

**MINUTES FOR THE
ST. CHARLES *SPECIAL* CITY COUNCIL MEETING
RAYMOND P. ROGINA, MAYOR
MONDAY, DECEMBER 14, 2020 – 7:00 P.M.
CITY COUNCIL CHAMBERS
2 E. MAIN STREET**

- 1. Call to Order** by Mayor Rogina at 8:08pm
- 2. Roll Call**
Present – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis
Absent – None
- 3. Invocation** by Ald. Payleitner
- Pledge of Allegiance.**
- Presentations**
- Omnibus Vote.** Items with an asterisk (*) are considered to be routine matters and will be enacted by one motion. There will be no separate discussion on these items unless a council member/citizen so requests, in which event the item will be removed from the consent agenda and considered in normal sequence on the agenda.

Rogina – Before we move to the Omnibus, can I make a friendly amendment to add Items II-C-2, II-C-3, and II-C-4? They passed unanimously in committee a few minutes ago and if no objections, we can add to our Omnibus. There is one change though, as discussed in committee, we need to change the time period from one year, to six months. With no objections, these items will be added to the Omnibus, Thank you.

Payleitner – As the chair of that committee, I have no objection.

- ***7.** Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file minutes of the regular City Council meeting held December 7, 2020.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis
Opposed – None
Abstain – None
Absent –None

- ***8.** Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve and authorize issuance of vouchers from the Expenditure Approval List for the period of 11/16/2020 - 11/29/2020 in the amount of \$5,745,409.60.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis

Opposed – None

Abstain – None

Absent –None

I. New Business

- A. Motion by Ald. Bessner and seconded by Ald. Gruber to approve an **Ordinance 2020-M 69** Confirming and Extending a Declared State of Emergency within the City of St. Charles Due to the COVID-19 Pandemic until the next regularly scheduled City Council Meeting, January 4, 2021.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis

Opposed – None

Abstain – None

Absent –None

Rogina – There is a resolution that was produced by staff, challenging Lake Shore Recycling to show that the location and operation of a waste transfer station proposal on Powis Road will not adversely affect the health and safety of residents of the city of St. Charles. To bring perspective, last week we discussed this, it was brought to our attention, and staff's attention by at least three aldermen. One alderman said they wanted to hear about it, but I want to know some detail, rightfully so. Two things have happened, you have a resolution before you that was carefully crafted with all the credit going to legal council Peppers and public works director Suhr, as a point of order. Additionally, city administrator Koenen had conversation with his West Chicago counterpart and I had conversation with my West Chicago counterpart. I can say these things, in general, this resolution speaks for itself. I don't believe and if anyone wants to think differently, please feel free to comment, as I read the resolution, the intent here is not to disparage or say that West Chicago shouldn't put in a transfer station on the property within their corporate limits. This is their right and I don't think we are saying or implying that at all. What we are saying is that we want to protect our residents with respect to environmental concern, respect to truck traffic etcetera. I might add, in my conversation with Mayor Panetta, he assured me by saying that our concern will not take place; there will be no additional truck traffic in St. Charles, that's great, I'll take your word on that and we developed a resolution, I think it will go toward challenging, and it's said in the document, challenging Lake Shore to make sure that this does not happen. For me, in closing and then I'll open for discussion, I'm satisfied that staff has done a great job bringing forward a resolution that you can move forward. However, with that point, I'll open up for discussion.

Silkaitis – I appreciate the comments and I will be voting in favor of this, now that I have more information about what we are requesting, I'm comfortable with this.

Rogina – That is great, I think your concern last week was very legitimate, it was still an idea of what we would want to do but there was nothing on exact language and I said that to their mayor

that we've been great neighbors for a long time and we are not looking to suggest anything that will impact the transfer station or say that we don't want it there. I, again, I am pleased with this.

Payleitner – This looks great and I agree with your kudos to those who've put this together. I have had citizens concerned that we can hopefully be in on the conversations, that's all and not that we will be a deciding factor but, did the mayor discuss that we might be involved in some of the meetings or discussions so that we can know what's going on?

Rogina – He did not, but the fact of the matter is that there is no application before them at this point in time. That is why this is kind of a trick bag, in my opinion, maybe city administrator Koenen wants to comment, but it is kind of tricky that the fact there is no application before them and as such, we are raising concerns without an application. This is why I think this is masterfully done, in my opinion.

Koenen – You have stated correctly, Mr. Mayor, the fact pattern and that West Chicago will give us notice. I spoke with Mr. Guttman and he understands that we have concern and he understands that the number one item that I heard voiced last week, had to do with truck traffic. He understands that point as well and he understands that we may also have other issues, once we see an application.

