

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
TUESDAY, FEBRUARY 21, 2017**

1. Call to Order.

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

2. Roll Call

Members Present: Liquor Commissioner Rogina, Ald. Payleitner, Ald. Lewis, and Chuck Amenta

Absent: Robert Gehm

Others Present: Mark Koenen, Atty. John McGuirk, Police Chief Keegan, and Tina Nilles

3. Motion to accept and place on file minutes of the Special Liquor Control Commission meetings held on February 6, 2017.

Motion by Ald. Payleitner second by Lewis to accept and place on file minutes of the Special Liquor Control Commission meeting held on February 6, 2017.

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

4. Recommendation to approve a proposal for Class E-4 Temporary Liquor License for a Special Event, “Unwind Wednesdays” to be held on the 1st Street Plaza.

Chief Keegan: This is an expansion from last year’s inaugural event. Shay is here tonight. This kicked off last year on Wednesdays to coincide with St. Charles Live and was a very successful event and well attended in the plaza area. Three businesses have asked to stay in this year which are Puebla, Pizzeria Neo, and McNally’s. Last year ZaZa’s was the fourth but they have dropped off this year. The dates are identified in the packet. Their Wednesdays start June 14 through September 27 – 5:00 p.m. to dusk. Like last year they’ll have a fenced in area to control liquor consumption. There’ll be credentialing to take place to ensure those whom consume are over the age of 21.

Shay Clark, West Dundee, and run McNally’s Pub.

Ald. Lewis: I would like to go back to what we did last year and define dusk. I think its better having it over at 8:30 p.m. with stopping service and cleaning off tables.

Shay: Agreed – everything was wrapped up by 9:00 p.m. even the music.

Ald. Lewis: Walk me through food service on how you're going to handle serving food.

Shay: We only had three events and the experience we have under our belts so far. We knew what we wanted to do but the practicality didn't quite work out. ZaZa's didn't get very involved last year.

Ald. Lewis: Looking at last year's experiences, how do you see yourself serving food such as serving to people in the plaza or carrying out?

Shay: Originally we talked about people ordering their food inside and taking it out on the plaza. They would have the choice of getting pizza at Neo, shepherd pie at McNally's or tacos from Puebla. At our first event we sent some of our staff outside to make sure tables were clean and then someone would ask to place an order and we started serving. It was only for food. What we're suggesting this year is having a trifold menu on the tables offering something from each restaurant.

Ald. Lewis: That's exactly what I was thinking in just having a few items available for outdoor dining instead of the entire menu. And if they wanted a whole meal they would go inside and eat.

Chuck Amenta: No questions but excellent feedback from people who attended the Wind Down Wednesdays. It was well managed and maintained.

Ald. Payleitner: My question has been answered which was defining dusk.

Chrm. Rogina: I received several emails and one was very defining in stating we should have one of these every week. As 1st Street has developed people are saying let's make 1st Street like a Piazza. We can't do that obviously, but we do have a plaza there and the purpose of plaza is "gathering place". It seems that's what you're attempting in doing along with the Downtown St. Charles Partnership bringing in the music, STC Live. It fits that mode somewhat and people coming downtown is the big thing and we're achieving that. We had no incidents or problems last year and it is run by professionals.

Shay: We had a lot of positive press last year seeing that we had only three events and good comments on social media.

Ald. Payleitner: I appreciated your patience in starting small last year and coming away with a lot of lessons and making it better – thank you.

Ald. Lewis: But people do need to go indoors to get their alcohol, it won't be served to them?

Shay: Correct.

Motion by Ald. Payleitner, second by Lewis in moving forward to committee a recommendation to approve a proposal for Class E-4 Temporary Liquor License for a Special Event, “Unwind Wednesdays” to be held on the 1st Street Plaza.

