

MINUTES
CITY OF ST. CHARLES
LIQUOR CONTROL COMMISSION MEETING
TUESDAY, FEBRUARY 20, 2018

1. **Call to Order.**

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

2. **Roll Call.**

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

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

3. **Motion to accept and place on file minutes of the Liquor Control Commission meeting held on January 22, 2017.**

Motion by Mr. Carrignan, second by Ald. Silkaitis to accept and place on file minutes of the Liquor Control Commission meeting held on December 18, 2017.

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

Motion carried.

4. **Recommendation to approve an Ordinance Amending Title 5 “Business Licenses and Regulations”, Chapter 8 “Alcoholic Beverages”, Section 090 “License –Classifications” and Section 100 “License Fees; Late Night Permit Fees; Fees Established of the City of St. Charles Municipal Code.**

DC Mahan: Staff has been working on a proposal for 210 Cedar Avenue, LLC to be located at 210 Cedar Ave., which is proposed to be a small private event venue. They’re seeking liquor license either for BYOB or through a licensed caterer to provide liquor services for their small events such as, meetings, bridal showers, etc. We looked at other municipalities and drafted an ordinance. We propose a recommendation for a class D-9 license, which is in your packet, it allows for this type of service of alcohol at the location incidental to food service, whether it be through a class B or C license holder from the City of St. Charles or a BYOB with provisions such as the need for insurance from the person leasing the space.

Mayor Rogina: This is a place to have banquets. There are choices the customer would have. Is the Police Department confident that all the rules and regulations are satisfied in this construction of the new D-9 license?

DC Mahan: Yes. We think that this covers it very well, and from our conversations with the business owners we don’t foresee any problem along that line.

Ald. Silkaitis: Are they going to be allowed to sell liquor and also have BYOB service?

DC Mahan: The provision is there, but I don’t believe they have any intention of selling alcohol.

Karen Ramella: 108 Seventh Place, Geneva, IL.

Ald. Silkaitis: Are there any other businesses that have both the service of liquor and bring your own?

DC Mahan: No, this is why we looked to some other existing businesses that have this type of license. With special events we do allow liquor to be brought in from a licensed B or C class to provide service.

Ald. Silkaitis: We don't have any businesses currently that have a BYOB and the other two privileges as well?

DC Mahan: I don't believe we do.

Ald. Silkaitis: That's my concern.

Mayor Rogina: There is a small part that is BYOB, they have to have BASSETT training, or they sell liquor.

Karen Ramella: We are not selling. The choice would be they would bring in a caterer or bar service that's licensed in St. Charles.

Ald. Silkaitis: Do we need to have the option in the ordinance if they aren't going to do it?

DC Mahan: We were trying to make it as flexible as we could for them.

Ald. Silkaitis: That's fine, but there are three parts to this ordinance, and if they aren't going to use one part of it why have it in there.

Mr. Carrignan: You either have the caterer supply the liquor or you bring your own.

Karen Ramella: Or they don't have any.

Mr. Carrignan: If you choose one, you won't be doing the other. Where would the selling come in?

Ald. Silkaitis: That's part of the ordinance. They could actually sell liquor, buy the liquor and serve it themselves. Is that correct?

DC Mahan: It doesn't authorize the sale or delivery of alcohol. It would have to be done through a distributor.

Ald. Silkaitis: They could still sell you a drink, you could bring your own, or you could have a third party cater. It's too broad.

Mayor Rogina: That's not their intention, but if they decided they want to provide liquor they would still have to follow the rules established.

Ald. Silkaitis: It's too wide open in my opinion.

Mayor Rogina: You would vote yes to recommend this to City Council Committee if only two of the three prongs were in the ordinance. Not all three.

Ald. Silkaitis: Correct.

Ald. Vitek: I think it's a great space and a good idea.

