

MINUTES
CITY OF ST. CHARLES
LIQUOR CONTROL COMMISSION MEETING
MONDAY, OCTOBER 16, 2017, 4:30 PM

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 Ghem

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 September 18, 2017 Liquor Control Commission meeting.

Motion by Mr. Ghem, Second by Silkaitis to accept and place on file the minutes of the September 18, 2017 Liquor Control Commission meeting.

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

Motion carried.

4. Recommendation to approve a proposal for a new Class A6 Liquor License for Krish Ria Convenience, Inc., dba BP St. Charles, located at 1660 W. Main Street, St. Charles.

Chief Keegan: I'd like to have Mr. Shah join me. Mr. Shah is the owner of the BP Station located at 1660 W Main; and has applied for an A6 liquor license. This is a recently amended ordinance that enables convenience stores the approval of a liquor license so long as their alcohol sales do not exceed 10% of their overall floor space. Commander Mahan conducted the background investigation and found nothing of a derogatory nature. The petitioners Bassett training and dram shop are in order. The floor plan has been submitted for your review. One outstanding issue is the 10%, exactly where he is going to locate alcohol, there is a general idea he can speak to, but we didn't identify that on the floor plan. We're going to work with the proprietor once he's licensed to ensure the coolers are locked and the floor space used is under the 10% threshold.

Pragnesh Shah: 1660 W Main Street.

Ald. Silkaitis: The application indicates that they don't have dram shop.

Chief Keegan: At the time he was filling out the application he did not, but it's included in the packet.

Chrmn. Rogina: I have no problem approving it subject to verification of insurance.

Mr. Shah: The insurance will be effective on the day the liquor license is approved. It's ready to go.

Chief Keegan: I have the Basset Certification here, and his insurance is through Westchester.

Chrmn. Rogina: He does have it and it would go into effect when the Council approves the liquor license.

Motion by Mr. Ghem, Second by Vitek to move forward to committee to approve a proposal for a new Class A6 Liquor License for Krish Ria Convenience, Inc., dba BP St. Charles, located at 1660 W. Main Street, St. Charles.

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

Motion Carried

5. Discussion regarding Massage Citation and Violation for Shangri-La Massage & Spa located at 2015 Dean Street, Suite 7A, St. Charles.

Chrmn. Rogina: Council Richard Miller is present. I'd like to read a couple things into the record to start off. This conversation is a follow-up to an Order issued by Judge Akemann on September 21, 2017. It emanates from a matter we heard here February 6, 2017. The cogent piece of that opinion is as follows:

Accordingly, the Order of the Commissioner will be vacated, my order to revoke Shangri-La's license will be vacated, and this matter is remanded to the Commission for a new hearing wherein the licensee may indicate which violations alleged in the Citation it agrees it violated. For alleged violations that are not admitted by Plaintiff it can proceed to hear evidence regarding those allegations. For all matters that are either admitted, found to have occurred following the opportunity to be heard, or are found to be violations on default of the Plaintiff, the Commission and the Commissioner can then proceed to adjudicate a disposition following the opportunity for the Plaintiff to present reasonable evidence in mitigation.

It is therefore ordered and adjudged:

A. The Commissioner's decision of February 6, 2017 is hereby vacated.

B. This cause is remanded to the Commission for a new hearing as above set forth.

I think what's most appropriate is to read the seven violations of City Ordinance, and as I read each one you are in a position to admit or deny that particular violation. If any of the seven violations are denied we would call for a due process hearing on a date agreed to here at such time.

Atty. Richard Miller: For the record, Richard Miller on behalf of Shangri-La.

Chrmn. Rogina: We don't have a court reporter here today, but of course it's being taped and at such time we have a due process hearing, and or a hearing and mitigation there would be a court reporter here to take everything down.

1. The Petitioner is the duly appointed Chief of Police of the City of St. Charles and as such is charged with the duty of enforcing the laws of the State of Illinois and the ordinances of the City of St. Charles.

2. That on or about January 11, 2017, at approximately 7:41 p.m., the Licensee, Shangri-La Massage & Spa, by and through its employees, officers and/or agents, committed the following violations of the St. Charles Massage Establishment Code:

Violated Section 5.20.130(G) of the Massage Establishment Code 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."

As to that matter do you admit or deny?

Atty. Richard Miller: Shangri-La Massage and Spa, LLC denies that allegation.

Violated Section 5.20.130(H) of the Massage Establishment Code 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."

As to that particular ordinance do you admit or deny?

Atty. Richard Miller: Respondent denies that allegation.

Violated Section 5.20.180(B)(I 0) of the Massage Establishment Code which states:

"The license holder permits acts of prostitution or solicitations for acts of prostitution to be performed within the premises ... "

As to that particular ordinance what say you?

Atty. Richard Miller: Respondent denies that allegation.

Violated Section 5.20.11 O(A) of the Massage Establishment Code 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."

As to this particular ordinance as stated what say you?

Atty. Richard Miller: Respondent denies that allegation.

Violated Section 5.20.130(E) of the Massage Establishment Code which states:

"A patron's sexual and genital areas, as defined herein, must be covered by towels, cloths or similar nontransparent garments, including undergarments, when in the presence of a massage therapist or employee."

To this particular ordinance what say you?

Atty. Richard Miller: Respondent denies that allegation.

Violated Section 5.20.130(F) of the Massage Establishment Code which states:

"No person, knowingly, in a massage establishment, shall expose or fail to conceal his or her sexual and genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, knowingly, in a massage establishment, to expose the sexual or genital parts, or any portion thereof, of any other person."

To this particular ordinance what say you?

Atty. Richard Miller: Respondent denies that allegation.

Chrmn. Rogina: We move to item 3 of the complaint, which is a different date, January 17, 2017, at approximately 9:35 p.m., the Licensee, Shangri-La Massage & Spa, by and through its employees, officers and/or agents committed the following violation:

Violated Section 5.20.110(A) of the Massage Establishment Code 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."

To this particular ordinance what say you?

Atty. Richard Miller: Respondent denies that allegation.

Chrmn. Rogina: Given Judge Akemann's Order, we're going to establish a date for due process hearing on the seven counts.

The Committee and Atty. Miller discussed different dates and decided that **November 13, 2017 at 4:30 pm** will be the date for the due process hearing.

6. Other Business

7. Public Comment

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

Motion by Ald. Silkaitis, Second by Ghem to move into executive session to discuss and review penalties from a previous matter.

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

Motion Carried

Motion by Ald. Silkaitis, second by Vitek to return from executive session at 5:26 pm.

9. Adjournment

Motion to adjourn by Ald. Silkaitis, second by Vitek to adjourn meeting at 5:29 p.m.

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

Motion carried.

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