

**MINUTES  
CITY OF ST. CHARLES  
GOVERNMENT OPERATIONS COMMITTEE  
MONDAY, SEPTEMBER 17, 2018**

**1. Call to Order**

The meeting was convened by Chairman Bancroft at 7:13pm.

**2. Roll Call**

**Present:** Ald. Gaugel, Vitek, Bessner, Lewis, Stellato, Silkaitis, Payleitner, Lemke, Turner

**Absent:** None

**3. Administrative**

**4. 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.

**Motion by Ald. Silkaitis, second by Gaugel to approve the omnibus vote.**

**Voice Vote:** Ayes: Unanimous; Nays: None. Chairman Bancroft did not vote as Chair.

**Motion Carried**

**5. Police Department**

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

Chief Keegan mentioned that the petitioner was unable to attend the Liquor Control Commission meeting earlier that afternoon. After speaking with the Mayor and the petitioner they would like to ask for a continuation until Monday, October 15 if the Committee Approves.

Motion by Ald. Stellato, second by Silkaitis to postpone the item until the October 15, 2018 Government Operations Committee meeting.

**Voice Vote:** Ayes: Unanimous; Nays: None. Chairman Bancroft did not vote as Chair.

**Motion Carried.**

- b. 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 explained that this item was originally presented at the August 20, 2018 Liquor Control Commission where it was tabled pending feedback from the general public and businesses. After hearing from quite a few of the businesses it was presented at the Liquor Control Commission meeting earlier in the evening (September 17, 2018). Phone calls were received from Gordy’s, Blue Goose and the Pride Liquor Store. Chief Keegan also had conversations with Uber Eats, Grub Hub and Errand-up.

The ordinance being presented advanced from the Liquor Control Commission earlier that same day with a 3-2 vote. The Liquor Commissioner casted the tiebreaking vote. The ordinance is to regulate delivery. The text in the ordinance was drafted after the Chief had conversations with two other communities in the Chicagoland area, Wheeling and Downers Grove, which have enacted similar ordinances.

Some modifications were made to the code recently to approve a drive-thru facility and curbside delivery. This is what prompted businesses to reach out for further modifications. Chief Keegan asked Ald. Vitek if she would read into the record the letter from Paul Lencioni at Blue Goose Supermarket.

Ald. Vitek read a letter from Paul Lencioni:

*I am writing to suggest possibilities and add comment from a St. Charles grocery retail perspective to the municipal decision makers, who will be discussing the possible regulatory treatment of having alcoholic beverages delivered to customers when the customer uses e-commerce methods to order retail goods in St. Charles.*

*It's a fact e-commerce solutions for ordering grocery retail goods is a very fast growing method for customers to fill their pantries. It is the future of retail. Every savvy participant in the commerce of our world knows this and sees that to compete for the business of the market they must be able to provide online order opportunities for their customers, with delivery and ready for pickup options. This is a great service and benefit to all of us as we rush to get one more chore crossed off the list while dealing with the realities of our increasingly busy lives. Markets which limit this will be left behind. However, as this is being discussed, as a retail owner and an experienced retail executive, I accept that we retailers must be exceptionally good stewards and avoid being irresponsible with our duties to the community. In this case by making necessary steps to avoid allowing the sale of alcoholic beverages to those who would be excluded from being sold those beverages if they were to attempt to purchase alcohol in person.*

*In our community we currently ensure that our retail cashiers do not sell alcohol when they shouldn't by having them take BASSET or other approved training. This works well. It is also the responsibility of the retailer to ensure that their sales representatives are well trained and understand the responsibility to prevent alcohol sales when those sales are inappropriate.*

*That responsibility is appropriately the responsibility of the retailer. The retailers are serving the customer goods which the business has procured. The customer is a customer of the retailer. There is no reason that the grocery retailer cannot ensure that all offsite delivery of alcoholic beverages are conducted with the same due care as onsite sale of alcoholic beverages. The retailer must be responsible for that sale to that customer in exactly the same way. The grocery retailer can assure that all delivery representatives are BASSET certified and that the driver conducts or denies delivery of alcoholic beverages to a customer in accordance with best practice. If best practice is followed and the delivery personnel are trained and certified, and the retailer is responsible to ensure that is the case, then there is no reason to abridge the delivery of alcoholic beverages as we seek to drive commerce in our community and world through e-commerce methods. Best practice should be set and followed to ensure that we, as a community, are upholding our responsibility of do care. Do care and*

*best practice will be served if the following is required:*

- *All delivery professionals are BASSET certified.*
- *The retailer ensure that all delivery personnel are BASSET certified and required to have proof of delivery personnel training on file.*
- *Customer ID is check and other factors observed at the time of delivery before goods are taken out of the delivery vehicle.*

*The best practice suggested will allow a safe delivery of grocery orders which contain the service of alcohol. I support allowing delivery of alcoholic beverages with the adoption of the best practice I suggest.*

*Thank you for your time and consideration.*

Chief Keegan outlined the ordinance as followed:

- It would be mandated that all delivery drivers are 21 or over.
- Hours of operation would mirror that of package liquor stores.
- We would allow common carriers or third party companies as long as there is a vetting process, a record of the transaction, and they are BASSET trained.

