

MINUTES FOR THE ST. CHARLES CITY COUNCIL MEETING
RAYMOND P. ROGINA, MAYOR
MONDAY, APRIL 19, 2021 – 7:00 P.M.
CITY COUNCIL CHAMBERS
2 E. MAIN STREET

1. **Call to Order** by Mayor Rogina at 7pm
2. **Roll Call**
Present – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Vitek, Gruber, Pietryla, Bessner, Lewis
Absent - None
3. **Invocation** by Ald. Payleitner
4. **Pledge of Allegiance.**
5. **Presentations**
 - Recognition of EMTs, Adult Activity Center Supervisor, Lynne Yuill, Assistant Superintendent, Katie Miller, and Others for their roles in a medical emergency of a visitor at the Pottawatomie Community Center.
 - Presentation of the Youth Commission Impact Award.
6. **Omnibus Vote. Items with an asterisk (*)** are considered to be routine matters and will be enacted by one motion. There will be no separate discussion on these items unless a council member/citizen so requests, in which event the item will be removed from the consent agenda and considered in normal sequence on the agenda.
- *7. Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file minutes of the regular City Council meeting held April 5, 2021.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Vitek, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None
- *8. Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file minutes of the Public Hearing held April 5, 2021.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None
- *9. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve and authorize issuance of vouchers from the Expenditure Approval List for the period of 3/22/2021 – 4/4/2021 in the amount of \$1,441,102.25.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

I. New Business

- A. Motion by Ald. Bessner and seconded by Ald. Gruber to approve an **Ordinance 2021-M-19** Confirming and Extending a Declared State of Emergency within the City of St. Charles Due to the COVID-19 Pandemic until the next regularly scheduled City Council Meeting.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- B. Motion by Ald. Bessner and seconded by Ald. Vitek to approve an **Ordinance 2021-M-20** Amending Title 13, “Public Utilities, Chapter 13.16 “Water” of the St. Charles Municipal Code to Allow for Changes in the Rate Structure for the Water Utility.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- C. Motion by Ald. Bessner and seconded by Ald. Stellato to approve an **Ordinance 2021-M-21** Amending Title 13, “Public Utilities, Chapter 13.12 “Sewers” of the St. Charles Municipal Code to Allow for Changes in the Rate Structure for the Sewer Utility.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- D. Motion by Ald. Bancroft and seconded by Ald. Vitek to approve a Proposal for a D13 Liquor License Application for the St. Charles Park District, located at 102 S. 2nd Street, St. Charles.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- E. Motion by Ald. Bancroft and seconded by Ald. Vitek to approve an **Ordinance 2021-M-22** Amending Title 5 “Business License and Regulations,” Chapter 5.08 “Alcoholic Beverages,” Section 5.08.020, “Local Liquor Control Commissioner – Designated”; Section 5.08.080, “License-Restriction on Issuance” of the St. Charles Municipal Code.

Rogina – Mark Koenen, you authored the executive summary, would you please talk to us about this? While he is making his way to the microphone, many of you have received several emails, one was sent this afternoon, you have a copy of this one. The author asked that you receive a copy of this and you did, I wasn't sure if everyone would get this in time, so I had a hard copy handed out. There are a smattering of input by various citizens, with that, Mark please take the floor.

Koenen – Thank you, as you all know, this is a follow up from the Planning and Development committee conversation last week, when Mr. Lencioni, who was the populous vote winner in ward 3, came before the council and said I would like retain both my liquor license and would like to be an elected official. As you are aware, the state and county election law was tested earlier this year, in regard to allowing Mr. Lencioni to on the ballot, the election board met and processed that accordingly and Mr. Lencioni was allowed to be on the ballot for ward 3 and most recently, as the result of the election, he was the popular winner. That said, this is what draws the question tonight, our local code is a second step in this process. The local code states that if you hold a liquor license, and Mr. Peppers will correct me if I am wrong, you cannot be seated.

Peppers – There is a common mistake about what this conflict really means. It is the reverse, the code provides that an elected official may not hold a liquor license, not that they cannot be seated. To say that because someone holds a license first, then becomes an elected official, they are disqualified or not able to take the seat is not accurate. He can take the seat if he wishes to take the oath of office, but he just loses the license.