Mr. Gehm: I think it's well done. It's a unique opportunity. I don't think we have another venue like this in St. Charles. We have BYOB with establishments, and that's all they do. As I understand, and I get your point Ron, the party renting the space has someone provide alcohol or bring their own. The intent is not to sell or be a distributor, regardless of what the event is, they have 2 choices, bring your own, or have a licensed vendor that is BASSETT trained and certified with insurance provide that.

Karen Ramella: Correct.

Mr. Gehm: That would be your client's privilege, correct?

Karen Ramella: Yes.

Mr. Gehm: Hopefully with some guidance from you saying these are the only 2 options, or you have no liquor at all.

Mr. Carrignan: How will the BYOB be handled? Is it being served by someone, or do they bring it and serve themselves?

Karen Ramella: I'm BASSETT trained and would be able to serve, and will always be present.

Mr. Carrignan: Is there always going to be a BASSETT trained person on site?

Karen Ramella: Yes.

Mayor Rogina: I'd like to try and get a unanimous vote if possible and that would be to eliminate any reference to the licensee selling liquor themselves, and strike that from the ordinance, keeping BYOB, or catered. It has to be a St. Charles licensed caterer. What are we striking from the ordinance?

Mr. Gehm: Shall authorize the sale or delivery of alcoholic liquors for consumption on premise.

Mr. Carrignan: We should change that to just delivery.

Mr. Gehm: Yes.

Atty. McGuirk: I think that we have several places where selling is referenced that would have to be removed.

Mayor Rogina: If we remove that and just have delivery; we're still covering catering and BYOB.

Atty. McGuirk: Sounds like it.

Motion by Ald. Silkaitis, second by Mr. Carrigan to recommend for approval an Ordinance Amending Title 5 "Business Licenses and Regulations", Chapter 8 "Alcoholic Beverages", Section 090 "License –Classifications" and Section 100 "License Fees; Late Night Permit Fees; Fees Established of the City of St. Charles Municipal Code. Conditional on removing any reference to the selling of liquor, they can have BYOB, or a third party come in who is qualified to do this.

Mayor Rogina: Chief do you see a problem with this being adjusted?

DC Mahan: Removing the sale part I don't foresee a problem. If someone wanted to bring in a cash bar, it wouldn't be able to happen.

Mayor Rogina: We have a motion on the table, but given the problem.

Ald. Vitek: If I understand this correctly the only way this would work is they would have to have the other license first to be able to sell. If we left it the way it is, it wouldn't be an issue because they would have to have the other license to be able to sell.

Mayor Rogina: The next item is to recommend the license for 210 Cedar, LLC.

DC Mahan: If selling were allowed to stay as an alternative, in the second paragraph...

Mayor Rogina: As an alternative to selling and servicing alcoholic liquor for a particular event. The implication is selling. Do you want to amend your own second here Cliff, otherwise I'll call the question.

Mr. Carrigan: We can call the question, and turn around and vote. If another licensee were to come in and they're authorized to sell liquor it bridges that gap.

Mayor Rogina: The question on the table is to remove the reference to sale in all areas of the ordinance. I'm going to call the question on that. If you support you'd want to vote yes, if you don't, vote no.

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

Motion by Ald. Vitek, second by Mr. Gehm to approve as is second Mr. Gehm to Recommend for approve an Ordinance Amending Title 5 "Business Licenses and Regulations", Chapter 8 "Alcoholic Beverages", Section 090 "License –Classifications" and Section 100 "License Fees; Late Night Permit Fees; Fees Established of the City of St. Charles Municipal Code.

Mr. Carrigan: Going back; the other licensee effectively bridges the gap on the sales issue.

Mr. Gehm: The 210 Cedar, LLC could not be the seller of any alcohol, it would have to be another St. Charles licensee, B or C, doing the selling.

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

Mayor Rogina: That passes 3 -1, and puts a recommendation for this license to go into our series of licenses and move along to Council Committee tonight.