Chief Keegan introduced the representatives from Meijer to discuss their process for delivery.

Andrew Martin did a brief overview of the Meijer Corporation and mentioned that the Meijer store in St. Charles is celebrating their 18<sup>th</sup> anniversary. Andrew also mentioned that they are there to voice support the Chief's proposal regarding alcohol delivery in St. Charles. He then introduced Cameron Steward to outline their delivery process with their third party operator Shipt.

Cameron again stated that Meijer supports Chief Keegan's proposal and noted the following:

- Meijer currently operates the delivery program in Michigan. Customers are very excited about the program and order online. About 15% of orders include alcohol, which is about 4% of the home delivery sales.
- Wine is the dominant category making up about 50% of sales, 30% is from beer, and the remaining 20% is liquor.
- There are two different platforms to order through for Meijer. First is Shipt, the other is Shop Meijer, which is the platform that Meijer owns and operates. You can get a yearly or monthly membership.
- Shipt marks up items on a percentage basis to make sure the shoppers are paid accordingly and to cover other cost issues that come with the business.

Ald. Bessner inquired as to whether there are certain constraints regarding delivery of prescriptions. Cameron responded that there is no prescription delivery at this point.

Ald. Lewis asked about tobacco sales, Cameron indicated that there are no tobacco sales online.

Ald. Lemke asked if any other states outside of Michigan participating? Cameron answered that all states with Meijer stores have home delivery. Only two states deliver alcohol, Michigan and Ohio. Ald. Lemke asked if they are considering expanding delivery to UPS and FedEx. Cameron indicated that they will only be using Shipt. Ald. Lemke asked if there is grocery delivery now, not including alcohol. Cameron answered yes and that the store in St. Charles is currently doing home delivery.

Cameron briefly discussed how ordering with Shipt is done online without alcohol. He also mentioned that the Shipt shoppers check out just like anyone else using a prepaid VISA card to complete the customer's order. The shopper then contacts the customer with an estimated time of delivery. Once the delivery is made the order is marked completed triggering the customer to rate the delivery on a 1 – 5 scale.

Ald. Payleitner asked how many customers receiving deliveries from Meijer are in the St. Charles Corporate Limits.

Cameron mentioned that the delivery radius is about 10 miles.

Ald. Payleitner asked if the alcohol delivery is only for St. Charles.

Cameron said yes, it would be restricted to St. Charles.

Cameron mentioned that the Shipt shoppers go through a very extensive hiring process, they are 1099 independent contractors, and only 10% of applicants are accepted. Shipt is driven to provide the best experience to the customer. At the end of every order the shoppers are rated by the customer.

Anytime new programs are introduced, such as the delivery of alcohol, the shoppers go through rigorous training. In order for a shopper to be certified to even view orders they would have to complete an online course that goes over the new procedure. The process would be explained, how to check for a valid ID, scanning the ID, making sure the customer is not intoxicated, and the customer is home. They are not allowed to make deliveries of alcohol without someone present. Also included is a general background about alcohol products. All shoppers are BASSET trained. If they shopper arrives at the home and the ID is invalid they are instructed to keep the alcohol and bring it back to the store. If the ID is valid, the customer will sign and the items will be delivered.

Ald. Lewis asked if you can order alcohol alone or if there have to be groceries included in the order.

Cameron stated that just alcohol can be ordered.

Ald. Lewis asked if just anyone can provide a valid ID at the door. They just need a valid ID.

Cameron responded that someone with a valid ID needs to be there to accept the order. Ald. Lewis asked if the drivers will know how to card properly. Cameron responded that the drivers will scan the ID, it doesn't have to be the individual that placed the order; it just

needs to be a valid ID. Ald. Lewis confirmed that if there is not a licensed individual at the home the alcohol would not be left and asked if they take the groceries as well, or just the alcohol. Cameron noted that they leave the groceries and return the alcohol to the store. Ald. Lewis asked how long the program has been going on in Michigan. Cameron said that it's been going on for over a year in Michigan, and for a little over a week in Ohio.

Ald. Silkaitis noted that he voted against this at the Liquor Commission Meeting. He said the problem he has is with the tracking of the product from when Meijer sells it to the third party, the third party is basically selling it to the customer. Cameron verified that the shopper pays for the goods with a credit card. Ald. Silkaitis mentioned he's not comfortable with the chain of sale.

