuana, he or she is committing a federal crime.

A county issuing a business license to a marijuana facility knows that the people there are committing federal crimes. The county also knows that those involved in providing and obtaining marijuana are intentionally violating federal law.

This very problem is why some counties are re-thinking the presence of marijuana facilities in their communities. There is a valid fear of being prosecuted for aiding and abetting federal drug crimes. Presently, two counties have expressed concern that California's medical marijuana statutes have placed them in such a precarious legal position. Because of the serious criminal ramifications involved in issuing business permits and allowing storefront marijuana businesses to operate within their borders, San Diego and San Bernardino Counties filed consolidated lawsuits against the state seeking to prevent the State of California from enforcing its medical marijuana statutes which potentially subject them to criminal liability, and squarely asserting that California medical marijuana laws are preempted by federal law in this area. After California's medical marijuana laws were all upheld at the trial level, California's Fourth District Court of Appeal found that the State of California could mandate counties to adopt and enforce a voluntary medical marijuana identification card system, and the appellate court bypassed the preemption issue by finding that San Diego and San Bernardino Counties lacked standing to raise this challenge to California's medical marijuana laws. Following this state appellate court decision, independent petitions for review filed by the two counties were both denied by the California Supreme Court.

Largely because of the quandary that county and city peace officers in California face in the field when confronted with alleged medical marijuana with respect to enforcement of the total federal criminal prohibition of all marijuana, and state exemption from criminal penalties for medical marijuana users and caregivers, petitions for a writ of certiorari were then separately filed by the two counties seeking review of this decision by the United States Supreme Court in the consolidated cases of *County of San Diego, County of San Bernardino, and Gary Penrod, as Sheriff of the County of San Bernardino v. San Diego Norml, State of California, and Sandra Shewry, Director of the California Department of Health Services in her official capacity*, Ct.App. Case No. D-5-333.) The High Court has requested the State of California and other interested parties to file responsive briefs to the two counties' and Sheriff Penrod's writ petitions before it decides whether to grant or deny review of these consolidated cases. The petitioners would then be entitled to file a reply to any filed response. It is anticipated that the U.S. Supreme Court will formally grant or deny review of these consolidated cases in late April or early May of 2009.

In another case, *City of Garden Grove v. Superior Court* (2007) 157 Cal.App.4th 355, although the federal preemption issue was not squarely raised or addressed in its decision, California's Fourth District Court of Appeal found that public policy considerations allowed a city standing to challenge a state trial court's order directing the return by a city police department of seized medical marijuana to a person determined to be a patient. After the court-ordered return of this federally banned substance was upheld at the intermediate appellate level, and not accepted for review by the California Supreme Court, a petition for a writ of certiorari was filed by the City of Garden Grove to the U.S. Supreme Court to consider and reverse the state appellate court decision. But, that petition was also denied. However, the case of *People v. Kelly* (2008) 163 Cal.App.4th 124—in which a successful challenge was made to California's Medical Marijuana Program's maximum amounts of marijuana and marijuana plants permitted to be possessed by medical marijuana patients (Cal. H&S Code sec. 11362.77 *et seq.*), which limits were found at the court of appeal level to be without legal authority for the state to impose—has been accepted for review by the California Supreme Court on the issue of whether this law was an improper amendment to Proposition 215's Compassionate Use Act of 1996.

A SAMPLING OF EXPERIENCES WITH MARIJUANA DISPENSARIES

1. MARIJUANA DISPENSARIES-THE SAN DIEGO STORY

After the passage of Proposition 215 in 1996, law enforcement agency representatives in San Diego, California met many times to formulate a comprehensive strategy of how to deal with cases that may arise out of the new law. In the end it was decided to handle the matters on a case-by-case basis. In addition, questionnaires were developed for patient, caregiver, and physician interviews. At times patients without sales indicia but large grows were interviewed and their medical records reviewed in making issuing decisions. In other cases where sales indicia and amounts supported a finding of sales the cases were pursued. At most, two cases a month were brought for felony prosecution.

In 2003, San Diego County's newly elected District Attorney publicly supported Prop. 215 and wanted her newly created Narcotics Division to design procedures to ensure patients were not caught up in case prosecutions. As many already know, law enforcement officers rarely arrest or seek prosecution of a patient who merely possesses personal use amounts. Rather, it is those who have sales amounts in product or cultivation who are prosecuted. For the next two years the District Attorney's Office proceeded as it had before. But, on the cases where the patient had too many plants or product but not much else to show sales—the DDAs assigned to review the case would interview and listen to input to respect the patient's and the DA's position. Some cases were rejected and others issued but the case disposition was often generous and reflected a "sin no more" view.

All of this changed after the passage of SB 420. The activists and pro-marijuana folks started to push the envelope. Dispensaries began to open for business and physicians started to advertise their availability to issue recommendations for the purchase of medical marijuana. By spring of 2005 the first couple of dispensaries opened up—but they were discrete. This would soon change. By that summer, 7 to 10 dispensaries were open for business, and they were selling marijuana openly. In fact, the local police department was doing a small buy/walk project and one of its target dealers said he was out of pot but would go get some from the dispensary to sell to the undercover officer (UC); he did. It was the proliferation of dispensaries and ancillary crimes that prompted the San Diego Police Chief (the Chief was a Prop. 215 supporter who sparred with the Fresno DEA in his prior job over this issue) to authorize his officers to assist DEA.

The Investigation

San Diego DEA and its local task force (NTF) sought assistance from the DA's Office as well as the U.S. Attorney's Office. Though empathetic about being willing to assist, the DA's Office was not sure how prosecutions would fare under the provisions of SB 420. The U.S. Attorney had the easier road but was noncommittal. After several meetings it was decided that law enforcement would work on using undercover operatives (UCs) to buy, so law enforcement could see exactly what was happening in the dispensaries.

The investigation was initiated in December of 2005, after NTF received numerous citizen complaints regarding the crime and traffic associated with "medical marijuana dispensaries." The City of San Diego also saw an increase in crime related to the marijuana dispensaries. By then approximately 20 marijuana dispensaries had opened and were operating in San Diego County, and investigations on 15 of these dispensaries were initiated.

During the investigation, NTF learned that all of the business owners were involved in the transportation and distribution of large quantities of marijuana, marijuana derivatives, and marijuana food products. In addition, several owners were involved in the cultivation of high grade marijuana. The business owners were making significant profits from the sale of these products and not properly reporting this income.

Undercover Task Force Officers (TFO's) and SDPD Detectives were utilized to purchase marijuana and marijuana food products from these businesses. In December of 2005, thirteen state search warrants were executed at businesses and residences of several owners. Two additional follow-up search warrants and a consent search were executed the same day. Approximately 977 marijuana plants from seven indoor marijuana grows, 564.88 kilograms of marijuana and marijuana food products, one gun, and over \$58,000 U.S. currency were seized. There were six arrests made during the execution of these search warrants for various violations, including outstanding warrants, possession of marijuana for sale, possession of psilocybin mushrooms, obstructing a police officer, and weapons violations. However, the owners and clerks were not arrested or prosecuted at this time—just those who showed up with weapons or product to sell.

Given the fact most owners could claim mistake of law as to selling (though not a legitimate defense, it could be a jury nullification defense) the DA's Office decided not to file cases at that time. It was hoped that the dispensaries would feel San Diego was hostile ground and they would do business elsewhere. Unfortunately this was not the case. Over the next few months seven of the previously targeted dispensaries opened, as well as a slew of others. Clearly prosecutions would be necessary.

To gear up for the re-opened and new dispensaries prosecutors reviewed the evidence and sought a second round of UC buys wherein the UC would be buying for themselves and they would have a second UC present at the time acting as UC1's caregiver who also would buy. This was designed to show the dispensary was not the caregiver. There is no authority in the law for organizations to act as primary caregivers. Caregivers must be individuals who care for a marijuana patient. A primary caregiver is defined by Proposition 215, as codified in H&S Code section 11362.5(e), as, "For the purposes of this section, 'primary caregiver' means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person." The goal was to show that the stores were only selling marijuana, and not providing care for the hundreds who bought from them.

In addition to the caregiver-controlled buys, another aim was to put the whole matter in perspective for the media and the public by going over the data that was found in the raided dispensary records, as well as the crime statistics. An analysis of the December 2005 dispensary records showed a breakdown of the purported illness and youthful nature of the patients. The charts and other PR aspects played out after the second take down in July of 2006.

The final attack was to reveal the doctors (the gatekeepers for medical marijuana) for the fraud they were committing. UCs from the local PD went in and taped the encounters to show that the pot docs did not examine the patients and did not render care at all; rather they merely sold a medical MJ recommendation whose duration depended upon the amount of money paid.

In April of 2006, two state and two federal search warrants were executed at a residence and storage warehouse utilized to cultivate marijuana. Approximately 347 marijuana plants, over 21 kilograms of marijuana, and \$2,855 U.S. currency were seized.

Due to the pressure from the public, the United States Attorney's Office agreed to prosecute the owners of the businesses with large indoor marijuana grows and believed to be involved in money laundering activities. The District Attorney's Office agreed to prosecute the owners in the other investigations.

In June of 2006, a Federal Grand Jury indicted six owners for violations of Title 21 USC, sections 846 and 841(a)(1), Conspiracy to Distribute Marijuana; sections 846 and 841(a), Conspiracy to Manufacture Marijuana; and Title 18 USC, Section 2, Aiding and Abetting.

In July of 2006, 11 state and 11 federal search warrants were executed at businesses and residences associated with members of these businesses. The execution of these search warrants resulted in the arrest of 19 people, seizure of over \$190,000 in U.S. currency and other assets, four handguns, one rifle, 405 marijuana plants from seven grows, and over 329 kilograms of marijuana and marijuana food products.

Following the search warrants, two businesses reopened. An additional search warrant and consent search were executed at these respective locations. Approximately 20 kilograms of marijuana and 32 marijuana plants were seized.

As a result, all but two of the individuals arrested on state charges have pled guilty. Several have already been sentenced and a few are still awaiting sentencing. All of the individuals indicted federally have also pled guilty and are awaiting sentencing.

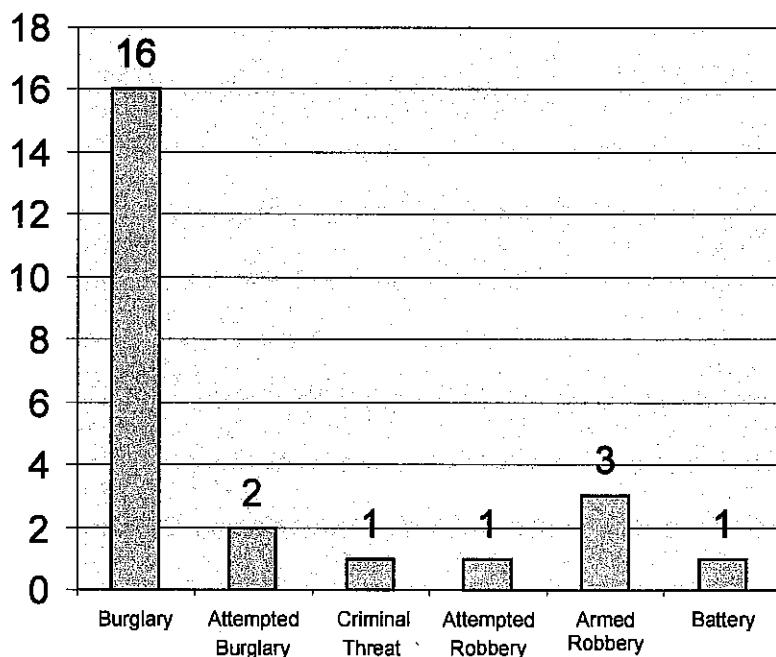
After the July 2006 search warrants a joint press conference was held with the U.S. Attorney and District Attorney, during which copies of a complaint to the medical board, photos of the food products which were marketed to children, and the charts shown below were provided to the media.

