

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, JUNE 19, 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, Cliff Carrignan, Ald. Vitek, and Robert Gehm

Absent: None

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

Chrmn. Rogina: Welcomed back Bob Gehm, returning commissioner and also welcome officially Ald. Lora Vitek, Ald. Ron Silkaitis, and Citizen at Large – Cliff Carrignan.

3. Motion to accept and place on file minutes of the May 15, 2017 Liquor Control Commission meeting.

Motion by Mr. Ghem, second by Silkaitis to accept and place on file minutes of the May 15, 2017 Liquor Control Commission meeting.

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

4. Recommendation to approve a Class E1 liquor license for Abby's Breakfast and Lunch in conjunction with a fundraiser hosted by Random Acts Matter on September 10, 2017 to be held in Mt. St. Mary's Park.

Chief Keegan: An E1 license is a license held by a liquor license holder in the community most of the time on behalf of a non-for-profit. Abby's is going to carry their license into Mt. St. Mary's and serve alcohol using their dram shop insurance and BASSET training. The Random Acts organization is here represented by Lori. We do allow non-for-profits to be issued with a license those are E2 licenses. The difference is we're going to have a license holder carry the license. Lori can explain the details. We have met a number of times with the organization and gone through the special events process. We've talked to Abby's. I believe everything is in order.

Lori: Does the council have any questions before I explain all about Random?

Chrmn. Rogina: We just had an event similar to this in the Park with the Art Council.

Mark Koenen: Sculpture in the Park, it's very similar.

Mayor Rogina: As far as Random Acts is concerned. Di Ciaula came to my office about a year ago to discuss this and I can't believe how it's taken off. Today Jim has asked me to be a guest bartender. I've accepted.

Ald. Silkaitis: The park district has approved this?

Lori: I dropped off all the plans on June 1st. The Park District is on board. Lynne Schwartz is my co-chair as well as VP on the board. She's out today and couldn't make the meeting.

Chrmn. Rogina: The Park District on every Sculpture in the Park has always approved. They've been tied to this for a long time. Representatives from the Park District have attended a lot of the events that have taken place so far.

Lori: We have done our application process with them and sent them the entire layout.

Chief Keegan: The Park District does not allow the sale of alcohol on Park District property. Advance tickets will allow for the consumption and they permit the consumption of alcohol with the sales done in advance. If someone does come the day of the purchase of the ticket must be done off Park District property. That's consistent with our craft beer festival and HOPS for Hope.

Chrmn. Rogina: You've indicated that you are having 2 police officers present.

Motion by Mr. Ghem, second by Vitek to move forward to committee a recommendation to approve a proposal for a Class E1 liquor license for Abby's Breakfast and Lunch in conjunction with a fundraiser hosted by Random Acts Matter on September 10, 2017 to be held in Mt. St. Mary's Park.

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

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

Chief Keegan: As the Mayor mentioned we have some code modifications that we are recommending that you consider. I'm going to walk through the ordinance document and where some of the changes/modifications come from. Most of these are desired to be business friendly. I believe we have Mr. Nick Smith from Alexander's Café to step up if needed.

Under the class A licenses. Class A is pre-packaged liquor store no consumption on premise. We have asked the Commission to consider an A6 license, a gasoline license. We've had

meetings with a couple different proprietors operating currently, and one that wants to expand into St. Charles. We've seen local municipalities allow liquor sales at gas stations, Batavia for instance. We have written some language into the code for your consideration. The A6 license would read that alcohol would prohibit sale item so long as it does not encroach more than 10% of the floor space.

Chrmn. Rogina: I like the way you are going through the ordinances. We will rule on these individually. Not as a package.

Chief Keegan: The reason I started with A6 is because there is some language we would have to rid ourselves of under A1 to allow for gasoline to have alcohol.

A4 is a license we have now and it deals only with breweries. We met twice in the last couple of weeks with a business that wants to expand into wine making, the fermenting of wine. We've seen some of that nearby in Geneva and some of the other communities. We ask your consideration of expanding the availability of a winery or brewery concept. Kind of like a Penrose in Geneva. This is more of a storefront or carry-out; there is some tastings and flights with both beer and wine that would take place. The beer or the wine would be processed on site. That's a special license that the state would issue.

