

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, JUNE 20, 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 Ghem, Ald. Payleitner, Ald. Lewis and Chuck Amenta

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

3. Recommendation to accept and place on file minutes of the Liquor Control Commission meeting held on May 16, 2016.

Motion by Robert Ghem, second by Ald. Payleitner to accept and place on file minutes of the Liquor Control Commission meeting held on May 16, 2016.

Voice Vote: Ayes: unanimous, Nays: none. **Motion carried.**

4. Recommendation to approve a proposal contingent on manager background/fingerprinting being completed for a Class B Liquor License for Noodles & Company to be located at 3875 E Main Street, St. Charles (former TGIF Restaurant).

Chief Keegan: The petitioner is running late. We can table or I can proceed.

Mayor Rogina: Unless there is an objection; I think we can move them down on the Agenda.

Ald. Lewis: I think it's important that they be here.

Chief Keegan: The local manager from the Geneva store is going to be transferred to St. Charles and either the manager or an employee from the new establishment should be here. They're just running a couple of minutes late.

5. Recommendation to approve a Class E-2 Temporary Liquor License for a series of six (6) individual events to be held at Riverside Avenue (Walnut & Second Avenues) for St. Charles Cruise Nites sponsored by the St. Charles Chamber of Commerce. Request dates are: July 19 & 26, and August 2, 9, 16, and 23 from 5:00 pm – 8:00

pm. The Finery & Blacksmith Bar will be the local business licensee providing the alcohol.

Chief Keegan: This is a class E2 temporary license that's been requested by the Chamber. Amanda is here from the Chamber and can answer any questions the Commission may have. The sponsor is the Finery located on W. Main St. The Mayor gave the dates in question and the location. This is an expansion of the previous Cruise Nite Model. This year they would like to partner with the Finery and Blue Goose Market to use the patio area of the Cord on Blue, which is the vacant business just south of the Arcada. They would like to offer not only beer and wine but also some food sales. Last year I believe they had Riverside Pizza, Buona Beef and the Bend. This year it looks like Blue Goose is on board and they are looking to get some additional restaurants as well. They want to offer beer, wine and food sales from 5:00 pm – 8:00 pm. It would be restricted to the patio area only, the Finery being responsible for credentialing. I'll let Amanda fill in any gaps or answer any questions the Liquor Commission might have.

Amanda Lutz: 155 Deutch Road, Burlington, IL. The Chamber is looking for another way to get people interested in Cruise Nites. Not just car enthusiasts. We thought bringing food and beer would be something that people would enjoy, help to get more Chamber Members involved, and more foot traffic to the area. Any questions I can answer?

Mayor Rogina: I looked at the application and initially you weren't going to be serving food. The E2 license requires the service of food in this particular case, that's a point I'd like to make.

To your point about having other restaurants, businesses, etc. The Finery, as the Chief indicated, will be the licensee that would assume the liability and the Dram Shop Insurance. The thought was to throw out the idea of finding out if other licensees are interested in partaking so that the playing field is spread out. It sounds like the Finery is the exclusive licensee for beer and wine sales. My question is whether or not it's fair that other licensees have the opportunity to partake?

Amanda Lutz: We did reach out to other restaurants, The Office, Riverside Pizza, to see if they were interested in doing the alcohol sales and The Office was not, Riverside might be interested in food again this year if this passes. Last year their sales were not what they expected. We reached out to McNally's as well. We put it out there. We sent an email for the liquor part of this.

Mayor Rogina: As far as the food is concerned it sounds like it could be a potpourri of possibilities, brats, pizza?

Amanda Lutz: Yes. We have Smitty's interested, they have participated in the past and would participate most likely. Riverside is still on the fence. Buona Beef is someone who wants to participate.

Mayor Rogina: Just to make sure this is clear. All liquor consumption is confined to the Patio. There is no movement onto the street. Anyone who is coming to observe the cars can do that on

the street, but they aren't going to have a beer in their hand.

Amanda Lutz: Correct. That's why using the Patio at Cord on Blue seemed like the perfect location. After getting permission from the owner, it's blocked off at the gates, and the Finery would have some type of security at the gate to make sure no one leaves with alcohol. They are carding and giving wristbands at that point also.

Ald. Lewis: I had a question if children will be allowed in and you said yes. I guess that's because there's food. You're thinking of yourselves as restaurants now that children will be in?

