

MINUTES
LIQUOR CONTROL COMMISSION MEETING
MONDAY, SEPTEMBER 17, 2018, 4:30 PM
2 E MAIN STREET

1. Call to Order.

The meeting was convened by Commissioner Rogina at 4:35 pm.

2. Roll Call.

Members Present: Liquor Commissioner Rogina, Ald. Silkaitis, Fran Zollers, Robert Gehm, and Ald. Vitek.

Commissioner Rogina: I'd like to introduce and welcome Prof. Fran Zollers to our group here today. She was approved 2 weeks ago at City Council meeting. I know she'll make a wonderful addition to our group.

3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on August 20, 2018.

Motion by Mr. Gehm, Second by Ald. Vitek to accept and place on file minutes of the Liquor Control Commission meeting held on August 20, 2018.

Voice Vote: Ayes: Unanimous; Nays: None. Commissioner Rogina did not vote as Commissioner. **Motion Carried.**

4. Recommendation to approve a Proposal for a Site Modification for the Alibi Located at 18 N 3rd Street, St. Charles.

Commissioner Rogina: Because the applicant for item 4 is not present I'm going to ask that we proceed with item 5.

Chief Keegan: The applicant called and they are unable to come this evening. They can come at 7:00pm if you like.

Commissioner Rogina: I want to follow procedure. I'd like the Liquor Commission to look at the proposal first. I'd like to point this out for the record. This may sound a bit unusual. On that issue, if you look at the ordinance, the decision to grant this belongs to the Liquor Commissioner. I want this body as well as the council committee to give me opinion on the proposal. They can come to council committee this evening but until this group meets next month and provides input on what they present they will not get a decision.

Ald. Silkaitis: I agree. They should come here first. That's the process.

Commissioner Rogina. Yes, but there is no vote on this. I'm gathering your input.

Item 4 postponed until the October 15, 2018 Liquor Control Commission meeting.

5. Recommendation to approve an Ordinance amending Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.250 “Regulations Applicable Generally” of the St. Charles Municipal Code. (Alcohol Delivery).

Chief Keegan: Over the last 6 I have received a number of calls from independent contractors wanting to start a delivery service in St. Charles. A few of the requestors are Grub Hub, Uber Eats, and Errand-Up. Since some literature was circulated about this in some of the local papers we’re also including Gordy’s, Blue Goose, The Pride, and Meijer. Meijer is here and will present in a couple of minutes. This concept would be more of a regulation, not a license. It would regulate delivery taking place within the city limits so long as it’s a licensed establishment, the driver is 21 years of age or over, and there is a record of the transaction. Meijer is going to talk about what they have rolled out in Michigan state-wide. They would like to incorporate that to Illinois. St. Charles would be the first store allowing alcohol delivery.

This received a lukewarm reception last month. We decided to table it to see what kind of feedback we get from other communities. I spoke with business owners myself, and low and behold Meijer came to see the Mayor, Mark and I.

Meijer, Grand Rapids, Michigan. We have our store here in St. Charles. We will be presenting regarding home delivery services specifically as it pertains to alcohol in St. Charles. I’m sure you’re all familiar with our store in St. Charles, but today marks a very special occasion. Today, September 17, is the 18 year anniversary of us opening the super center in St. Charles. We’re excited to be here with you all today. As the Chief mentioned we had the opportunity to meet with him and the Mayor to discuss this business model.

We support the Chief’s proposal in terms of our business model and ability to deliver alcohol through the store.

Cameron (Meijer Representative): Meijer has partnered with Shipt. Shipt is a third party provider of home delivery. You download the app, enter your address, your address validates the closest store that will be shopped. In Michigan we have been selling alcohol for about 1-year. There have been no issues or complaints.

Once the order is put in it goes to the Shipt shopper update system, an individual application used to shop the order. The customer is contacted via text. The shopper introduces themselves, and informs the customer they are shopping their order. If there is something missing they will contact you directly for substitutions or preferences. Once the shopper has completed the order they checkout with a preauthorized visa credit card. They check out like any other shopper. When checkout is complete a text is sent to the customer to give them the estimated time of arrival of their order. The shopper arrives at the home and delivers to the front porch, the doorway, or into the home. That’s the general process not including alcohol.

Ald. Silkaitis: Are the shoppers employees of Meijer or is it a third party?

Cameron: They are 1099 independent contractors. Shipt manages the workforce, but they are independent contractors.