Roll Call: Ayes: Payleitner, Lewis, Amenta; Nays: None; Absent: Gehm. Chrmn. Rogina did not vote as Chair. **Motion Carried.**

5. Recommendation to approve a proposal for a new Class E-1 Temporary Liquor License for a Special Event “Hops for Hope 5K” to be held at Mt. St. Mary Park on May 20, 2017.

Chief Keegan: This event is looking to take place May 20, 2017. We did do an event with this group last year out west of Peck Road where they hosted a bike rally which was a well attended event. This particular event is they are looking to host a 5K run in Mt. St. Mary’s Park, looking at 100 runners and part of that running course is through Mt. St. Mary, across Rt. 31, Second Street, into Geneva and back. They are looking to have five stops of alcohol consumption of craft beer cordon off, credential runners, and the service would take place in a marathon setting where they would stop, get a drink, and carry on. We talked about this in great length with the event sponsors. The Park District and City of Geneva are holding off pending what direction the City wants to go in.

Kathryn Simmons, St. Charles and Hal Honeyman, 422 S 10th Street, St. Charles.

Ald. Payleitner: Noble cause and great charity but I’m just curious why not a family friendly event especially when you’re only looking to have 100 participants? It seems having something family friendly would be a better match to the charity.

Kathryn: We want to try something a little different. We’ve done Hops for Hope for two year at Penrose Brewery and it was more of a dinner and tasting. This year we wanted to incorporate a 5K and along with color runs, there are beer runs, just a twist on the regular 5K as it hits the running aspect and hits the craft beer market which is growing really large.

Ald. Payleitner: Is that realistic that people are going to be running for time and stopping for beers along the way. It’s not like a splash of water, they are seriously stopping while the whole idea is to enjoy your taste.

Kathryn: There is a payment of \$50 which is to run and drink the beer; or \$35 to run and drink water. There is one in Arlington Heights that is their third year of doing this and have grown over 3,000 runners from 1,800 that they had at their first run. They appeal to the runners that just want to drink water and run and those who like to walk and drink beer.

Ald. Payleitner: As much as I appreciate the cause and the charity to raise funds, I just don’t think this is using our parks on a potentially beautiful May afternoon and limiting it as a not family friendly event. You are also setting up a tent for an awards ceremony and entertainment.

I would love to see it as a family event and encourage 200 participants as opposed to having it alcohol focus.

Chuck Amenta: I disagree a little bit with you Rita on this. I think it sounds like a fun event. I've participated in beer miles before when I completed a 22-mile marathon and had someone pour me a beer into a plastic cup. I get this is a different event. I think this is a fun twist, something a little different. You said it was timed which gives a competitive aspect to it. Are you going to have a limit for people who want to lollygag through the race up to the next station? It will tie up the path.

Kathryn: We are giving it a max time of an hour and when they are at the beer station they are not going to spend 15 minutes, we are going to have them move along.

Ald. Lewis: It's a good cause and no one has any issue on what you're trying to raise money for. The way you are going about it in trying to raise the money is where I have the issue with. Walk me through your timeframe 9:00 – 3:00?

Kathryn: Setup will be 9:00 am; 10:00 am registration check-in and people will have to show their ID to a BASSET certified volunteer and will get a red wristband if they are participating with the beer aspect or a yellow wristband if they are not participating; then a 2-hour gap; 11:45 beer vendors will set up and ready to go; 12:00 noon shut gun start off of the race; 12:00 – 1:00 actual time of the 5K; and 1:00 – 3:00 awards ceremony.

Ald. Lewis: So from 12:00 – 1:00 only the runners get to sample the beer – no one else? Then after 1:00 if anybody else is at the park, they can buy a wristband and come in?

Kathryn: That question was asked at one of our meetings if a spouse or someone would like to come and watch the awards' ceremony? We're not offering it to the general public but if a family member who is over 21 can come in and watch the ceremony.

Ald. Lewis: What is the fee to do that?

Kathryn: It hasn't been decided yet, but around \$20.

Ald. Lewis: So people who decide to spectate and start watching, if I went down and started watching, I will or be able to come in and buy a beer? Can I buy a wrist band?