Koenen – In the reports, the facts are how I stated it but I wanted to draw attention to that right away! (haha). In the packet, there is an ordinance that identifies and would permit an elected official to hold a liquor license. Of concern, and it was brought up by Ald. Bessner last week, he asked what if it is the mayor? How is that handled? Frankly, we didn't have to be very creative. The state liquor code identified how that is handled and some of those same phrases are in this new ordinance. The mayor would be able to come forward and name a new liquor commissioner because he could not be the commissioner and the mayor. Ald. Payleitner emailed me this weekend and said there might be another piece to this, it talks about if you are an elected official, to say you're an alderman and you are in the position where you have a liquor interest, to that effect the same rules apply. He cannot vote or participate in that discussion on the liquor matter, can't discuss it on the floor at all. They would have to step back; it would be the same rules. I want to make sure that is clear and the minutes reflect this in case there are future questions about this topic. You will notice in the recommendation, I recommended that this topic be discussed and I also recommended that this be approved. My basis for this conversation is to support the popular vote in that ward. The citizens have made a decision and I will side with the citizens. This is my perspective and my recommendation as staff.

Rogina – We will open the dais for conversation and we will first go to Ald. Lewis.

Lewis – I want to make a few comments, we always say that we can't take things personally. I just went through a major event in life and I am not taking these things personally. I want to make that clear right away. This is not personal. I have been consistent in how I think and feel about this topic since last August that we have discussed it three times and there was never a vote taken and I question if we would be changing this ordinance tonight if this situation hadn't happened. I don't think we would, I don't think we'd change this just because this event happened. That is one thing that I wanted to share my concerns about. I don't know why the state allows this to be only in communities less than 55,000 people. That would be an answer I'd like. Over 55,000, as I understand, you cannot hold a license. I don't know why they chose to do that. I did some research myself, in the past year since May to now, we have had 9 different government operations meetings. 3 were cancelled and held 9. Within those 9 meetings, there were 24 different liquor related agenda items. I thought that was a lot meetings to have to recuse yourself from. I think this should go back to committee to be discussed further and I think there will always be the opportunity in the future, does this absolutely have to be decided tonight? I think there is still time and maybe we allow the new council and mayor have a different position and can take this matter up with the new council.

Bessner – Nothing further.

Pietryla – I will try to keep it short. I am like Maureen, I have been consistent and I am not changing my opinion on this and Mark, I appreciate your summery and recommendation, I am still not there in believing that the results of one ward contest should speak for the entire city. That is where I am right now.

Vitek - I have 2 comments, being on city council, you have to be flexible and we've seen that with ordinances like bee keeping and micro brewing, sometimes opportunities come to us and we change an ordinance and it is called being flexible and keeping with the times. I think that this is one of those times and the residents have spoken and they clearly have chosen who they want to be elected in this position. The other side of this, I know that liquor licenses do come up often in meetings but we look to the recommendations of the police chief for that and he has vetted those. Liquor licenses aren't often heavily debated at our city council meetings. Most of the time when they are on the agenda they are approved based on the chief's recommendation. I don't think it is a heavily debated topic and I am not concerned with what we've called the man down issue, again speaking to what the residents want, they voted for their candidate.

Gruber – I would second that as well, I said last meeting, Paul and I have had numerous conversations over the past couple months and I think being the 3rd ward alderman, I have an obligation to the people I represent and have had lots of conversations with those residents and I think to kind of second what Mark said, to support the popular vote is what I'll vote for tonight.

Silkaitis – My position has been known through my campaign and my position hasn't changed at all. If you look on the committee meeting after this, there are only 3 items on the agenda that we are voting on and all 3 are liquor items. This person would not be able to participate in this discussion.

Second thing is, I think this conversation should have been had over a year ago and I feel like we are rushing this now, we have 2 weeks until the new council is seated. We have had attempts to discuss this, but we never had a vote or any in depth conversation about it. I think that needs to be done, now I think it should have been done back in April or May of last year before the election cycle started, my position hasn't changed on this.