David Reyes: 305 W Main Street, with the Finery & Blacksmith Bar. We allow children in the restaurant we even allow them in the bar area, not at the bar stools. It will be the same standard.

Ald. Lewis: I had concerns that you are allowing children in. Why didn't you ask for a liquor license back in February with your original request?

Amanda Lutz: It wasn't thought of at that point. It was something the Chamber staff came up with and needed board approval. We did get it from the Chamber Board.

Ald. Lewis: It seems to me that maybe because of a decision that was made here a few weeks ago that maybe you decided to do this. It is in the minutes. We talked about it.

Mayor Rogina: You're talking about Wine down Wednesdays. Amanda and Laura Macklin-Purdy from the Chamber both came into my office at least a month ago and inquired. They we're looking at different angles to perhaps improve attendance, and brought the concept of Cord on Blues and the Patio. One of the first things I thought of was that we are showcasing a shuttered building right in our downtown. In their defense they were here before Wine Down Wednesdays even came to the table.

Amanda Lutz: Trying to get other business on board. Something that we heard from them was having a beer tent would be a good idea and they would like to get involved if something like that could happen. We heard that from several people, and that's how it started. I didn't even know about Wine Down Wednesday.

Ald. Lewis: Why wasn't anybody else interested if they all wanted to be a part of this? Do you have any idea why they might not be interested?

David Reyes: It is quite an investment just to set it up and do it the right way. We have to bring somebody in that knows how to check I.D.'s, and has experience doing so, the flow of the room, all that is part of an investment that hopefully we'll get back, but will certainly enhance the experience at the event.

Ald. Lewis: I have a different opinion on this, a personal experience that I had several years ago when I owned a business downtown. I had a paint it yourself art studio. They closed down the parking lots in front of my business twice a year, and in the parking lot they would put up a

competing business from Geneva, another paint it yourself pottery studio right in front of my business. I could never figure out why they would do that to my business. It hurt my sales, it hurt my customers. I see the same thing. The House Pub is right there. We're closing the street in front of their business only to put up other businesses. I don't see the benefit for the other businesses in the area.

David Reyes: I was proposed to partner with a Geneva business that makes beer and I chose to keep it ours and have us decide who we want to bring in and us run the beer and food sales. It will be a St. Charles business. I've talked to Steve at The House Pub, who is one of the owners. With our license we're looking for a 9:00 pm, which is about an hour after the event comes to a conclusion. The House Pub really never gets going until after that. His business is driven mostly after 9:00 pm. He likes the idea of having a lot of people in the area that could possibly go over to The House Pub.

Ald. Lewis: He hasn't had Cruise Nites in front of his business for the last couple of years.

David Reyes: No, but when I talked to him about it and once he found out we were only trying to go until 9:00 pm.

Ald. Lewis: I thought it was 8:00 pm.

David Reyes: It ends at 8:00 pm. We want an hour for everyone to be able to finish their drinks.

Ald. Lewis: Beer service goes until 9:00 pm.? That's new. I didn't see that in the packet.

David Reyes: Regardless, his business doesn't get going until much later.

Mayor Rogina: It says the event will be held from 5:00 pm - 8:00 pm.

Ald. Lewis: There is nothing in there that says what time you will quit.

Ald. Payleitner: Yes, it does, it's 9:00 pm.

Chuck: You specifically asked for 9:00 pm to allow an hour to clear out the patio and let the patrons finish their drinks, so basically doing a last call around 8:00 pm and 9:00 pm ceasing all operations.

Ald. Lewis: It's nothing against your business. It's just not something I'm comfortable with supporting. It's going to Council tonight?

Mayor Rogina: No, not tonight, Government Operations Committee.

Ald. Lewis: I think we're moving a little quickly on this new concept. That's what was in the minutes last week of our last Liquor Commission. Who will come before us next wanting the

same thing? Are there other streets in town that will want to close for mini festivals and events? I don't know but I think the possibility is there. I'm just not comfortable in this point in time closing City streets and then giving temporary liquor licenses. I want to move slower on that.

Chuck: I don't have any questions. I personally like the concept, being a classic car owner, to have a chance to meet with other folks with similar interests and share a beer. I know that crowd is pretty reserved most likely. I don't see over service as being an issue. Having food there makes it more advantageous to stick around longer. If you are able to get more businesses involved with food; I think it showcases the City's restaurants. After the first couple, they get going and get a good reputation and people come from all over. The nicer the cars, the better the clientele, the better the advertising; I think it's a pretty cool idea. No further questions.