Rogina – I think that allows us the chance to attend meetings regarding this and citizens also can attend meetings about this also.

Lemke – I have heard likewise, and didn't mention last time, a comment from Nick Diersenouski from West Chicago, alerting me and asking us to be concerned about it. I'll turn the clock back a little to a plan by maybe Waste Management, to put a large transfer station, after they filled a dumpsite at Route 25 and Sterns. At that time, we heard a lot, it was a very detailed presentation and one of the factors, many were there but the one we need to be aware of, that they considered is, for example, that trucks moving to that site to dump would not use Route 25 due to the narrow nature of that road and the issues related to turns and before Sterns bridge went in, the geometry of that road, and the amount of local residential traffic that would be impacted. The history is that when that was considered, and it ultimately failed, that plan did have to include where the trucks would be moving and had the capability to make sure that they didn't use residential streets as cut through.

Lewis – I wanted to say that I agree, and am pleased that we will be able to have a seat at the table when this transfer station is being planned. This resolution will give us that ability to be seated and have that chance to protect our residents and our city.

Rogina – I'll entertain this motion, please read into the record.

- B. Motion by Ald. Vitek and seconded by Ald. Payleitner to approve a **Resolution 2020-112** challenging Lakeshore Recycling to show that the Location and Operation of a Waste Transfer Station Proposed to be Located at 1655 Powis Road, West Chicago, Illinois 60185 will not adversely impact the health and safety of St. Charles Residents.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis

Opposed – None

Abstain – None

Absent – None

II. Committee Reports

A. Government Operations

None

B. Government Services

None

C. Planning and Development

- *1. Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file Plan Commission Resolution No. 19-2020 A Resolution Recommending Approval of an Application for Special Use to amend the Valley Ambulatory Surgery Center PUD Ordinance 1996-M-17 & 1997-M-76 to allow an Assisted Living Facility. (Marcelo Carlos).

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis
Opposed – None

Abstain – None

Absent –None

2. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve an **Ordinance 2020-Z-31** Amending Ordinance No. 1996-M-17 & 1997-M-76 (Valley Ambulatory Surgery Center PUD) to permit Assisted Living Facilities (2340 Dean Street).

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis
Opposed – None

Abstain – None

Absent –None

3. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2020-113** Granting a 6 month Extension to Record the PUD Final Plat for the Crystal Lofts PUD.

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis
Opposed – None

Abstain – None

Absent –None

4. Motion by Ald. Stellato and seconded by Ald. Silkaitis to Approve an **Ordinance 2020-M-70** Amending Title 18, “Stormwater Management” of the St. Charles Municipal Code (Extension of Project Exemptions to December 2021).

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis
Opposed – None

Abstain – None

Absent –None

9. Additional Items from Mayor, Council, Staff, or Citizens

Rogina – I know that we have one citizen called in, is Paul Lencioni ready?

Paul Lencioni – 3301 Greenwood Lane, St. Charles – Thank you, good evening, I have Brandon Rissman with me tonight and wanted to thank everyone for allowing me the time. What I'd like to talk about tonight. First, the reason I wanted to come before you is to make an argument that this council should change the ordinance that we have in place that prohibits aldermen from having a liquor license to match the state statute. Our local ordinance has not kept up with the updates in Springfield and I have with me Brandon Rissman, from Mickey, Wilson, who's an attorney who has a practice in municipal law to speak to technical and legal background on this issue and about the adjustments made to the state statute and what that would look like if St. Charles were to enact a change in local ordinance to allow aldermen to have a liquor license. I would ask that you would consider this because I think that there are very, very good reasons to believe that this ordinance doesn't serve St. Charles and doesn't serve the people of St. Charles. To make those arguments, first of all, I do not believe, as a matter of policy, it doesn't make any sense for our city leaders to support any prohibition of residents who are interested in seeking an office unless there is a serious need or a threat to public good, and in this case, that doesn't exist. The second very good reason to change this ordinance, we have a lot of local leaders now, who do have liquor licenses. I am talking about the sale of liquor inside a super market is incidental to the sale but this is not about me, this is about restaurant owners, and all of the other liquor license holders who have made a commitment to make their living locally as small business owners and all those people who are vitally engaged in our city, everyday, we've heard from some today. They have great connections with the community, they have great backgrounds in what's happening in our city, and making it as a small business, it takes guts and gumption and those people are prohibited from offering their leadership to the residents of St. Charles, and that is my third and greatest argument that I can make. Central to the tenants of this country, this country was founded on democracy, freedom, and liberty. There is no requirement, there in fact, in the state legislator, that Brandon will speak to, there is great comment that we should provide as much opportunity to the residents of St. Charles to choose whoever they see fit to represent them. The litmus test is really with the residents, all the things that we do here today, we serve at the pleasure of the residents, I mean, that is what St. Charles is all about and makes our city great is the amount of connection, the amount of, you know, care that people have for our city and the opportunity to make choices about where we should go. Those are my arguments, I do not believe that this statute serves us and at this time, I'd like to ask if Brandon an opportunity to comment on the legal history and ramifications on this proposed change and the state statute.