Payleitner – I want to speak to Ald. Lewis' request for history. I did look this up and the state statute was changed because a town at the very lower part of the tip of Illinois was a small town that couldn't get anyone to run for council. That was mostly because anyone who cared was a bar owner or pub owner or restaurant owner. They pleaded with the Springfield and they changed their stance based on that situation. They chose only to do it for the smaller towns, that's where 55,000 came up, that isn't too little to me but that is where they drew the line and that's the history of that. As far as my position, I also want to make it clear that this isn't personal. At least up until tonight, I've considered Paul a friend and I'll verify first hand that few have as big of a heart for St. Charles as Paul Lencioni and the Blue Goose. I do worry that the full issue and the ramifications of changing this haven't been made clear. It was clear in just about the 6-8 emails and a few phone calls, and in all but two, they weren't clear on the issue. I just want to make sure that I am clear on the issue. Mark did a good job wrapping it up, one huge misnomer I've heard is that this is an archaic, prohibition, and anti-liquor law and it isn't that at all. I believe our ordinance works to protect the representation of our citizens. Because of the state statute that an elected official will not be able to participate in not only the vote, but also the discussion for any type of liquor issue is discussed. If you ask me, Springfield has the archaic law. I understand that Paul is working to get that changed. In the mean time, it is a state statute and so I believe that our local ordinance reflects that and protects our citizens to make sure they are represented in all issues. There is not a whole lot of controversy, as Ald. Vitek spoke to before, but what we get is the discussion ahead of time on some of these issue, or even opening up the plaza and all the stuff affects liquor licenses and all those issues, the liquor store on 31. All of those issues, if Mr. Lencioni was here, he would have to recuse himself and go into the back room. I think that we would be poorer for it. I would love to hear what Paul has to say on those things. In my years on council, I can count on one hand, the number of times any of my colleagues, mostly Dan, have had to leave the room for a discussion because of a conflict. Mark did the math for me, in the last 2-1/2 years, Maureen spoke a little on this, Paul would have had to leave for 36 meetings. In each of those meetings, that's disruptive having to leave and comeback. Again, not because of us, but because of the state. It is not an occasional recusal or abstention, its very frequent. I feel that this frequency is what is detrimental. Not only to the ward residents counting on that council member representation, but to us as a council as well. Discussing and them voting automatically a person down, I don't like it. As of now, we have benefited greatly from Mr. Lencioni coming before us, he comes to us often and gives us a perspective that is unique to a license holder and if the ordinance changes, we'll no longer have that insight from him. It is by state statute, not ours. Frankly, I'll miss that.

Lemke – I didn't see a reason to bring it up in the past, with deference to two good candidates, I didn't see a reason to change this in the past and this went forward even knowing that we are sitting here tonight and we are backing into this, coming in the backdoor. Deference to the number of times, the 36 meetings, when a recusal would be required, that is where my position is based.

Bancroft – I have a little longer observation. First, there has been a lot of confusion about this issue. The orchestration tonight was terrific. My hat is off to staff and the attorney for making it clear that #1, Mr. Lencioni candidacy, and #2, his election didn't violate any rules and that he is, as a winner of that election, entitled to this seat. Our ordinance says therefore he would not be entitled to a liquor license. I actually have been consistent on my position and this may seem like I may be different about my decision and I don't want to play a man down either, I really don't but I think the state got it wrong and the state ought to treat liquor licenses holders no differently than they treat real estate developers, car salesmen, whatever-if you have a conflict of interest, you should recuse yourself, if you don't you should. Mr. Lencioni, as the owner of the Blue Goose, probably doesn't have too many conflicts of interest related to, at least in a business sense, if he is going against a tavern. I think the state got it wrong. That leaves me with what is the balance of the interest? The balance of the interest, we have a man who been elected to office, has an opportunity to serve, and we always have the opportunity to lobby Springfield to change their determination on what constitutes a conflict of interest. I probably disagree with my fellow council members that have said, why now? Of course it is now. It is finally right, we could do nothing up until an election happened and now we can do nothing again and force Mr. Lencioni to decide to give up his license and to me that puts the burden on the wrong person, he's done everything right. I think Springfield needs to correct the way they reflect their conflict rules. That said, I would make the motion to change the ordinance.

