

**MINUTES
CITY OF ST. CHARLES, IL
GOVERNMENT OPERATIONS COMMITTEE
MONDAY, MAY 16, 2016**

1. Opening of Meeting

The meeting was convened by Chairman Stellato at 7:32 p.m.

2. Roll Call

Members Present: Chairman Stellato, Ald. Silkaitis, Payleitner, Lemke, Turner, Bancroft, Krieger, Gaugel, Bessner, Lewis

Absent:

3. Omnibus Vote – none

4. Police Department

Chief Keegan: First part is a recommendation to approve an Ordinance Amending Title 3 “Revenue and Finance”, Chapter 3.42 “Alcohol Tax”, Section 3.42.020 “Definitions”, and Section 3.42.030 “Imposition of Tax” of the St. Charles Municipal Code.

We have a local liquor tax established here in St. Charles on special events. There was some miscommunication amongst some of the special events holders if the 2% tax was passed along with the entire price of the entrance or just the alcohol consumed. To clarify things that were presented at the Liquor Control Commission is that we would pass the 2% to the entire entrance fee or purchase price of the special event.

Ald. Lewis: That’s what was explained to us that they’ve been doing it this way and now it’s just official.

Motion by Ald. Silkaitis, second by Bessner to Recommendation to approve an Ordinance Amending Title 3 “Revenue and Finance”, Chapter 3.42 “Alcohol Tax”, Section 3.42.020 “Definitions”, and Section 3.42.030 “Imposition of Tax” of the St. Charles Municipal Code.

Voice Vote: Ayes: Unanimous; Nays: None. Chrmn. Stellato did not vote as Chair. **Motion carried.**

- a. Recommendation to approve an Ordinance Amending Title 5 “Business License and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.090 “License Classifications”, and Section 5.08.100 “License Fees; Late Night Permit Fee; Fees Established” for a new D8 license of the St. Charles Municipal Code.**

Chief Keegan: This is a recommendation to approve an Ordinance Amending Title 5 “Business License and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.090 “License Classifications”, and Section 5.08.100 “License Fees; Late Night Permit Fee; Fees Established” for a new D8 license of the St. Charles Municipal Code. Back in July of last year we had a business approach the City to open up an art entertainment type business along the 1st Street corridor. That business never materialized but the petitioner at the time asked us to look at our code to mirror a business model that closely resembles the liquor code. Once that business didn’t materialize, we had a second business which is coming up as the next agenda item, and the concept is to come into a local establishment, go through a painting class and also consume alcoholic beverages with that class. It’s practice in a lot of municipalities like Geneva and in areas that have an overlay downtown business district like Bartlett, Lake Zurich, and Barrington. So I worked with Mr. McGuirk on the language which is codified in the attach ordinance. This is just another door opener for us to expand our business practices in our downtown overlay district.

Motion by Ald. Turner, second by Bancroft to recommend approval of an Ordinance Amending Title 5 “Business License and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.090 “License Classifications”, and Section 5.08.100 “License Fees; Late Night Permit Fee; Fees Established” for a new D8 license of the St. Charles Municipal Code.

Roll Call: Ayes: Lemke, Turner, Bancroft, Gaugel, Bessner, Lewis, Silkaitis, Payleitner; Nays: Krieger. Chrmn. Stellato did not vote as Chair. **Motion carried**

b. Recommendation to approve a proposal for a new Class D-8 Liquor License for The Painted Vine Cellar to be located at 1 West Illinois Street, Ste. 110, St. Charles.

Chief Keegan: As I previously talked about we had a business approach us late last year to open up a similar concept; when that business plan fell through, the proprietor and petitioner Mr. Kessler and his wife approach me about opening up a similar concept in the Fox Island Square at 1 W Illinois Street. They will offer painting classes along with wine consumed on the premise and Mr. Kessler is looking to occupy the space to the immediate east of Kimmer’s Ice Cream. He submitted a thorough business model and site plan which is in your packet. The Police Department is recommending the issuance of the liquor license.

John Kessler, 40W555 Fox Creek Drive, St. Charles. (no questions asked)

Ald. Lewis: Ald. Payleitner and I both talked with him at length, and we think this will be a good addition to the community of St. Charles.

Motion by Ald. Turner, second by Payleitner to recommend approval of a proposal for a New Class D-8 Liquor License for The Painted Vine Cellar to be located at 1 West Illinois Street, Ste. 110, St. Charles.