Directly after these several combined actions, there were no marijuana distribution businesses operating in San Diego County. Law enforcement agencies in the San Diego region have been able to successfully dismantle these businesses and prosecute the owners. As a result, medical marijuana advocates have staged a number of protests demanding DEA allow the distribution of marijuana. The closure of these businesses has reduced crime in the surrounding areas.

The execution of search warrants at these businesses sent a powerful message to other individuals operating marijuana distribution businesses that they are in violation of both federal law **and** California law.

Press Materials:

Reported Crime at Marijuana Dispensaries
From January 1, 2005 through June 23, 2006



Information showing the dispensaries attracted crime:

The marijuana dispensaries were targets of violent crimes because of the amount of marijuana, currency, and other contraband stored inside the businesses. From January 1, 2005 through June 23, 2006, 24 violent crimes were reported at marijuana dispensaries. An analysis of financial records seized from the marijuana dispensaries showed several dispensaries were grossing over \$300,000 per month from selling marijuana and marijuana food products. The majority of customers purchased marijuana with cash.

Crime statistics inadequately reflect the actual number of crimes committed at the marijuana dispensaries. These businesses were often victims of robberies and burglaries, but did not report the crimes to law enforcement on account of fear of being arrested for possession of marijuana in excess of Prop. 215 guidelines. NTF and the San Diego Police Department (SDPD) received numerous citizen complaints regarding every dispensary operating in San Diego County.

Because the complaints were received by various individuals, the exact number of complaints was not recorded. The following were typical complaints received:

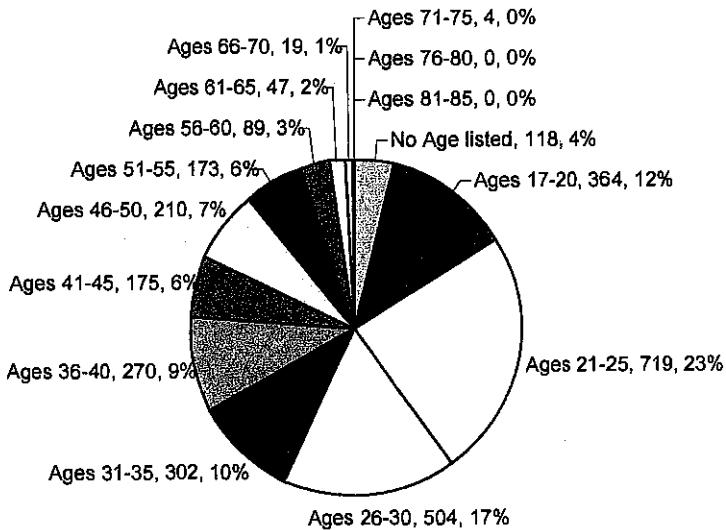
- high levels of traffic going to and from the dispensaries
- people loitering in the parking lot of the dispensaries
- people smoking marijuana in the parking lot of the dispensaries

- vandalism near dispensaries
- threats made by dispensary employees to employees of other businesses
- citizens worried they may become a victim of crime because of their proximity to dispensaries

In addition, the following observations (from citizen activists assisting in data gathering) were made about the marijuana dispensaries:

- Identification was not requested for individuals who looked under age 18
- Entrance to business was not refused because of lack of identification
- Individuals were observed loitering in the parking lots
- Child-oriented businesses and recreational areas were situated nearby
- Some businesses made no attempt to verify a submitted physician's recommendation

Dispensary Patients By Age



An analysis of patient records seized during search warrants at several dispensaries show that 52% of the customers purchasing marijuana were between the ages of 17 to 30. 63% of primary caregivers purchasing marijuana were between the ages of 18 through 30. Only 2.05% of customers submitted a physician's recommendation for AIDS, glaucoma, or cancer.

Why these businesses were deemed to be criminal--not compassionate:

The medical marijuana businesses were deemed to be criminal enterprises for the following reasons:

- Many of the business owners had histories of drug and violence-related arrests.
- The business owners were street-level marijuana dealers who took advantage of Prop. 215 in an attempt to legitimize marijuana sales for profit.
- Records, or lack of records, seized during the search warrants showed that all the owners were not properly reporting income generated from the sales of marijuana. Many owners were involved in money laundering and tax evasion.
- The businesses were selling to individuals without serious medical conditions.
- There are no guidelines on the amount of marijuana which can be sold to an individual. For

example, an individual with a physician's recommendation can go to as many marijuana distribution businesses and purchase as much marijuana as he/she wants.

- California law allows an individual to possess 6 mature or 12 immature plants per qualified person. However, the San Diego Municipal Code states a "caregiver" can only provide care to 4 people, including themselves; this translates to 24 mature or 48 immature plants total. Many of these dispensaries are operating large marijuana grows with far more plants than allowed under law. Several of the dispensaries had indoor marijuana grows inside the businesses, with mature and/or immature marijuana plants over the limits.
- State law allows a qualified patient or primary caregiver to possess no more than eight ounces of dried marijuana per qualified patient. However, the San Diego Municipal Code allows primary caregivers to possess no more than two pounds of processed marijuana. Under either law, almost every marijuana dispensary had over two pounds of processed marijuana during the execution of the search warrants.
- Some marijuana dispensaries force customers to sign forms designating the business as their primary caregiver, in an attempt to circumvent the law.

2. EXPERIENCES WITH MARIJUANA DISPENSARIES IN RIVERSIDE COUNTY

There were some marijuana dispensaries operating in the County of Riverside until the District Attorney's Office took a very aggressive stance in closing them. In Riverside, anyone that is not a "qualified patient" or "primary caregiver" under the Medical Marijuana Program Act who possesses, sells, or transports marijuana is being prosecuted.

Several dispensary closures illustrate the impact this position has had on marijuana dispensaries. For instance, the Palm Springs Caregivers dispensary (also known as Palm Springs Safe Access Collective) was searched after a warrant was issued. All materials inside were seized, and it was closed down and remains closed. The California Caregivers Association was located in downtown Riverside. Very shortly after it opened, it was also searched pursuant to a warrant and shut down. The CannaHelp dispensary was located in Palm Desert. It was searched and closed down early in 2007. The owner and two managers were then prosecuted for marijuana sales and possession of marijuana for the purpose of sale. However, a judge granted their motion to quash the search warrant and dismissed the charges. The District Attorney's Office then appealed to the Fourth District Court of Appeal. Presently, the Office is waiting for oral arguments to be scheduled.

Dispensaries in the county have also been closed by court order. The Healing Nations Collective was located in Corona. The owner lied about the nature of the business in his application for a license. The city pursued and obtained an injunction that required the business to close. The owner appealed to the Fourth District Court of Appeal, which ruled against him. (*City of Corona v. Ronald Naulls et al.*, Case No. E042772.)

3. MEDICAL MARIJUANA DISPENSARY ISSUES IN CONTRA COSTA COUNTY CITIES AND IN OTHER BAY AREA COUNTIES

Several cities in Contra Costa County, California have addressed this issue by either banning dispensaries, enacting moratoria against them, regulating them, or taking a position that they are simply not a permitted land use because they violate federal law. Richmond, El Cerrito, San Pablo, Hercules, and Concord have adopted permanent ordinances banning the establishment of marijuana dispensaries. Antioch, Brentwood, Oakley, Pinole, and Pleasant Hill have imposed moratoria against dispensaries. Clayton, San Ramon, and Walnut Creek have not taken any formal action regarding the establishment of marijuana dispensaries but have indicated that marijuana dispensaries

are not a permitted use in any of their zoning districts as a violation of federal law. Martinez has adopted a permanent ordinance regulating the establishment of marijuana dispensaries.

The Counties of Alameda, Santa Clara, and San Francisco have enacted permanent ordinances regulating the establishment of marijuana dispensaries. The Counties of Solano, Napa, and Marin have enacted neither regulations nor bans. A brief overview of the regulations enacted in neighboring counties follows.

A. Alameda County

Alameda County has a nineteen-page regulatory scheme which allows the operation of three permitted dispensaries in unincorporated portions of the county. Dispensaries can only be located in commercial or industrial zones, or their equivalent, and may not be located within 1,000 feet of other dispensaries, schools, parks, playgrounds, drug recovery facilities, or recreation centers. Permit issuance is controlled by the Sheriff, who is required to work with the Community Development Agency and the Health Care Services agency to establish operating conditions for each applicant prior to final selection. Adverse decisions can be appealed to the Sheriff and are ruled upon by the same panel responsible for setting operating conditions. That panel's decision may be appealed to the Board of Supervisors, whose decision is final (subject to writ review in the Superior Court per CCP sec. 1094.5). Persons violating provisions of the ordinance are guilty of a misdemeanor.

B. Santa Clara County

In November of 1998, Santa Clara County passed an ordinance permitting dispensaries to exist in unincorporated portions of the county with permits first sought and obtained from the Department of Public Health. In spite of this regulation, neither the County Counsel nor the District Attorney's Drug Unit Supervisor believes that Santa Clara County has had *any* marijuana dispensaries in operation at least through 2006.

The only permitted activities are the on-site cultivation of medical marijuana and the distribution of medical marijuana/medical marijuana food stuffs. No retail sales of any products are permitted at the dispensary. Smoking, ingestion or consumption is also prohibited on site. All doctor recommendations for medical marijuana must be verified by the County's Public Health Department.

C. San Francisco County

In December of 2001, the Board of Supervisors passed Resolution No. 012006, declaring San Francisco to be a "Sanctuary for Medical Cannabis." City voters passed Proposition S in 2002, directing the city to explore the possibility of establishing a medical marijuana cultivation and distribution program run by the city itself.

San Francisco dispensaries must apply for and receive a permit from the Department of Public Health. They may only operate as a collective or cooperative, as defined by California Health and Safety Code section 11362.7 (see discussion in section 4, under "California Law" above), and may only sell or distribute marijuana to members. Cultivation, smoking, and making and selling food products may be allowed. Permit applications are referred to the Departments of Planning, Building Inspection, and Police. Criminal background checks are required but exemptions could still allow the operation of dispensaries by individuals with prior convictions for violent felonies or who have had prior permits suspended or revoked. Adverse decisions can be appealed to the Director of

Public Health and the Board of Appeals. It is unclear how many dispensaries are operating in the city at this time.

D. Crime Rates in the Vicinity of MariCare

Sheriff's data have been compiled for "Calls for Service" within a half-mile radius of 127 Aspen Drive, Pacheco. However, in research conducted by the El Cerrito Police Department and relied upon by Riverside County in recently enacting its ban on dispensaries, it was recognized that not all crimes related to medical marijuana take place in or around a dispensary. Some take place at the homes of the owners, employees, or patrons. Therefore, these statistics cannot paint a complete picture of the impact a marijuana dispensary has had on crime rates.

The statistics show that the overall number of calls decreased (3,746 in 2005 versus 3,260 in 2006). However, there have been **increases** in the numbers of crimes which appear to be related to a business which is an attraction to a criminal element. Reports of commercial burglaries increased (14 in 2005, 24 in 2006), as did reports of residential burglaries (13 in 2005, 16 in 2006) and miscellaneous burglaries (5 in 2005, 21 in 2006).

Tender Holistic Care (THC marijuana dispensary formerly located on N. Buchanan Circle in Pacheco) was forcibly burglarized on June 11, 2006. \$4,800 in cash was stolen, along with marijuana, hash, marijuana food products, marijuana pills, marijuana paraphernalia, and marijuana plants. The total loss was estimated to be \$16,265.