Bob: You talk about the Cord on Blue and the patio area that is kind of already set up for security. Would you do anything additional for people being carded, credentialing and making sure they stay on that patio and not spilling over onto the street with a drink in their hand?

David Reyes: At your suggestion we can certainly provide more security than one person checking I.D.'s as people enter. That would be easy for us to do. Do you think we would need more than 2 people?

Bob: Is this similar to the one that is held outside Rookies once a month?

David Reyes: I've never been to that event.

Amanda Lutz: It is similar to the ones at Rookies, but a different night of the week.

Mayor Rogina: At Rookies they just go into the bar and have a drink.

Chief Keegan: Mr. Ghem what we would mandate is probably two on security, and we'd have wristbands for credentialing, but we're not going to mandate a law enforcement officer be present. We think the crowd that cruise night attracts is an older more mature crowd. We would ask the Finery and Chef David that they do the proper credentialing.

Ald. Payleitner: The packet was huge. I got mixed up with what was Cruise Nite paperwork and what was the liquor license application paperwork. Chief will there be additional services required by the police or by the City that will be an expense?

Chief Keegan: Not for the liquor and food consumption. We aren't going to mandate a law enforcement officer be present. We'll do walk-throughs and drive-by.

Ald. Payleitner: The Chamber is non-profit and they get a 50% cut. I wasn't sure if this was part of that?

Chief Keegan: The E2 charge is not a prorated charge. It's \$100 per day or \$600 for the event even though the Chamber is a 508C3 the sponsor of this is the Finery. It's an E2. Not the prorated license.

Ald. Payleitner: It's really the Finery. The patio is right on Riverside, right? It's not behind the building? Will the car show be going in front of it, or does it stop and then you have Cord on Blues?

Amanda Lutz: The car show goes all down Riverside from Main to Illinois and Walnut just until Second.

Ald. Payleitner: People sitting on the patio will see the cars.

Amanda Lutz: Correct.

Mayor Rogina: The Cruise Nite's have been in place for a while. It's become a known entity downtown for a number years. It takes the model of Wine Down Wednesday and the beer tasting we're having in Lincoln Park this Saturday. My respectful rebuttal on the small events is: I think that's what we're hearing from the downtown businesses. Riverfest and Scarecrow Fest tends to really drive business down. To that end, the businesses have been telling us they want smaller events, bring the people downtown. I'll repeat what I said earlier, this spotlights a shuttered building. I think that's a benefit of this particular proposal.

Mayor Rogina: I would entertain a motion to recommend to Government Operations Committee a proposal for a Class E2 Temporary liquor license for a special event for St. Charles Cruise Nites being sponsored by the St. Charles Chamber of Commerce.

Motion by Mr. Amenta, second by Mr. Ghem to move this application to the July 5, 2016 Government Operations Committee meeting.

Roll Call Vote: Ayes: Ghem, Payleitner and Amenta. Nays: Lewis. Mayor Rogina did not vote as Chairman. **Motion carried.**

Ald. Payleitner: I want to comment that I am very comfortable with this. It sounds like it's been well thought out and certainly the Chamber has proven them self, as has the Finery. Compliments to you and your business sir, I feel you're very trustworthy.

Ald. Lewis: I think they have a wonderful business and I think the Chamber is doing a great job. That's not my reason that I have mistrust in anybody for my voting no.

6. Recommendation to approve an Ordinance Amending Title 5 "Business Licenses and Regulations", Chapter 5.20 "Massage Establishments", Sections 5.20.010 "Definitions", 5.20.080 (B), "Issuance and Denial of Licenses", 5.20.110 "Conditions and Restrictions of Licenses", 5.20.170 "Notice" and 5.20.180 (C) "Revocation or Suspension of Licenses" of the St. Charles Municipal Code.

Chief Keegan: I came before you last month with some modifications to our massage licensing. Commander Gatlin is here and Mike Devo who is going to make a public comment. We're the trail blazers in this regard. We have taken a stance as a City to really capitalize on a 3-prong approach. First prong of that approach is what we've done, and that's our ordinance. This will hopefully solidify the practices. We have the endorsement and the support of not only the Massage Association, but also business owners like Mr. Devo. The second piece of that 3-prong approach is the compliance piece or inspection piece. That's to make sure businesses that are licensed are dotting their i's and crossing their t's to follow the practices that you've established as not only a Liquor Commission, or in this particular case, an Alcohol, Tobacco and Massage Commission, but also the City Council upon final approval. The last phase of that 3-prong approach is the due process piece. We do the best we can to codify our ordinances, make sure the ordinances are being followed, and if there are infractions we hold the licensee and the businesses accountable. With that in mind, not only did I look at this as a first annual renewal to see what we've learned but what we can do better. I also, through the Investigations Division, and talking to business owners like Mr. Devo, I listened. I knew when we passed this ordinance last year we might have a little bit of growing pains and learn a little bit from trial and error.