5. Recommendation to approve a Proposal for a New Class D-9 liquor license for 210 Cedar, LLC, to be located at 210 Cedar Avenue, St. Charles, Illinois 60174.

DC Mahan: The Police Department has conducted background investigation no issues have come forth, we would like to recommend.

Motion by Mr. Carrignan, second by Ald. Vitek to recommend for approval a Proposal for a New Class D-9 liquor license for 210 Cedar, LLC, to be located at 210 Cedar Avenue, St. Charles, Illinois 60174.

Ald. Silkaitis: How does this effect the previous? This allows what we just approved.

Mayor Rogina: Nothing has been approved by City Council yet, we recommended it. City Council approves D-9, what this motion does if City Council approves our recommendation, is give them a D-9 license, which we recommended 3 -1.

Mr. Gehm: This would actually grant 210 Cedar, LLC the D-9 license.

Ald. Silkaitis: Thank you. I just wanted some clarification.

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

6. Recommendation to approve a Proposal for a Liquor License Change Request for The Painted Vine Cellar, LLC, located at 1 W Illinois Street, Unit 110, St. Charles 60174, from a D-8 license to an F-2 BYOB (Bring Your Own Beverage) License.

DC Mahan: This is a recommendation for approval of a liquor license change for the Painted Vine Cellar located at 1 W Illinois Street, St. Charles. They're requesting to change from a D-8 license to a BYOB license. After being in business for some time they have re-evaluated and decided it would be a better fit to have a BYOB license rather than a service license. They are in good standing with the City.

John Kessler: My address is 40W555 Fox Meade Drive, St. Charles.

Ald. Silkaitis: Have we ever done this before? Can I ask why?

John Kessler: With the amount of business we get we end up throwing away a lot of wine, which is basically throwing away our profit. Our intention is to keep all of our staff BASSETT

trained and keep our liability insurance.

Motion by Ald. Silkaitis, second by Mr. Gehm to Recommend for approve a Proposal for a Liquor License Change Request for The Painted Vine Cellar, LLC, located at 1 W Illinois Street, Unit 110, St. Charles 60174, from a D-8 license to an F-2 BYOB (Bring Your Own Beverage) License.

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

7. Recommendation to approve a Proposal for a New Class A5 License for BOKE Enterprises, LLC dba The Wine Exchange located at 1 Illinois Street, Unit 120 St. Charles.

DC Mahan: Item 7 is also a change in a liquor license. Same license, A-5, however we have a request of change in ownership for the Wine Exchange. BOKE Enterprises, same business concept, same business plan, they have submitted an application for an A-5 liquor license. We did a background investigation and there are no items of concern. We recommend approval. The new owners are here if you have any questions.

Motion by Mr. Gehm, Second by Mr. Carrignan to recommend for approval a Proposal for a New Class A5 License for BOKE Enterprises, LLC dba The Wine Exchange located at 1 Illinois Street, Unit 120 St. Charles.

Mayor Rogina: To the current owner, Mike Frasier, you run a very successful operation. We appreciate all you've done over the years.

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

8. Discussion to consider a "Site License/Market License" at 1825 Lincoln Highway (93 Octane Nano-Brewery). This concept would be in addition to Urban Counter and the Pride Liquor Store.

Mayor Rogina: This item is not an action item, but it's a good idea to have a conversation with the owners before they move forward.

Chief Keegan: This is a concept in addition to their current offerings at that same location, the Urban Counter which is a class B license holder, and the pride liquor stores which is a Class A license holder. At the far end of the building they originally planned for an Italian market, but have shifted gears and want to look at a Nano-brewery.

The Pride, LLC/Parent Petroleum operates the entire complex, including the adjoining gas station at the corner of Bricher and Rt. 38. Unlike what we do here by approving it at the local level first. It's the opposite when you want a distributor/manufacturer. You have to go through the state first, then local. Before they continue with the licensure they want to discuss it with

you. We've put together what we believe is a concept plan in the license to incorporate all three businesses under one roof. Right now we have site licenses at the Q-Center, Pheasant Run and Hotel Baker, with different access and serving points and the entire site is included in the site license.

