

**MINUTES
CITY OF ST. CHARLES, IL
SPECIAL LIQUOR CONTROL COMMISSION MEETING
MONDAY, APRIL 4, 2016**

1. Opening of Meeting

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

2. Roll Call

Members Present: Liquor Commissioner Rogina, Robert Gehm, Ald. Payleitner, Ald. Lewis, And Chuck Amenta

Absent:

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

3. Motion to accept and approve the minutes of the March 21, 2016 Liquor Control Commission meeting.

Motion by Mr. Gehm, second by Ald. Payleitner to accept and approve the minutes of the March 21, 2016 Liquor Control Commission meeting.

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

Chrmn. Rogina: We have three specific items to deal with on the agenda tonight.

4. Discussion regarding Massage Establishment Citation and Hearing Notice for Best Massage, 2774 E Main Street, St. Charles.

Chrmn. Rogina: Is there any representation from Best Massage here this evening. Yes, okay. I'll read into the record the following: 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: That on or about March 15, 2016, at approximately 12:40 p.m., the licensee, Best Massage, by and through its employees, officers and/or agents, committed the following violation of the St. Charles Massage Establishment Code.

1. Violated Section 5.20.130(G) of the Massage Establishment Act which states:

“No person, knowingly, in a massage establishment, shall place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of another person.”

2. Violated Section 5.20.130(H) of the Massage Establishment Act which states:
“No massage therapist or employee shall perform or offer or agree to perform any act, whether or not for compensation of any form, which would require the touching of the patron’s sexual or genital area.”
3. Violated Section 5.20.180(B)(10) of the Massage Establishment Act which states:
“The license holder permits acts of prostitution or solicitations for acts of prostitution to be performed within the premises ...”
4. Violated Section 5.20.130(D) of the Massage Establishment Act which states:
“No person shall advertise, promote, or refer to himself or herself as a massage therapist as herein defined without being a massage therapist as provided in this chapter or Illinois statute.”
5. Violated Section 5.20.110(A) of the Massage Establishment Act which states:
“Supervision – A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.”

On or about March 15, 2016, Best Massage was operating under a Massage License issued by the City of St. Charles. That the acts detailed in Section 2 of this Complaint of Violation each are prohibited and are in violation of and contrary to afore mentioned sections as numerated as I read the individual charges and the licensee, Best Massage, 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.

Chief Keegan, at this time we have not received any plea on this complaint – correct?

Chief Keegan: A couple of opening remarks, we as a City have taken a strong stance against illegal activity that has been numerated in the complaints that you will hear here this afternoon. We do our due diligence as a police department, not only to make sure our businesses are honored businesses, but we inspect their locations frequently, we do compliance checks which is what was done in this particular case. We have a zero tolerance approach to this type of activity and we do our best to have a 3-pronged approach to our ordinance. On the front end we license and codify all of our businesses to make sure they’re following best practices. Once they’re

licensed, I've talked about the inspection and compliance phase, we go into the business on a frequent basis to make sure their dotting i's and crossing t's; and lastly if there is violation of our ordinance or state law, we hold the business or in this case the massage therapist accountable. With that we can proceed with this item. We've not had any correspondence with the business or location but we can call them forward.

Rudon Fong or Rudy and my mother Ling Li who is the owner of the business leasing the building, 774 Castleton Court, Carol Stream, IL.

Chrmn. Rogina: The purpose here today is that we have not received the arraignment form that was delivered to you – we did not receive a plea. You have three choices: 1) Guilty plea and you do not request a hearing; 2) Guilty plea but you would like to tell your side of the story; 3) Not Guilty and are requesting a hearing. We need you to enter a plea of some sort at this time.

Rudy: We've made a decision of guilty with a hearing which is why we are here.

Chrmn. Rogina: For the record you are entering a guilty plea but would like to explain. After you are done any member of the commission or myself may like to ask you questions.