Brandon Rissman – Associate at Mickey, Wilson, Weiler, Renzy, Leonard, and Julian in Sugar Grove. As Paul mentioned, I'll be speaking to the legislative history of this provision of the Illinois Liquor Control Act (IL LCA). As many of you may recognize as public servants, provisions of law tend to evolve to meet the expectations of our communities and society as a whole. The provisions of the IL LCA are no different. Over the course of the last twenty years, section 5/6-2 of the IL LCA governs the limits of liquor licenses by the IL Liquor Commission has been amended to meet the expectations of our communities. Most of the amendments that have occurred over the past twenty years have been in acted to relax the requirements of IL law as it relates to the issuance of liquor licenses to local officials and the ability of local officials to

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concurrently hold a liquor license while in office. This section of the IL LCA is codified by the city of St. Charles in code section 5.08.080 however the amendment to the IL statue concerning the ability of public officials to hold a liquor license are conspicuously missing from code section 5.08.080. I'll now just provide a brief rundown of the amendment to the IL LCA that have occurred over the past twenty years, for your edification. In 2001, this particular section of code was amended to address the concern that members of city council could not concurrently hold a liquor license. The transcripts of that IL legislator indicate that many house members viewed this as archaic and problematic because of the additional checks and balances that have been enacted by IL law which have come to fruition since the IL LCA original passing. This included increased accountability of elected officials and greater visibility to the public though additional checks and balances, increased technology, and transparency and public oversight that was brought about by changes in the IL Open Meetings Act and IL Freedom of Information Act. At that time, well prior to 2001, local elected officials could not hold a liquor license, however with the passage of the 2001 amendment of local elected officials in municipalities under 50,000 residents, were able to hold a liquor license so long as certain conditions were met. These conditions included that the sales of alcoholic liquor be pursuant to the license is incidental to the selling of food, the issuance of the license is approved by the state commission, the issuance of the license is in accordance with local applicable ordinance in effect where the premises is located and the official do not vote on alcoholic issues pending before the board or council to which the local license holder is elected. This provision was again amended in 2005 to broaden the scope of which officials were allowed to hold such a license. Of the 2005 amendment, particularly allowed for an alderman, or member of a city council, other than the mayor or president, in a population of less than 50,000 to have a direct interest in a liquor license. This amendment also brought forth a mandatory statutory conflict of interest provision which provided that to prevent any conflict of interest, the elected official with the direct interest in manufacture sale or distribution of alcoholic liquor cannot participate in any meetings, hearings, or decisions on matters impacting the manufacture sale of distribution of alcoholic liquors. There was a subsequent amendment in 2012 which allowed mayors or presidents of villages or cities or towns with a population of less than 50,000 to also hold a liquor license or interest in a liquor license so long as that mayor or president recuse themselves as the head of the local liquor control board and a representative would then be appointed by the public body with of course, the mayor abstaining from that vote. This amendment was recognized by one legislator as, "an important piece of legislation because influential business people or people that really know their communities, or are very entrenched in their communities have been unable to run. And so long as we deal with this conflict of interest, we are protecting the local community."

It was further noted that the legislation was intended to "allow a way of individuals to be able to deal with their own conflict and provide the services that any citizen should have the right to provide" and "it was a good thing" and "the right thing" to let each or our individuals, who are on the council to be able to run for mayor, no matter what they do for a living. Again, those particular quotes related to the ability of a mayor or president to hold a liquor license, however the issue of this being a public good and a necessity for Illinois to be able to allow public officials to also hold a liquor license is a common theme amongst many of the transcripts of the IL legislative proceedings. There was a final amendment that occurred 2013 which increased the population cap for a allowing a member of city council to concurrently hold a liquor licenses

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from 50,000 to 55,000 ,and again that was a community or city with a population increase from 50,000 to 55,000. So that right there is just a brief rundown of the most recent amendments to the this provision to the IL LCA which again is codified in the village ordinance, absent the provisions related to the ability of an alderman to concurrently hold a liquor license, so with that I'll go back and pass it back over to Paul.

