

**MINUTES
CITY OF ST. CHARLES, IL
GOVERNMENT OPERATIONS COMMITTEE
MONDAY, JUNE 20, 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, Bancroft, Krieger, Gaugel, Bessner, Lewis

Absent: Turner

3. Omnibus Vote

- Recommendation to approve Funds Transfer Resolutions Authorizing Budgeted Transfers in the Aggregate Amount of \$861,258.00 for Miscellaneous Transfers.
- Recommendation to approve Funds Transfer Resolutions Authorizing Budgeted Transfers in the Aggregate Amount of \$1,363,084.21 for Debt Service Payments and Miscellaneous Transfers.
- Budget Revisions – May 2016

Motion by Ald. Gaugel, second by Krieger to recommend approval of omnibus items as listed above.

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

4. Police Department

- a. Recommendation to approve a proposal contingent on manager background /fingerprinting being completed for a Class B Liquor License for Noodles & Company to be located at 3875 E Main Street, St. Charles (former TGIF Restaurant). *(This item was postponed to the July 18, 2016 Government Operations Committee meeting.)***

Motion by Ald. Bessner, second by Silkaitis to postponed this item to the July 18, 2016 Government Operations Committee meeting.

- b. Recommendation to approve a Class E-2 Temporary Liquor License for a series of six (6) events to be held at Riverside Avenue (Walnut & Second Avenues) for St. Charles Cruise Nites sponsored by the St. Charles Chamber of Commerce. The requested dates are: July 19 & 26, and August 2, 9, 16, 23 from 5:00 pm – 8:00pm. The Finery & Blacksmith Bar will be the local business licensee providing the alcohol.**

Chief Keegan: This is a recommendation to approve a Class E-2 Temporary Liquor License for a series of six (6) events to be held at Riverside Avenue (Walnut & Second Avenues) for St. Charles Cruise Nites sponsored by the St. Charles Chamber of Commerce. The requested dates are: July 19 & 26, and August 2, 9, 16, 23, 2016. The event is from 5:00 pm – 8:00 pm, however the applicant/petitioner is requesting liquor sales and consumption until 5:00 pm to 9:00 pm. The Finery and Blacksmith Bar will be the local business license providing the alcohol. In the executive summary the event is outlined in detail. Cruise Nites has been a long standing practice in St. Charles. The Chamber is represented by Amanda, here tonight, as well as Chief David from the Finery. They presented at the Liquor Commission meeting earlier this evening and received a 3 to 1 recommendation to be forward. Cruise Nites wants to capitalize on the foot traffic along Riverside Avenue between Illinois and Main Streets. They want to utilize the Chord on Blues patio. This will be a nice showcase for a building that has been vacant for some time. Food sales will be sponsored by Blue Goose and potentially a few other local businesses. Last year The Bend, Buona Beef, and Riverside Pizza also participated in this event without alcohol sales. This year food and alcohol (beer and wine) will be offered in the patio area. The Finery is responsible for credentialing the adults. Alcohol consumption will be confined on that patio area. They want to compliment the foot traffic that is sometimes estimated between 100 to 300-400 folks that come out. Typically we see cars that range from 50 in numbers to 125.

Amanda Lutz, 155 Deutsch, Burlington and David Reyes, 305 W Main Street.

Ald. Payleitner: We discussed at the Liquor Commission meeting that it's a courtesy that the applicants come before us; it's not required. I want to commend these two and especially Chef David, clearly this is your busy time.

Ald. Lewis: I did not vote in favor of this, and not because they're not excellent businesses in our town. I'm not worry about people getting intoxicated and causing problems and being disruptive. What I'm concern about is when I had a business downtown St. Charles on the west side, they closed down the parking lots for the festivals. I had my business which was a paint it yourself pottery studio and right outside my door they put up a temporary business that was a paint it yourself pottery studio from Geneva. I could never understand why that would be done. I was thinking that we have the House Pub right on the street, The Office and Riverside Pizza not too far away; why would we have one business for six events set up temporarily, any business – take the name out of it, when there are businesses right there. I felt the purpose of having Cruise Nites was to bring in business to these local, right around the area, businesses. I'm not convinced that you'll attract new people. I think you'll be taking business away from other businesses when you do this. That's my concern and why I didn't approve of it.