MariCare was also burglarized within two weeks of opening in Pacheco. On April 4, 2006, a window was smashed after 11:00 p.m. while an employee was inside the business, working late to get things organized. The female employee called "911" and locked herself in an office while the intruder ransacked the downstairs dispensary and stole more than \$200 worth of marijuana. Demetrio Ramirez indicated that since they were just moving in, there wasn't much inventory.

Reports of vehicle thefts increased (4 in 2005, 6 in 2006). Disturbance reports increased in nearly all categories (Fights: 5 in 2005, 7 in 2006; Harassment: 4 in 2005, 5 in 2006; Juveniles: 4 in 2005, 21 in 2006; Loitering: 11 in 2005, 19 in 2006; Verbal: 7 in 2005, 17 in 2006). Littering reports increased from 1 in 2005 to 5 in 2006. Public nuisance reports increased from 23 in 2005 to 26 in 2006.

These statistics reflect the complaints and concerns raised by nearby residents. Residents have reported to the District Attorney's Office, as well as to Supervisor Piepho's office, that when calls are made to the Sheriff's Department, the offender has oftentimes left the area before law enforcement can arrive. This has led to less reporting, as it appears to local residents to be a futile act and residents have been advised that law enforcement is understaffed and cannot always timely respond to all calls for service. As a result, Pacheco developed a very active, visible Neighborhood Watch program. The program became much more active in 2006, according to Doug Stewart. Volunteers obtained radios and began frequently receiving calls directly from local businesses and residents who contacted them **instead** of law enforcement. It is therefore significant that there has still been an increase in many types of calls for law enforcement service, although the overall number of calls has decreased.

Other complaints from residents included noise, odors, smoking/consuming marijuana in the area, littering and trash from the dispensary, loitering near a school bus stop and in the nearby church parking lot, observations that the primary patrons of MariCare appear to be individuals under age 25,

and increased traffic. Residents observed that the busiest time for MariCare appeared to be from 4:00 p.m. to 6:00 p.m. On a typical Friday, 66 cars were observed entering MariCare's facility; 49 of these were observed to contain additional passengers. The slowest time appeared to be from 1:00 p.m. to 3:00 p.m. On a typical Saturday, 44 cars were counted during this time, and 29 of these were observed to have additional passengers. MariCare has claimed to serve 4,000 "patients."

E. Impact of Proposed Ordinance on MedDelivery Dispensary, El Sobrante

It is the position of Contra Costa County District Attorney Robert J. Kochly that a proposed ordinance should terminate operation of the dispensary in El Sobrante because the land use of that business would be inconsistent with both state and federal law. However, the Community Development Department apparently believes that MedDelivery can remain as a "legal, non-conforming use."

F. Banning Versus Regulating Marijuana Dispensaries in Unincorporated Contra Costa County

It is simply bad public policy to allow the proliferation of any type of business which is illegal and subject to being raided by federal and/or state authorities. In fact, eight locations associated with the New Remedies dispensary in San Francisco and Alameda Counties were raided in October of 2006, and eleven Southern California marijuana clinics were raided by federal agents on January 18, 2007. The Los Angeles head of the federal Drug Enforcement Administration told CBS News after the January raids that "Today's enforcement operations show that these establishments are nothing more than drug-trafficking organizations bringing criminal activities to our neighborhoods and drugs near our children and schools." A Lafayette, California resident who owned a business that produced marijuana-laced foods and drinks for marijuana clubs was sentenced in federal court to five years and 10 months behind bars as well as a \$250,000 fine. Several of his employees were also convicted in that case.

As discussed above, there is absolutely no exception to the federal prohibition against marijuana cultivation, possession, transportation, use, and distribution. Neither California's voters nor its Legislature authorized the existence or operation of marijuana dispensing businesses when given the opportunity to do so. These enterprises cannot fit themselves into the few, narrow exceptions that were created by the Compassionate Use Act and Medical Marijuana Program Act.

Further, the presence of marijuana dispensing businesses contributes substantially to the existence of a secondary market for illegal, street-level distribution of marijuana. This fact was even recognized by the United States Supreme Court: "The exemption for cultivation by patients and caregivers can only increase the supply of marijuana in the California market. The likelihood that all such production will promptly terminate when patients recover or will precisely match the patients' medical needs during their convalescence seems remote; whereas the danger that excesses will satisfy some of the admittedly enormous demand for recreational use seems obvious." (*Gonzales v. Raich, supra*, 125 S.Ct. at p. 2214.)

As outlined below, clear evidence has emerged of such a secondary market in Contra Costa County.

- In September of 2004, police responded to reports of two men pointing a gun at cars in the parking lot at Monte Vista High School during an evening football game/dance. Two 19-year-old Danville residents were located in the parking lot (which was full of vehicles and pedestrians) and in possession of a silver Airsoft pellet pistol designed to replicate a

real Walther semi-automatic handgun. Marijuana, hash, and hash oil with typical dispensary packaging and labeling were also located in the car, along with a gallon bottle of tequila (1/4 full), a bong with burned residue, and rolling papers. The young men admitted to having consumed an unknown amount of tequila at the park next to the school and that they both pointed the gun at passing cars "as a joke." They fired several BBs at a wooden fence in the park when there were people in the area. The owner of the vehicle admitted that the marijuana was his and that he was not a medicinal marijuana user. He was able to buy marijuana from his friend "Brandon," who used a Proposition 215 card to purchase from a cannabis club in Hayward.

- In February of 2006, Concord police officers responded to a report of a possible drug sale in progress. They arrested a high school senior for two outstanding warrants as he came to buy marijuana from the cannabis club located on Contra Costa Boulevard. The young man explained that he had a cannabis club card that allowed him to purchase marijuana, and admitted that he planned to re-sell some of the marijuana to friends. He also admitted to possession of nearly 7 grams of cocaine which was recovered. A 21-year-old man was also arrested on an outstanding warrant. In his car was a marijuana grinder, a baggie of marijuana, rolling papers, cigars, and a "blunt" (hollowed out cigar filled with marijuana for smoking) with one end burned. The 21-year-old admitted that he did not have a physician's recommendation for marijuana.
- Also in February of 2006, a 17-year-old Monte Vista High School senior was charged with felony furnishing of marijuana to a child, after giving a 4-year-old boy a marijuana-laced cookie. The furnishing occurred on campus, during a child development class.
- In March of 2006, police and fire responded to an explosion at a San Ramon townhouse and found three young men engaged in cultivating and manufacturing "honey oil" for local pot clubs. Marijuana was also being sold from the residence. Honey oil is a concentrated form of cannabis chemically extracted from ground up marijuana with extremely volatile **butane** and a special "honey oil" extractor tube. The butane extraction operation **exploded** with such force that it blew the garage door partially off its hinges. Sprinklers in the residence kept the fire from spreading to the other homes in the densely packed residential neighborhood. At least one of the men was employed by Ken Estes, owner of the Dragonfly Holistic Solutions pot clubs in Richmond, San Francisco, and Lake County. They were making the "honey oil" with marijuana and butane that they brought up from one of Estes' San Diego pot clubs after it was shut down by federal agents.
- Also in March of 2006, a 16-year-old El Cerrito High School student was arrested after selling pot cookies to fellow students on campus, many of whom became ill. At least four required hospitalization. The investigation revealed that the cookies were made with a butter obtained outside a marijuana dispensary (a secondary sale). Between March of 2004 and May of 2006, the El Cerrito Police Department conducted seven investigations at the high school and junior high school, resulting in the arrest of eight juveniles for selling or possessing with intent to sell marijuana on or around the school campuses.
- In June of 2006, Moraga police officers made a traffic stop for suspected driving under the influence of alcohol. The car was seen drifting over the double yellow line separating north and southbound traffic lanes and driving in the bike lane. The 20-year-old driver denied having consumed any alcohol, as he was the "designated driver." When asked about his bloodshot, watery, and droopy eyes, the college junior explained that he had

smoked marijuana earlier (confirmed by blood tests). The young man had difficulty performing field sobriety tests, slurred his speech, and was ultimately arrested for driving under the influence. He was in possession of a falsified California Driver's License, marijuana, hash, a marijuana pipe, a scale, and \$12,288. The marijuana was in packaging from the Compassionate Collective of Alameda County, a Hayward dispensary. He explained that he buys the marijuana at "Pot Clubs," sells some, and keeps the rest. He only sells to close friends. About \$3,000 to \$4,000 of the cash was from playing high-stakes poker, but the rest was earned selling marijuana while a freshman at Arizona State University. The 18-year-old passenger had half an ounce of marijuana in her purse and produced a doctor's recommendation to a marijuana club in Oakland, the authenticity of which could not be confirmed.

Another significant concern is the proliferation of marijuana usage at community schools. In February of 2007, the Healthy Kids Survey for Alameda and Contra Costa Counties found that youthful substance abuse is more common in the East Bay's more affluent areas. These areas had higher rates of high school juniors who admitted having been high from drugs. The regional manager of the study found that the affluent areas had higher alcohol and marijuana use rates. *USA Today* recently reported that the percentage of 12th Grade students who said they had used marijuana has increased since 2002 (from 33.6% to 36.2% in 2005), and that marijuana was the most-used illicit drug among that age group in 2006. KSDK News Channel 5 reported that high school students are finding easy access to medical marijuana cards and presenting them to school authorities as a legitimate excuse for getting high. School Resource Officers for Monte Vista and San Ramon Valley High Schools in Danville have reported finding marijuana in prescription bottles and other packaging from Alameda County dispensaries. Marijuana has also been linked to psychotic illnesses.¹⁰¹ A risk factor was found to be starting marijuana use in adolescence.

For all of the above reasons, it is advocated by District Attorney Kochly that a ban on land uses which violate state or federal law is the most appropriate solution for the County of Contra Costa.

4. SANTA BARBARA COUNTY

According to Santa Barbara County Deputy District Attorney Brian Cota, ten marijuana dispensaries are currently operating within Santa Barbara County. The mayor of the City of Santa Barbara, who is an outspoken medical marijuana supporter, has stated that the police must place marijuana **behind** every other police priority. This has made it difficult for the local District Attorney's Office. Not many marijuana cases come to it for filing. The District Attorney's Office would like more regulations placed on the dispensaries. However, the majority of Santa Barbara County political leaders and residents are very liberal and do not want anyone to be denied access to medical marijuana if they say they need it. Partly as a result, no dispensaries have been prosecuted to date.

5. SONOMA COUNTY

Stephan R. Passalacqua, District Attorney for the County of Sonoma, has recently reported the following information related to distribution of medical marijuana in Sonoma County. In 1997, the Sonoma County Law Enforcement Chiefs Association enacted the following medical marijuana guidelines: a qualified patient is permitted to possess three pounds of marijuana and grow 99 plants in a 100-square-foot canopy. A qualified caregiver could possess or grow the above-mentioned amounts for each qualified patient. These guidelines were enacted after Proposition 215 was overwhelmingly passed by the voters of California, and after two separate unsuccessful prosecutions in Sonoma County. Two Sonoma County juries returned "not guilty" verdicts for three defendants

who possessed substantially large quantities of marijuana (60 plants in one case and over 900 plants in the other) where they asserted a medical marijuana defense. These verdicts, and the attendant publicity, demonstrated that the community standards are vastly different in Sonoma County compared to other jurisdictions.

On November 6, 2006, and authorized by Senate Bill 420, the Sonoma County Board of Supervisors specifically enacted regulations that allow a qualified person holding a valid identification card to possess up to three pounds of dried cannabis a year and cultivate 30 plants per qualified patient. No individual from any law enforcement agency in Sonoma County appeared at the hearing, nor did any representative publicly oppose this resolution.