Lencioni – Thank you Brandon, so in taking a look at the legislation that exists, now if somebody who had a liquor license where the sale of liquor was incidental to the sale of food, other than having to recuse themselves or vote on liquor licensees expressly, there is no other conflicts. There is no great need for this to exist and it limits the amount of authority, liberty, and democracy we provide to our residents and the way I see this is, that is what is essential is providing the residents the opportunity to vote. Not being about me, the residents should get the right to choose and if they see that somebody is not fit or they disagree that that person is right to represent them, as they would with any candidate, that should be the overarching and greatest good for how we decide to, you know, allow our city to run, provide the opportunity to the residents as they come first. Thank you and I am requesting that you take on this issue. I would like to see a vote taken on proposing to bring this, our local ordinance up to the state statue. Many communities around have and as we progress as a community, this isn't the last time it will be brought up, there are more liquor licenses or various businesses that hold liquor licenses and those people being incorrectly invested in the community and willing to offer their leadership. Thank you for your time, again you have my request and if you have any questions or any other comments, I would welcome them but mostly thank you very much.

Rogina – Thank you and I'll start the conversation here by putting things into perspective and first of all, Paul thank you as a licensee and a resident for making your arguments and legal council. I know that while you discussed some of these issues, the city council here did receive, everyone has a copy of what I would call a legal memo that was received, having some conversation about the amendment that was made the IL LCA ect. Let me just say the following, one, this conversation was had before the city council within the last two months, at that time, after deliberation and conversation about this exact topic, the council chose not to make any motions, not to change anything and leave the status quo, as it is today. The choices are many, one, you can do nothing and keep a stance as to what you have declared or suggested from the previous discussion. Or number two, some reconsideration where you could make some kind of monition to bring this conversation to council committee in January, at either of the two meetings we have as government operations in January and direct staff, as you will, do to what you might want them to do. With that, I will open the floor up and if there is any conversation to be had, fine and of not, we will move along. Hearing no conversation, I see no hands.

Bessner – Everyone knows that I am in this type of business so typically when there is a vote one way or another, if there are any conflicts, obviously I pull myself back on them, with that said, to me the alcohol industry is not a taboo, I'm not suggesting that it is a taboo to anyone else on this council but it is a normal way of life for myself. The only reason why I'm saying this is because if we are going to look at our ordinance to see how it aligns with what Paul and Brandon had stated to us, then we should look at other options in that ordinance as well because we do currently have, I believe only two but we have two mayoral candidates that are going to follow our great Mayor Ray Rogina in April and if either one of them were invested or on a liquor license, they would not be able to run for mayor, at least that is what I believe and if there is any contradiction to that, let me know.

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Rogina – Let me just say that I think legal council said that in 2012 that was changed that a mayor or a president of a village, could. Nick Peppers, am I right about that? As of 2012, the amendment allows to actually hold a license.

Bessner – I understand where you are coming from there but I'm not sure with how that correlates with your role as the liquor commissioner, maybe that's a different issue.

Rogina – I'm repeating what I heard; I don't own a liquor license.

Bessner – My thought is, for someone like me and for what I do for a living, I see no taboo in looking at this further, I would just ask that if we are going to look at it further we should look at other parts of the ordinance as well. I guess a question could be for Chief Keegan, if he has any input on how this all matters also.

Rogina – We could go to him but first of all we'll go to comments of the council.

Vitek – I completely agree with Ald. Bessner, we are lucky to have him on council so I know that there are people liquor isn't their primary business, in the case of a grocery store and or, I've mentioned this before, even one of the sip and paint locations. I know that things are changing in business and liquor licenses are everywhere now. I know that communities around us have changed the rules, and some do allow and I don't see any harm in, again as Ald. Bessner said, opening up the discussion.

Rogina – Anyone else? Chief Keegan, just to Ald. Bessner's point.

Keegan – Thank you Mr. Mayor, when we were doing our research a couple months back, we looked at not only our liquor code, but also tobacco and massage code, I did look at a number of different communities in the Fox Valley and, to the points previously mentioned this evening, each and every suburb does have a different take on the state statute. Liquor code does allow for it, there are some communities up and down the valley, I think Geneva and Batavia, have a provision in their code that do allow for this type of roles. I know that our, obviously, does not. Mr. (inaudible) from Mr. Pepper's office also sat in on a discussion I had on this and he offered his comment that it is about 50/50, a mixed bag if you will but there isn't a consistency between community to community.