I'm recommending not only some of the amendments you saw last month, but also some additions. I want to go through the ordinance memo that I prepared to walk you through it; then if Mr. Devo could join me to comment and answer any questions that would help.

The definition piece which is 5.20.010, we've added a term and defined the term 'Premises'. We worked with Mr. McGuirk and our investigations division. We defined what premises is. Furthermore, 5.20.080 (B) we had some issues with zoning and PUD's, we worked with Community Development and Mr. McGuirk and codified some additional measures to make sure our Building and Zoning Department looks at each application. We're also doing that with Alcohol and Tobacco. We've put some processes in place. I'm going to come back in front of the Commission in July and roll out a new application packet along with some provisions that we're going to look at implementing moving forward.

Mr. Devo was really instrumental in the 3rd piece I want to talk about. The third part of the memorandum, 5.20.110 "Conditions and Restrictions of Licenses". When we do our compliance checks and inspections we encourage dialogue between the businesses and the proprietors to make sure that we're meeting their needs as well as protecting ourselves as a city, and the folks that patronize these businesses. One of the things we've heard from Mr. Devo is some of the massage facilities are appointment only. It makes our supervision piece sometimes difficult to carry out. Looking at other business models and other ordinances from other municipalities, we've put some provisions in place that so long as a massage facility is appointment only they will be exempt from the requirement of having another person on staff to do supervision duties. I'll explain in further detail in a little bit.

Another piece we have expanded carrying on that same subsection 5.20.110, "Provisions and Restrictions of Licenses", we've added a component I'll call sections L & M. The clear view from the street component. We've have 4 massage revocations since we started this ordinance and 2 more hearings will take place this afternoon. What we've seen is at times a propensity for

some of these folks to operate in the cover of darkness. We want to prohibit that. We want to be able to drive by the facility, as police officers, look in the facility and make sure we can see what's going on. We often use this in package liquor stores, convenience stores, it's a way for us to make sure our patrons and proprietors are safe. What we saw in a few instances is that these were strip-mall type facilities and we couldn't see inside. We did put some exemptions in place that protect the folks that might be inside another business. If you have a salon with a licensed massage therapist on staff there will be some exemptions put in place. It's not a free standing massage facility.

The last piece is what I call the repeat offenders piece. Sometimes we see repeat offenders and if the tenant is not going to be a responsible business owner then it rolls down to the landlord. After we make an arrest and a tenant decides to go elsewhere we've seen a propensity of some landlords to rent again to the same type of business. We then have incidents that occur at that same location. What we're asking for is a sunset clause of 5 years. If there is a revocation that license location is exempt for licensure status for a 5-year period. We've seen this in some adjoining municipalities.

Before I take any questions, Mike would you like to introduce yourself?

Mike Devo: International Medical Massage, 912 Mohawk Drive, Elgin. First of all I want to thank Chief Keegan. He's done a lot of work on this. We had a lot of dialogue after our last meeting and I did explain that it's hard for a small business to have someone sitting there all day. Especially when you have regular clients and you've had appointments with them for 3 years. Having someone sit there; it's a hard thing to do for a small business. The other addition with the zoning, I think that's really important because I did have to go through a lot of extra paperwork, but anyone who's going to go through that extra paperwork you know is a massage therapist. They aren't going to go through all that and do something illegal. I think it's a really good extra safeguard. The blinds, I have a glass door, the window is open. If I'm there, I'm there, if I'm not, there is nobody there. I think the Chief put some important safeguards in there and it helped me tremendously. I worked hard to get this, but I didn't want to have to hire on an extra person just to babysit the front door. I really appreciate all the work he's put in.

Mayor Rogina: I think this is good language here. I want to commend you for that.

Bob: I think it's well done. It culminates the discussion we've had for the last 2 or 3 meetings. I really like the idea of keeping it open and not having everything covered with black paper. I commend the Chief, the staff, and Mr. Devo for coming forward and helping us to put that out there.