With respect to the *People v. Sashon Jenkins* case, the defendant provided verified medical recommendations for five qualified patients prior to trial. At the time of arrest, Jenkins said that he had a medical marijuana card and was a care provider for multiple people, but was unable to provide specific documentation. Mr. Jenkins had approximately 10 pounds of dried marijuana and was growing 14 plants, which number of plants is consistent with the 2006 Sonoma County Board of Supervisors' resolution.

At a preliminary hearing held in January of 2007, the defense called five witnesses who were proffered as Jenkins' "patients" and who came to court with medical recommendations. Jenkins also testified that he was their caregiver. After the preliminary hearing, the assigned prosecutor conducted a thorough review of the facts and the law, and concluded that a Sonoma County jury would not return a "guilty" verdict in this case. Hence, no felony information was filed. With respect to the return of property issue, the prosecuting deputy district attorney never agreed to release the marijuana despite dismissing the case.

Other trial dates are pending in cases where medical marijuana defenses are being alleged. District Attorney Passalacqua has noted that, given the overwhelming passage of proposition 215, coupled with at least one United States Supreme Court decision that has not struck it down to date, these factors present current challenges for law enforcement, but that he and other prosecutors will continue to vigorously prosecute drug dealers within the boundaries of the law.

6. ORANGE COUNTY

There are 15 marijuana dispensaries in Orange County, and several delivery services. Many of the delivery services operate out of the City of Long Beach in Los Angeles County. Orange County served a search warrant on one dispensary, and closed it down. A decision is being made whether or not to file criminal charges in that case. It is possible that the United States Attorney will file on that dispensary since it is a branch of a dispensary that the federal authorities raided in San Diego County.

The Orange County Board of Supervisors has ordered a study by the county's Health Care Department on how to comply with the Medical Marijuana Program Act. The District Attorney's Office's position is that any activity under the Medical Marijuana Program Act beyond the mere issuance of identification cards violates federal law. The District Attorney's Office has made it clear to County Counsel that if any medical marijuana provider does not meet a strict definition of "primary caregiver" that person will be prosecuted.

PENDING LEGAL QUESTIONS

Law enforcement agencies throughout the state, as well as their legislative bodies, have been struggling with how to reconcile the Compassionate Use Act ("CUA"), Cal. Health & Safety Code secs. 11362.5, et seq., with the federal Controlled Substances Act ("CSA"), 21 U.S.C. sec. 801, et seq., for some time. Pertinent questions follow.

QUESTION

1. **Is it possible for a storefront marijuana dispensary to be legally operated under the Compassionate Use Act of 1996 (Health & Saf. Code sec. 11362.5) and the Medical Marijuana Program Act (Health & Saf. Code secs. 11362.7-11362.83)?**

ANSWER

1. **Storefront marijuana dispensaries may be legally operated under the CUA and the Medical Marijuana Program Act ("MMPA"), Cal. Health & Safety Code secs. 11362.7-11362.83, as long as they are "cooperatives" under the MMPA.**

ANALYSIS

The question posed does not specify what services or products are available at a "storefront" marijuana dispensary. The question also does not specify the business structure of a "dispensary." A "dispensary" is often commonly used nowadays as a generic term for a facility that distributes medical marijuana.

The term "dispensary" is also used specifically to refer to marijuana facilities that are operated more like a retail establishment, that are open to the public and often "sell" medical marijuana to qualified patients or caregivers. By use of the term "store front dispensary," the question may be presuming that this type of facility is being operated. For purposes of this analysis, we will assume that a "dispensary" is a generic term that does not contemplate any particular business structure.¹ Based on that assumption, a "dispensary" might provide "assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person" and be within the permissible limits of the CUA and the MMPA. (Cal. Health & Safety Code sec. 11362.765 (b)(3).)

¹ As the term "dispensary" is commonly used and understood, marijuana dispensaries would *not* be permitted under the CUA or the MMPA, since they "sell" medical marijuana and are not operated as true "cooperatives."

The CUA permits a "patient" or a "patient's primary caregiver" to possess or cultivate marijuana for personal medical purposes with the recommendation of a physician. (Cal. Health & Safety Code sec. 11362.5 (d).) Similarly, the MMPA provides that "patients" or designated "primary caregivers" who have voluntarily obtained a valid medical marijuana identification card shall not be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in specified quantities. (Cal. Health & Safety Code sec. 11362.71 (d) & (e).) A "storefront dispensary" would not fit within either of these categories.

However, the MMPA also provides that "[q]ualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who *associate* within the State of California in order collectively or *cooperatively* to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under section 11357 [possession], 11358 [planting, harvesting or processing], 11359 [possession for sale], 11360 [unlawful transportation, importation, sale or gift], 11366 [opening or maintaining place for trafficking in controlled substances], 11366.5 [providing place for manufacture or distribution of controlled substance; Fortifying building to suppress law enforcement entry], or 11570 [Buildings or places deemed nuisances subject to abatement]." (Cal. Health & Safety Code sec. 11362.775.) (Emphasis added.)

Since medical marijuana cooperatives are permitted pursuant to the MMPA, a "storefront dispensary" that would qualify as a cooperative *would* be permissible under the MMPA. (Cal. Health & Safety Code sec. 11362.775. See also *People v. Urziceanu* (2005) 132 Cal. App. 4th 747 (finding criminal defendant was entitled to present defense relating to operation of medical marijuana cooperative).) In granting a re-trial, the appellate court in *Urziceanu* found that the defendant could present evidence which might entitle him to a defense under the MMPA as to the operation of a medical marijuana cooperative, including the fact that the "cooperative" verified physician recommendations and identities of individuals seeking medical marijuana and individuals obtaining medical marijuana paid membership fees, reimbursed defendant for his costs in cultivating the medical marijuana by way of donations, and volunteered at the "cooperative." (*Id.* at p. 785.)

Whether or not "sales" are permitted under *Urziceanu* and the MMPA is unclear. The *Urziceanu* Court did note that the incorporation of section 11359, relating to marijuana "sales," in section 11362.775, allowing the operation of cooperatives, "contemplates the formation and operation of medicinal marijuana cooperatives that would receive reimbursement for marijuana and the services provided in conjunction with the provision of that marijuana." Whether "reimbursement" may be in the form only of donations, as were the facts presented in *Urziceanu*, or whether "purchases" could be made for medical marijuana, it does seem clear that a medical marijuana "cooperative" may not make a "profit," but may be restricted to being reimbursed for actual costs in providing the marijuana to its members and, if there are any "profits," these may have to be reinvested in the "cooperative" or shared by its members in order for a dispensary to

be truly considered to be operating as a "cooperative."² If these requirements are satisfied as to a "storefront" dispensary, then it will be permissible under the MMPA. Otherwise, it will be a violation of both the CUA and the MMPA.

QUESTION

2. If the governing body of a city, county, or city and county approves an ordinance authorizing and regulating marijuana dispensaries to implement the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, can an individual board or council member be found to be acting illegally and be subject to federal criminal charges, including aiding and abetting, or state criminal charges?

ANSWER

2. If a city, county, or city and county authorizes and regulates marijuana dispensaries, individual members of the legislative bodies may be held criminally liable under state or federal law.³

ANALYSIS

A. *Federal Law*

Generally, legislators of federal, state, and local legislative bodies are absolutely immune from liability for legislative acts. (U.S. Const., art. I, sec. 6 (Speech and Debate Clause, applicable to members of Congress); Fed. Rules Evid., Rule 501 (evidentiary privilege against admission of legislative acts); *Tenney v. Brandhove* (1951) 341 U.S. 367 (legislative immunity applicable to state legislators); *Bogan v. Scott-Harris* (1998) 523 U.S. 44 (legislative immunity applicable to local legislators).) However, while federal legislators are absolutely immune from *both* criminal *and* civil liability for purely legislative acts, local legislators are *only* immune from *civil* liability under federal law. (*United States v. Gillock* (1980) 445 U.S. 360.)

Where the United States Supreme Court has held that federal regulation of marijuana by way of the CSA, including any "medical" use of marijuana, is within Congress' Commerce Clause power, federal law stands as a bar to local action in direct violation of the CSA. (*Gonzales v. Raich* (2005) 545 U.S. 1.) In fact, the CSA itself provides that federal regulations do not

² A "cooperative" is defined as follows: An enterprise or organization that is owned or managed jointly by those who use its facilities or services. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE, by Houghton Mifflin Company (4th Ed. 2000).

³ Indeed, the same conclusion would seem to result from the adoption by state legislators of the MMPA itself, in authorizing the issuance of medical marijuana identification cards. (Cal. Health & Safety Code secs. 11362.71, et seq.)

exclusively occupy the field of drug regulation "unless there is a positive conflict between that provision of this title [the CSA] and that state law so that the two cannot consistently stand together." (21 U.S.C. sec. 903.)

Based on the above provisions, then, legislative action by local legislators *could* subject the individual legislators to federal criminal liability. Most likely, the only violation of the CSA that could occur as a result of an ordinance approved by local legislators authorizing and regulating medical marijuana would be aiding and abetting a violation of the CSA.

The elements of the offense of aiding and abetting a criminal offense are: (1) specific intent to facilitate commission of a crime by another; (2) guilty knowledge on the part of the accused; (3) that an offense was being committed by someone; and (4) that the accused assisted or participated in the commission of an offense. (*United States v. Raper* (1982) 676 F.2d 841; *United States v. Staten* (1978) 581 F.2d 878.)

Criminal aiding and abetting liability, under 18 U.S.C. section 2, requires proof that the defendants in some way associated themselves with the illegal venture; that they participated in the venture as something that they wished to bring about; and that they sought by their actions to make the venture succeed. (*Central Bank, N.A. v. First Interstate Bank, N.A.* (1994) 511 U.S. 164.) Mere furnishing of company to a person engaged in a crime does not render a companion an aider or abettor. (*United States v. Garguilo* (2d Cir. 1962) 310 F.2d 249.) In order for a defendant to be an aider and abettor he must know that the activity condemned by law is actually occurring and must intend to help the perpetrator. (*United States v. McDaniel* (9th Cir. 1976) 545 F.2d 642.) To be guilty of aiding and abetting, the defendant must willfully seek, by some action of his own, to make a criminal venture succeed. (*United States v. Ehrenberg* (E.D. Pa. 1973) 354 F. Supp. 460 *cert. denied* (1974) 94 S. Ct. 1612.)

The question, as posed, may presume that the local legislative body has acted in a manner that affirmatively supports marijuana dispensaries. As phrased by Senator Kuehl, the question to be answered by the Attorney General's Office assumes that a local legislative body has adopted an ordinance that "authorizes" medical marijuana facilities. What if a local public entity adopts an ordinance that explicitly indicates that it does *not* authorize, legalize, or permit any dispensary that is in violation of federal law regarding controlled substances? If the local public entity grants a permit, regulates, or imposes locational requirements on marijuana dispensaries with the announced understanding that it does not thereby allow any *illegal* activity and that dispensaries are required to comply with all applicable laws, including federal laws, then the public entity should be entitled to expect that all laws will be obeyed.

It would seem that a public entity is not intentionally acting to encourage or aid acts in violation of the CSA merely because it has adopted an ordinance which regulates dispensaries; even the issuance of a "permit," if it is expressly *not* allowing violations of federal law, cannot necessarily support a charge or conviction of aiding and abetting violation of the CSA. A public entity should be entitled to presume that dispensaries will obey all applicable laws and that lawful business will be conducted at dispensaries. For instance, dispensaries could very well *not* engage in actual medical marijuana distribution, but instead engage in education and awareness activities as to the medical effects of marijuana; the sale of other, legal products that aid in the suffering of

ailing patients; or even activities directed at effecting a change in the federal laws relating to regulation of marijuana as a Schedule I substance under the CSA.