B3 license; we expanded our model about a year ago in anticipation of Cooper's Hawk coming. We've also been asked by a couple local restaurants to expand and allow for the restaurants that make Bloody Mary's or Margarita's to bottle that through a local distributor and sell it as a carry out piece at their restaurant. The B3 language would allow for specialty drinks, manufactured or distributed by the establishment to be sold in a designated area.

Chrmn. Rogina: We could mention the 2 establishments locally that have triggered this.

Chief Keegan: El Puente for their Margarita's, and Abby's for their Bloody Marys. Right now Abby sells a non-alcoholic mix.

Hours of sale are listed under the F2 license; all of our package establishments, A licenses, can operate now from 7:00am – 10:00pm Monday – Saturday, and 10:00am – 10:00pm Sunday. That's also the same for a restaurant sit down B and C licenses. They go until midnight at the backend, but the front end they can start consuming/selling at 7:00am Monday – Saturday and not until 10:00am on Sunday. We're asking for a consistent time all 7 days of the week. Package would be 7:00am – 10:00pm; restaurants (B, C licenses) would start at 7:00am – Midnight when they close, 7 days a week.

Chrmn. Rogina: This makes it 7:00am – 10:00pm 7 days a week. Do we have competitors around here?

Chief Keegan: We do. South Elgin has a consistent 7 day a week license. As part of this review process we had staff survey several communities. About half had a consistent 7 day a

week start and stop time. We have several brunch and breakfast places that have opened up it's tough for their staff when other communities have a consistent 7 day a week model.

G license is another we are asking for the commission's consideration. It's a brewery license, restaurant concept that would allow for beverages to be made on site. It's codified and approved by the State of Illinois and there are provisions on that license about the distillery, wine or beer operations. We would ask the approval from the Commission to incorporate that into our ordinance.

Multiple locations, we have a couple of site licenses those are D licenses, Pheasant Run, Q Center, they allow for consumption of alcohol on the entire site. We have a couple of establishment in St. Charles where there are multiple licenses under one roof. The Arcada, and Urban Counter come to mind. We ask for the Commissions consideration if an establishment is owned and operated by the same parties under the same roof and licensed separately we are asking for the consideration of cross access. Meaning that alcohol could be carried to and from the respective businesses so long as folks remain inside or within the permitted patio area.

Chrmn. Rogina: I'd like to go back to your executive summary, take them individually and entertain questions or comments. Nick is here and that's the first one; after that take action on a recommendation for each one to council committee tonight. Does anyone have any objections?

Let's start with hour of sale. Our neighbors in Geneva have a 6:00am starting time 7 days a week.

Motion by Mr. Carrigan, second by Ald. Silkaitis to move forward to committee a recommendation to amend all licenses under Title 5, section 5.08.130 of the St. Charles Municipal Code to 7:00am – 10:00pm 7 days a week.

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

Chrmn. Rogina: Next would be gas stations, the creation of an A6 license.

Ald. Silkaitis: I'm not in favor of this. I think we're going too far with including gas stations. I will vote no on this one.

Chrmn. Rogina: Does the Council want to approve being competitive with our neighbors particularly since we have an alcohol tax.

Ald. Silkaitis: I see your point. I just don't like gas stations selling liquor.

Chief Keegan: Just to be clear on the language as far as the 10% of retail space. If you look in our existing code currently a liquor store has to be at least 2000 sq. ft. If you want to have a combination license such as Walgreens or CVS, their square footage has to be 10,000. Batavia, South Elgin, Wheaton, Roselle, some had sq. ft. specified as 1600, 1500, 2000 like we do for our

other A license. Each of the gas stations we spoke with want to offer alcohol as a convenience. We looked at some different models and went away from the square footage, meaning how many sq. ft. the building had to be and in the interest of being fair and offering alcohol as a convenience item we thought that was a happy medium for a recommendation we felt comfortable with. That still doesn't affect the liquor store requirement of 2000 sq. ft. or the combination Walgreens, CVS.

Motion by Mr. Ghem, second by Vitek to move forward to committee a recommendation to approve the codification of an A6 license as an addition to our liquor code.

