

MINUTES
CITY OF ST. CHARLES
LIQUOR CONTROL COMMISSION MEETING
MONDAY, AUGUST 20, 2018, 4:30 PM

1. Call to Order.

The meeting was convened by Commissioner Rogina at 4:30 pm.

2. Roll Call.

Present: Ald. Silkaitis, Ald. Vitek, and Mr. Gehm

Absent: Mr. Carrignan

Others Present: Commissioner Rogina, City Administrator, Mark Koenen, Attorney, John McGuirk, Police Chief, Keegan, and Tracey Conti

3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on June 18, 2018.

Motion by Vitek, second by Gehm to accept and place on file minutes of the Liquor Control Commission meeting held on June 18, 2018.

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

4. Recommendation to approve a Proposal for a Class E7 Liquor License for the Blue Goose Supermarket.

Chief Keegan: This is a class E7 liquor license for the Blue Goose Super Market. They would like to put up a tent and have a beer garden during the St. Charles Marathon. Paul Lencioni is here and can answer any questions.

Mr. Gehm: I looked at your drawing. There will be a single entrance in?

Paul Lencioni: Single entrance control and wristbands. As people come in and want a drink they will get a wristband. They will enter and exit through the same area on the North side.

Commissioner Rogina: Is this in conjunction with the marathon? Participants finish?

Paul Lencioni: The marathon has always provided drink. They were looking for a great race experience and I had the opportunity to do the beer garden. We will also invite other businesses in the community and it's a nice way to have these people together in our downtown. I saw the opportunity and thought it would work. It made a lot of sense.

Commissioner Rogina: I think it's a great idea. I spoke with the organizer of the race. They are expanding the concept to include other activities. This has become one of our big fall events.

Paul Lencioni: I've been working with the race organizers for a while. They are a spectacular group. They do a great job.

Motion by Silkaitis, second by Vitek to Recommend approval of a Proposal for a Class E7 Liquor License for the Blue Goose Supermarket.

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

5. Recommendation to approve a Proposal for a New Class A6 Liquor License for 7-Eleven Convenience Store located at 2600 E Main Street, St. Charles.

Chief Keegan: This is for the east side 7-Eleven. I have the owner/operator here from Deepa Foods, Inc. This ordinance has been in place for about 9 months. It allows gas stations with convenience stores and or freestanding convenience stores to operate liquor sales as long as the sales don't encroach on more than 10% of the overall floor space. We have 4 or 5 that have been licensed. This is the first 7-Eleven to seek licensure. The floorplan is included in your packet. The applicant is here to answer any questions. He's also instating some locks on his coolers. The hours of sale from 7:00 am – 10:00 pm and can prohibit sales after that based on the coolers locking.

Praveen Goud: I'm the new franchise owner here in St. Charles. We have another store in Schaumburg. I'm pleased that we get approved for this liquor license. We go through a lot of in-house training on how to sell liquor. All our employees do that. We I.D. people, and there is intense training that we receive before obtaining a liquor license.

Commissioner Rogina: I appreciate that. What you said is part of the biggest concern of the council, proper training to serve alcohol. Chief what is the process of the enforcement to make sure that our establishments keep only 10% of the floor plan.

Chief Keegan: Besides compliance checks to make sure that minors don't get a hold of liquor illegally we also do inspections. Uniformed officers go in and go through a checklist. Part of the process with an A6 license it to make sure that the floor space doesn't exceed 10%.

Mr. Gehm: On page 11 of the application. There was a box checked for a late night permit. It says here that the sale is only 7:00 am – 10:00 pm, correct?

Mr. Goud: I wanted to check on that. In our other location we have until 1am. We get customers that have been asking.

Chief Keegan: All of our package liquor establishments in St. Charles are 7:00 am – 10:00 pm. You can only apply for a late night permit if you are a tavern or a restaurant.