Mr. Devo: I've seen those places too. It says massage, there are no windows, its all blinds.

Ald. Payleitner: Nice job Chief. How are you deciding if it's by appointment only?

Chief Keegan: We will work with each application and each proprietor. The test we're going to use is inspections or compliance checks. We're not going to make appointments. It's in the

ordinance; they must open up their doors to us and allow us entry to inspect what's going on. Obviously, with that being said, if we can get in on a compliance check that just throws any argument towards being an appointment only establishment.

Mike Devo: I can help you with that. I use an online service called Schedulicity. My clients love it. They look to see when I'm going to be there that works with their schedule and they book online. It's becoming increasingly more popular.

Ald. Payleitner: I understand. I just wonder how the police will know which business is an appointment only and which is a walk-in.

Mike Devo: It would be easy enough for the Chief to ask for a business card and have a detective or someone check on line to see what their schedule is. If it's legit, it will be there, if not then go to question number 2.

Ald. Lewis: Regarding covering the windows. Isn't that in the code we have already that windows can't be covered completely, or is that only for liquor?

Chief Keegan: Not to the extent we would like it. I worked with Mr. McGuirk, Commander Gatlin and the Mayor; we saw it as a problem. There is a little bit of the language, but not what we would like it to be. There are some exemptions. There might be a business or two that are exempt from the requirements. If it's a freestanding, stand-alone massage facility that is ground level, there is no reason why we shouldn't have a clear view from the street.

Ald. Lewis: I agree. I just wondered if we already had it somewhere else. Help me think back to when you came before us a while ago. I thought you said something about having a part-time employee come in. With an appointment only is there still going to be someone else besides you or are you the only one?

Mike Devo: No. We'll all be appointment only.

Ald. Lewis: That's covered in the language. It doesn't have to be the owner.

Chief Keegan: Once again, we try to listen. Working with Mike we actually went around to some of the local massage facilities that often times, whether its walk-in's welcome, or what Mr. Devo talked about the scheduling software, most of the establishments we've licensed are stand-alone massage facilities. A large portion of their business are walk-ins. They are advertised on a major thoroughfare and people walk-in at will. There are some different business models out there where they don't take walk-ins. An appointment only type facility will know the clientele and will be able to determine a legitimate customer. If they sense that the customer has other intentions they aren't going to allow the appointment to take place.

Ald. Lewis: I have no problem with you Mike.

Mike Devo: To your point. It made me think as well. If I had one of my associates and someone books online and we don't know the person; I will make sure I'm there. It's common sense with this.

Ald. Lewis: But we don't require that in our ordinance.

Chief Keegan: We won't moving forward so long as the Liquor Commission and the City Council is okay with the language proposed. We want to have an exemption or modifications for businesses like Mr. Devo's that operate in a completely different fashion.

Mayor Rogina: I think the key to your point is the fact there will be, by his designation, somebody who is supervising and that person supervising is a licensed massage therapist. That to me is the key.

Ald. Lewis: If there is another establishment that comes before us and wants appointment only you're saying they cannot take walk-in's if they're there with an appointment and somebody walks up.

Chief Keegan: They can take walk-in's but then they would be required to have a secondary person there to act as a supervisor. If we go to do a compliance check or inspection as a walk-in customer and there is only one person in the establishment they would be accountable to the provisions in our ordinance that says they must have a secondary person there to supervise what's going on.

Chuck: Chief it's clear that you've listened to a lot of different people. I commend you and staff for putting this all together and being flexible. I've read it 2 or 3 different times and I can't find any questions.

Ald. Payleitner: This is effective as of when? Council approval?

Chief Keegan: Ten days after council approval, I believe.

Ald. Payleitner: There's no grandfathering in.

Chief Keegan: No.

Mayor Rogina: I would entertain a motion to recommend to Government Operations Committee preparatory an ordinance amending Title 5 "Business Licenses and Regulations", Chapter 5.20 "Massage Establishments", Sections 5.20.010 "Definitions", 5.20.080 (B), "Issuance and Denial of Licenses", 5.20.110 "Conditions and Restrictions of Licenses", 5.20.170 "Notice" and 5.20.180 (C) "Revocation or Suspension of Licenses" of the St. Charles Municipal Code.

Motion by Mr. Gehm, second by Mr. Amentato move this application to the July 5, 2016 Government Operations Committee meeting.

