

MINUTES
CITY OF ST. CHARLES
LIQUOR CONTROL COMMISSION MEETING
MONDAY, DECEMBER 18, 2017

1. Call to Order.

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

2. Roll Call.

Members Present: Liquor Commissioner Rogina, Ald. Silkaitis, Cliff Carrignan, Ald. Vitek, and Robert Gehm

Others Present: Mark Koenen, Atty. John McGuirk, Police Chief Keegan, and Tracey Conti

3. Motion to accept and place on file minutes of the Special Liquor Control Commission meeting held on November 13, 2017.

Motion by Mr. Carrignan second by Mr. Gehm to accept and place on file minutes of the Special Liquor Control Commission meeting held on November 13, 2017.

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

Motion Carried.

4. Recommendation to approve a proposal for a new Class A6 Liquor License for Anandappa Enterprises, Inc., dba St. Charles BP, LLC located at 1745 W. Main Street, St. Charles.

Chief Keegan: Recommendation to approve a proposal for a new Class A6 Liquor License for Anandappa Enterprises, Inc., dba St. Charles BP, LLC located at 1745 W. Main Street, St. Charles. The hours of operation are 7:00 am – 10:00 pm. The alcohol sales must make up no more than 10% the overall floor space. There is a manager that applied as part of this license, there was an outstanding arrest from approximately 6 years ago that I believe is unrelated to alcohol sales. I'd be happy to answer any questions from the Commission.

Eugene Anandappa: 1745 W. Main Street, St. Charles.

Ald. Silkaitis: Your hours are from 5:00 am – 10:00 pm. Liquor sales are from 7:00 am 10:00 pm. How do we police that 2 hour gap? That's a concern.

Chief Keegan: We have several operations in town that have different hours of operation from alcohol sales. We do not only compliance checks where we go in with folks and inspect their operation. We also send officers in from time to time to ensure what we call spot check compliance. Thus far we have had a good track record.

Commissioner Rogina: I trust that you will not sell liquor between 5:00 am and 7:00 am.

Mr. Anandappa: No.

Commissioner Rogina: You understand that if this body approves, you will come back here tonight for Government Operations with the final step being City Council in January.

Motion by Mr. Gehm, second by Vitek to approve a proposal for a new Class A6 Liquor License for Anandappa Enterprises, Inc., dba St. Charles BP, LLC located at 1745 W. Main Street, St. Charles.

Roll Call: Ayes: Carrignan, Vitek, Gehm; Nays: Silkaitis. Chrmn. Rogina did not vote as Chair. **Motion Carried.**

5. Recommendation to approve an Ordinance Amending Title 5 Entitled, “Business Licenses and Regulations”, Chapter 5.20, “Massage Establishments”, Section 5.20.110, “Conditions and Restrictions of Licenses” of the St. Charles Municipal Code.

Chief Keegan: Recommendation to approve an Ordinance Amending Title 5 Entitled, “Business Licenses and Regulations”, Chapter 5.20, “Massage Establishments”, Section 5.20.110, “Conditions and Restrictions of Licenses” of the St. Charles Municipal Code.

We’ve had an ongoing attempt to legitimize and professionalize massage establishments here in St. Charles. As part of that we stand in a constant state of readiness to not only review our ordinances, but what’s going on in the marketplace. The attached ordinance modification regulates that if any misconduct of a sexual nature is either observed or reported the licensed massage facility must notify the St. Charles Police Department.

I vetted this through Council, Atty. McGuirk has looked at this, and we are the trendsetters in this regard. I looked to see what was out there from adjoining municipalities we are trailblazers. I’d be happy to answer any questions.

Motion by Carrignan, second by Vitek to recommend approval of an Ordinance Amending Title 5 Entitled, “Business Licenses and Regulations”, Chapter 5.20, “Massage Establishments”, Section 5.20.110, “Conditions and Restrictions of Licenses” of the St. Charles Municipal Code.

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

6. Recommendation to approve a proposal for an E6 Special Late Night Event Permit for The Finery & Blacksmith Bar, Located at 305 W Main Street, St. Charles.

Chief Keegan: Recommendation to approve a proposal for an E6 Special Late Night Event Permit for The Finery & Blacksmith Bar, Located at 305 W Main Street, St. Charles.

We do have an ordinance revision from a couple years ago that allows proprietors who do not possess a late night permit to apply for up to 4 permits a year under the E6 licensure for a specific night. Juliette and David have asked for New Year’s Eve. I am going to bring this forward to City Council tonight under New Business. Juliette is here to answer any question.

Ald. Silkaitis: It says in the summary that it’s supposed to be submitted 45 days in advance.

This is not 45 days in advance.

Chief Keegan: This came in and with the way our schedule works out, if we were to push his back, City Council would miss New Year's Eve. The paperwork came in and was brought to our attention just about a week ago. We have done this in the past.

Ald. Silkaitis: Our ordinance states 45 days in advance, not 2 weeks in advance.