Motion by Mr. Gehm, second by Vitek to recommend approval of a Proposal for a New Class A6 Liquor License for 7-Eleven Convenience Store located at 2600 E Main Street, St. Charles.

Roll Call: Ayes: Silkaitis, Vitek, Gehm; Nays: None. Commissioner Rogina did not vote as Commissioner. **Motion Carried.**

6. Recommendation to approve a Proposal for a New Class A4 liquor license for Riverlands Brewery located at 1860 Dean Street, Unit A, St. Charles.

Chief Keegan: This is also a recently amended part of our ordinance, A4 brewer license. These gentleman have a detailed business plan. I've met with them a number of times. They've put together a nice product. They can expand on that and answer any questions you might have. This is located at 1860 E Dean Street, Unit A. They are buying the entire building; it's a pretty large scale operation. They have been working with Russ Colby in Community Development to make sure they are within the appropriate zoning.

Eric Bramwell: I'm the head brewer for Riverlands Brewing Company. We are looking to have a ten barrel brewing system here in St. Charles. As far as craft brewers go, it's a decent size. We hoping to operate about a 70 person tap-room. I and our Tap-Room Manager, Dave are already BASSET certified. The other additional server at our brewery would be certified as well. We're working with the City right now to update our building so we fit all the codes.

Commissioner Rogina: When is your proposed opening?

Eric Bramwell: We were originally hoping for November, that's been pushed back, we're looking at December. The reason we're getting the City license so early is an important step to getting the State license. We want to make sure we had the ball rolling on this.

Commissioner Rogina: Can people bring in food while they sample beer?

Eric Bramwell: Yes. Our goal is to partner with local businesses. We've already talked with a pizza place nearby. We'll put some local businesses in there. We may do some packaged snacks like pretzels.

Motion by Ald. Slikaitis, second by Gehm to recommend for approval a Proposal for a New Class A6 Liquor License for 7-Eleven Convenience Store located at 2600 E Main Street, St. Charles.

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

Commissioner Rogina: Good luck. I'm looking forward to my first visit.

Chief Keegan: I've been talking to some other breweries, and the winery. They were talking about the delay with the Federal Government and the State. That is real. Obviously the license would be contingent upon getting through community development and some of our permitting. We did have our first brewery open on Thursday on N. 4th Street.

Mr. Gehm: I notice your apparel, do you have another location or you already have your marketing plan ready?

Eric Bramwell: Right now we're considered homebrewers since we don't have our license. We're still pouring at beer fests.

Commissioner Rogina: We've had a history in the country of wine tastings, connoisseurs, etc. What do you see as the origin of tasting and pairings of beers?

Eric Bramwell: I think people got tired of light flavorless beer, and wanted to have a better experience with beer. Beer is much broader.

Commissioner Rogina: Can I assume this cuts across a variety of generations?

Eric: Absolutely. D & G had a wide variety of ages attend their opening.

Motion by Ald. Silkaitis, second by Gehm to Recommend for approval a Proposal for a New Class A4 liquor license for Riverlands Brewery located at 1860 Dean Street, Unit A, St. Charles.

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

7. Discussion regarding Suggested Code Revisions to 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 - Information only).

Chief Keegan: We've had a several calls over the last year from entrepreneurs looking to initiate delivery service as a convenience. You're probably familiar with Uber Eats, and some other apps. I think this is taking place in the community and we just don't know about it. We reached out to surrounding communities and no one has regulated or licensed it yet. As we looked further we found that Downers Grove and Wheeling are the first two municipalities that have regulated it. We wouldn't license it, but there would be regulations on it.

Under Section 24 of our regulations I incorporated some of the provisions that Downers Grove and Wheeling implemented. I talked with the Chiefs in both municipalities and also added some additional restrictions such as BASSET certification. We would regulate the delivery services in the following fashion:

- Only allowed during the same hours as package liquor stores 7:00 am – 10:00 pm.
- The Driver would have to be 21 or over.
- A record of the transaction including a signature would have to be kept.
- The Driver would have to go through BASSET training.