Guy Morgano: 1460 Terrance Drive, Naperville, IL.

Chris Pecket: 3450 Winnetka Road, Glenview, IL.

Mayor Rogina: At this point St. Charles does not have a functioning brewery; we have one that has been approved, but right now there are none.

Chief Keegan: We did approve one on N. 4th Street, it's not operational at this point. This would be the first operational brewery.

Mayor Rogina: Penrose in Geneva is very popular. I'm going to open it up to the commissioners for questions. It would be a site license.

Mr. Carrignan: Would all the beer be manufactured there or brought in from offsite?

Mr. Pecket: Both, we would like to distribute and manufacture. All 93 Octane will be brewed on site.

Mayor Rogina: I can have food at urban grill; then I would take my plate through the package liquor place to get to the brewery. Is that correct?

Mr. Pecket: Yes, or vice versa.

Mayor Rogina: There are ways we can do that to make sure we are in compliance with the Health Department.

Mr. Morgano: We currently meet all the health department requirements.

Mr. Carrignan: I like the concept.

Mr. Silkaitis: Does this affect the alcohol tax? Are you planning on selling what you brew outside of St. Charles?

Mr. Pecket: Yes.

Mr. Silkaitis: Would that be taxed?

Mayor Rogina: That's an interesting question. If he produces beer here and sells it to someone else, not in St. Charles, how does that work as far as the point of sale is concerned, who receives the alcohol tax?

Mr. Pecket: We have a distributor; we would pay the state and federal tax, once it hits the retail point.

Mayor Rogina: You're implying if you sold 5000 of beer to a distributor we would not be able to collect the alcohol tax.

Ald. Silkaitis: As a distributor, we would not get any tax revenue because it wasn't poured.

Mayor Rogina: That's what's being implied. There is enough time between now and going to Council to get more information if that will affect your decision.

Mayor Rogina: The purpose of the alcohol tax in St. Charles is to tax a person consuming alcohol in St. Charles at the time they are drinking.

Chief Keegan: The hours of operation mirror each other and all share bathrooms. They can't exceed 10pm. They can open as early as 7am, close at 10pm. They would have the same hours of operation that they currently have.

Mayor Rogina: That would be in the site license.

Chief Keegan: Correct.

Mark: For the sake of clarity, there is a liquor tax that is payed for packaged goods. I don't know if this would be considered as packaged goods if they are selling to a distributor.

Mayor Rogina: Let's get clarification on this.

Mr. Carrignan: The manufacturer sells to the distributor without a tax, the distributor puts on tax as the point of sale.

Mr. Morgano: Wholesale concept vs retail concept.

Mr. Carrignan: Are you looking for some type of idea of how we would vote?

Mayor Rogina: You can give them a signal tonight, this is not going to Council Committee tonight, for the purpose of moving along what you would do moving forward.

Mr. Carrignan: I'm comfortable with the distribution tax issue, we may need to do a little homework, but the concept itself makes sense and bring some value.

Mayor Rogina: I think at this point you're walking away with a Liquor Commission Recommendation. It's not final Council approval yet.

Chief Keegan: We are planning on advancing this to Government Operations Committee tonight to seek some direction due to the amount of capital they will be spending.

Mayor Rogina: Under the same approach or are you expecting to take action.

Chief Keegan: As a discussion item to seek direction.

Mayor Rogina: Is there anyone who objects to the concept here?

Mayor Rogina: I think you're in a position to deliver to Council Committee tonight that the

Liquor Control Commission was very comfortable with the concept.

9. Discussion regarding Senate Bill 2322 which would set the legal age to buy or use tobacco products in the State of Illinois to age 21.