Chairman Rogina: The Finery has been in business for several years with no issues. I think sometimes its good practice for us as a City to recognize what a business does for our community as well. You're right.

Ald. Silkaitis: I would ask that next year you follow what the ordinance says.

Juliette Rayes: Absolutely. I apologize. I wasn't aware that it had to be in 45 days prior. Next year we will make sure it's in within that amount of time.

Motion by Mr. Carrigan, second by Gehm to recommend for approval a proposal for an E6 Special Late Night Event Permit for The Finery & Blacksmith Bar, Located at 305 W Main Street, St. Charles.

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

7. Mitigation hearing regarding massage license violation for the Shangri-La Massage & Spa, 2015 Dean Street, St. Charles.

Chairman Rogina: I have a prepared statement. The hearing in the matter of the massage establishment license of Shangri-la Massage and Spa was held in this chamber on November 13, 2017. Seven violations of the massage establishment code of an original complaint sworn by Chief James Keegan were heard. Written evidence and testimony were presented by both the Chief through his attorney, and by Shangri-la Massage and Spa through its attorney. As part of my responsibilities as Liquor Commissioner; I issued a ruling on each of the seven alleged violations. All council, respondent, and members of this commission received the ruling. I determined that each violation by a preponderance of the evidence was violated. In accordance with the ruling set forth by Judge David Akamen on September 20, 2017, I will proceed to adjudicate a disposition within 10-14 days after hearing reasonable evidence in mitigation by council for Shangri-la Massage & Spa. I will ask for a motion to enter executive session to discuss such disposition after this mitigation hearing. With that council are you prepared to make a mitigation argument?

Mr. Miller: I am. Thank you Mr. Chrmn. (Mr. Miller handed out a packet of information.) Thank you for the opportunity to present my client's argument in mitigation for the Liquor Commission's findings of November 27, 2017. As such, we accept the Commission findings, but for the purpose of this hearing and for our quest in mitigation to recognize the seven months suspension in business license of Shangri-La Massage and Spa, LLC, from February, 2017 to approximately September, 2017 as punishment enough for my client.

As you may be aware my client Lifa Jiang who is the owner of Shangri-La migrated from China about five years ago in 2012, looking for and pursuing the American dream. She worked hard to secure her massage therapist license and to gather the necessary capital and

resources to open her own business. In our about May of 2016 Lifa was finally able to open her own business and recognize her own little slice of the American dream. Moreover Lifa made significant investments in opening her business by purchasing the building at 2015 Dean Street, and making improvement in the interior that totaled between the building and the leasehold improvements about \$750,000. Her goal by making this significant investment in St. Charles was simply to become a permanent contributor to the overall economic engine of the City of St. Charles and to be a good business citizen of the City of St. Charles. By all accounts leading up to January 11, 2017 Shangri-La was an outstanding member of the community. In fact Shangri-La was presented the Community Image Award by the Chamber of Commerce. Additionally, Shangri-La participated in many philanthropic events and situations caused by contribution of money to the following: Illinois Association of Retired Disabled Firefighters, being a sponsor and volunteer of the St. Charles Chamber of Commerce Golf Outing, Contributing to the Paternal Order of Police for the Kane County Sheriff, contributing to the Illinois Firefighter's Association, contribution to the Illinois Police Coalition, among others. This is just a small caption of what she's given back to the community.

Nevertheless, on or about January 11 all of Lifa and Shangri-La's goodwill was dashed in the actions of one rouge employee. The employee was acting outside the scope of her job responsibilities, and without the knowledge, direction, or approval from Lifa herself. When this rogue employee was arrested for her active solicitation on January 11, 2017 Lifa terminated this employee immediately. Please see the employee rules Lifa has, and this is Mrs. Cui signature to the rules and regulations that we discussed back at the hearing for your edification and review. In fact all of her employees are responsible for signing these employee rules. I'm working with Lifa right now to come up with a different employee contract to tighten it up.

Additionally, if you were to walk into her establishment you would find, and I included it, there is a note that is on the wall that specifically forbids any act of solicitation whatsoever. That's posted in every one of the rooms. She takes this seriously; this isn't something she just casts off as a minor excursion. This is her livelihood. Since being reopened in late September Lifa has a meeting every morning with her employees to discuss what the rules are and reinforce that there is no solicitation whatsoever. That's reaffirmed by the sign on the wall giving her phone number, as a matter of fact, if there is any type of solicitation. Additionally, any new employees that she's hired she does background checks. Anyone who's been arrested for solicitation and or drugs she does not hire. She's making the efforts to try to instill confidence in this committee on a go forward basis we're putting in the safeguards necessary to make sure this isn't going to happen again.

Lastly, Lifa has insured that since the reopening there is always a manager on site. I know that was a great concern. We believe that evidence showed that she was on site, maybe she wasn't exactly managing the actual massage itself, but she was on site, she knows that's a real hot button with the committee to insure there is always a manager on site. I know there have been spot checks done since she's reopened and there haven't been any issues with a manager being on site.