Ald. Silkaitis: Not employees of Meijer.

Cameron: Correct.

Mr. Gehm: Is there a vetting process with the 1099 contractors?

Cameron: The shoppers go through an online application process which is submitted to the Shipt HR team. Shoppers are then put through a vetting process. Shipt is very strict with their hiring process. The average shopper is 33 years old with some college education. There is a rating system that goes with the shoppers. If rating drops below a 3, they are coached by the Shipt team. It's important that shoppers maintain good rating.

Mrs. Zollers: The 1099 are with Shipt, and they deliver for Meijer.

Cameron: Shipt is the application developer. They manage the payment processing, routing of shoppers, and the network. In return we give them the ability to shop the store.

Mrs. Zollers: There are other stores that could contract with Shipt. I've only seen Shipt people in Meijer, but they could be other places.

Cameron: Yes.

Mrs. Zollers: You have no contractual deal with the shoppers. You're not paying them. You're dealing with Shipt.

Cameron: Yes, we have a very close relationship with their corporate team. We have a representative on site that communicates with us on a daily basis. When it comes to payment it's all done through Shipt.

Mrs. Zollers: Is it exclusive to Shipt or if someone else wanted to come in could they?

Cameron: I believe contractually the relationship we have with Shipt is if another party comes into 6 states they have to assess that. However historically we've had a 1-year exclusivity clause with Shipt that has since expanded. In different regions they have different retail partners.

Mrs. Zollers: It's exclusive with Shipt?

Mr. Gehm: How many locations in Michigan use this service?

Cameron: I believe the store count in Michigan is 97.

Ald. Vitek: I'm at Meijer every Sunday. I'd say half the people that are shopping are Shipt. I have friends that use it and it's very efficient.

Ald. Silkaitis: How does the financial transaction take place start to finish?

Cameron: Our contractual relationship with Shipt allows them to mark-up product online. The customer sees the marked up value but doesn't know the specific percentage. Shipt has figured out that 16% is the average they need to stay positive. The order is placed online; a temporary authorization hold is placed on the customer's credit card. The shopper goes to the store with a preauthorized VISA that is loaded by Shipt with the appropriate amount of money based on the order. The shopper checks out at the store and uses that preauthorized card. When the shopper marks the order complete the customer's credit card will be charged. Due to a possible fluctuation in cost they don't charge the customer's card until the transaction is complete.

Ald. Silkaitis: When the shopper arrives at the destination there is no transaction of money. How does the shopper know who they are delivering too?

Cameron: The shopper receives a first name and last initial with the address and phone number.

Mrs. Zollers: There aren't tow sites, just one site. The Shipt person is handing them a card. Shipt isn't buying the product.

Cameron: They are.

Mrs. Zollers: They are buying it and selling it to the customer.

Cameron: Yes. The customer has a one-to-one direct credit card on file. The Shipt shopper goes to the store, pays for the alcohol, swipes the preauthorized credit card. At that point they charge the credit card on file for the total of the order.

Mrs. Zollers: So it's two sales. Buyer to Shipt, Shipt to Meijer.

Cameron: Meijer would receive the value of the credit instore with no mark-up. The customer pays the final price with the Shipt markups. Yes, there are 2 transactions.

Prior to the shopper being allowed to even review an order that includes alcohol they must go online and become certified. That training incurs the new check-out process. They must have an ID and be 21. When they get to the home there is an ID validation process as well. There is also a general alcohol training that they are to go through. They want the shoppers to be educated.

We have identified that this area requires BASSET training. We plan on having the shoppers become BASSET certified. Any store that has any sort of BASSET all shoppers in that area have to be certified in BASSET through the online training, and have to upload verification to Shipt.

Shoppers are to make sure the customer is home, is not intoxicated, has a valid ID and if any of these are in question they must contain the alcohol from the order, and return it to the Meijer store for a refund.

When the customer orders alcohol the shopper uses the application to scan the customer's ID. If it's not a valid ID they received an error message. The ID scan is highlighted in red and the shopper would keep the alcohol and return it to the store.

If a valid ID is scanned the customer is prompted to provide their signature and it allows the shopper to continue processing the order.

Commissioner Rogina: I know you've read the proposed language of the proposed ordinance. That language combined with the presentation here should be the subject of questions.