These are examples of legitimate business activities, and First Amendment protected activities at that, in which dispensaries could engage relating to medical marijuana, but *not* apparently in violation of the CSA. Public entities should be entitled to presume that legitimate activities can and will be engaged in by dispensaries that are permitted and/or regulated by local regulations. In fact, it seems counterintuitive that local public entities within the state should be expected to be the watchdogs of federal law; in the area of controlled substances, at least, local public entities do not have an affirmative obligation to discern whether businesses are violating federal law.

The California Attorney General's Office will note that the State Board of Equalization ("BOE") has already done precisely what has been suggested in the preceding paragraph. In a special notice issued by the BOE this year, it has indicated that sellers of medical marijuana must obtain a seller's permit. (See <http://www.boe.ca.gov/news/pdf/medseller2007.pdf> (Special Notice: Important Information for Sellers of Medical Marijuana).) As the Special Notice explicitly indicates to medical marijuana facilities, "[h]aving a seller's permit does not mean you have authority to make unlawful sales. The permit only provides a way to remit any sales and use taxes due. The permit states, 'NOTICE TO PERMITTEE: You are required to obey all federal and state laws that regulate or control your business. This permit does not allow you to do otherwise.'"

The above being said, however, there is no guarantee that criminal charges would not actually be brought by the federal government or that persons so charged could not be successfully prosecuted. It does seem that arguments contrary to the above conclusions could be persuasive in convicting local legislators. By permitting and/or regulating marijuana dispensaries by local ordinance, some legitimacy and credibility may be granted by governmental issuance of permits or authorizing and allowing dispensaries to exist or locate within a jurisdiction.⁴

All of this discussion, then, simply demonstrates that individual board or council members can, indeed, be found criminally liable under federal law for the adoption of an ordinance authorizing and regulating marijuana dispensaries that promote the use of marijuana as medicine. The actual likelihood of prosecution, and its potential success, may depend on the particular facts of the regulation that is adopted.

⁴ Of course, the question arises as to how far any such liability be taken. Where can the line be drawn between any permit or regulation adopted specifically with respect to marijuana dispensaries and other permits or approvals routinely, and often *ministerially*, granted by local public entities, such as building permits or business licenses, which are discussed *infra*? If local public entities are held responsible for adopting an ordinance authorizing and/or regulating marijuana dispensaries, cannot local public entities also be subject to liability for providing general public services for the illegal distribution of "medical" marijuana? Could a local public entity that knew a dispensary was distributing "medical" marijuana in compliance with state law be criminally liable if it provided electricity, water, and trash services to that dispensary? How can such actions really be distinguished from the adoption of an ordinance that authorizes and/or regulates marijuana dispensaries?

B. State Law

Similarly, under California law, aside from the person who directly commits a criminal offense, no other person is guilty as a principal unless he aids and abets. (*People v. Dole* (1898) 122 Cal. 486; *People v. Stein* (1942) 55 Cal. App. 2d 417.) A person who innocently aids in the commission of the crime cannot be found guilty. (*People v. Fredoni* (1910) 12 Cal. App. 685.)

To authorize a conviction as an aider and abettor of crime, it must be shown not only that the person so charged aided and assisted in the commission of the offense, but also that he abetted the act—that is, that he criminally or with guilty knowledge and intent aided the actual perpetrator in the commission of the act. (*People v. Terman* (1935) 4 Cal. App. 2d 345.) To "abet" another in commission of a crime implies a consciousness of guilt in instigating, encouraging, promoting, or aiding the commission of the offense. (*People v. Best* (1941) 43 Cal. App. 2d 100.) "Abet" implies knowledge of the wrongful purpose of the perpetrator of the crime. (*People v. Stein, supra*.)

To be guilty of an offense committed by another person, the accused must not only aid such perpetrator by assisting or supplementing his efforts, but must, with knowledge of the wrongful purpose of the perpetrator, abet by inciting or encouraging him. (*People v. Le Grant* (1946) 76 Cal. App. 2d 148, 172; *People v. Carlson* (1960) 177 Cal. App. 2d 201.)

The conclusion under state law aiding and abetting would be similar to the analysis above under federal law. Similar to federal law immunities available to local legislators, discussed above, state law immunities provide some protection for local legislators. Local legislators are certainly immune from civil liability relating to legislative acts; it is unclear, however, whether they would also be immune from criminal liability. (*Steiner v. Superior Court*, 50 Cal.App.4th 1771 (assuming, but finding no California authority relating to a "criminal" exception to absolute immunity for legislators under state law).)⁵ Given the apparent state of the law, local legislators could only be certain that they would be immune from civil liability and could not be certain that

⁵ Although the *Steiner* Court notes that "well-established federal law supports the exception," when federal case authority is applied in a state law context, there may be a different outcome. Federal authorities note that one purpose supporting criminal immunity as to federal legislators from federal prosecution is the separation of powers doctrine, which does not apply in the context of *federal* criminal prosecution of *local* legislators. However, if a state or county prosecutor brought criminal charges against a local legislator, the separation of powers doctrine may bar such prosecution. (Cal. Const., art. III, sec. 3.) As federal authorities note, bribery, or other criminal charges that do not depend upon evidence of, and cannot be said to further, any legislative acts, can still be prosecuted against legislators. (See *Bruce v. Riddle* (4th Cir. 1980) 631 F.2d 272, 279 ["Illegal acts such as bribery are obviously not in aid of legislative activity and legislators can claim no immunity for illegal acts."]; *United States v. Brewster*, 408 U.S. 501 [indictment for bribery not dependent upon how legislator debated, voted, or did anything in chamber or committee; prosecution need only show acceptance of money for promise to vote, not carrying through of vote by legislator]; *United States v. Swindall* (11th Cir. 1992) 971 F.2d

they would be at all immune from criminal liability under state law. However, there would not be any criminal violation if an ordinance adopted by a local public entity were in compliance with the CUA and the MMPA. An ordinance authorizing and regulating medical marijuana would not, by virtue solely of its subject matter, be a violation of state law; only if the ordinance itself permitted some activity inconsistent with state law relating to medical marijuana would there be a violation of state law that could subject local legislators to criminal liability under state law.

QUESTION

3. If the governing body of a city, city and county, or county approves an ordinance authorizing and regulating marijuana dispensaries to implement the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, and subsequently a particular dispensary is found to be violating state law regarding sales and trafficking of marijuana, could an elected official on the governing body be guilty of state criminal charges?

ANSWER

3. After adoption of an ordinance authorizing or regulating marijuana dispensaries, elected officials could not be found criminally liable under state law for the subsequent violation of state law by a particular dispensary.

ANALYSIS

Based on the state law provisions referenced above relating to aiding and abetting, it does not seem that a local public entity would be liable for any actions of a marijuana dispensary in violation of state law. Since an ordinance authorizing and/or regulating marijuana dispensaries would necessarily only be authorizing and/or regulating to the extent already *permitted* by state law, local elected officials could not be found to be aiding and abetting a *violation* of state law. In fact, the MMPA clearly contemplates local regulation of dispensaries. (Cal. Health & Safety Code sec. 11362.83 ("Nothing in this article shall prevent a city or other local governing body from adopting and enforcing laws consistent with this article.").) Moreover, as discussed above, there may be legislative immunity applicable to the legislative acts of individual elected officials in adopting an ordinance, especially where it is consistent with state law regarding marijuana dispensaries that dispense crude marijuana as medicine.

1531, 1549 [evidence of legislative acts was essential element of proof and thus immunity applies].) Therefore, a criminal prosecution that relates *solely* to legislative acts cannot be maintained under the separation of powers rationale for legislative immunity.

QUESTION

4. Does approval of such an ordinance open the jurisdictions themselves to civil or criminal liability?

ANSWER

4. Approving an ordinance authorizing or regulating marijuana dispensaries may subject the jurisdictions to civil or criminal liability.

ANALYSIS

Under federal law, criminal liability is created solely by statute. (*Dowling v. United States* (1985) 473 U.S. 207, 213.) Although becoming more rare, municipalities have been, and still may be, criminally prosecuted for violations of federal law, where the federal law provides not just a penalty for imprisonment, but a penalty for monetary sanctions. (See Green, Stuart P., *The Criminal Prosecution of Local Governments*, 72 N.C. L. Rev. 1197 (1994) (discussion of history of municipal criminal prosecution).)

The CSA prohibits persons from engaging in certain acts, including the distribution and possession of Schedule I substances, of which marijuana is one. (21 U.S.C. sec. 841.) A person, for purposes of the CSA, includes "any individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or other legal entity." (21 C.F.R. sec. 1300.01 (34). See also 21 C.F.R. sec. 1301.02 ("Any term used in this part shall have the definition set forth in section 102 of the Act (21 U.S.C. 802) or part 1300 of this chapter.").) By its very terms, then, the CSA may be violated by a local public entity. If the actions of a local public entity otherwise satisfy the requirements of aiding and abetting a violation of the CSA, as discussed above, then local public entities may, indeed, be subject to criminal prosecution for a violation of federal law.

Under either federal or state law, local public entities would not be subject to civil liability for the mere adoption of an ordinance, a legislative act. As discussed above, local legislators are absolutely immune from civil liability for legislative acts under both federal and state law. In addition, there is specific immunity under state law relating to any issuance or denial of permits.

QUESTION

5. Does the issuance of a business license to a marijuana dispensary involve any additional civil or criminal liability for a city or county and its elected governing body?

ANSWER

5. Local public entities will likely *not* be liable for the issuance of business licenses to marijuana dispensaries that plan to dispense crude marijuana as medicine.

ANALYSIS

Business licenses are imposed by cities within the State of California oftentimes solely for revenue purposes, but are permitted by state law to be imposed for revenue, regulatory, or for both revenue and regulatory purposes. (Cal. Gov. Code sec. 37101.) Assuming a business license ordinance is for revenue purposes only, it seems that a local public entity would not have any liability for the mere collection of a tax, whether on legal or illegal activities. However, any liability that would attach would be analyzed the same as discussed above. In the end, a local public entity could hardly be said to have aided and abetted the distribution or possession of marijuana in violation of the CSA by its mere collection of a generally applicable tax on all business conducted within the entity's jurisdiction.

OVERALL FINDINGS

All of the above further exemplifies the catch-22 in which local public entities are caught, in trying to reconcile the CUA and MMPA, on the one hand, and the CSA on the other. In light of the existence of the CUA and the MMPA, and the resulting fact that medical marijuana *is* being used by individuals in California, local public entities have a need and desire to regulate the location and operation of medical marijuana facilities within their jurisdiction.⁶ ¹⁰²

However, because of the divergent views of the CSA and California law regarding whether there is any accepted "medical" use of marijuana, state and local legislators, as well as local public entities themselves, could be subject to criminal liability for the adoption of statutes or ordinances furthering the possession, cultivation, distribution, transportation (and other act prohibited under the CSA) as to marijuana. Whether federal prosecutors would pursue federal criminal charges against state and/or local legislators or local public entities remains to be seen. But, based on past practices of locally based U.S. Attorneys who have required seizures of large amounts of marijuana before federal filings have been initiated, this can probably be considered unlikely.

⁶ Several compilations of research regarding the impacts of marijuana dispensaries have been prepared by the California Police Chiefs Association and highlight some of the practical issues facing local public entities in regulating these facilities. Links provided are as follows: "Riverside County Office of the District Attorney," [White Paper, Medical Marijuana: History and Current Complications, September 2006]; "Recent Information Regarding Marijuana and Dispensaries [El Cerrito Police Department Memorandum, dated January 12, 2007, from Commander M. Regan, to Scott C. Kirkland, Chief of Police]; "Marijuana Memorandum" [El Cerrito Police Department Memorandum, dated April 18, 2007, from Commander M. Regan, to Scott C. Kirkland, Chief of Police]; "Law Enforcement Concerns to Medical Marijuana Dispensaries" [Impacts of Medical Marijuana Dispensaries on communities between 75,000 and 100,000 population: Survey and council agenda report, City of Livermore].