Given the isolated incident on January 11, Lifa's willingness to put in place any safeguard measures that will ensure that nothing like this ever happens again, we ask this commission to suspend the license of Shangri-La for a period of seven months; Retroactive to the period that she already was suspended, February, 2017 – September, 2017. That was obviously a crippling economic event for her and her family.

Finally we ask that this commission show compassion to Lifa and Shangri-La during the season of goodwill, and allow for Shangri-La to continue operating here in the City of St. Charles with whatever measures are necessary to give the Commission the confidence that the safety of the community is protected and the acts of solicitation will never happen again at 2015 Dean Street.

Thank you and Happy Holiday's.

Lastly, Lifa wanted me to read a statement that she wrote. I'll read it verbatim.

I would like to say that in this case I was innocent and the biggest victim. I recruited a robber in my company and for her own personal benefit, regardless of my company's rule, regardless of my children and family. This has given my family a devastating catastrophe. The biggest victims of this disaster are me and my children. My family never laughed and three very good kids became quiet. All my friends are sorry for me. I hope the Chrnm. sympathizes with me. Let my child out of the shadows. Give me a chance to take care of my company. I spent everything in the establishment on the company. Our company area is 5000 sq. ft. the decoration took 2 years, and the environment is first class. I am also an honest, diligent, hard-working manager and mother. I hope this disaster no longer hurt an innocent family. I just want to run my store legally and believe my company will be the best in this city's residence for its leisure play. Thank you.

Chrnm. Rogina: I instructed the Commissioners that they are allowed to ask any questions. I have one to start off with; in referencing the Shangri-La and Spa employee rules that you provided in the packet. Is that something that's been created since the hearing? I ask this because this was not submitted as evidence during the hearing.

Mr. Miller: It was not, and this was the original, yes every employee had signed one prior to January 11, 2017. This was the writing that came up in the context of the hearing. They translated in Chinese; this is Mrs. Cui's agreement. Like I had indicated earlier, when I read this originally I was concerned because number 2 is the clause that tries to preclude acts of solicitation. It's just not written very well. I'm working with her to come up with an employment contract. It will be similar to this, but a little more stringent as it relates to the employee agreement that no solicitation take place. As I said she has a meeting with her employees every morning to discuss the issue of solicitation and to ensure it's reinforced on daily basis.

Mr. Carrigan: You talk about being sorry, but I haven't heard anything about how you plan to enforce any change. How are you going to enforce changes in the way the company operates? The employee contract, how are you going to make that work?

Mr. Miller: I think in terms of what Lifa can do, she's going to tighten up the contract, post it in massage rooms that there is no sexual acts that are supposed to be solicited and with the mandatory requirement we would change the sign and say that reporting to the police is a mandatory requirement if that's decided. Additionally, she is doing background checks on the employees to ensure that no one else has been arrested for solicitation and their background and or drugs. I think we could include acts of violence if you want as well. I think that would be prudent. She's open to whatever safeguards this Commission feels would be prudent to put into place that would give you the Confidence that would allow for her to run her business. Like we said, we believe this was one rogue employee that basically was out for her own economic benefit. This certainly doesn't speak to the majority of the employees and or my client, Lifa herself, in

terms of what she believes is moral.

Mr. Gehm: One of the findings was about a manager being on site. I know you've addressed that in your earlier comments. How do we ensure, to Mr. Carrignan's point, that a manager will be on that side of the building not watching table tennis, strictly watching the operations of the massage parlor? That's a big one, as you said in your conversation and that needs to be there. There needs to be someone other than the therapist watching out for that. I don't know how you address that and how you enforce it, but we need to make sure it's rock solid.

Mr. Miller: Absolutely. I think the significance of that had maybe not been explained to Lifa in the beginning. That's not an excuse, but I've explained it to her and when we renewed the license in September we made sure we added additional people, besides Lifa, that are the management team to ensure there are people there around the clock. She recognizes the importance of her being there and how important it is in terms of her managing, leadership, and giving direction. I know that the City has done spot checks and to my knowledge there hasn't been an issue. There has been a manager there every time.

Chrmn. Rogina: I think I've articulated the process from here. I do really appreciate your professionalism Mr. Miller, both at the hearing and at this mitigation hearing. You represent your client well. I would entertain a motion under section 5ILCS 120-2C4. A motion to go into executive session to discuss the adjudication of this matter. Motion by Mr. Gehm, second by Ald. Vitek to enter into Executive Session at 4:58 pm.

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

5. Public Comment

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

Motion by Mr. Carrignan, Second by Mr. Gehm to return from Executive Session at 5:15 pm.
Voice Vote: Ayes: unanimous, Nays: none. Chrmn. Rogina did not vote as Chairman.
Motion Carried.

7. Adjournment

Motion to by Mr. Gehm, Second by Ald. Vitek to adjourn meeting at 5:16 pm.
Voice Vote: Ayes: unanimous, Nays: none. Chrmn. Rogina did not vote as Chairman.
Motion Carried.

:tc