Kathryn: Yes.

Ald. Lewis: That's the problem I have that it seems like it's a pop-up beer tent for the afternoon. I don't think it's a good use of our park. I know the Park Board hasn't seen this yet and I am not sure what their policy is and what they think about this. I'm not comfortable going forward with the liquor license at this point in time. I would have to say no.

Ald. Payleitner: What's your experience? Have you been to one or run one before?

Kathryn: I do 5K's. I haven't been to a beer one, but there is one coming up that I plan on attending in Arlington Heights.

Ald. Payleitner: This is a new launching for us but to hear there is no experience in the people that are running it. Attending is different than running it. We've questioned new ideas before and have taken a preference over somebody who has ran it before and could foresee any issues/troubles and I don't think that's the case here.

Ald. Lewis: I think you are being creative and have done your homework very well, I'm just not wanting to go down in this direction with the amount of parks we have and the bike path that goes along this park is a very large and spread out; and then we're even going down into Geneva. I can see all sorts of fundraisers in this new venue coming in and I'm just not ready to go there.

Chrmn. Rogina: I've run a few marathons and not that there's any comparison here, and at the end there have been several marathons giving away beer. It's part of the process of buying into the marathon. As far as tying up the park is concerned, we're doing that June 24 at Lincoln Park and the Park District has okay that and we're having a craft beer festival there. It's not a run but the Rotary is sponsoring and it is non-for-profit and you have to buy tickets. There are some differences and some similarities here. We have fundraisers for non-for-profit charity involved where there is liquor involved or some kind of games of chance, etc. New launching – I'm not too concern about that. You have to start somewhere and we trusted the Rotary last year to start the ball rolling there and it was successful with help of the police.

Ald. Payleitner: And they had a professional event planner who had done it before.

Chrmn. Rogina: Agreed. For the bike path, this event doesn't require any lane closures, but would the bike path be closed for that period of time or during the race?

Kathryn: We talked and they didn't say they would close it down. We would have signage up letting people know there will be a run going on.

Chuck: With only 100 runners unsolicited, I don't think that's going to be too much of a problem especially with a shot gun start. They're going to be spread out.

Chrmn. Rogina: I agree with everyone else that the Park District and Geneva have to put their stamp of approval on this as well. They are looking for us to say yes or no to the temporary license and then they can do whatever they want to. The charity itself is wonderful and Hal has been doing this for quite a while at the Bike Rack.

Chief Keegan: There are five consumption points proposed in this event. Three would be at Mt. St. Mary Park and two would be at the right-of-ways. My understanding is the Park District would vote on the park closure or the consumption on those three areas and the other two would be outside of the park.

Chrmn. Rogina: In theory any recommendation or approval by the City Council is the approval of the liquor license and the piece that's outside the park?

Chief Keegan: Yes and those will be self-contained fenced roped off areas similar to what they look like in Mt. St. Mary Park but outside the park boundaries. We did some overhead shots through GIS and those two areas look to be within our borders (referred to map drawings in the packet).

Ald. Lewis: I'm not worry that you won't control it but there are so many places downtown to get a beer. I think we want to encourage people to go into our establishments and I think this discourages this and they won't be the last one that will want this. It's not real business friendly to our businesses.

Chrmn. Rogina: I respectfully disagree that we sponsor a lot of things alcohol and food, and we could argue that Scarecrow Fest is not business friendly at all under the theory that we bring vendors in here to sell food for the whole weekend. There's all kinds of arguments pro and con.

Ald. Payleitner: It's an appearance issue of not having a friendly family event that excludes family on a nice day in the park.

Motion by Ald. Lewis, second by Payleitner to deny the request to the committee for a recommendation of a proposal for a new Class E-1 Temporary Liquor License for a Special Event "Hops for Hope 5K" to be held at Mt. St. Mary Park on May 20, 2017.