Roll Call Vote: Ayes: Ghem, Payleitner, Lewis, Amenta. Nays: None. Mayor Rogina did not vote as Chairman. **Motion carried.**

Ald. Payleitner: I see that the revocation and suspension of license shall be deemed effective 3 business days. Was that a change too?

Chief Keegan: Yes.

Ald. Payleitner: That was included in what the Mayor read.

Chief Keegan: Yes. Mr. McGuirk, I apologize for the oversight, there is a new provision that the revocation or suspension of license shall be effective three (3) business days after personal service or after the morning of the written notice as provided here. That's more of a housekeeping measure. I apologize that I didn't discuss that in my remarks.

Mr. McGuirk: We determined it was best that it go into effect immediately so we made that change.

Ald. Payleitner: Thank you.

7. Discussion regarding Tobacco Establishment Citation and Hearing Notice for ABHY, Inc. d/b/a St. Charles Shell located at 307 W. Main Street, St. Charles.

Mayor Rogina: 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 May 18, 2016, at approximately 4:45 p.m., the Licensee, ABHY, INC., d/b/a St. Charles Shell, by and through its employees, officers and /or agents committed the following violation of the St. Charles Liquor Code: sold tobacco to a minor in violation of Sections 5.16.070 and 5.16.100 of the St. Charles Municipal Code. On or about May 18, 2016, ABHY, INC., d/b/a St. Charles Shell, was operating under a Tobacco License issued by the City of St. Charles.

I think the rest need not be put into the record. Before the Chief makes any comments I will say that the licensee pleaded guilty to this offense and did not request any hearing or appearance before this body. Chief, unless you have anything further to add we will take care of appropriate penalty in the Executive Session. Are there any questions from anyone on the Committee?

8. Discussion regarding Massage Establishment Citation and Hearing Notice for U Spa located at 615 S Randall Road, Suite 100, St. Charles.

Mayor Rogina: 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 May 20, 2016, at approximately 9:45 p.m., the Licensee, U Spa Massage, by and through its employees, officers and/or agents,

committed the following violation of the St. Charles Massage Establishment Code: 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.”

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.”

Before I go to Council and or the licensee I would say for the record that the arraignment form we received nothing originally, but then a supplement was sent stating that the licensee was going to plead guilty, but did request an appearance before the Liquor Commission in mitigation giving an opportunity to present evidence in support of the position to minimize any penalty.

Name and address for the record.

Jessica Finley: Scott Sheen and associates, 713 E Main St., St. Charles. On behalf of the licensee Ju Teng Xian; I want to give you some background as far as what happened with this particular violation. My client has been in business for 2 years and 1 month with no previous violations. On the night in question she had run to a friend's house to drop off a few items. She is in fact a licensed massage therapist in the State of Illinois and is normally the individual supervising the business. The officer showed up at 9:45 p.m., typical closing time for them is 10:00 p.m. The individual that she left to supervise the business for her was on her second, and last day of employment. Actually did hold a valid massage license, unfortunately that license was for the State of Indiana, however, if you look at the Illinois Code and Indiana massage licensing requirements they are substantially similar. Under the Illinois Code had she only applied to Illinois she should have been able to be accepted given that she had met all the other requirements as far as criminal background check. She was in fact licensed in the State of Indiana which has provisions as far as the \$500 per practice. This individual is no longer with the business. Again, Mrs. Xian misunderstood the state requirements. State of Indiana vs. the State of Illinois, she took the employees representation on its face that she was in fact licensed. She was only gone for about 10 – 15 minutes and actually returned to the business while the officer was still there at about 9:50 p.m.

Mayor Rogina: Is it fair to say that at the time of the offense; I say offense as opposed to alleged offense because you pleaded guilty. Is it fair to say the place was unsupervised by a licensed Illinois massage therapist and that the person who was conducting massage therapy in

the establishment did not have, whether there are parallels or not, a valid State of Illinois massage license?

Jessica Finley: Yes.

Mayor Rogina: Are there any questions by the panel? I think as I indicated with the previous offense we will go to executive session for discussion. There is no need for you to stay because I have 10 – 14 days to issue a penalty and I will do that. I appreciate you coming in today.

Jessica Finley: Would my client anticipate receiving notification of the decision by mail?

Mayor Rogina: It's personal service.

Jessica Finley: Thank you, your honor.

9. Discussion regarding Massage Establishment Citation and Hearing Notice for Massage World located at 2460 W Main Street, St. Charles.