Ald. Vitek: This is happening in St. Charles. I'm on the Shipt website right now and I'm pretty sure based on the fact that Shipt lists Meijer you have a strong business relationship. In St. Charles you know we have certain rules around alcohol hours. Do you believe that the delivery hours would be able to be intertwined on the site for St. Charles? St. Charles specific alcohol distribution hours?

Cameron: Yes. We would do that through the Meijer point of sale. We do this in other situations where there are specific hours of sale. The point of sale would reject the sale if it was outside the allowable hours.

Ald. Silkaitis: You sell to Shipt, Shipt sells to the customer, correct?

Cameron: Yes.

Ald. Silkaitis: Shipt does not have a liquor license therefore cannot sell alcohol. That's the problem I have with this concept.

Cameron: Financially we are the seller on record.

Ald. Silkaitis: But you're not because you just said you're selling it to a third party. To sell alcohol in St. Charles you need a liquor license.

Cameron: What we've done on the back end is when the order is submitted and the customer's credit card is charged, we will route the funds for alcohol to our bank account.

Ald. Silkaitis: You're still having a third party deliver.

Commissioner Rogina: You can have a third party deliver.

Ald. Silkaitis: The money transfer I understand. But they (Shipt) are the ones taking the product and their employees are delivering it.

Cameron: If you look at the ordinance it says "or agent of a liquor license holder that carries or transports alcoholic liquor". In this case Shipt is the agent of the license holder.

Commissioner Rogina: The question is if the City Council will approve this language. If you approve this language you're approving item three.

Atty. McGuirk: Yes. You're here to discuss whether or not to allow this fashion of delivery within the City. If the ordinance is approved, you're validating this.

Commissioner Rogina: In effect you're saying we're going to allow Meijer, who has a liquor license, to have an agent deliver to a home. You're saying for the purpose of alcohol Meijer is the seller to the customer. The third party is delivering the alcohol. Right now, you're correct.

Ald. Silkaitis: We're revising the ordinance to a point.

Commissioner Rogina: Yes. Because we're adding the delivery of alcohol.

Mrs. Zollers: I have a chain of custody issue. It's Meijer to Shipt, to someone who works for Shipt (but they're not an employee), Shipt to customer. I'm happy to hear the fix on the money. So many things can go on from store, to car, to home.

Mr. Gehm: I agree with Fran. That whole process is a little confusing.

Ald. Silkaitis: For anyone to use the service you have to get the ap. We do liquor stings with liquor stores. You could never do that with this. You don't have the ability to know whose delivering. How would you check to see if they are doing what they should be?

Chief Keegan: We would download the ap and pose as a worker for the third party carrier.

Mrs. Zollers: You would pretend to be a Shipt person?

Chief Keegan: Yes.

Ald. Vitek: What's happening in Michigan?

Cameron: It's very successful.

Commissioner Rogina: Fran made a good point about the individual delivering. I think this is business friendly and we should seek to encourage. There has to be some examples in Michigan. Have you had any serious problems with this at all?

Cameron: No.

Mrs. Zollers: Meijer is a big player, and Michigan in their corporate headquarters. If this were to pass it not only applies to Meijer, it applies to all. Not all will have the controls in place that you have thought about.

Cameron: If others don't have the controls should they be allowed to deliver alcohol?

Mrs. Zollers: It's not a license.

Commissioner Rogina: City Council is in the position to amend the language so that they feel comfortable.

Ald. Vitek: We also have a letter from another grocer.

Ald. Laura Vitek read a letter from Paul Lencioni owner of the Blue Goose Super Market that stated he supports allowing delivery of alcohol with the adoption of best practices.

Ald. Vitek mentioned that Paul Lencioni has a relationship with a third party vendor for delivery of alcohol.

Commissioner Rogina: Not Shipt.

Ald. Vitek: Not Shipt.

Cameron: Meijer takes great responsibility as a licensee and takes this very seriously. We have a sterling reputation as a licensee not only in St. Charles, but throughout our corporate footprint. There are so many safeguards, as you've seen, that are already in place. In Michigan our experience has been incredible. It's been strong through Shipt and independent retailers as well. I want you all to know, and I want the record to reflect, that we take it very seriously. To leverage that part of our business for some sort of careless action is something we don't do.

Ald. Silkaitis: What if a shopper delivers to an underage person and they get caught. Who is at fault? The shopper, the business, or both?

Chief Keegan: If a third party delivered it would be a violation of the ordinance.