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

Chief Keegan: There are two separate licenses for consideration: One is the expansion of the A4 license that I spoke about. That is to incorporate the fermentation of wine on premise. Second, in relation to breweries is the G1 concept, more of a sit down brewery/restaurant. We are asking for approval to proceed with the A4 expansion and the initiation of the G1 license.

Ald. Silkaitis: I would like to add distilleries. If we're going to have breweries, why not have it open if someone wants to do what they did in Geneva?

Chrmn. Rogina: We can make a motion and add distilleries.

Chief Keegan: I didn't complete that as part of my research, but I do know it's out there. If were looking at a license we could add it.

Chrmn. Rogina: I would suggest adding distilleries to A4.

Motion by Ald. Silkaitis, second by Ghem to approve the A4 expansion and include distilleries, and the initiation of the G1 license.

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

Chief Keegan: This is codified under Section 5.08.220, licenses where it explains and goes into greater detail for multiple locations.

Ald. Vitek: I understand the concept of the Arcada, it's a speakeasy, with the Pride and Urban Counter is that basically taking something you've purchased at Pride and walking over to Urban Counter carrying your bags.

Chief Keegan: Because of the way the layout is, they have a joint hallway in the back where the bathrooms are which already establishes cross access. Because of the floor space and amount of square footage they have in Urban Counter there are several offerings, craft beer and folks asked if they can buy at Pride and bring it over to Urban Counter. Right now we don't allow that.

Ald. Vitek: This does cover people at Urban Counter drinking aren't bringing their open drinks over to the Pride. Is that correct? Would the cross access be vice versa?

Chief Keegan: They would comingle, but the lion share consumption would be at Urban Counter where the restaurant is. It technically wouldn't be legal to walk over from Urban Counter and shop at the Pride with a drink. I checked with the State, it's actually allowed there are other joint licenses the State issues. I think Geneva has one at a liquor store on Lincoln Hwy. This just expands our licensing opportunities.

Cliff Carrignan: Why wouldn't you just use a BYOB license for that? It makes sense for the Arcada and Hotel Baker, does the Urban Counter have a liquor license already?

Chief Keegan: They do. You can't have a BYOB and a consumption site license. They have a couple of tap offerings, they purchase a very high end craft beer operation and it's being run out of the Pride. They want to make that available to the Urban Counter.

Ald. Silkaitis: The cross-access is internal, correct? They are not going outside.

Chief Keegan: Correct.

Chrmn. Rogina: Other than the patio on the premise.

Chief Keegan: There is ancillary patio on the east side of Urban Counter where consumption is allowed currently.

Motion by Mr. Carrignan, second by Ghem to move forward to committee a recommendation to accept 5.08.220 as amended by staff.

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

Chief Keegan: Section 05.08.090, B3 license.

Chrmn. Rogina: We're emending the B3 license adding retail wine and included specialty drink.

Ald. Vitek: Would this cover the breweries to be able to sell their packaged goods?

Chief Keegan: The language we've already codified and approved under A4 and G1 would be the same type of concept and would be codified within those sections.

Cliff Carrignan: Any restriction on the size of the container?

Chief Keegan: No. But they both know they have to be sealed, stamped and approved by the Health Department.

Cliff Carrignan: These are to be purchased on premise, not consumed on premise.

Chief Keegan: It has to be in a preapproved package from a designated sale area.

Chrmn. Rogina: It would be prohibited for someone to have this in their establishment, a customer comes in and purchases and then asks it to be poured.

Chief Keegan: Correct. From the carry-out area, sale counter, it has to be packaged for consumption off site.

Motion by Mr. Ghem, second by Carrignan to move forward to committee a recommendation to approve the amendment to Section 05.08.090, B3 license.

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

6. Discussion regarding Citation and Hearing Notice for the Alibi Bar and Grill, Ltd., located at 12 N. Third Street.

Chrmn. Rogina: This is a complaint of violation being brought before you here on the Liquor Commission. St. Charles Local Liquor Control Commission pursuant to its authority shall revoke or suspend the local liquor license issued to one Alibi Bar and Grill or impose a fine or both by reason of complaint of violation. Complaint is as follows:

NOW COMES 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:

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. On or about May 28, 2017 at approximately 1:42 a.m., the Licensee, ALIBI BAR & GRILL, LTD. by and through its employees, officers and/or agents, committed one (1) or more of the following offenses in or upon the licensed premises at 12 N Third Street, St. Charles, Illinois 60174:

OFFENSE

Allowed a patron to exit its premises while in possession of an alcoholic beverage.