This is consistent to what we've seen. Once again, I think it's going on, we just aren't aware of it. There are a lot of these conveniences out there. We've seen WalMart use a curbside service, we've been in contact with Meijer who is talking about implementing a similar program. I would ask for some feedback and direction on moving this to committee depending on how the Commission feels about it.

Ald. Silkaitis: Thank you for the information. I see this as a nightmare to enforce. There are too many steps and who will be watching over this to ensure the drivers follow these rules. From what I see it would be difficult. I guess you could do spot checks. I just think it's too much at this time. I would not support this.

Commissioner Rogina: The Chief mentioned up front we're not creating a license and that he suspects that this is already happening in St. Charles. What I think the Police Department is trying to do is put some rules in place and some teeth in the ordinance to regulate what seems to be a developing industry not unlike Amazon with retail. I do see your point, however.

Ald. Silkaitis: Amazon is talking about having drone delivery. Are we going to have people delivering beer with drones? How do you regulate that? I think it's going too far.

Ald. Vitek: If it's happening and it's probably happening for underage now. We are putting rules in place to prevent it. There is a check when someone purchase the alcohol for the driver. It's not for the person consuming it, but you can always go back and identify where the alcohol is purchased.

Ald. Silkaitis: But to do that you have to have probable cause. I see your point. I just think it's going too far and we're opening a door for more work for the police department. There are sometimes more pressing issues.

Commissioner Rogina: If you're worried the police are getting too involved in the process, are we perhaps saying that we're too lax?

Ald. Silkaitis: No. How do you even regulate this, how would you know if someone is even doing this?

Chief Keegan: If you look at Uber Eats or Grub Hub, and some of the online apps...right now our ordinance says deliveries are prohibited unless it's part of a special order. If you place an order from a liquor store for a party or event and need it delivered due to the size we allow that. But other than that it's not allowed. Right now there are no regulations. If we were to come across an inappropriate delivery of alcohol right now, our ordinance is silent. The ordinance says it's prohibited but there are no sanctions as to what would happen if a proprietor were to do this.

Ald. Silkaitis: Instead of allowing this we should put in some penalties.

Commissioner Rogina: Just so I understand your point Ron; you don't want, wherever it may be and except for special circumstances, any liquor licensee delivering to homes.

Ald. Silkaitis: They would be using a third party, right? Right now if you order a keg of beer they can deliver it to your house. That's fine, they know you purchased it because you went to the establishment and did so.

Commissioner Rogina: What if you order a keg of beer? Can it be delivered?

Chief Keegan: Yes. That's allowed. But not only would this regulate the third party independent proprietors this would also regulate Lundeen's, Binny's, etc. What we're seeing is a lot of folks using carry out, and having deliveries. Not just groceries. People go on their phone, order a sandwich and a driver from Uber picks it up and delivers it. It's happening more and more.

Commissioner Rogina: As these apps develop we need to move along with the times or we fall behind. More cities will do this eventually, that's a fact.

Mr. Gehm: I think it's good to have something in place. I agree with Ron on the struggle of enforcing it. It's probably going on and fortunately we've not had any incidents involving a delivery service. I think putting it in give us some teeth. Should that happen, or as more entrepreneurs make deliveries at least they know there are rules in place and they have to be followed if you want to do this. It may deter some from actually doing this because they don't want to follow the restrictions. I think that having something in the code allows for enforcement although that would be a challenge.

Ald. Silkaitis: This would be a nightmare to enforce. We could put it in but I'm not convinced people are going to know, so how do they enforce that?

Commissioner Rogina: We're seeing more and more of this third party delivery. I think it's a balancing act between the valid points being brought up and modern technology.

Chief Keegan: Yes and if we get a call at least we would have some guidelines to give them on how it's regulated.