CONCLUSIONS

In light of the United States Supreme Court's decision and reasoning in *Gonzales v. Raich*, the United States Supremacy Clause renders California's Compassionate Use Act of 1996 and Medical Marijuana Program Act of 2004 suspect. No state has the power to grant its citizens the right to violate federal law. People have been, and continue to be, federally prosecuted for marijuana crimes. The authors of this White Paper conclude that medical marijuana is not legal under federal law, despite the current California scheme, and wait for the United States Supreme Court to ultimately rule on this issue.

Furthermore, storefront marijuana businesses are prey for criminals and create easily identifiable victims. The people growing marijuana are employing illegal means to protect their valuable cash crops. Many distributing marijuana are hardened criminals.¹⁰³ Several are members of stepped criminal street gangs and recognized organized crime syndicates, while others distributing marijuana to the businesses are perfect targets for thieves and robbers. They are being assaulted, robbed, and murdered. Those buying and using medical marijuana are also being victimized. Additionally, illegal so-called "medical marijuana dispensaries" have the potential for creating liability issues for counties and cities. All marijuana dispensaries should generally be considered illegal and should not be permitted to exist and engage in business within a county's or city's borders. Their presence poses a clear violation of federal and state law; they invite more crime; and they compromise the health and welfare of law-abiding citizens.

ENDNOTES

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² U.S. Const., art. I, sec. 8, cl. 3.

³ *Gonzales v. Raich* (2005) 125 S.Ct. 2195 at p. 2204.

⁴ *Gonzales v. Raich*. See also *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 121 S.Ct. 1711, 1718.

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⁷ See *People v. Mower* (2002) 28 Cal.4th 457, 463.

⁸ Health and Safety Code section 11362.5(b) (1) (A). All references hereafter to the Health and Safety Code are by section number only.

⁹ H&S Code sec. 11362.5(a).

¹⁰ H&S Code sec. 11362.7 *et. seq.*

¹¹ H&S Code sec. 11362.7.

¹² H&S Code secs. 11362.71–11362.76.

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¹⁴ H&S Code secs. 11362.765 and 11362.775; *People v. Urziceanu* (2005) 132 Cal.App.4th 747 at p. 786.

¹⁵ H&S Code sec. 11362.77; whether or not this section violates the California Constitution is currently under review by the California Supreme Court. See *People v. Kelly* (2008) 82 Cal.Rptr.3d 167 and *People v. Phomphakdy* (2008) 85 Cal.Rptr. 3d 693.

¹⁶ H&S Code secs. 11357, 11358, 11359, 11360, 11366, 11366.5, and 11570.

¹⁷ H&S Code sec. 11362.7(h) gives a more comprehensive list – AIDS, anorexia, arthritis, cachexia, cancer, chronic pain, glaucoma, migraine, persistent muscle spasms, seizures, severe nausea, and any other chronic or persistent medical symptom that either substantially limits the ability of a person to conduct one or more life activities (as defined in the ADA) or may cause serious harm to the patient's safety or physical or mental health if not alleviated.

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²⁴ H&S Code sec. 11362.765(c); see, e.g., *People v. Urziceanu*, 132 Cal.App.4th 747 at p. 764.

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²⁶ *People v. Urziceanu* (2005) 132 Cal.App.4th 747; see also H&S Code sec. 11362.765.

²⁷ Israel Packel, 4-5. Italics added.

²⁸ H&S Code sec. 11362.7(d)(1).

²⁹ See, e.g., McClure, "Fuming Over Pot Clubs," *California Lawyer Magazine*, June 2006.

³⁰ H&S Code secs. 11362.5(e) and 11362.7(d)(1), (2), (3), and (e); see also *People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1395.

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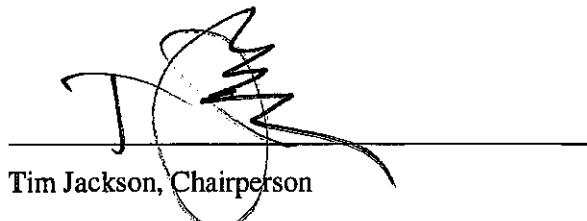


LAKE ZURICH PLAN COMMISSION
FINAL FINDINGS & RECOMMENDATIONS
FOR ZONING TEXT AMENDMENT FOR MEDICAL CANNABIS CULTIVATION CENTERS
AND DISPENSARIES
January 15, 2014

The Plan Commission hereby recommends approval of the Application PC 2014-01 #2, with reference to the Review of Compliance with Zoning Standards included in the Staff Report dated January 10, 2010, and subject to any of the conditions listed below:

- Without any further additions, changes and modifications.
- With the following additions, changes and modifications:

1) To include language that stipulates a minimum allowable text size for the text required in section 6-109.M.8.



Tim Jackson, Chairperson

ZONING REVIEW

PROJECT: MEDICAL MARIJUANA – TEXT AMENDMENT
LOCATION: GENERAL AMENDMENT – NO SPECIFIC LOCATION PROPOSED
REVIEWED BY: MARY MEYER
DATE: JANUARY 7, 2014
DOCUMENT
REVIEWED: APPLICATION DATED 12/16/13 WITH ATTACHMENT,
ZONING CODE, LAND DEVELOPMENT CODE

Due to recent Illinois laws allowing medical marijuana under certain regulations, the Village of Lake Zurich seeks to restrict this use via Text Amendment as noted below:

- 1) Cannabis Dispensary Restrictions:
 - a) This use would be allowed by Special Use permit in the I Industrial district.
 - b) All medical marijuana uses must comply with State regulations and rules.
 - c) The Use shall not be established in multiple use or tenant property or on a property that shares parking with other uses.
 - d) The Use must maintain a 1,500 distance from incompatible uses including church, synagogue, mosque or other place of worship, a public or private nursery, elementary or secondary school, licensed child care facility, public park, playground, playing field or forest, preserve, or residential property (specific measurement requirements noted).
 - e) Parking restrictions noted – must be visible, not screened by vegetation, fencing or other obstructions.
 - f) No exterior display is authorized.
 - g) Mandatory signage for entering facility is noted.
 - h) Hours of operation shall be between 8:00 am – 6:00 pm only.
 - i) No drive-thru facility is authorized.
- 2) Medical Cannabis Cultivation Center Restrictions:
 - a) This use would be allowed by Special Use permit in the I Industrial district.
 - b) All medical marijuana uses must comply with State regulations and rules.
 - c) The Use shall not be established in multiple use or tenant property or on a property that shares parking with other uses.
 - d) The Use must maintain a 2,500 distance from incompatible uses residential property (specific measurement requirements noted).
- 3) Definitions: Definitions have been created including Cardholder, Designated Caregiver, Medical Cannabis Cultivation Center and Medical Cannabis Dispensary.

Conclusion

- Consideration for Text Amendment to allow medical marijuana uses via Special Use permit in the I Industrial District shall be based on standards outlined in Zoning Code 18-103.

**Village of Lake Zurich
Utilities Division of
Public Works**

Memo

To: Sam Hubbard, Village Planner
From: Betty Harrison, EQC Supervisor
CC:
Date: December 31, 2013
Re: Staff Review – January 15th Plan Commission Meeting

1. Medicinal Cannabis – No comments or concerns.



Manhard
CONSULTING

MEMO

To: **Sam Hubbard, Village Planner**

From: **Peter Stoehr, P.E., Village Engineer**

Date: **January 3, 2014**

Re: **Zoning Code Text Amendment – Medical Cannabis
Village of Lake Zurich**

The following information was submitted for review:

1. Revisions to Chapter 6 of the Zoning Code.

Based on a review of the submitted information, Manhard Consulting, Ltd has no comments to the proposed Zoning Code changes as it relates to engineering.

Village of Lake Zurich

Kevin Finlon
Chief of Police



Police Department

Support Services Division

Serving with Pride

Interdepartmental Memorandum
Commander David M. Bradstreet

January 7, 2014

To: Sam Hubbard
Subject: Medical Marijuana Text Amendment

The police department does not have any recommendations on this topic.

Respectfully

db-114

David M. Bradstreet
Commander of Administration

70 E. Main Street
Lake Zurich, IL 60047



Phone: (847) 438-5141
Fax: (847) 540-1768
Web: www.lakezurich.org

MEMORANDUM

Date: January 27, 2014
To: Village Manager, Jason Slowinski
From: Director of Finance, Jodie Hartman
Subject: Budget Amendment #1 for Fiscal Year 2013/14

ISSUE: Upon evaluation of the financial projections for the current fiscal year, 2013/14, a number of necessary budget amendments have been identified. These amendments are based on either actual figures or best estimates for projected year-end results.

DISCUSSION: The annual budget is a legal document and provides for legal level of control at the department level for the General Fund and at the fund level for the remaining funds. The proposed ordinance to amend the budget must be passed by a two-thirds vote of the Village Board to be enacted.

A listing of all the proposed amendments has been included as Attachment A to the ordinance. The reasons behind the amendments are as follows:

1. **VEHICLE MAINTENANCE FUND:** The 2013/14 budget included a final transfer of equity from the Vehicle Maintenance (VM) Fund, which is no longer used. The budget includes \$86,000 to go to the General Fund and \$14,000 to the Water & Sewer Fund. This distribution was based on the percentage funding allocation previously supplied to the VM Fund. The VM Fund ended with higher fund balance than expected, providing for larger equity transfers to the other funds. General Fund received \$161,505 and the Water & Sewer Fund, \$26,292. The budget amendment includes increasing the allowed expenditure of the VM Fund and increasing the revenues of the General and Water & Sewer Funds based on the actual amounts.
2. **MOTOR FUEL TAX FUND:** The proposed amendment includes increasing the revenues of the fund by \$86,000 to account for the receipt of the Illinois Jobs Now distribution from the State of Illinois. This distribution was not guaranteed and therefore, not included in the original budget. These funds have now been received. On the expenditure side, the harsh winter conditions we have been experiencing have caused additional orders of salt and other deicing supplies, resulting in the proposed expenditure increase in this fund of \$86,000 to cover the costs. The net effect of the two amendments will be \$0 to the fund balance of the Motor Fuel Tax Fund as they offset each other.
3. **CAPITAL IMPROVEMENTS FUND:** The proposed amendment increases the expenditures of this fund for the fiscal year by \$495,000. This amendment is necessary to authorize the balance of funds held in escrow for the CN Rail noise mitigation. The funds must all be spent by the end of this fiscal year according to the agreement. When the current budget was prepared, staff expected to have spent

more funds in the prior fiscal year, but the expenditures were carried over to this fiscal year instead. The funds cannot be used for any other purpose.