I didn't know this piece of information until I saw this note on the upcoming Beer Fest, but they had to have approval from the Health Department in order to have food. Is that something that would have to be done? It states they have confirmed preparations with the City and Park District and have the County Health Department scheduled to inspect food vendors; so would you have to have the food inspected that is going to be served there?

Chef David: The answer is yes and it's a one-page application because I put one in for the Beer

Fest for Saturday. It's just a matter of submitting it.

Ald. Lewis: I think we're moving quickly here. We just passed one for the Plaza and there's this one now for six nights on Riverside, and we should think about this and take pause and think about what our policy is going to be instead of answering these requests one by one.

Motion by Ald. Bessner, second by Bancroft to recommend approval of a Class E-2 Temporary Liquor License for a series of six (6) events to be held at Riverside Avenue (Walnut & Second Avenues) for St. Charles Cruise Nites sponsored by the St. Charles Chamber of Commerce. The requested dates are: July 19 & 26, and August 2, 9, 16, 23 from 5:00 pm – 8:00pm. The Finery & Blacksmith Bar will be the local business licensee providing the alcohol.

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

- c. Recommendation to approve an Ordinance Amending Title 5 “Business Licenses and Regulations”, Chapter 5.20 “Massage Establishments”, Sections 5.20.010 “Definitions”, 5.20.080(B), “Issuance and Denial of Licenses”, 5.20.110 “Conditions and Restrictions of Licenses”, 5.20.170 “Notice” and 5.20.180(C) “Revocation or Suspension of Licenses” of the St. Charles Municipal Code.**

Chief Keegan: This is a recommendation to approve an Ordinance Amending Title 5 “Business Licenses and Regulations”, Chapter 5.20 “Massage Establishments”, Sections 5.20.010 “Definitions”, 5.20.080(B), “Issuance and Denial of Licenses”, 5.20.110 “Conditions and Restrictions of Licenses”, 5.20.170 “Notice” and 5.20.180(C) “Revocation or Suspension of Licenses” of the St. Charles Municipal Code. I presented this material at the May Liquor Control Commission and advanced it on to June because I was still doing some research with our legal team and our Investigations Division. Both this committee and City Council have taken a strong stance on massage compliance within St. Charles. We are the trail blazers when it comes to some of the things we have done as a city to come up with a three-prong approach.

The first piece is what you do as aldermen which is the legislative piece and that's enacting solid ordinances that are codified to make sure the business practices are being followed. The second piece of this three-prong approach falls on my shoulders and that's the enforcement which are compliance checks and inspections. We want to make sure that these businesses and massage therapists are dotting i's and crossing t's and following the best practices outlined in our ordinances. The third prong is the judicial piece or due process piece. In the last several months we've revoked four massage licenses and earlier this evening we had two hearings on yet two more violations. Over the past year we've gone into businesses and done inspections. An inspection is there is no cover of darkness, we're not purporting ourselves to be undercover, we're going in making sure our ordinances are being followed, are the signs appropriately posted, are they following the business regulations that are codified in the ordinances, etc. The second piece to this prong approach are compliance checks where we send in undercover officers to ensure there are no acts of prostitution and that massages are being performed by licensed massage therapists.

I've worked the with the American Massage Association and also consulted with several business owners in St. Charles; and in doing so and working with the legal team, I've come up with a couple of modifications that I would like to go through in detail that outline some of the recommendations that I have this evening.

In Section 5.20.010 "Definitions", we've defined what a licensed premise is. Furthermore under Section 5.20.080(B) "Issuance and Denial of Licenses", we want to make sure each and every application goes through a vetting process that includes code enforcement. We're also putting some procedures into place with alcohol and tobacco licenses that each and every application is going to be routed through the respective departments, we're going to use a separate database that ensures dotting i's and crossing t's and a piece of that is to make sure that Ms. Tungare and her team takes a look at the zoning requirements to ensure we haven't had any PUD violations when subdivisions and commercial developments were built and are appropriately approving massage locations in the appropriate zoning districts.