Roll Call: Ayes: Lemke, Turner, Bancroft, Gaugel, Bessner, Lewis, Silkaitis, Payleitner; Nays: Krieger. Chrmn. Stellato did not vote as Chair. **Motion carried.**

- c. This item was a duplication error of item b above and thus removed from the agenda.**

Chrmn. Stellato: Before we move onto the next item on massage establishment, we have something in our packet on Wine Down Wednesdays, but nothing is on the agenda.

Chief Keegan: There appears to be an issue with some of the things on the agenda tonight but Shay Clark will come to the June 6 Government Operations Committee. We talked about this at the liquor commission this evening and received favorable comments and was given a recommendation to move forward but it will be placed on the June agenda. The first night affected by the request is not until the first week in July.

- d. Recommendation to approve a proposal for a Class B Liquor License for Alexander's Café 64 Inc. to be located at 1650 West Main Street, St. Charles (former Gabby's Restaurant).**

Chief Keegan: Mr. Nick Smith is here tonight for Mr. Bob Karas. This application and petitioner appeared before the Liquor Commission earlier this evening. This business is looking to occupy the former Gabby's Restaurant that has sat vacant for the last year or so. The petitioner owns and operates Rookies in St. Charles, along with the Village Squire Restaurant in both West Dundee and Elgin and another Alexander's in Elgin. Right now the petitioner is looking to open up for breakfast and lunch only. This license would allow him to stay open until midnight for liquor sales and he will look at the option moving forward for potential banquets or dinner, but for now he is seeking breakfast/lunch concept. He's doing substantial renovations to the inside of Gabby's. All paperwork is in order.

Nick Smith, 339 Shadowville Drive, Elgin, IL 60124. (no questions asked)

Motion by Ald. Lemke, second by Turner to recommend approval of a proposal for a Class B Liquor License for Alexander's Café 64 Inc. to be located at 1650 West Main Street, St. Charles (former Gabby's Restaurant).

Roll Call: Ayes: Lemke, Turner, Bancroft, Gaugel, Bessner, Lewis, Silkaitis, Payleitner; Nays: Krieger. Chrmn. Stellato did not vote as Chair. **Motion carried.**

- e. Recommendation to approve a Massage Establishment License for International Medical Massage Association located at 2210 Dean Street #E-1, St. Charles.**

Chief Keegan: This a recommendation to approve a Massage Establishment License for International Medical Massage Association located at 2210 Dean Street #E-1, St. Charles. This too appeared at the Liquor Control Commission earlier this evening and received a favorable

recommendation to move forward. Initially it was brought to the attention of the Police Department several months ago and there was concern about the PUD/zoning at the Randallwood Business Park. That area is on Dean Street, west of Randall on the north side of the street. Initially they thought there might be a PUD prohibiting this type of business to move forward. In your packet is an opinion from Atty. McGuirk and also a letter from Russell Colby in our Community & Economic Development Department. The petitioner has put together a comprehensive packet including several letters of recommendation from fellow business people who have either used their services in the past or are familiar with him. A site plan and business plan are included in the packet as well. Mike Devo is a licensed massage therapist with the State of Illinois and has been in practice for many years and gave us some very favorable testimony to not only strengthen our massage ordinance but also to regulate the practices of those folks that are giving the business a bad name.

Mike Devo, 1912 Mohawk Drive, Elgin, IL.

Ald. Silkaitis: Are you the only employee there or will you be hiring other people?

Mike: I will be hiring two associates that I already listed. It's one of those businesses where it's a couple of hours here and there in a 9:00 – 5:00 timeframe. They are both working moms, so it's mostly part-time business.

Ald. Silkaitis: As the Chief has alluded to, we have some issues with massage. In the back of my mind I have concerns about this. I'm not blaming you but the whole industry. We've asked all the massage parlors to follow the rules and then we go in and find out otherwise.

Mike: I brought that up at the Liquor Commission meeting. It's my concern as well and I offered my services to be part of any fact finding or massage issues because as going through the zoning ordinances, Mr. Colby told me a lot of these codes were basically from the 60's. Many of these ordinances, not just in St. Charles, but many municipalities use the terminology masseuse and masseur; and since 2003 we've been licensed by the State of Illinois regulated. We have to do 24 hours of continuing education every two years. We're professional health care providers. So I take it personally, as well, when this happens in St. Charles or anywhere. I bring in educators to teach massage.

Ald. Silkaitis: I'm not saying it's you but more the employees.

Mike: Again they would all be licensed. I don't know how these other establishments get a business license, but it's not a massage therapy license. Anyone who has a massage sign up should be a licensed massage therapist. For me that's end of story.

Ald. Payleitner: Just to be clear in order to get a license here in St. Charles, you have to have a state license for massage.

Mike: I didn't think it would be this difficult to go through this process. Anybody I hired, I have gone through a lot of trouble and time and effort to get them; so it's on my shoulders. I

won't hire just anyone. It's my name.