3. On or about May 28, 2017, ALIBI BAR & GRILL, LTD. was operating under a Class B liquor license issued by the City of St. Charles.

4. That the act detailed in Section 2 of this Complaint of Violation is prohibited and is in violation of and contrary to the B Liquor Classification and Section 5.08.250(R,S) of the St. Charles Municipal Code and the Liquor Control Act of 1934.
5. That the licensee, ALIBI BAR & GRILL, LTD. 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.

WHEREFORE, the Petitioner, James Keegan, Chief of Police requests pursuant to Section 5.08.320 of the St. Charles Municipal Code that the Local Liquor Control Commission hold a hearing on this matter and take such action against ALIBI BAR & GRILL, LTD., as the Commissioner shall deem appropriate under the circumstances.

Rich Simpson: Owner of Alibi Bar & Grill, 12 N. Third Street.

Chrmn. Rogina: You received an arraignment form and it asked that you send in your plea, as of this date we do not have that. I need to know which of the following pleas you would like to make:

- a. Deny the allegations set forth in the Complaint. Request a hearing.
- b. Admit the allegations set forth in the Complaint. Do not request a mitigation hearing.
- c. Admit to the allegations in the Complaint, but request a hearing in mitigation in which I will be given an opportunity to present evidence in support of my position to minimize any penalty.

Rich Simpson: I'd like to Deny it.

Chrmn. Rogina: In that case he allegations set forth in this complaint you are denying. We would set a hearing on the matter for 1 month from today. That would be July 17, 2017. You can be represented by council at that point in time, City will have council and we'll have a hearing at that point in time.

We have scheduled a due process hearing on this Complaint for July 17, 2017.

Any other business that the Commission has?

6. **Other Business**

7. **Public Comment**

Nicholas Smith: 407 Park Avenue, St. Charles. Businesses already have these licenses but they will possibly be amended tonight. Do they need to change anything since they already have the existing license for the current year?

Chrmn. Rogina: He's applied and received a liquor license. He's asking if there is anything that needs to be done, or if he needs to change anything if this is amended?

Chief Keegan: No action needs to be taken.

Nicholas Smith: Because this has been such a long part of the liquor license and we're going to change them, with the current businesses, how would it be known that it's not to help them from a business standpoint, but for people coming to St. Charles? It's all about the people coming. How will the business owners know, since it's been long standing?

Chief Keegan: I can draft a letter on City letterhead and have officers deliver it to the businesses.

Chrmn. Rogina: To your point about people coming to St. Charles, that's your marketing plan.

Nicholas Smith: Education is as important as what you decide every Monday. You can change the world for St. Charles if you'd like, but the education is almost as important as the decisions you make.

Chrmn. Rogina: Would you like to see anything further by the City?

Nicholas Smith: I would leave that up to you.

Chrmn. Rogina: Do you have any recommendations?

Nicholas Smith: No. I see this as a positive thing. YTD we have paid \$242.50 to the City of St. Charles in alcohol tax. We are a breakfast and lunch restaurant that closes at 2:30pm every day. This is not about money. This stems from people coming to our town and possibly being able to serve them a little bit better on a Sunday morning, as opposed to a Saturday or Monday morning. I just want to help educate you in anticipation for tonight should it arise. This is not about money. I think of it as a great step we can take, and it's nice to see some of the bars and taverns get into the brunch game. Anytime they can focus on food, to me, is more important than just trying to serve drinks after 12:00 pm. Anything that the City can do is a positive, and the education part is almost as important, not only to business owners, but to citizens as well.

Chrmn. Rogina: I would hope that you come back tonight and make those same comments to the City Council.

Nicholas Smith: If you'd allow me too, I would.

Chrmn. Rogina: I'm sure you'd be allowed to speak.

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

9. Adjournment

Motion to adjourn by Mr. Carrigan, second by Ghem, meeting adjourned at 5:22 p.m.

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