4. **TIF TAX ALLOCATION FUND:** This fund is used to collect the Tax Increment Financing District incremental property taxes and allocate funds to both the TIF Debt Service Fund and to the TIF Capital Project Fund. It also includes some administrative costs, such as the required annual impact payment to the school district. The budget for this year includes \$250,000 and the actual number, based on enrollment and property tax values, came to \$339,236. A budget amendment is necessary to increase the expenditures of this fund by \$89,236 for this difference. Fund balance will be used as the offset.
5. **VILLAGE DEBT SERVICE FUND:** This fund is used to account for the payments of principal and interest of the village's general obligation debt. During the original budget process, payments for bond issuance costs were budgeted in this fund and will not be needed. The expenditure budget will be reduced by \$9,000.
6. **TIF DEBT SERVICE FUND:** This fund is used to account for the payments of principal and interest on the TIF related debt. For the current fiscal year, an amendment of \$9,000 is necessary to cover the bond issuance fee for the short term bonds. The budget for this fund is tighter than most and cannot absorb the small amount without going over the legal budget. Fund balance will be used to offset the cost.
7. **WATER & SEWER FUND:** In addition to the revenue amendment related to the Vehicle Maintenance Fund closure, this fund needs two important amendments. The first is to eliminate the budget for principal debt payments. While the principal payments related to Water and Sewer debt are made from this fund, per Generally Accepted Accounting Principles (GAAP), the principal expense is a reduction of a liability on the balance sheet, not an expense. The principal expense is recorded in full when the bonds are issued. The village staff has been reversing this expense as part of year-end procedures. Because of this, the budgeted expenses are artificially inflated. This will be a reduction of \$870,271 of expenses for the fund.

The second item relates to depreciation expense. For the past few years, the village has not budgeted for this large item, but records an annual adjustment at year-end for the expense. Depreciation is a non-cash expense that is used to spread out the expense of large capital items over their useful life. Opposite of the principal situation above, when the items are purchased, the entire expense is set aside as an asset and a portion of the cost expensed each year over the life of the asset. This expense is significant and should be budgeted. This will be an increase of \$1,660,000 for the fund. As a non cash item, it will only affect the fund balance and not the working capital or cash of the fund.

8. **RISK MANAGEMENT:** Three amendments are proposed for this fund. One is an increase to revenues and the two to expenditure accounts. The proposed revenue increase is \$40,000, based on an increase in claims activity for the fiscal year. The offset is an increase to expenditures by net \$10,000. While claims expenditures are up, the cost of risk management insurance for the year was lower than expected, offering savings.

RECOMMENDATION: While we hope this is the only amendment necessary for the current fiscal year, staff will keep a close eye on spending in case additional amendments are required.

Staff recommends the Village Board approve via a minimum two-thirds majority vote, the attached ordinance approving budget amendment #1 for the fiscal year 2013/14.

ATTACHMENTS: Ordinance for Budget Amendment #1, including Appendix A

ORDINANCE NO. 2014-2-958

*An Ordinance Approving Budget Amendment No. 1
for Fiscal Year 2013/14 Budget*

WHEREAS, on April 29, 2013, the President and Board of Trustees of the Village of Lake Zurich approved the FY 2012-2013 budget and since its passage the Village has found it necessary to amend said Ordinance; and

WHEREAS, pursuant to 65 ILCS 5/8-2-9.6, by a two-thirds vote of the members of the corporate authorities then holding office, the annual budget may be revised by deleting, adding to, changing or creating sub-classes within object classes and object classes themselves.

BE IT ORDAINED by the President and Board of Trustees of the Village of Lake Zurich, Lake County, Illinois, as follows:

SECTION 1: The Village of Lake Zurich Budget Amendment No. 1 for Fiscal Year 2013/14, attached hereto and made a part hereof, is hereby approved.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

PASSED this 4th day of February, 2014.

AYES:

NAYS:

ABSENT:

APPROVED this 4th day of February, 2014.

Tom Poynton, Village President

ATTEST:

Kathleen Johnson, Village Clerk

SEAL

Village of Lake Zurich
 Fiscal Year 2013/14
 Budget Amendment #1
 January 24, 2014

APPENDIX A

Fund	Revenue/ Expenditure	Title	Revenue	Expenditure	Reason	Original Budget	Amended Budget
General Fund	Revenue	Equity Transfer from VM	75,505	-	Based on actual equity at fund closure	86,000	161,505
Motor Fuel Tax	Revenue	MFT Allotment	86,000	-	Receipt of Illinois Jobs Now distribution	479,592	565,592
Motor Fuel Tax	Expenditure	Salt & Deicing Supplies	-	80,000	Heavy snow/ice this winter	100,000	180,000
Motor Fuel Tax	Expenditure	Maintenance of Streets	-	6,000	Heavy snow/ice this winter	40,000	46,000
Capital Improvements	Expenditure	Land Improvements	-	495,000	Remainder of CN noise mitigation funds	1,287,736	1,782,736
TIF Tax Allocation	Expenditure	School District Impact	-	89,236	Actual payment to District 95	250,000	339,236
Village Debt Service	Expenditure	Bond Issue Fees	-	(9,000)	Fees related to 2014 short term issuance	12,450	3,450
TIF Debt Service	Expenditure	Bond Issue Fees	-	9,000	Fees related to 2014 short term issuance	-	9,000
Water & Sewer	Revenue	Equity Transfer from VM	12,292	-	Based on actual equity at fund closure	14,000	26,292
Water & Sewer	Expense	Principal	-	(870,271)	Cash payment reduces liability, not expense	870,271	-
Water & Sewer	Expense	Depreciation	-	1,660,000	Non-cash expense based on prior years	-	1,660,000
Vehicle Maintenance	Expenditure	Equity Transfer to General	-	75,505	Based on actual equity at fund closure	86,000	161,505
Vehicle Maintenance	Expenditure	Equity Transfer to Water	-	12,292	Based on actual equity at fund closure	14,000	26,292
Risk Management	Revenue	IRMA Reimbursements	40,000	-	Increase in claims activity for FY14	60,000	100,000
Risk Management	Expenditure	Risk Management Ins	-	(50,000)	Based on reduced rate from IRMA for 2014	827,347	777,347
Risk Management	Expenditure	Insurance Claims	-	60,000	Increase in claims activity for FY14	60,000	120,000
TOTAL CHANGES, ALL FUNDS				213,797	1,557,762		

Community Services Dept.

- Building & Zoning
- Public Works

505 Telser Road
Lake Zurich, IL 60047



Phone: (847) 540-1696
Fax: (847) 726-2182
Web: www.LakeZurich.org

MEMORANDUM

Date: January 24, 2014

To: Jason T. Slowinski, Village Manager

From: Michael J. Earl, Director of Community Services
Michael J Brown, Public Works Manager

Subject: Supplementary Purchase - Salt and De-icing Liquid FY 13/14

Issue: To date, the Lake Zurich area has received roughly 40 inches of snowfall. There have been 22 storm events where the Village's Public Works crews have been called out to ensure that roadways are clear and safe for the general motorists to travel, by means of plowing and salting. Due to the amount of salt and de-icing liquids that have been used so far this season, the approved budget amount is insufficient to last the remainder of the winter season.

Background: The 2013/14 budget includes \$100,000 in the Salt and De-icing account from the Motor Fuel Tax Fund. The budget amount assumes an average snowfall of 38 inches and use of 2000 tons of salt.

Analysis: Due to the amount of snowfall and the duration of the storm events, 1900 tons of salt have been used this winter. There is approximately 600 tons of salt in reserves with about two months of winter remaining. Staff is therefore projecting the need to purchase additional salt and de-icing materials. The unit price for the salt is not expected to change.

Recommendation: Based on the above analysis, staff recommends Village Board approval of a supplementary purchase for salt in the amount of \$70,000 and an increase in \$5,000 for de-icing liquid for a total of \$75,000.

**Community Services
Dept.**

- Building & Zoning
- Public Works

505 Telser Road
Lake Zurich, IL 60047



AGENDA ITEM

8E

Phone: (847) 540-1696
Fax: (847) 726-2182
Web: www.LakeZurich.org

MEMORANDUM

Date: January 28, 2014

To: Jason T. Slowinski, Village Administrator

From: Sam Hubbard, Village Planner

Cc: Michael J. Earl, Director of Community Services
Daniel A. Peterson, Manager of Building and Zoning

Subject: Courtesy Review for Davenport Family Funeral Home and Crematory: referral to the Plan Commission

JS

Issue: Jack Davenport (the “*Applicant*”) is the Applicant for the proposed “Davenport Family Funeral Home and Crematory” facility proposed for Lot 2 of the Plaza on the Pond Subdivision on S. Rand Road.

The Applicant is considering filing a zoning application for the proposed development, however, prior to filing he would like a courtesy review to understand any potential issues that the proposed development may face. At a minimum, the proposed use would need approval of the following:

1. Zoning Code Text Amendment to allow crematories with a Special Use Permit within the B-1 District.
2. Special Use Permit for a crematory on the subject property.

The subject property is currently in the Village’s B-1 Local & Community Business District.

Analysis: It should be noted that the subject property is a challenging site to develop in that the presence of wetland areas significantly limits the amount of buildable land. The preliminary site plan shows access to come from S. Old Rand Rd. to the east, and a connection to the Inland Bank property to the south, allowing access to Rand Rd. through the bank property. Detailed staff reviews will be conducted if the project moves forward to the Plan Commission.

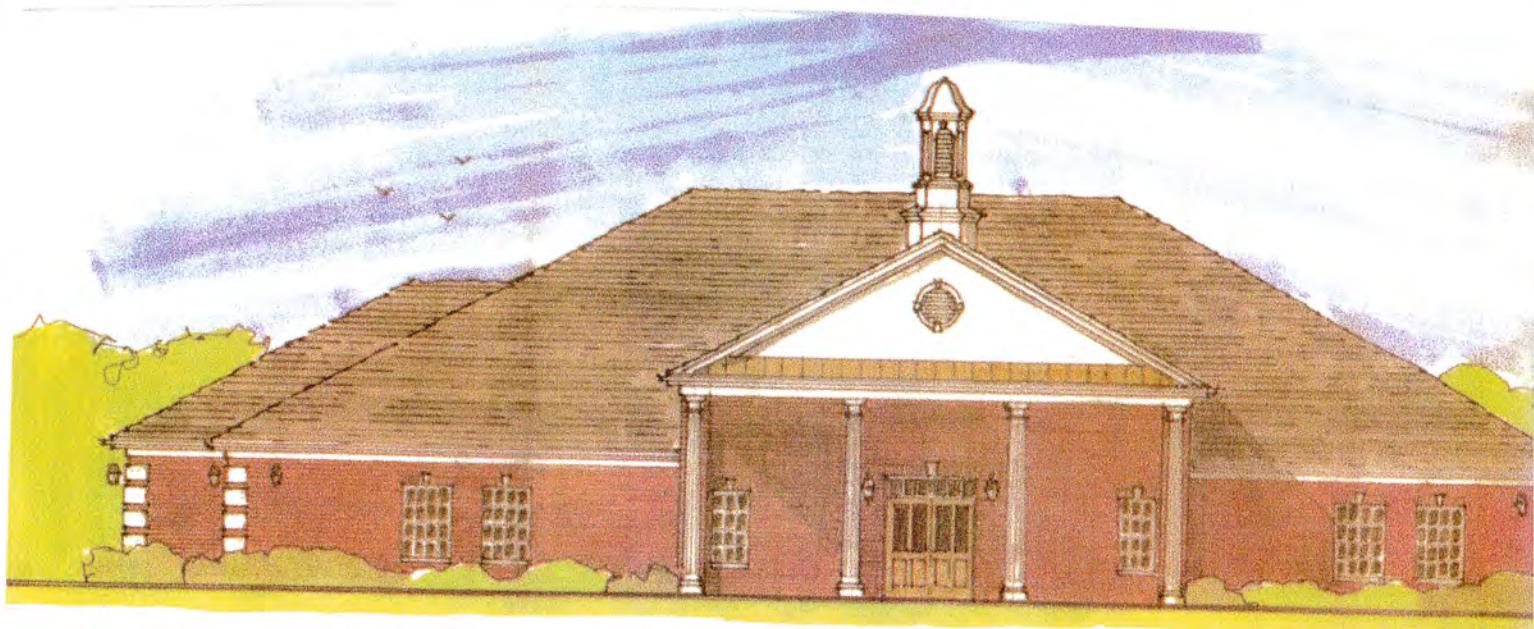
Recommendation: Provide courtesy review feedback to the Applicant. Additionally, this request for a Zoning Code Text Amendment and Special Use Permit merits a hearing and consideration

by the Lake Zurich Plan Commission and staff recommends a motion to forward the application to the Plan Commission for a public hearing.

w/Attachments: Courtesy review packet, including preliminary building rendering, cover letter, location map, and preliminary site plan.