Vitek – Second

Rogina – The motion and second are in order, I'll have it recorded as such that the motion has been moved and seconded. There is more conversation still.

Stellato – First, this is a good and healthy discussion and I'm proud of everyone there. I kept quite on this issue because I was on the election panel. I think at the end of the day, we have to go with the popular vote. Referendum has passed, an un official referendum but one non the less. The voting disparity was large, was enough to send a message. It was public, anyone who didn't know about this issue, did not read a paper, didn't open up a website. It was public. Now we have to get to the nitty gritty, that is abstaining. Ald. Bancroft is right, the state needs to change, needs more specific and if Paul's license as a packaged liquor, perhaps it should change to abstaining to all packaged liquor discussions, not all. I'm in favor of awarding him the seat and keeping his license, for now, until that changes.

Payleitner – Dan said a word that reminded me or another point I wanted to make. When tough issues like this that have a close council split, it has come up, what about a referendum? Mr. Mayor, you have said yourself, we don't govern by referendum up here. That's come up when citizens asked why don't we put it to referendum? I'm not sure that this was a referendum, this might have been for ward 3, for sure but maybe not the rest of the city.

Stellato – It absolutely was.

Payleitner – I don't know, 380 people speaking for 33,000 people. It was a ward 3 referendum and I respect and honor those who say that the people have spoken, that's great. I just want to say that about the referendums.

Stellato – It 33,000 people, we saw the voter turn out but still it is that ward that he represents. Like you and I have to abide by what our ward residents want. That's what I have to go with. I was indifferent until I saw what that vote tally was, like everyone else, I waiting until election night to see what would happen.

Bancroft – I want to be really careful because I know you didn't mean it this way, but I want to be clear, the election was between two extremely qualified candidates. The election was between 2 people who are willing, one who is currently serving the community, one wants to serve, it was really a contest between two individuals. It wasn't a single issue, nameless/faceless thing.

Rogina – I have been listening to everyone and waited until the end to speak but before I do, anyone else want to say anything? Few things, I'll go back and say that I watched this unfold as mayor and not so much as ever having to vote on it, I didn't know if I would or not. I looked at it as liquor commissioner, issue of liquor, and I have to be honest, for the longest time I have been very perplexed about the whole thing. I had an epiphany, and here's what I mean, I kept going over it and this was after the election, I was thinking to go back, Mr. Lencioni went through the process as did Mr. Amenta, his opponent here Chuck, our city clerk, went thought the process of getting on the ballot. There was a challenge, and it withstood the challenge. It should be clear here, Mr. Lencioni never hid the issue from anyone, it was all over the media and I was kind of critical to be fair, the fact is that the public knew the issue. The transparency was clear to me. I will evoke two words that I used as a teacher, marketplace and the other democracy. I recognize that it is a small scope, one ward, here me out. He won the election in his ward and those people in his ward said to the community and this council, we want Mr. Lencioni to represent us. You can't deny that. You can say, what about another ward? Same thing, people run and if they are transparent, and honest, the public evaluates and votes. This would happen in any other ward and might happen now. And how about the mayor? Mark told you earlier that the mayor can hold a license but cannot be commissioner but if someone with a license in this town for mayor, they'd have to tell the public I want to be your mayor and I have a liquor license and here is why you should vote for me. If the public voted them in, I'd be asking this group, what would you say? No? The ordinance says you can't do it. That would be a bold move, in my opinion. The question I have for you is, we hear about rushing this, I think the 3rd ward alderman said it well, this is the time because of the events that have taken place. This is not for the new council, this is for this council to say that this man over there can or cannot have his seat because of our ordinance. He's entitled to the seat, but he can't have it because he may choose to not give up his liquor license. I'm happy to head into retirement and know that this community is more than able to handle all this stuff. It became clear to me, not long ago, all of a sudden.

Lewis – There are a lot of great points made here tonight and I'd like one thing clarified. This concerns everyone up here now, not just running for office, even people currently seated could get a liquor license if they so choose?

Peppers – There is no difference with this new ordinance. If one of you all gets a license now, they would have to recuse themselves like Mr. Lencioni will have to do.