Mayor Rogina: Senator McConnaughay has issued a letter suggesting some opinion on Senate Bill 2322, which is the State of Illinois blanketing the State with a statute to prohibit the sale of tobacco under the age of 21. The Chief and I had a meeting with the American Cancer Society they were looking for the City to create an ordinance. The Chief asked if they were looking for an ordinance that puts the hammer on the seller, or the buyer, or both. They were honest and indicated they were more concerned with the seller.

Chief Keegan: I'm concerned from an enforcement point of view, it's illegal to sell it to someone who is 18, but you can possess it. I thought it put our officers in a precarious position.

Mayor Rogina: If Geneva decided to leave it alone, and we changed to 21, we would have individuals who purchased tobacco legally and were being sited here in St. Charles. I left that conversation by asking that they come back when they have unanimity with the entire group of Cities in the Valley.

I think the Chief is looking for each member of the commission to opine on this. City Administrator Koenen and I are meeting with the Senator in about 2 weeks. We'd like to deliver some of the thoughts you have.

Mr. Gehm: I agree with 21 for tobacco just as alcohol. My question would be if the State decided to go forward with this how it would affect us here in the City?

Chief Keegan: We would have to change our tobacco ordinance to match the State.

Mr. Gehm: I think it's a good idea. But to the Chief's point, it would be a nightmare if we did something like this on our own. If the State does this and it's for buying and using; I would go along with that.

Ald. Vitek: Is there any discussion at the State level about that issue?

Chief Keegan: This is the first we've heard from the State getting involved in this conversation. Unless it involves both sale and possession it will be very tough for us to discern and enforce.

Ald. Vitek: I would think that would be the feedback then and other municipalities would be giving the same feedback. We're not the only PD with that issue.

Chief Keegan: I would hope that if they change anything it would be for both possession and sale.

Mayor Rogina: Having said that, and they change both, would you support 21?

Ald. Vitek: Yes, however both issues need to be addressed.

Ald. Silkaitis: Buy or use, it has to be none or both. I like 21. There will be some feedback from businesses.

Mr. Gehm: In the Senator's letter it states the legal age to buy or use tobacco. If the State decides this we don't have an option.

Mr. Carrignan: When I was growing up we sent guys to war at 18 years old. We now send people to Iraq and Afghanistan, if they want to smoke that's their decision. Being a cancer survivor I don't condone smoking what-so-ever, but I don't think it's our job to legislate that for an 18 year old in the service. You're 18, you're old enough to make decisions about how you want to treat your body.

Mayor Rogina: I agree with Cliff. If tobacco was so dangerous, it is dangerous, but we don't ban it. We limit sale to a certain age. If a young man or woman can fight in a war at 18, you're an adult, you can vote.

Ald. Silkaitis: I understand, but they why is alcohol set at 21?

Mr. Carrignan: I believe alcohol should be 18 also.

Mayor Rogina: You're logic makes sense.

Chief Keegan: I would ask that you engage the Senator on 2 items: We passed alternative nicotine products a couple years back, it's 18 to possess. I would ask that they consider alternative nicotine, and chewing tobacco. I would assume it would be blanketed across all products, but they have yet to come up with an opinion on alternative nicotine products.

Mr. Gehm: It is listed in the letter; tobacco products, electronic cigarettes, and alternative nicotine products. Make it inclusive.

Chief Keegan: It has to be very clear if passed.

Mayor Rogina: I think we have a majority opinion from the Liquor Commission that they would like to see 21. It's a tough issue.

Chief Keegan: I've only seen a couple of North Shore communities pass this thus far, Evanston, Deerfield, Park Ridge and Oak Park. There haven't been a lot.

10. Public Comment

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

12. Adjournment

Motion to adjourn by Gehm, second by Carrignan to adjourn the Liquor Control Commission meeting at 5:22 p.m.

Liquor Control Commission Minutes

Tuesday, February 20, 2018

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Voice Vote: Ayes: Unanimous; Nays: none. Chairman Rogina did not vote as Chair.

Motion carried.

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