Rudy: Someone at our place of business was found out to be doing some illegal activity; so as an owner I cannot say we are not guilty. We open the business and we know we have to take the responsibility so that's why we plead guilty, but then as a business we have never told our employee to perform an illegal act to make money. We've been operating for more than a year and we know the police department will constantly track our service. We give good quality service to the residents of the City and we know what we can and cannot do.

After the masseuse was arrested we talked with her to see what was going on. She told us when the undercover came in, she didn't know. According to the police there was an agreement for \$60 that the police offered her so in return she would perform some inappropriate action. The police said she said yes, but the masseuse told me she didn't understand what he was saying. She did not respond. I don't think it's appropriate to say our employee made money for doing this inappropriate stuff. Secondly the undercover police said he would like her to undress herself; this she understood and she said no. We have not talked with the police officer, so that is our story from the employee who said she didn't do it. She was helping us for a couple of days because our business is small and in short of people. I think there is a miscommunication from what the police said and what she thinks she did.

Chrmn. Rogina: Let me understand this and correct me if I'm wrong, you come here today and plead guilty which to me means you agree with the police report. Then you say it's a miscommunication and the employee didn't understand, so I don't know why you're not pleading not guilty and asking for a hearing?

Rudy: Well, we think we didn't permit our people to do any illegal activity, but the police report is saying that. We can't say that because we are outside of the room and we can only listen to her story. We can trust her but the police were the ones inside the room. I don't think

the police would lie; so what I'm saying is when the police officer ask her to take her clothes off, she said no. To me that's a sign she didn't want to do anything.

Chrmn. Rogina: I think you expressed your position here, but the purpose here today is not to have a hearing other than for you to mitigate the damages. If you want to change your plea that is up to you, but absence that we're going to enter a guilty plea on this. We've heard your comments and that's where we stop. Basically a not guilty plea allows you to tell your side of the story and the police will tell theirs at a formal hearing. If you choose to plead guilty, fine, we've heard you and go from there. Do you believe as a business owner that you're responsible for the acts of your employees?

Rudy: Yes.

Ald. Payleitner: According to the police report the employee does not have a license to perform massages.

Rudy: Yes that's true.

Chrmn. Rogina: We have two charges. One the employee in the act of prostitution or solicitation and have her performing a massage without a license.

Chief Keegan: Besides the administration sanctions imposed by the City, the masseuse was charge in State court with an act of prostitution and one count of practicing without a license. These are both misdemeanor accounts and will be heard in the Kane County Branch of the Circuit Court.

Ald. Lewis: For clarity, the first time the police officer asked her to do an inappropriate act, she didn't understand what he was saying, but the second time he asked her to take off her clothes, she did understand. She can or cannot understand English or understands some?

Rudy: She understands some. Some words are more common than others but such as sexual terms, she doesn't understand that.

Chrmn. Rogina: We'll accept the plea as is and so you understand there is no need for you to stay because we'll go into executive session to discuss this matter and we'll have no decision today. I have 7-10 days to make a decision after discussing this with my colleagues and you will be served notice of the outcome.

Ald. Lewis: How many people do you employ?

Rudy: We just have two people. It is our fault that we did have someone working at our business without a license.

5. Discussion regarding Massage Establishment Citation and Hearing Notice for Lotus Spa, 1700 Lincoln Highway, St. Charles.

Chrmn. Rogina: I am going to read this into the record for its purposes, but as I understand it this particular establishment has returned its license and suspended their business?

Chief Keegan: Correct, they express an interest that they closed their business, forfeited their lease with Shodeen, and no longer are doing business as Lotus Spa in St. Charles.