Cameron mentioned that even though Shipt is the agent Meijer is responsible for the sale of the alcohol and are accounting for that sale. When alcohol is involved the customer will see two transactions on their credit card, one for Meijer and one for Shipt.

Andrew mentioned that Meijer is the licensed entity, Shipt is not licensed. Ald. Silkaitis stressed that his view is that Shipt is selling it to the customer, and he doesn't like the idea of how this is being done. Also, he doesn't see how this ordinance can be enforced. He asked if Meijer would be monitoring their logs. Cameron asked that the Chief answer to how the ordinance would be enforced. He mentioned that they go over and above what's needed to ensure that alcohol delivery goes smoothly. Ald. Silkaitis again mentioned he is not comfortable with the concept.

Ald. Stellato asked about deliveries from UPS, FedEx, and the USPS that contain alcohol, and that he's not sure if they check ID. Is what we're doing here today is to look for a way to enforce this? He asked Chief Keegan if that's what he meant by it's going on, and it's not regulated?

Chief Keegan responded that right now the way the code is written deliveries are only allowed if its part of a special order placed at a business, and that no other delivery methods are approved. He restressed that these types of deliveries are happening, and it's the third party carriers that are doing it. The idea is to regulate it, but right now if there is a violation or we're notified of any issues, we don't have any teeth in the ordinance to act on. He mentioned that he understands the enforcement concerns, and right now if it goes on, there are no regulations.

Ald. Payleitner asked if she could legally hire her twenty-three year old niece to do her grocery shopping, including liquor, and deliver it.

Chief Keegan said the ordinance wouldn't allow for that, but if it was being done as a family member, and you pay her a fee, needed because of a health issue for instance, we wouldn't take enforcement action on that.

Ald. Lemke asked if by passing this ordinance if it would allow for regulation of UPS, FedEx, etc.

Chief Keegan said that companies do ship beer and wine, it would be a violation of the

ordinance, but this is more about the third parties going into the brick and mortar shops and delivering as a convenience.

Ald. Lemke asked if there will be a list of shoppers and if there will be a photo ID offered with the delivery.

Chief Keegan said it would most likely be decided by the companies themselves. It is something that can be added into the ordinance. He also mentioned that if there was anything that Council would like added in the ordinance he would be happy to do that. That may be suggestion.

Ald. Lemke thought that it would be a good idea to utilize the photo ID, and that customer registration.

Ald. Bessner asked if a violation is caught by the St. Charles Police now who would be fined. Is it the business owner and the person working the counter, and how would it work with a Shipt shopper?

Chief Keegan mentioned that without an ordinance in place, and nothing identifying the delivery driver, we would most likely go after the proprietor.

Atty. McGuirk mentioned that we would go after the licensee unless they served to a minor or there was some type of violation. The delivery aspect of it is attached to the proposed ordinance.

Chief Keegan noted that it's always against the law to delivery alcohol to a minor. It's an Illinois State statute.

Mayor Rogina mentioned that Meijer is the licensee and is selling to the third party for groceries, but for liquor, Meijer, the licensee is selling it directly to the customer.

Ald. Lewis asked Chief Keegan about places that don't have an online app, and if she can call and have alcohol delivered?

Chief Keegan responded that that's the intent for bringing this forward. Right now there is nothing to address this other than it's not allowed.

Ald. Lewis asked how we know this is happening.

Chief Keegan mentioned that there is delivery going on within our corporate limits and this is a mechanism to regulate that.

Ald. Lewis asked if this ordinance passes if she can call and have alcohol delivered and not use an app for delivery.

Chief Keegan noted that it's not the brick and mortar stores, mostly the third party establishments. He noted that we will be providing them a footprint to follow. If there is a violation of the ordinance we can act accordingly.

Ald. Lewis asked if there will be checks done.

Chief Keegan said it will be on a case-by-case basis, inspections and compliance checks can be done, but if something is brought to our attention we would have something to act on.

Ald. Vitek stated that she voted yes at the Liquor Commission meeting, she is familiar with Shipt and Shop at Meijer. The program in Michigan has had no issues, and she appreciates that Meijer has chosen St. Charles as a model for testing. Businesses are taking responsibility and a risk by doing this and they understand that risk. She also noted that the ordinance will hold them to a higher standard. This is happening and it's a good move for St. Charles.

Ald. Payleitner asked if in St. Charles the cashier is held responsible for selling to under age persons, and asked if the delivery people know this.

The Chief mentioned that they are aware.

Ald. Payleitner asked how sales outside of St. Charles will be monitored.

