

**MINUTES FOR THE MEETING OF THE ST. CHARLES CITY COUNCIL
TUESDAY OCTOBER 1, 2018 – 7:00 P.M.**

**CITY COUNCIL CHAMBER, CITY OF ST. CHARLES
2 E. MAIN STREET, ST. CHARLES, IL 60174
CITY COUNCIL CHAMBERS**

1. **Call to Order** By Mayor Rogina at 7pm
2. **Roll Call**
Present – Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel, Vitek, Bessner, Lewis
Absent – None
3. **Invocation** by Ald. Payleitner
4. **Pledge of Allegiance** by Ald. Lemke
5. **Presentations**
6. **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.
- *7. Motion by Ald. Stellato and seconded by Ald. Silkaitis to accept and place on file minutes of the regular City Council meetings held September 17, 2018.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *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 8/27/2018 – 09/09/2018 the amount of \$2,615,903.65.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

I. New Business

- A. Presentation of a Recommendation from Mayor Rogina to Approve the Appointment of Geoffrey Pretkelis to the St. Charles Board of Fire and Police Commissioners, motion to approve by Ald. Lemke and seconded by Ald. Turner.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- B. A motion by Ald. