

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, AUGUST 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. Silkaitis, Ald. Vitek, and Robert Gehm

Absent: Cliff Carrignan

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

3. Motion to accept and place on file minutes of the August 21, 2017 Liquor Control Commission meeting.

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

Motion Carried.

4. Recommendation to approve a proposal for a new Class B liquor license for Sushi Diva Japanese Restaurant to be located at 2400 E Main Street, Unit 107A, St. Charles.

Chief Keegan: This is a recommendation to approve a proposal for a new Class B liquor license for Sushi Diva Japanese Restaurant to be located at 2400 E Main Street, Unit 107A, St. Charles. Sushi Diva is in Foxborough Plaza, it's an ownership change, the business model is relatively similar or the same. They are applying for class B, full service, beer wine and spirits. The petitioner is here to answer any questions the committee may have.

Wichitthree Thonsen: 2400 E Main St., St. Charles.

Chrmn. Rogina: Is this your first venture into the restaurant business.

Wichitthree: This is our first.

Chrmn. Rogina: I wish you good luck. Pending approval by this group you would come back tonight about 7:15 pm, the full council will be here as a committee. They may have questions for you at that time.

Ald. Vitek: On page 104, when it talks about the other owner, unless I'm reading it incorrectly, I want to make sure it's corrected. It doesn't say that the other owner had never been arrested it says ever been arrested. I think the word never is supposed to be in there.

Chief Keegan: Without having it in front of me I'm not sure. I can tell you that detectives did vet the background properly and I got a recommendation. I can check on that for tonight.

Chrmn. Rogina: The word should be never.

Chief Keegan: I'll check on that and confirm.

Motion by Mr. Ghem, second by Vitek to move forward to committee a recommendation to approve a proposal for a new Class B liquor license for Sushi Diva Japanese Restaurant to be located at 2400 E Main Street, Unit 107A, St. Charles

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

5. Recommendation to approve a proposal for a new Class A6 liquor license for ABHY, Inc., dba St. Charles Shell, located at 307 W Main Street, St. Charles.

Chief Keegan: This is a recommendation to approve a proposal for a new Class A6 liquor license for ABHY, Inc., dba St. Charles Shell, located at 307 W Main Street, St. Charles. This is a recently approved addition to our liquor code allowing the sale of alcohol in gas stations as long as it doesn't exceed 10% of the floor space. We reviewed the application, the Patel's are present. This is a package liquor store license so the hours of sale will be consistent amongst all package liquor stores 7:00 am – 10:00 pm Monday – Sunday. Their Basset paperwork is in order, so is their Dram Shop insurance.

Heena Patel: 307 W Main Street. We request a liquor license for the store.

Chrmn. Rogina: This is the 1st approval of this since the ordinance was passed.

Motion by Ghem, second by Vitek to move forward to committee a recommendation to approve a proposal for a new Class A6 liquor license for ABHY, Inc., dba St. Charles Shell, located at 307 W Main Street, St. Charles.

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

6. Recommendation to approve a proposal for a new Class B license, and 1:00 am late night permit for Eden on the River restaurant to be located at 1 Illinois Street, St. Charles (former Charleston on the River location).

Chief Keegan: This is a recommendation to approve a proposal for a new Class B license, and 1:00 am late night permit for Eden on the River restaurant to be located at 1 Illinois Street, St. Charles (former Charleston on the River location). This material was presented to us rather quickly over the last week. Marwan Taib the owner of Charleston on the River did an asset sale to the petitioner. These folks have a significant restaurant experience. They have operated a Mediterranean restaurant in DeKalb for about 8 years.

Rawan Alhalabi: 1 W Illinois St.

Omar Alhalabi: I am Rawan's husband. I'm a teacher at Northern Illinois. I teach music. I will help manage the kitchen, music, entertainment.

Chrmn. Rogina: You get a good student crowd.

Omar: Facility as well.

Chrmn. Rogina: It's a great site and area that's developing in our town.

Ald. Silkaitis: As part of the application process the Basset was to be in today.

Rawan: I submitted today.

Chief: All paperwork has been received.

Motion by Ghem, second by Vitek to move forward to committee a recommendation to approve a proposal for a new Class B license, and 1:00 am late night permit for Eden on the River restaurant to be located at 1 Illinois Street, St. Charles (former Charleston on the River location).

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

Motion Carried

7. Recommendation to approve an Ordinance Amending Title 5, Entitled "Business Licenses and Regulations" Chapter 5.08, "Alcoholic Beverages", 5.08.230, "Licensed Premises – Location Restrictions" of the St. Charles Municipal Code.

Chief Keegan: This is a recommendation to approve an Ordinance Amending Title 5, Entitled "Business Licenses and Regulations" Chapter 5.08, "Alcoholic Beverages", 5.08.230, "Licensed Premises – Location Restrictions" of the St. Charles Municipal Code. As the Mayor remarked this is generally referred to as the 100 ft. rule. We are a home ruled community which means our ordinances can be more restrictive than state law but not less. Over the years the interpretation of this particular ordinance can be vague. I came across a statute that was recently updated in February. I've attached it for your review. I'd like to codify the state law into our ordinance. What the state law says is, so long as the principal use of the business is not alcohol sales, a package liquor store or bar, an establishment can locate within that 100 ft. A restaurant, hotel, or

convenience store, so long as we don't see the primary business as alcohol sales. My recommendation is to take the statute and enumerate that into our ordinance.

Chrmn. Rogina: When council or this commission in the future evaluates a proposal and there is a church within 100 ft. It would be our job, first at the commission here, then Council to discern the primary focus that at least 51% of the business is not liquor, but food, hotel, spa, etc., where liquor is served. I suppose that in some cases there could be fine line and that's where I would see it as the Council's job to discern that.

Chief Keegan: Correct. I've had a handful of folks come talk to me about this. When you read the state statute, and it was recently amended, if the sale of alcohol/liquor is not the primary business carried on, the place of business is exempt. I reached out to the Liquor Control Commission downtown and it's their interpretation that so long as it's not a tavern or a packaged liquor store and their principal course of business is not alcohol sales the establishments would be allowed to occupy that 100 ft.

Chrmn. Rogina: This committee and Council will be in a position to evaluate each application as it comes forward.

Ald. Silkaitis: I appreciate the work, but I like the ordinance the way it is. I don't want to get out of control with liquor. We're changing things to make it easier. I'm personally against changing the ordinance.

Chrmn. Rogina: It's your position we should be tougher.

Ald. Silkaitis: Exactly.

Ald. Vitek: If someone were to come to us, maybe a restaurant, and they serve alcohol, we would say yes, that would be ok, and it would still be okay with this ordinance as well?

Chief Keegan: Currently we would say no. If this passes we would say yes. I'll use the Amlings building as an example. I had a breakfast/lunch person come to see me; he wanted to serve Mimosa's, Bloody Marys, etc. That particular location is within 100 ft. of the church on E. Main St. If our ordinance remains the same that would not be allowed, if we were to adopt the statute that I've outlined it would be allowed because the principal course of their business would not be the sale of alcohol.

Ald. Vitek: We're leaving it to the owner of the proposed business to define that for us?

Chief Keegan: I think that goes along with us requiring a business plan. Looking at their hours of operation, their menu, there are a lot of factors I'd want to look at before I would recommend and forward to Liquor Control Commission and City Council.

Ald. Silkaitis: If they do want to put a restaurant in and they serve alcohol, can they apply for a late night permit?

Chief Keegan: Yes any B and C license can apply for a late night permit.

Chrmn. Rogina: You're allowed to turn it down.

Ald. Silkaitis: I just don't think I want to allow the opportunity.

Mr. Ghem: Do we have any other churches, other than that close to the Amlings building that would be within 100ft of a business?

Chief Keegan: We do. We have a gentleman on main street wants to expand his business with some packaged goods, and the percentage would probably be pretty low compared to his business sales, but right behind him is the Methodist church. Under our current ordinance there would be some conflict.

Mr. Ghem: We would say he couldn't be there under the 100ft. rule.

Atny. McGuirk: In applying the present ordinance it appears they wouldn't qualify. What the Chief is saying is because the business they are proposing is not primarily the sale of alcohol, they would be approved.

Ald. Vitek: Once you approve a late night permit it changes the dynamic of a restaurant. Is there any way that the 100 ft. rule can just be tied to the late night permits?

Chief Keegan: I'll defer to Mr. McGuirk, we are home rule; I can probably write language to protect our rights in that regard.

Atny. McGuirk: It would have to be in the late night permit area of the code.

Chief Keegan: There is one point that can be difficult to discern. It talks about property line to property line. I've used GIS and a traffic tape measurer, and it leaves some wiggle room, is it 100 ft., is it 110 ft.? If you go on the premise of what the primary use of the business is, it would be a bit cleaner for me and economic development to discern what's allowed and what's not. It's up to the Council to decide and I'll support the decision either way. We do have a populated business district and we've had some issues with how close the buildings are from one another.

Chrmn. Rogina: I maintain that if you approve this, the state standard, I don't see that you're giving away anything, any particular license would have to come before the Liquor Control Commission and City council.

Mr. Ghem: I see this as being a bit more business minded, but it still has to go through the process and be voted on its merits when it gets to City Council. I think by changing it we are at least entertaining the option where it would have been a straight no in the past based on the 100 ft. rule. Ultimate approval is recommendation from the commission to city council.

Atty. McGuirk: I think if we change the late night permit there may be some unintended consequences from that. We haven't studied that at all.

Motion by Ghem, second by Vitek to move forward to committee a recommendation to approve an Ordinance Amending Title 5, Entitled "Business Licenses and Regulations" Chapter 5.08, "Alcoholic Beverages", 5.08.230, "Licensed Premises – Location Restrictions" of the St. Charles Municipal Code.

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

Motion Carried

8. Recommendation to approve an Ordinance Amending Title 5, Entitled "Business Licenses and Regulations" Chapter 5.08, "Alcoholic Beverages", 5.08.090, "License - Classifications" of the St. Charles Municipal Code.

Chrmn Rogina: This is not moving forward to Council Committee tonight. It is being discussed here with a chance for Council to formulate some questions for Council Committee on September 5.

Chief Keegan: This is a recommendation to approve an Ordinance Amending Title 5, Entitled "Business Licenses and Regulations" Chapter 5.08, "Alcoholic Beverages", 5.08.090, "License - Classifications" of the St. Charles Municipal Code.

Chrmn. Rogina: Before you begin; a city council member came to me with the following: We have approved an ordinance permitting the sale of alcohol in a gas station. If a gas station has a mini mart in it they are allowed to have 10% of their floor space for liquor sales. The mini mart across the street cannot, doesn't seem to be fair competition. I mentioned to bring it to the Liquor Commission and or to City Council for discussion, approval, or not.

I'd also like to mention that it came to my attention, about 1 year ago, when a 10 - 0 vote took place to deny the sale of the St. Charles mini mart on 3rd street to a business that would have been a full service liquor store. It crossed my mind when this came forward. If we adopt item 8 it permits a convenience store to have the same rules as a gas station that no more than 10% of the floor space be used for liquor sales. I don't see the two as the same. This is 10% of the mini mart, which also has a license to sell tobacco, not creating a full blown liquor store in that neighborhood.

Chief Keegan: Prior to the A6 license being approved. We had 2 standing practices that are codified in the liquor code. To be a free standing liquor store in the City of St. Charles you have to be 2000 q ft., to have a combination license with alcohol as an ancillary business offering, CVS, Walgreens, Osco, it has to be 10,000 sq. ft. Moving forward to the A6, gas stations that have convenience stores, but why not convenience stores that are freestanding. We have 3 7-11's in town, one with a gas station attached. The gas station would be allowed to sell alcohol, as long as it's no more than 10%, what about the other 2 stores? Of the bordering communities each allows this practice except for West Chicago. I bring this forward as a request from a fellow

city council member for discussion. It's something we can codify if it's the Liquor Control Commission, and City Council's wish.

Mr. Ghem: Going back to the convenience store that was going to be a full liquor store. In the neighborhood it was not conducive to what we were trying to do. Knowing there are only 2 potential, and there may be some down the road, to add convenience stores with the restriction of no more than 10% of your floor space devoted to liquor sales, all the things that we just approved for recommendation for the Shell station would be applied for a convenience store, correct?

Chief Keegan: Anyone who sells packaged alcohol, the hours are: 7:00 am – 10:00 pm 7 days a week.

Ald. Silkaitis: The mini mart on 3rd would be allowed to sell liquor. It's by residential and a park. That's my problem with this

Chrmn. Rogina: With all due respect, Lundeen's on the west side is also by residential and a park. I respectfully disagree that the intent is no alcohol at all. It's a mini mart. To chiefs point we're trying to level the playing field among out businesses here.

Ald. Silkaitis: I'm afraid we're going to open up these little pockets.

Chrmn. Rogina: I think there are ways for us to look at our ordinance and zoning to make sure that doesn't.

Ald. Silkaitis: If we just don't allow it we don't have to go through those extra steps.

Chief Keegan: I did check with the Economic Development Department, Rita Tungare, and the zoning we're referencing, the St. Charles Mini Mart, as long as alcohol is not the principal use it's allowed per zoning.

Chrmn. Rogina: Pending approval.

Motion by Ghem, second by Vitek to move forward to committee a recommendation to approve an Ordinance Amending Title 5, Entitled "Business Licenses and Regulations" Chapter 5.08, "Alcoholic Beverages", 5.08.090, "License - Classifications" of the St. Charles Municipal Code.

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

Motion Carried

9. Other Business

10. Public Comment

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

12. Adjournment

Motion to adjourn by Ald. Silkaitis, second by Mr. Ghem, meeting adjourned at 5:09

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