Under Section 5.20.110 Conditions and Restrictions of Licenses" we've had a couple of violations for supervision and our code now says that there must be a licensed massage therapist at all times and in fact if a massage is taking place there must be a second person that supervises the license. That ensures not only the safety of the business proprietor but also the patron. On the flip side of that, not every business that offers massage services operates in such a fashion that they need to have supervision. Case in point, if it's an appointment only type scenario, they don't take walk-ins, we don't feel in talking with the business owners that there's a need for supervision. These massage therapists that take appointments only know their clientele and screen their clientele; often times the business is locked and prohibits shenanigans from taking place. And quite frankly with some of the business owners we've been talking with, it's real hard for the supervision piece. I explained this at the Liquor Control Commission and had Mike Devo come and speak to the commission as well, he was an applicant that was just recently approved in the commercial district north of Dean – west of Randall and he is an appointment only massage therapist. I also feel strongly this is the best course of action to proceed with.

Also under this section, there's been a couple of instances that we've done compliance checks that there's been co-habitation inside of the business. We don't want folks residing in the massage establishments. It's indicative of human trafficking and our approach on this as a police department is zero tolerance. If we see it, we work with immigration customs enforcement.

Also subsections M and N addresses public access and window coverings. Often times when we have violations and especially criminal arrests, we've seen a propensity for some of these proprietors to operate under a cover of darkness. We have some provisions in place in case an establishment is located on the second floor or maybe it's not a sole source massage establishment, such as, a salon that might offer massages as an ancillary service. They are not going to be held to the same standards, per se, as a stand-alone massage facility that only offers massage. Case in point if you drive through some of the areas of St. Charles such as strip mall developments, if there are windows in front of the façade, there is no reason why we can't see into that business and often times when we've had violations it's been the businesses that operate with their windows shuttered, blinds drawn, and we can't see in. I see this as a safety measure

that when officers drive by, it should be like looking into a convenience store or 24-hour coffee/donut shop – I want my officers to be able to see in and get a thumbs up from the clerk. Even if they are on another call and can't get out of the car, it's a safety measure for both the business and the patron.

Section 5.20.180 "Revocation or Suspension of Licenses" under subsection C it says related license shall have been revoked for cause and no license shall be granted to any person for a period of five years thereafter, for the conduct of a massage business in the premises described in the revoked license. This in layman terms is recidivism and that means repeat offenders. We're not only holding the massage therapist and licensee accountable but also the landlords. We see often times that these structures are built out conducive to massage facilities and then what happens is that after there's an arrest or revocation made, the landlord rents out the same space to another massage facility. What we're telling both the landlord and the business owner that if we revoke your license, you're not going to be allowed to operate at that specific address for a period of five years. We've done our research on this and have seen some other western suburbs act to a similar ordinance and we hope this prohibits recidivism from keep happening.

The last Section 5.20.170 "Notice" We've had revocations but not a suspension yet. What we are codifying in our ordinance that upon revocation or suspension of a license, that suspension shall be effective three business days after personal service or mail service.

Ald. Silkaitis: The part of revoking a license for five years, do we inform anyone that we revoked their license? I don't want to move this problem to Geneva or Batavia. Is there a database on that?

Chief Keegan: I don't want to tell a municipality how to do business, but I'll tell you what we do. If an application comes forward we first check with the State to see if there's a license that's in effect through the Department of Regulations – that can be done on-line or with a phone call. We look at the application material and see where they've conducted their business elsewhere, we do some computer queries, write letters to the respective agencies which they either lived in or did business in. Often times there is some local media coverage and hope through a google search that would be found.

Ald. Silkaitis: I just don't want to pass this on to someone else – that's my only concern.

Chief Keegan: We do tell the landlord.

Ald. Payleitner: I do want to commend the chief on his diligence in fine tuning our massage ordinance and not only to the benefit to our town, but as the Chief quoted we are trail blazers, that we have other towns looking to us for guidance and examples when they have similar concerns. Thank you Chief.