Ald. Lewis: When you talked about employees, I think our ordinance reads that as manager you will have to be there at the same time as the part-time employee?

Chief Keegan: Yes, there always has to be one massage therapist on duty and available and someone who has a supervisory capacity in addition to that massage therapist. It doesn't necessarily have to be the owner, but has to be someone whose name appears on the City license and is acting in a management or supervision type capacity.

Ald. Lewis: I just wanted to make sure you understand that part of it also.

Mike: I had talked to Detective Lamela about that and he said that wasn't actually in place at the moment; because I was concern about that language. He said it was for medical reasons and that wasn't on the specific language at that time. He said that was a proposal.

Chief Keegan: We have some massage proposals moving forward that we read into the record and received a favorable recommendation to move forward but the supervision piece was not one of those three recommended changes. That supervision piece was put in place when we enacted the ordinance about a year ago. You don't have to be there from open to close, but there has to be a licensed massage therapist on duty along with another person who can act as a supervisor or work in conjunction with that massage therapist.

Ald. Lewis: Two people have to be there at all times.

Mike: Okay, I wasn't aware of that. That was kind of a gray area when the detective was talking. If that has to be just for massage therapy, I just wonder why there has to be two people for that. Again, I'm a small business. I'm not a Massage Envy where there's 10 people there at a time; so if one of my associates has to do a 3:00 appointment, I would basically have to pay someone to be there 8 hours a day for someone coming in. That's basically what you're telling me?

Ald. Lewis: I don't know how many hours you're going to be open, but when you're open, two people have to be there.

Chrmn. Stellato: Do you want to rethink this or still move forward?

Mike: No, I'll move forward.

Ald. Payleitner: It's a protection for your business and clients.

Chrmn. Stellato: You can see the chief on this for any questions.

Motion by Ald. Turner, second by Bancroft to recommend approval of a Massage Establishment License for International Massage Association located at 2210 Dean Street #E-1, St. Charles.

Voice Vote: Ayes: Unanimous; Nays: None. Chrmn. Stellato did not vote as Chair. **Motion Carried.**

5. Finance Department

a. Recommendation to approve an Ordinance Ascertaining Prevailing Wages in the City of St. Charles for Kane and DuPage Counties.

Julie Herr: We're requesting the approval of our annual housekeeping item that we have to do; however, it was pointed out in your packet that the rates we have currently from the state are as of from July 2015. They have not been updated. So when the state does get around to updating those rates, our rates will automatically coincide with those. We still have to have the ordinance passed by June 30, 2016. Even though the rates are not current, we want to get it on the books.

Ald. Payleitner: What happens if we don't. Do they withhold funds for not paying?

Julie: No. We're the ones that provide the rates and we just go with what they provide and if they're not updated...

Ald. Payleitner: I meant what if we don't pass this ordinance? What's our penalty?

Julie: I'm not sure.

Ald. Gaugel: My understanding is if we don't pass this and we're found not to be paying the prevailing wage, it would be retroactive to the point that the person could say they were paid under whatever that prevailing wage was plus penalty from the Department of Labor. I could be wrong, but there is a penalty.

Atty. McGuirk: We have to statutorily pass this ordinance every year.

Motion by Ald. Turner, second by Payleitner to recommend approval of an Ordinance Ascertaining Prevailing Wages in the City of St. Charles for Kane and DuPage Counties.

Voice Vote: Ayes: Unanimous; Nays: None. Chrmn. Stellato did not vote as Chair. **Motion Carried.**

7. Executive Session – None.

- Personnel 5 ILCS 120/2(c)(2), 5 ILCS 120/2(c)(5)
- Pending Litigation 5 ILCS 120/2(c)(4)
- Probable or Imminent Litigation 5 ILCS 120/2(c)(4)
- Property Acquisition 5 ILCS 120/2(c)(3)
- Collective Bargaining 5 ILCS 120/2(c)(1)
- Review of Minutes of Executive Sessions 5 ILCS 120/2(c)(14)

Motion by Ald. Bancroft, second by Turner to come out of Executive Session at 9:28.

Voice Vote: Ayes: Unanimous; Nays: None. Vice-Chair Payleitner did not vote as Vice Chairman. **Motion Carried.**

8. Additional Items from Mayor, Council, Staff or Citizens.

9. Adjournment

Motion by Ald. Lemke, second by Gaugel to adjourn meeting at 7:52 p.m.

Voice Vote: Ayes: Unanimous; Nays: None. Vice-Chair Payleitner did not vote as Vice Chairman. **Motion Carried.**

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