Rogina – Anyone else?

Conti – Your Honor? Paul Lencioni has his hand raised.

Rogina – If I may, I'm trying to have a conversation with the council here. We gave you your time.

Lencioni – I had my hand raised earlier, but I'll defer.

Rogina – Who else on the council would like to speak? I'll give you the alternatives here, we had this conversation once before and I'm going to stick to procedure, we have to move this along one way or another, you know what you have to do on this, that's all I'll say. Hearing nothing, hearing nothing, we'll move along with no action taken to change anything, I'd be correct in saying that, I'm looking at all of you here. Okay, if I may make a couple comments, this is off the cuff here, I listened intently to the wonderful conversation in P&D about First Street and I wrote down two things that I would like to add. I don't think that it would behoove us to change in the middle of the stream, if we somehow and someway, I'm praying to God everyday that sometime before the summer moves along too well, we do go to phase 5 and if that happens, we don't want to make any abrupt changes in the course of the summer and I do think what we decide to do should probably stick to the same plan. And to Ald. Payleitner's point about fairness, I think there are a bevy of ways that we can provide equity to businesses not on the plaza but as the owner said very nicely, there are scars that are going to take a while to heal. In

that respect, we're going to have to be gentle as a city, I think, in dealing with Covid in the summer of 2021. There are creative ways for staff to come up with ideas, and you're creative as well, to bring forth ideas for other businesses east side, west side, whatever that are not downtown. I think that can be done so, I'm very optimistic and it was a great conversation. I'm going to take one minute on this, next Monday, this is an executive decision, it came from our friends in Batavia and a former student, I might add, who sent a program that we will adopt next Monday night, it's called "The Longest Night". If I may read to you what the longest night is, and I'll tell you what we are going to do,

"For many of us, 2020 has felt like the longest night of our lives with the onset of Covid-19 back in March. Since then, together we have lost much. Health, community, relationships, jobs, plans, dreams, and even our friends and loved ones. On December 21st, the shortest day of the year, let's join together to grieve the pain of this year and claim that the light that is coming the next day starting that next day growing stronger each day. At 6pm on Monday, December 21, 2020, we will encourage people to step outside light a candle, ring a bell, or sound a horn as friends and neighbors we stand together in grief and hope and these small but significant ways, we will acknowledge our pain and look forward in hope to the light that is coming. We hope that you will participate in this opportunity." We are going to put this on our Facebook page and on our website. We are going to ring the bells here at city hall, we've got Paul working on the lights at the top of the tower and the bells ringing at 6pm. This is a small way for us, as a city, to participate with our friends and neighbors along the Valley, and I thought it was a great idea, I see no harm about it so I want to make sure that we're going to do that and if the press is listening, please pickup in this and we join our friends in doing such.

These coming weeks, I wish, the city council, and the city as a whole, wish each and everyone a safe and Merry Christmas and Happy Holidays. If your group is large or small, I hope that you're safe and sound. Mark Koenen and I made a video today for the community today, you'll see it and basically we said to 2020, hit the road and let's welcome in 2021 as a new way forward and I look forward to working with you as we get to January 4th, in the new year.

10. Executive Session

- Personnel – 5 ILCS 120/2(c)(1)
- Pending Litigation – 5 ILCS 120/2(c)(11)
- Probable or Imminent Litigation – 5 ILCS 120/2(c)(11)
- Property Acquisition – 5 ILCS 120/2(c)(5)
- Collective Bargaining – 5 ILCS 120/2(c)(2)
- Review of Executive Session Minutes – 5 ILCS 120/2(c)(21)

11. Adjournment Motion by Ald. Bessner and seconded by Ald. Silkaitis at 8:46pm

In Favor – Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Gruber, Vitek, Pietryla, Bessner, Lewis
Opposed – None

Abstain – None

Absent – None

Charles Amenta, City Clerk

CERTIFIED TO BE A TRUE COPY OF ORIGINAL

Charles Amenta, City Clerk

ADA Compliance

Any individual with a disability requesting a reasonable accommodation in order to participate in a public meeting should contact the ADA Coordinator, Jennifer McMahon, at least 48 hours in advance of the scheduled meeting. The ADA Coordinator can be reached in person at 2 East Main Street, St. Charles, IL, via telephone at (630) 377 4446 or 800 526 0844 (TDD), or via e-mail at jmcmahon@stcharlesil.gov. Every effort will be made to allow for meeting participation. Notices of this meeting were posted consistent with the requirements of 5 ILCS 120/1 et seq. (Open Meetings Act).