Ald. Gaugel: Thank you very much. This has been a hot button for me. I was asked again recently by a resident of the 4th Ward – what are you doing about massage parlors and this is a perfect example of what we can strengthen it with. Greatly appreciated and one of the things I'm

happy that was brought up was the premises with a 5-year moratorium, specifically with the building at the intersection of Routes 25 & 64. My question here with that one is since this is going into effect afterwards, could someone technically come in next week, put in an application to open up a new massage establishment at that location or would this be in effect as of right now for that building?

Chief Keegan: This will take effect 10 days after passage of the City Council approval, but to process a new applicant that could come forward takes several weeks to get through the process, so I hope that wouldn't happen.

Ald. Gaugel: So the five years has already started for that premise once this gets approved by Council – correct?

Chief Keegan: If you're speaking to the business at 5th and Main that had the revocation a month ago, I would say we would do a 5-year moratorium from the day of the revocation moving forward.

Atty. McGuirk: I agree.

Ald. Lewis: I too want to thank you and your staff for all the work you have done on this. It has been a long time coming.

Ald. Bancroft: I really like the fact that we are always trying to get better. Better really is not only better for the City enforcement but you also have relief from a specific concern expressed by the industry and that's really terrific and means it's getting better.

Ald. Lemke: If there were a revocation of licenses, is that not registered with the State?

Chief Keegan: No, because massage therapists are licensed through the State and we license the business; although we would hope through arrest records that would be register with the State. The arrests are through fingerprint data but our local license revocations or suspensions are not.

Motion by Ald. Gaugel, second by Silkaitis to recommend approval of an Ordinance Amending Title 5 "Business Licenses and Regulations", Chapter 5.20 "Massage Establishments", Sections 5.20.010 "Definitions", 5.20.080(B), "Issuance and Denial of Licenses", 5.20.110 "Conditions and Restrictions of Licenses", 5.20.170 "Notice" and 5.20.180(C) "Revocation or Suspension of Licenses" of the St. Charles Municipal Code.

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

5. Finance Department

- a. Recommendation to approve a Resolution Authorizing the City Administrator to Execute a License Agreement By and Between the City of St. Charles and the Downtown St. Charles Partnership.**

Chris Minick: Tonight we are seeking recommendation to approve a Resolution Authorizing the City Administrator to Execute a License Agreement By and Between the City of St. Charles and the Downtown St. Charles Partnership. Back in 2012 the City entered into a license agreement with the Downtown St. Charles Partnership (DSCP) to provide approximately 900 sq. ft. of office space and other various surplus office equipment for use by the DSCP, free of charge. That particular license agreement was for a 1-year initial term and it allowed for up to two subsequent 1-year renewals. Those renewals were exercised on the part of both parties and they did expire in 2015. Approximately one year ago we did an amendment to the existing licensing agreement at that particular point in time to add one more 1-year renewal period to the license agreement as it existed. That 1-year renewal expired April 30, 2016 and staff has gone about the task of putting together a new proposed license agreement. The proposed license agreement is exactly the same as the expiring license agreement with one major exception. In order to avoid some of the administrative costs and burden of bringing forward an annual renewal period, staff is proposing we extend the license agreement from the initial 3-year term and would subsequently allow for two 2-year renewals within the license agreement. The other item to keep in mind is that either side has the opportunity to cancel this license agreement for any reason whatsoever with a 120 days written notice to the other party. Additionally if the license agreement does expire or is out of term, or one of the renewal periods expires that notice period shrinks to 60 days. Additionally if there is a breach of agreement in any way, the license agreement can be terminated within 30 days of written notice provided the breach is not cured. This agreement is the same as the one that was put in place in 2012. Any questions?

Ald. Lewis: I always ask this, you don't see any need of this space for city purposes in the next year or two?

Chris: No, if we were to encounter a situation where we would need that space, we would be able to terminate the license agreement with that 120-day notice.

Ald. Gaugel: It's a 3-year term and there's two subsequent 2-year terms; so it's a total of seven years? And when renewals come up, it comes before Council again?

Chris: Yes.

Motion by Ald. Bessner, second by Silkaitis to recommend approval of a Resolution Authorizing the City Administrator to Execute a License Agreement By and Between the City of St. Charles and the Downtown St. Charles Partnership.

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)

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

9. Adjournment

Motion by Ald. Lewis, second by Bancroft to adjourn meeting at 7:48 p.m.

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

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