Chief mentioned that they would be allowed to do that unless the City had an ordinance preventing alcohol delivery. A lot of communities are silent on this.

Ald. Payleitner asked if it could just be removed from the ordinance or leave it as is, she also stated her concerns about enforcement.

Ald. Silkaitis asked if this should be a special use. If someone wants to deliver they would have to come in so we can explain in detail what they have to do.

Ald. Lemke mentioned that with some improvements before the next meeting, photo ID, and a preapproved delivery list, it would give us an opportunity to license, keep track of BASSET training, and that records are available for audit. Let them know that the City has the right to audit their records.

Ald. Turner mentioned that he thinks this is not enforceable and it should be dropped, we can try to make it tougher but it's still going to happen do to the way ecommerce works.

Ald. Gaugel asked Chief Keegan if there are any instances where he wished he had some kind of teeth to enforce this.

Chief Keegan answered that it's more proactive. If we were called somewhere for an issue we would have an ordinance that would hold the licensee accountable and the delivery service.

Ald. Lewis noted what the Chief said about it always being illegal to sell to a minor, and that there are laws on the books right now that we could fall back on.

Motion by Ald. Turner, second by Vitek to recommend the 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).

**Voice Vote:** Ayes: Vitek, Bessner, Stellato, Turner; Nays: Gaugel, Lewis, Silkaitis, Payleitner, Lemke. Chairman Bancroft did not vote as Chair. **Motion Failed.**

## 6. Community & Economic Development

- a. Plan Commission recommendation to approve a Final Plat of Subdivision and Minor Change to PUD for Crystal Lofts PUD.

Ellen Johnson spoke about the PUD for the Lamp Factory building at the northeast corner of Illinois and 13<sup>th</sup> Avenue. It included conversion of the building into 9 townhome units, and a 5 unit building addition. Phasing for the project is now proposed. Ellen briefly went over phase 1 and phase 2 of the project. She mentioned that the proposal complies with the Crystal Lofts PUD ordinance and the zoning ordinance subject to providing additional plantings along the building foundation. Plan commission reviewed and approved the plan by a vote of 7-0, subject to resolution.

Ald. Payleitner asked if the issues mentioned in staff comments been resolved.

Ellen said that they have however, there are a number of outstanding engineering comments, and the engineering plans are under review. Those issues need to be resolved as well as the comments regarding additional landscaping being provided needs to be resolved as well.

Ald. Lewis mentioned that she looked at the picture in the packet. It shows the building with no plant foundation around the building.

Ellen stated that there is a landscaping plan that shows grasses and perennials around the foundation.

Ald. Lewis mentioned that she goes by the drawing, and then it doesn't look like that. She asked if there is a sidewalk and grass.

Ellen said there will be grass and a sidewalk and then plantings along the foundation, mulch beds.

Ald. Lewis stated there will be no grass between the sidewalk and the building.

Ellen agreed.

Ald. Lewis asked if the flowers and plantings in the drawings are just to make them look pretty or if it will really happen?

John Haig from Polk Architects addressed the rendering. He said it's what they would like the project to look like. It will go through the landscape architects and depends on what the ordinance allows.

Ald. Lewis asked if it's possible to have renderings done when it goes to the landscape phase.

Mr. Haig stated that there usually aren't drawings at that stage.

Ald. Lewis stated that she's been doing this long enough that she realizes that the pictures she sees is not what goes in. I'm part of a city-wide beautification committee and look at things a little differently.

Mr. Haig said that their objective is to provide what their proposing and the renderings are a nice restoration on an old building.

Ald. Lemke asked if the garages are going to be higher in the revised plan.

Mr. Haig stated that they are higher.

Ald. Lemke also noted that he'd like to see the concept of what the landscape plan will look like, and he wouldn't object to moving forward.

Mr. Haig stated it will be a fully compliant landscape plan.

Motion by Ald. Stellato, second by Vitek to recommend a Plan Commission recommendation to approve a Final Plat of Subdivision and Minor Change to PUD for Crystal Lofts PUD.

**Voice Vote:** Ayes: Gaugel, Vitek, Bessner, Lewis, Stellato, Silkaitis, Payleitner, Lemke, Turner; Nays: None. Chairman Bancroft did not vote as Chair. **Motion Carried.**

**7. Finance**

- \*a. Recommendation to approve Funds Transfer Resolutions Authorizing Budgeted Transfers in the Aggregate Amount of \$1,349,135.58 for Miscellaneous Transfers.
- \*b. Budget Revisions – August, 2018.

**8. 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)

**9. Additional Items from Mayor, Council, Staff, or Citizens.**

**10. Adjournment**

Motion by Ald. Lemke, second by Turner to adjourn the meeting at 8:11 pm

:tc