Chrmn. Rogina: 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: that on or about March 15, 2016, at approximately 4:13 p.m., the licensee, Lotus Spa, by and through its employees, officers and/or agents, committed the following violation of the St. Charles Massage Establishment Code:

1. Violated Section 5.20.130(D) of the Massage Establishment Act which states:
“No person shall advertise, promote, or refer to himself or herself as a massage therapist as herein defined without being a massage therapist as provided in this chapter or Illinois statute.”
2. Violated Section 5.20.110(A) of the Massage Establishment Act which states:
“Supervision – A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.”

On or about March 15, 2016, Lotus Spa was operating under a Massage License issued by the City of St. Charles. That the act detailed in Section 2 of this Complaint of Violation is prohibited and is in violation of and contrary to Section 5.20.130(D) of the St. Charles Municipal Code and the licensee of Lotus Spa 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.

The licensee has entered a guilty plea and does not request a hearing, is not here today, and as Chief Keegan stated has closed the business. I may take action after we discuss this matter in executive session for the record but at this point there is no further conversation.

6. Discussion regarding Massage Establishment Citation and Hearing Notice for Main Spa, 504 E Main Street, St. Charles.

Chrmn. Rogina: For the record, 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: that on or about March 15, 2016, at approximately 2:57 p.m., the licensee, Main Spa, by and through its employees, officers

and/or agents, committed the following violation of the St. Charles Massage Establishment Code:

1. Violated Section 5.20.130(G) of the Massage Establishment Act which states:
“No person, knowingly, in a massage establishment, shall place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of another person.”
2. Violated Section 5.20.130(H) of the Massage Establishment Act which states:
“No massage therapist or employee shall perform or offer or agree to perform any act, whether or not for compensation of any form, which would require the touching of the patron’s sexual or genital area.”
3. Violated Section 5.20.180(B)(10) of the Massage Establishment Act which states:
“The license holder permits acts of prostitution or solicitations for acts of prostitution to be performed within the premises ...”
4. Violated Section 5.20.110(A) of the Massage Establishment Act which states:
“Supervision – A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.”

On or about March 15, 2016, Main Spa was operating under a Massage License issued by the City of St. Charles. That the acts detailed in Section 2 of this Complaint of Violation each are prohibited and are in violation of and contrary to afore mentioned sections as numerated as I read individual charges of the St. Charles Municipal Code. That the licensee, Main Spa, 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.

The licensee of this particular matter has entered a plea of not guilty and requests a hearing.

Chief Keegan: To summarize your remarks and what you read into the record, the massage therapist in this case was charged with one state count of prostitution, the therapist was licensed through the State of Illinois and want to remind the commission members that we license the facility through the City and the individual massage therapists are licensed through the Department of Professional Regulations. I will ask the attorney of record to step forward and introduce yourself.

Atty. Peter K. Lee on behalf of the licensee of Main Spa, 5757 N. Lincoln Avenue, Chicago, IL.

Chrmn. Rogina: You are standing by your position of plea of not guilty and are requesting a hearing?

Atty. Lee: Yes.

Chrmn. Rogina: We will schedule a hearing two weeks from today, April 18, 2016 @ 4:30 p.m.

Atty. Lee: Looking at my schedule, I do have a hearing in Chicago in the afternoon that could take a while. Could I request a later date?

Chrmn. Rogina: April 18 is our normal regularly scheduled meeting which we meet on the third Monday of each month. This meeting is a special meeting we scheduled for today because we feel as a city that we didn't want to delay this process. We want to get it up front, get due process and get the facts on the table and go from there. I would like to suggest the April 18 date stays.

Atty. Lee: I'll see what I can do and meeting is at 4:30 p.m. Could I get a copy of the discovery from the police department for my file?

7. **Other Business-** none.

8. **Public Comments** – none.

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

Motion by Mr. Gehm, second by Ald. Payleitner to enter into Executive Session at 5:00 to discuss massage violations.

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

Motion by Payleitner, second by Amenta to come out of Executive Session at 5:46 p.m.

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

10. **Adjournment**

Motion to adjourn by Mr. Gehm, second by Amenta at 5:46 p.m.

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