Roll Call: Ayes: Payleitner, Lewis; Nays: Amenta; Absent: Gehm. None. Chrmn. Rogina did not vote as Chair. **Motion Carried.**

Chrmn. Rogina: Let the record show that the Liquor Commissioner does support this recommendation although there was a 2-1 vote to deny this recommendation.

6. Discussion regarding Tobacco Citation and Hearing Notice for Rose Smoke N' Vapor, Inc. 902 S Randall Road, Ste. B, St. Charles.

Chrmn. Rogina: Before I read into record, please come forward and state name address for the record.

Abdullah and Rosena Baig, 902B S Randall Road, St. Charles.

Chrmn. Rogina: The complaint of violation is as follows: Now comes the Petitioner, James Keegan, Chief of Police of the City of St. Charles, Illinois and files this complaint before the Local Liquor Control Commission of the City of St. Charles, Illinois, and states as follows:

On or about February 9, 2017, Rose Smoke N' Vapor, Inc., was operating under a Tobacco License issued by the City of St. Charles.

That on or about February 9, 2017, at approximately 6:34 p.m., the Licensee, Rose Smoke N' Vapor, Inc., by and through its employees, officers and/or agents, committed the following violation of the St. Charles Tobacco Code: specifically sold tobacco to a minor in violation of Section 5.16.070 of the St. Charles Municipal Code.

That the act detailed in Section 3 of this Complaint of Violation each are prohibited and are in violation of and contrary to Sections 5.16.070 of the St. Charles Municipal Code and the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act.

That the Licensee, Rose Smoke N' Vapor, Inc., is responsible for the acts of its employees, officers and agents and is required to ensure that no violations of state law or ordinances of the City of St. Charles take place on said premises.

You've submitted an arraignment form "not guilty – I request a hearing" plea.

Mrs. Baig: Yes.

Chrmn. Rogina: We allow that but would not have that here tonight. It would be scheduled on March 20, 2017. A not guilty plea suggests that you will have a hearing and you're entitled to either have a lawyer represent you or you can represent yourselves. The City will do likewise and present the case suggesting what the violations are through witnesses. Somewhat like a trial but is informal and at the end the penalties involved here are specifically related to suspension of license, fines, and court costs. I would say so you understand that by pleading not guilty and defending the case; if you are unsuccessful, then the court costs will be considerably higher and then it might be under these circumstances. I'm not suggesting one way or the other what you should do – that's your business and at this point you've plead not guilty. I do want to make sure that you are aware of that and any counsel you would have would explain all of that.

Mrs. Baig: We are saying we are not guilty because I'm the owner of Smoke N Vapor and I checked the cameras two/three times and didn't see any minor.

Chrmn. Rogina: That's an issue of fact that we'll bring out in a hearing and you certainly through a lawyer can bring witnesses or testify yourself or whatever the case may be in order to suggest that. The City, by the same token, would bring officers and perhaps even the complaining witness in this case, I think you are aware of, if you read the police report; it's very possible that person would be called. But that won't take place for another month and you have time to work on that.

Mrs. Baig: Another question if we go with the trial, would we have to pay more fine or there could be some other things too. If I say okay, even though I know I'm not guilty and I say ok I'm guilty, can you suggest to me what are the conditions I would face or what other violations?

Chrmn. Rogina: Under our ordinance the minimum fine is \$250 plus \$500 court costs that would be the minimum if you plead guilty. It could be higher than that. To be clear on this, this is not a Circuit Court trial, this is an administrative hearing. The burden of proof in this matter is

on the City but it's on the City only by what we call a majority of the evidence or 51% of the evidence. Sometimes you hear beyond a reasonable doubt. It's not that standard in administrative hearing. Where does 51% of the evidence lie and which side of the coin – petitioner or the City – or the defendant, in this case, your business establishment. I just want to make that clear to you. I'm not passing judgement one way or the other today.