Mayor Rogina: Ahead of reading the complaint as indicated on the arraignment form; Mr. Sellars has sent along council, has pleaded guilty, but seeks hearing argument and mitigation which you will have the opportunity after reading the offense.

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 before May 13, 2016, at approximately 10:25 p.m., the Licensee, Massage World, by and through its employees, officers, and/or agents, committed the following violation of the St. Charles Massage Establishment Code: operated the business premises as a massage establishment after 10:00 p.m. providing massages to two (2) male patrons.

That the act detailed in Section 2 of this Complaint of Violation is prohibited and is in violation of and contrary to Sections 5.20.110(J) of the St. Charles Municipal Code.

That on or about May 13, 2016, Massage World was operating under a Massage Establishment License issued by the City of St. Charles.

That the Licensee, Massage World, 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.

Nick Iगतutta: Thank you. For the record my client does accept full responsibility. She was fully aware that they had the time limitation. On that specific evening she was not there, however there was a licensed massage therapist. What happened was that there were 2 massages that were scheduled at approximately 9:00 p.m. They came late at approximately 9:15 p.m., and were not done until approximately 9:45 p.m. Subsequent to that 2 other gentlemen who had massages scheduled for 9:30 p.m. were put back to 9:45 p.m., and they indeed were not completed until 10:15 p.m. We are accepting full responsibility for that. I believe the proprietor

is a licensed massage therapist, Jun Sellars, I believe she's had her license for approximately 4 years. This is the first complaint that she's ever had in this village. We have met with the employees and I have instituted, along with the owner, a new schedule whereby to stop this from happening in the future. They are not going to start any half hour massages after 9:00 p.m., and any 1 hour massages won't be started after 8:30 p.m. They have appointments and they do have walk-in's, but they are not going to take any walk-in's if they come after those times. Hopefully, that will alleviate the problem.

I did put together an instruction sheet for her. She is going to go over it with her employees to make sure that from this time forward no massages will start after 8:30 p.m. for an hour appointment or after 9:00 p.m. for a half hour appointment. She admitted her employees did the wrong thing. I don't think there was any intent. The appointments were not scheduled after that time they arrived late and caused them to be late. I've instructed Ms. Sellars and her employees that if they are running late they have to cancel the other appointments if they are going to run over. Just by the fact that she has no violations over the 4 years she is accepting responsibility. We would ask for some leniency from the commissioners. Thank you.

Mayor Rogina: I have one question. It's in reference to a memo that was sent to Commander Jerry Gatlin from the detective investigating this case, Detective Drew Lamella. In his memo he states he spoke with the two male customers who stated that this was their first time at the establishment. Then he asked subjects if they had appointments and they stated they did not. There is inconsistency with the 2 gentlemen that were in the establishment and the story that they had 9:00 p.m. appointments.

Nick Iगतutta: Objection, your honor. There were the people prior to these two gentlemen coming in, they came in late, that's why they were running late. There were appointments, not for those two gentlemen, but the appointments before that that were scheduled at 9:00 p.m. Those were the gentlemen that came late. Consequently, the two other gentlemen that walked in, they took them, which they shouldn't have done because it was now 9:45 p.m. and the people who had the appointments were late.

Mayor Rogina: There were people who were supposed to be there at 9:00 p.m. and they showed up at 9:15 p.m.

Nick Iगतutta: They started with them late and they shouldn't have taken the two walk-ins.

Mayor Rogina: One last question. If they came in at 9:15 p.m. for a massage, was that a half hour appointment, until 9:45 p.m.?

Nick Iगतutta: Yes. That's my understanding.

Ald. Lewis: There were people in there when these two men came in?

Nick Iगतutta: Correct.

Ald. Lewis: Were they seen leaving, these two people?

Nick Iगतutta: When these two gentlemen came in with the investigation, the two people before them were still there and they were over their time because they started late. They should not have taken the two walk-ins.

Ald. Lewis: I understand what you're saying. I don't read anywhere where it states that anyone was observed leaving the facility at 9:45 p.m. They only see two men walking in.

Nick Iगतutta: I don't have that report. I don't know what time the officers were there; my understanding was that they came after 10:00 p.m. I never received the report.

Chuck: At 9:40 p.m. the detective observed two males entering.

Mayor Rogina: If they are entering at 9:40 p.m., and they have a half hour appointment they are going to be there after hours. You've already suggested that the owner takes responsibility for that. I'm content with that unless there is any other comment. We have the reports here and they have pleaded guilty. He's articulated it's their first offense and they are looking for leniency as indicated in his comments.

Nick Iगतutta: Thank you very much.

Mayor Rogina: That takes us back to item number 4. Chief, we don't have anyone here for this, but I'm trying to be business friendly and at the same time respect the Liquor Commission.

Chief Keegan: I can present the material we have, and hopefully with a phone call we could have somebody here for Government Operations.

Mayor Rogina: Why don't we do that; two of the four members of the Commission are on the City Council Committee. I trust they'll provide a barrage of questioning if need be, and if the person is not here at 7:00 p.m. tonight, we move them along to next month.

Ald. Lewis: I think it does a disservice to all those applicants who do come and make the time to get here. I think it's a disservice to Chuck and Bob because they won't be at the next meeting to speak with the person making the application for this. I think we have to set some policy and stay with that policy. One of the requirements should be they are here when they apply; not that Chief wouldn't do an excellent job, he's very thorough, but they should be here.

Mayor Rogina: I agree. Noodles, Pot Belly and ATI are three reputable established businesses around the area and the State. If they don't show tonight they will be put back one month. To your point of Bob and Chuck, I'd entertain their comments.

Bob: Those are all good points. The other thing is based on the recommendation, there is still the background check and fingerprinting that hasn't happened either. They don't even have that put together, plus if they don't show up. Not that it sends a bad message, but if we put them

back a month are we really being detrimental to their business, if they're not here and they have that contingency already? It would be a conditional approval, at best, to move forward tonight anyway. All the ducks are not in a row. Other applicants have everything done, fingerprints, backgrounds, dram insurance, BASSET training. We don't have that right now as far as I'm seeing.

Chuck: It's not unprecedented that we pass a conditional approval, but the applicants have been here.

Chief Keegan: Point well taken from all five of you. In mitigation, this is a Colorado corporation, a very large corporation, in fact I know from talking to Ms. Nilles, we've been told that the Geneva manager is going to come and speak to the business plan and business model. Obviously that hasn't happened.

Tina: It's my understanding that a representative from Noodles & Company would show, if they're not here for 4:30 pm, I don't know if they will be here for 7:00 pm.

Mayor Rogina: If they aren't here we can't move the process along until next month.

Chief Keegan: This is the old TGI Friday's, there's an addition that's been constructed. Pot Belly's is going to be on one side, ATI in the middle, and Noodles & Company on the other side. It's not yet built out, and we haven't had a chance to walk through. We have the architectural renderings, a local manager hasn't been selected, but I can tell you it's called fast-casual, which is a theme of a lot of the restaurants that are popping up here. They have a large following and we're excited about bringing them into St. Charles. I know they are excited to be here, however they're not here. I feel very comfortable with the business plan and what their intent is moving forward, we just don't have anybody here.

Ald. Payleitner: The manager from Geneva is coming over; as I understand they don't have a liquor license in Geneva. Is that correct?

Chief Keegan: A number of them do, but not the Geneva location.

Ald. Lewis: The one at The Commons? I've had a beer there.

Mayor Rogina: I've gone to that location and was under the impression they do not.

Ald. Payleitner: As far as applicant attendance at our meeting, is it required or is it a courtesy?

Chief Keegan: It's a courtesy. I don't believe it's required.

Tina: I always tell them it's important that they come.

Mayor Rogina: I'd like to see them here tonight and I think a call can be made. We can then move along. I think Maureen's correct. I'd like an opportunity to discuss the issue. Sounds like

Chuck and Bob are okay under the condition that we have to make sure the fingerprints and background check is done.

Chuck: Do they have a scheduled open date? They haven't even done the buildout yet.

Mark: In their business plan it says they plan to open July, 2016.

10. Other Business

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

Mayor Rogina: I would entertain a motion to in pursuant to 5ILCS 120/2 (c) (4) to move to Executive Session.

Motion by Mr. Ghem, second by Mr. Amenta to move to Executive Session at 5:40 p.m.

Roll Call: Ayes: Ghem; Payleitner; Lewis; Amenta. Nays: None. Mayor Rogina did not vote as Chair. **Motion carried.**

Motion by Payleitner, second by Gehm to come out of Executive Session at 6:10 p.m.

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

12. Adjournment

Motion by Gehm, second by Amenta to adjourn at 6:10 p.m.

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