**Courtesy Review for a Proposed
Development Requiring a Text
Amendment and a
Special Use Permit.**

**Davenport Family Funeral Home
and Crematory**



DAVENPORT FAMILY FUNERAL HOME
Lynde Anderson & Associates, Architects

**Old Rand Road, Lot 2, Plaza on the Pond
Subdivision,
Lake Zurich, Illinois**

January 21, 2014

Daniel Peterson
Manager of Building and Zoning
Village of Lake Zurich
70 E. Main Street
Lake Zurich, IL 60047

Dear Mr. Peterson,

We are proposing to build a funeral home on Lot two, Plaza on the Pond Subdivision, Lake Zurich. We currently have locations in Barrington and Crystal Lake and would like to expand our business in a growing community which will have a growing need for additional funeral services as the population expands and ages.

The amenities that we are seeking include an on-site crematory. There is a growing trend in our population for cremation services. An on-site crematory provides families that we serve with peace of mind, knowing that their loved-ones are never leaving our entrusted care. A crematory located within the funeral home will provide a great convenience to families, as the arrangements will be made with a funeral director in the funeral home. This will reduce emotional stress of those who would otherwise be burdened to know that the actual cremation process is being carried out in a different community and in many instances an unknown location.

The crematory will meet standards and requirements established by local, state and federal health and environmental protection requirements. We will obtain all necessary licenses and permits from the Illinois Department of Public Health, the Federal Department of Health and Human Services, and the Illinois and Federal Environmental Protection Agencies.

The Power-Pak II Cremator equipment is one of the most advanced products on the market and designed to eliminate odors and reduce smoke emissions during operation. It is quiet, sanitary, and safe and emits no smoke (only some heat residue). The exhaust stack will be architecturally incorporated in to the building design.

The proposed crematory will operate in a private manner and will not impact negatively on the environment by creating air, noise, or water pollution, ground contamination or unsightly views. The equipment will generate fewer pollutants than an automobile and far less than a traditional Fireplace. In terms of odor, an expert study found no noticeable odor. Finally, a noise analysis found that the noise generated by the equipment is less than the ambient noise on the street. Our crematory in Crystal Lake has had no negative impact to the surrounding residential areas there.

With the rise in demand for funeral services with cremation as a form of final disposition, the addition of a funeral home with a crematory in Lake Zurich is needed to meet the future needs of this growing community. The proposed development will need a Text Amendment and a Special Use Permit. We will comply with the Wet Land requirements of the Lake County Storm Water Management. The utilities are adequate to serve the proposed development.

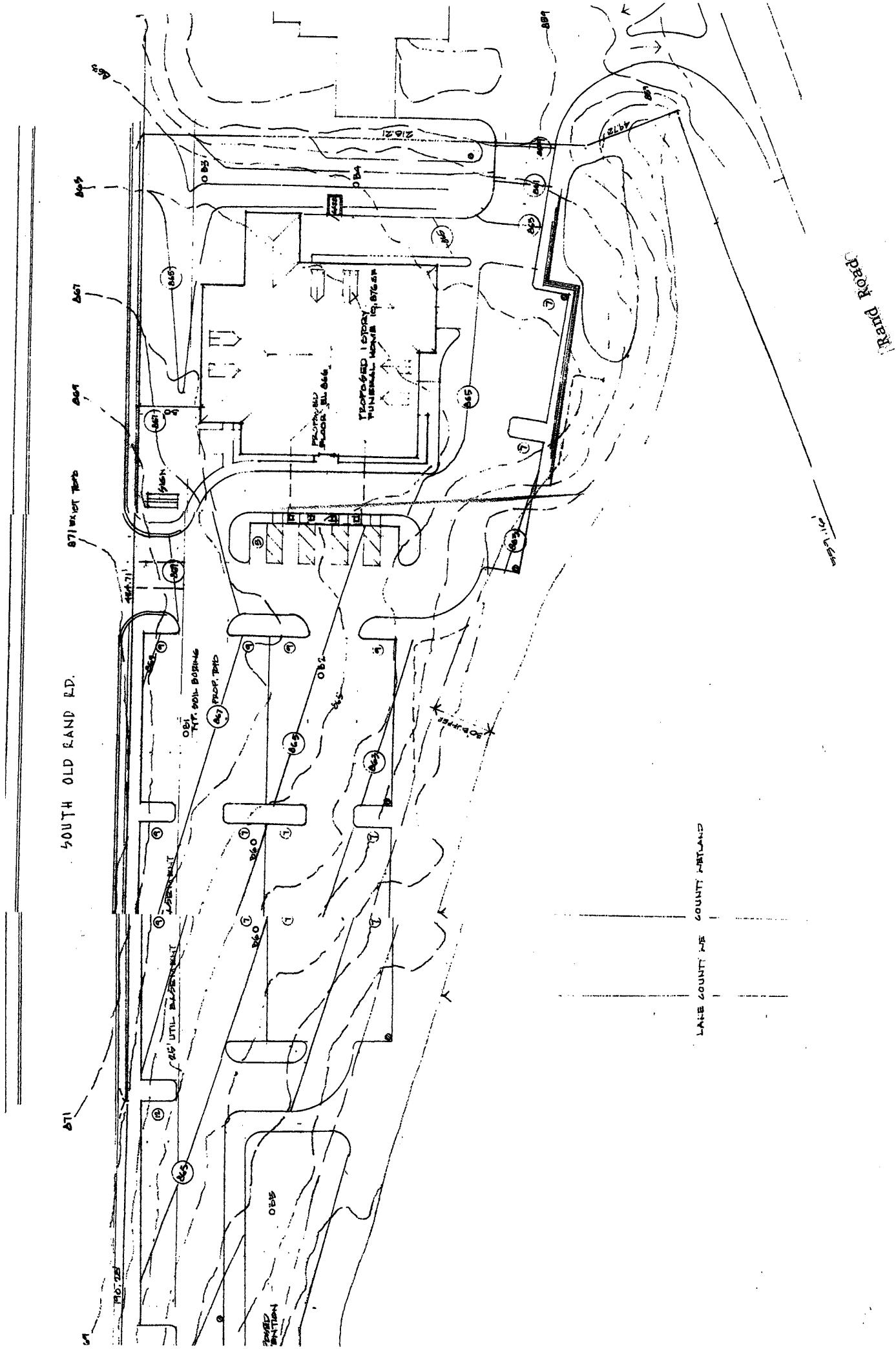
We are proposing a traditional one-story brick structure with approximately 10,000 square feet. The funeral home will have two chapels, a large lounge to serve families, bathroom facilities and offices. A blueprint will be provided. The site will maintain, where possible, existing mature vegetation. It will provide adequate screening to residential properties. The proposed use will consist of a traditional, high quality brick construction with complimentary landscaping to enhance the architecture and blend with the existing tree line.

Thank you for your consideration. Please contact me with any questions that you have.

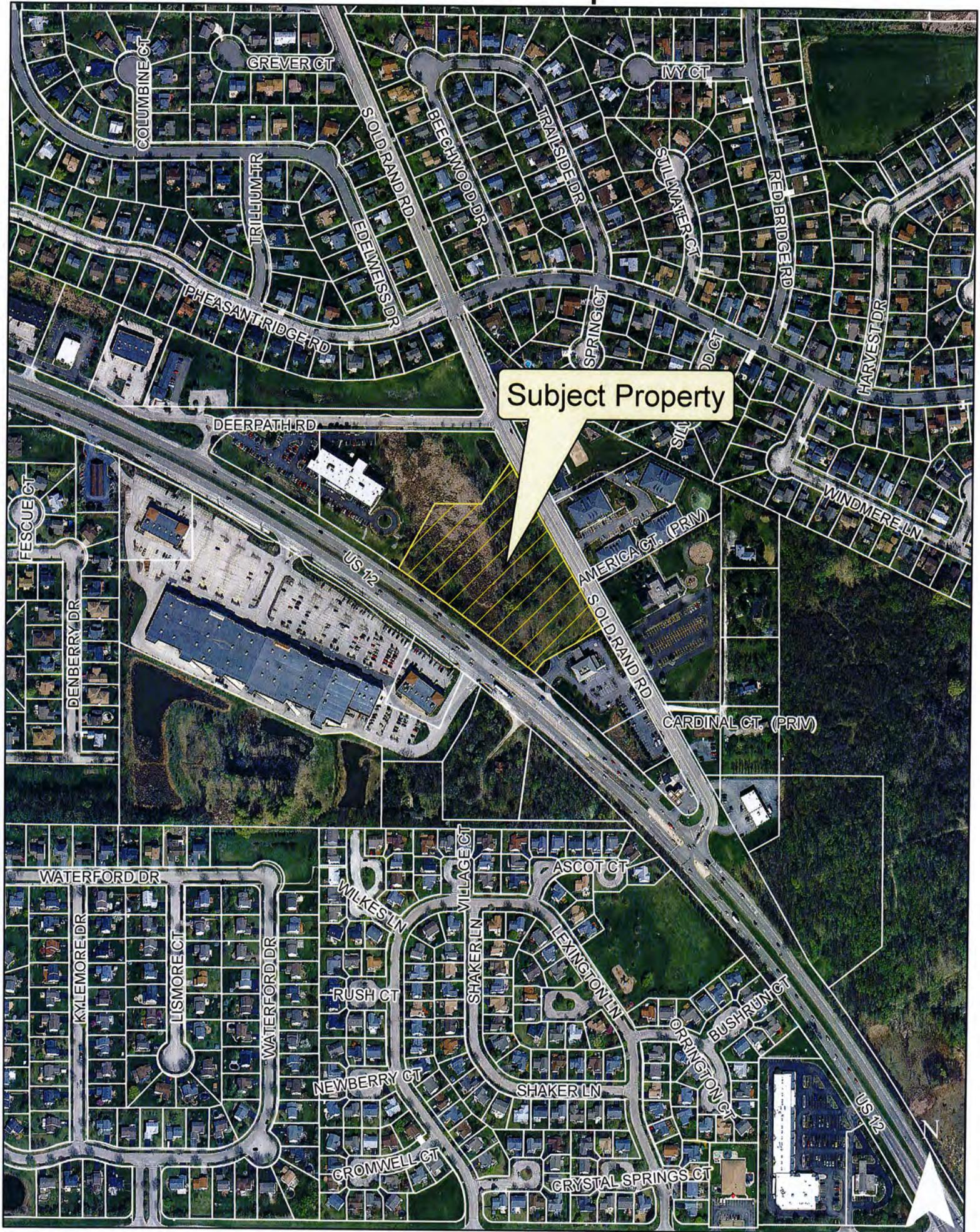
Respectfully Yours,



Jack Davenport
Cell (847) 530-3260
Work (847) 381-3411



Location Map



February 2014

February 2014							March 2014						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
							2	3	4	5	6	7	1
							9	10	11	12	13	14	15
							16	17	18	19	20	21	22
							23	24	25	26	27	28	29
							30	31					
Feb 24 - 28		Feb 17 - 21		Feb 10 - 14		Feb 3 - 7		Monday		Tuesday		Wednesday	
								7		Friday			
								Feb 3		Feb 4		Feb 5	
								8:30am 10:30am Fire Pension Board Special Meeting (Village Hall)		7:00pm 10:00pm Village Board			

March 2014