Lewis – It is not just for future people running for office, it is anyone who currently holds office also?

Peppers – Correct.

Lewis – Okay, thank you. I see what this is all shaping up to be now.

In Favor – Stellato, Bancroft, Gruber, Vitek, Bessner, Lewis

Opposed – Silkaitis, Payleitner, Lemke, Pietryla

Abstain – None

Absent – None

II. Committee Reports

A. Government Operations

*1. Motion by Ald. Stellato and seconded by Ald. Silkaitis to Approve Street Parking and Lot Closures for the 2021 Fine Arts Show.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis

Opposed – None

Abstain – None

Absent – None

*2. Motion by Ald. Stellato and seconded by Ald. Silkaitis to Approve the use of Langum Park for the 2021 Train the Trooper Event.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis

Opposed – None

Abstain – None

Absent – None

B. Government Services

*1 Motion by Ald. Stellato and seconded by Ald. Silkaitis to file the minutes of the March 22, 2021 Government Services Committee Meeting.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

C. Planning and Development

- *1. Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file Plan Commission Resolution No. 4-2021 A Resolution Recommending Approval of a Special Use to amend Ordinance 2008-Z-18 (Corporate Reserve of St. Charles PUD) and PUD Preliminary Plan for Tractor Supply Co, Lot 3, Corporate Reserve of St. Charles PUD (Don Bonham, Mend St. Charles, LLC).

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- *2. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve An **Ordinance 2021-Z-6** Amending Ordinance No. 2008-Z-18 (Corporate Reserve of St. Charles PUD) and Granting Approval of a PUD Preliminary Plan for Corporate Reserve Lot 3 (Tractor Supply Co.)

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- *3. Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file Plan Commission Resolution No. 5-2021 A Resolution Recommending Approval of an Application for Special Use to Amend PUD Ordinance 2004-Z-14 to add “Personal Services-Limited” as a permitted use at 1607 E Main Street, Suite 2F (Tyler & 64 Business Park PUD) (Vincent Fiore).

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- *4. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve An **Ordinance 2021-Z-7** Amending Ordinance No. 2004-Z-14 to allow Personal Services, Limited on part of Lot 2 (Tyler and 64 Business Park PUD).

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- *5. Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file Historic Commission Resolution No. 1-2021 A Resolution Recommending denial of a Certificate of Appropriateness Application (612 W. Main St.)

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- *6. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2021-40** Denying a Certificate of Appropriateness for 612 W. Main Street.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- *7. Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file Historic Preservation Commission Resolution No. 2-2021 A Resolution Recommending Approval for Landmark Designation (511 Illinois Avenue– Dr. George W. Richards).

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- *8. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve An **Ordinance 2021-Z-8** Designating Certain Property as a Historic Landmark (511 Illinois Avenue- Dr. George W. Richards).

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

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

A. Executive Session

- Personnel – 5 ILCS 120/2(c)(1)
- Pending Litigation – 5 ILCS 120/2(c)(11)
- Probable or Imminent Litigation – 5 ILCS 120/2(c)(11)
- Property Acquisition – 5 ILCS 120/2(c)(5)
- Collective Bargaining – 5 ILCS 120/2(c)(2)
- Review of Executive Session Minutes – 5 ILCS 120/2(c)(21)

11. Adjournment motion by Ald. Bancroft and seconded by Ald. Lemke at 8:05pm

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Pietryla, Bessner, Lewis

Opposed – None

Abstain – None

Absent – None

Charles Amenta, City Clerk

CERTIFIED TO BE A TRUE COPY OF ORIGINAL

Charles Amenta, City Clerk

ADA Compliance

Any individual with a disability requesting a reasonable accommodation in order to participate in a public meeting should contact the ADA Coordinator, Jennifer McMahon, at least 48 hours in advance of the scheduled meeting. The ADA Coordinator can be reached in person at 2 East Main Street, St. Charles, IL, via telephone at (630) 377 4446 or 800 526 0844 (TDD), or via e-mail at jmcmahon@stcharlesil.gov. Every effort will be made to allow for meeting participation. Notices of this meeting were posted consistent with the requirements of 5 ILCS 120/1 et seq. (Open Meetings Act).