Commissioner Rogina: The employer responsible for the acts of the employees. How about the concept of agency by appearance, Fran?

Mrs. Zollers: They are the agent for Meijer but they are separate.

Commissioner Rogina: To Atty. McGuirk. If someone is an agent by appearance or appointment is the principle responsible for their acts.

Atty. McGuirk: The principle is responsible.

Mrs. Zollers: We have Meijer, and an organization I've never heard of, Shipt. We're looking at the best exemplar of this. That's not going to happen down the road.

Commissioner Rogina: How do you respond to the City Council holding the chip to approve or deny any allowance of this act under these regulations?

Mrs. Zollers: We're just advisory, right?

Commissioner Rogina: We'll be taking a vote to advise council committee.

Mrs. Zollers: My concerns about chain of custody have not been set.

Chief Keegan: I researched this. It's going on all over Chicago. Uber Eats, Grub Hub, Errand up, or any of these third party grocery stores, it's going on. I would advocate for regulations, that's what this template is. I spoke with Downers Grove and Wheeling, not a lot of municipalities are regulating this. We would be the third in our area. It gives our officers an enforcement arm if there is a violation.

Commissioner Rogina: If we choose not to regulate, and a delivery is made and an incident occurs, what would be our reaction on the police force?

Chief Keegan: If there is an unlawful act that takes place and a violation of State statute, we would act accordingly. Right now our ordinance prohibits alcohol delivery. But to my point earlier, it's going on. I just don't know where it's happening. We're not hearing about issues that surface. If we were to hear about a particular issue we would act accordingly. It's a blanket statement in our ordinance right now. I know there are a lot of third party people doing this.

Mrs. Zollers: Without a statute.

Chief Keegan: Correct. It's very tough to regulate without putting provisions in place.

Commissioner Rogina: Regarding the two examples you presented. What were the reasons behind Downers Grove and Wheeling, and in those communities do they have a Liquor Commission, was that the decision of the Liquor Commissioner? Was it recommended through the Council?

Chief Keegan: I believe they both have liquor commissions, and I believe both villages enacted ordinances because they were getting calls and inquires. They wanted to be on the forefront of at least putting some regulations in place.

Mrs. Zollers: Did you ask what their experience is?

Chief Keegan: I talked to both Chiefs. So far there have been no issues. They didn't regulate it because there were issues. They were getting calls and wanted to put some provisions in place. The kind that keep good people honest and make sure there are some checks and balances.

Commissioner Rogina: Two weeks ago I said this, and I'll say it again. We're on the cutting edge of something that's matter of fact. This is a convenience for a lot of people, the elderly, the disabled, and the millennials. It's a business friendly concept outlining rules and regulations.

The document that Chief has presented can be amended at council committee. I support a concept like this.

Chief Keegan: Meijer is going to great lengths looking at their footprint and reinvesting a lot of capital in St. Charles. We just did the same with Wal-Mart and curbside pickup. A lot of people are using apps. Folks want to pull up, like a drive-thru; we even made some provisions for drive-thru alcohol at one of our establishments. We're seeing convenience as a common theme, curbside, driving thru, or delivery. Those are most of the calls we get.

Ald. Silkaitis: I'm not in favor of this. Why can't we have all the third party delivery services register with the city? We do that with solicitors. Then we would know who they are.

Chief Keegan: That would be very labor intensive. There are so many agents for these companies.

Ald. Silkaitis: Yes. It would be labor intensive to enforce that. That's my point.

Motion by Ald. Vitek, second by Mr. Gehm to recommend approval of an Ordinance amending Title 5 "Business Licenses and Regulations", Chapter 5.08 "Alcoholic Beverages", Section 5.08.250 "Regulations Applicable Generally" of the St. Charles Municipal Code. (Alcohol Delivery).

Roll Call: Ayes: Vitek, Gehm; Nays: Silkaitis, Zollers. Chairman Rogina voted in favor of the recommendation to break the tie vote. **Motion Carried.**

Andrew Martin: Thank you for the time today. We appreciate your open minds and your questions, and the opportunity to answer them.

6. Public Comment.

7. Executive Session (5 ILCS 120/2 (c)(4)).

8. Adjournment.

Motion by Ald. Silkaitis, second by Ald. Vitek to adjourn the meeting at 5:24 pm.

Voice Vote: Ayes: Unanimous; Nays: None. Commissioner Rogina did not vote as Commissioner. **Motion Carried.**

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