Mrs. Baig: I have the proof, but I just want to finish this thing. I don't want to bring something into my store, some violation. We have a kid too. We don't do for the kids. I respect the kids and they are really important. We don't have to do any bad things with the kids. We are really particular about these things but the thing is I don't want to get in trouble. I'm been stressed this whole day. Even I know I'm not guilty but okay if I am guilty, I can pay the fine. If there is a violation that comes up in license, what are they as I don't want my license to be suspended or something happen to my store.

Chrmn. Rogina: I guess we'll accept that not guilty plea for starters. If there's a change of heart on your part between now and the next liquor control Commission you can forward that information to the City and we'll move along accordingly; but unless you are going to suggest something different – I'm going to take your not guilty plea. That may be the best thing to do and reschedule a hearing for March 20. If you decide to change your mind on that, the City needs to know about that prior to March 20 because we certainly don't want to get involve spending a lot of time and resources and at the last minute you decide to change your mind and do something else.

Mrs. Baig: I understand that. Do I have get the proof and bring it here right now?

Chrmn. Rogina: You bring any evidence in your favor during the hearing – correct Counselor?

Atty. McGuirk: You have to present your evidence to this tribunal here. Whatever your evidence is, testimony or photographs, etc. during the hearing whether through yourself or legal counsel. Either way, it's informal enough and up to you whether you want to hire an attorney or not. We follow rules and would suggest you do hire counsel but that's your decision to make.

Ald. Payleitner: It is clear that \$750 is a minimal?

Chrmn. Rogina: Every tobacco violation where the plea was guilty, I would give you that history. Ald. Payleitner is correct that the fine is minimal of \$250 and there's always court cost and serving of papers so \$750 is the minimal.

Ald. Payleitner: And a suspension of a license perhaps which is possible.

Mrs. Baig: I received two tickets. We sold tobacco or cigarettes to the minor and we don't have any cigarettes in my shop and I explain to officer too. Is this ticket still open? Do we have just one ticket or two tickets?

Chief Keegan: There are two separate reports that I explained yesterday and we only cited the second report. There was no citation issued, so the violation that is being brought here today is for vape use – the second one.

7. Discussion of Refresher Training for businesses and DSCP and Chamber.

Chief Keegan: Our next Liquor Control Commission meeting on March 20, we do our renewal period each year and Tina sends out the renewal notices, we typically ask the licensees to come in for refreshers due to current law changes. So on March 20 I will not only bring the late night permits forward for passage to the Government Operations meeting that night, but am also asking the liquor applicants to come in for a refresher which will be at 3:00 here in the Council Chambers. I have in the past brought the Liquor Control Commission from Chicago, Lee Roupos, but will do it myself this year. Ald. Payleitner and Lewis asked me to talk about retail sales taking place and also what constitutes a private event. We also invited the DSCP and Chamber and some local non-for-profits.

Ald. Lewis: Several months ago we approved a liquor license for a Craft Brewery business over on Randall Road. Did that fall through or is it still going on?

Chief Keegan: I've not seen anything going on. I've even asked the cleaners and they haven't seen anything either. Going through occupancy and buildouts take time and the license is held until they meet all city requirements. So even though we passed it at our level it won't take effect until they've been through all the steps of city inspection.

Ald. Payleitner: Is this indefinite that the license just stays out there forever?

Atty. McGuirk: We don't have any limitations on that do we?

Tina: We don't have any limitations but when does it become void and the applicant needs to come back to reestablish themselves through our process?

Chrmn. Rogina: If our city ordinance is silent on that we can certainly make a change to it.

Atty. McGuirk: We can place something in the ordinance if they don't open their establishment in a set period of time that they have to go back through the process.

7. Other Business

8. Public Comment

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

10. Adjournment

Motion to adjourn by Mr. Amenta second by Payleitner to adjourn meeting at 5:44 p.m.

Voice Vote: Ayes: Unanimous; Nays: none. **Chrmn. Rogina** did not vote as Chair. **Motion carried.**