Bob, to your point, it would probably be more complaint based. I don't know if we'd go out and do spot checks. It would be tough to police. But if we did have a situation where alcohol got in the wrong hands we could trace it down.

Mr. Gehm: I think you're right. Enforcement would come more from complaints. If someone saw something we would be able to take action based on our ordinance. If someone wants to pursue this as a line of business they would be aware of it and would need to make sure all their delivery people were aware as well.

Ald. Silkaitis: How does this work? Is a third party going to purchase the alcohol from the establishment and resell it to who they deliver it to, or are they going to do cash on delivery?

Commissioner Rogina: Are they an agent?

Ald. Silkaitis: There is a big difference. If they are selling it, then they need a liquor license.

Audience member: I used to work at Binny's and they implemented this. When someone comes into the store to pick up an order, they pay for it at the register and then go deliver.

Commissioner Rogina: They aren't selling necessarily.

Audience member: I guess technically they are almost reselling because they pay at the register and then somehow get paid for delivery. I don't know if there is a credit card on file.

Commissioner Rogina: You make a valid point. Are they a seller or a third party independent delivery person?

Mr. Gehm: One of the things in there is express company or common carrier. Are they truly a common carrier at this point or are they now the distributor of the alcohol. It's a fine line.

Audience member: We would card the person at the register. I don't know what their process is?

Ald. Silkaitis: A third party is going to add 10 or 20 percent; they have to make some money.

Commissioner Rogina: There is no debate that if a third party is delivering to a party of minors they are in violation of the law.

Chief Keegan: That's a misdemeanor offence.

Commissioner Rogina: Here are two more scenarios; delivering to an adult party vs. an adult party that is inebriated. Is it an offence to deliver to someone who is already inebriated?

Chief Keegan: I'm sure there would be some civil culpability there, but as far as a criminal act, if you have a licensed premise you can't deliver alcohol to an intoxicated person. But if you're on your private property, there may be some civil...Mr. McGuirk would you like to answer that?

Atty. McGuirk: It's a tough scenario. I suppose there would be some liability there.

Ald. Vitek: What's worse, if someone really wanted alcohol they would leave and get it; in that case I'd rather have it delivered.

Chief Keegan: Keep in mind there would be restrictions. This wouldn't be allowed past 10:00 pm, and there would be some provisions in place. I know it's going on, we're just not regulated. We haven't received any calls, and have yet to see an alcohol

delivery service have any kind of problems. Once again, we want to have some restrictions in place to oversee what we think is already happening.

Commissioner Rogina: Ald. Vitek raises a good point. If someone is inebriated is it better for them to have it delivered, rather than them getting in a car to buy some?

Mr. Gehm: When you talked to Downers Grove and Wheeling did they address what they did to enforce this besides just codifying it in the ordinance.

Chief Keegan: They said they also received calls from proprietors, and didn't have anything in their ordinance to regulate this. They knew it was happening and wanted to have some procedures in place.

Chief Keegan: Would you like me to come back before you?

Commissioner Rogina: If you decide to make a recommendation and come here first we'll pass along to council committee.

Chief Keegan: I'll make some more calls and see if I can get some information as far as experience from other municipalities.

Commissioner Rogina: Maybe a couple of comments from other Chiefs as to why they would want to stay silent in the matter.

Commissioner Rogina: Mr. Carrigan hasn't submitted a formal letter of resignation but has informed me that he is going to do so, in which case it's my intention to bring forth to the City Council, hopefully by the Tuesday after Labor Day a name for their consideration to fill his seat.

8. Public Comment.
9. Executive Session (5 ILCS 120/2 (c)(4)).
10. Adjournment.
Motion by Mr. Silkaitis, second by Vitek to adjourn the meeting at 5:12 pm.

Voice Vote: Ayes: unanimous, Nays: none. Charm. Rogina did not vote as Chairman.

Motion Carried.

:tc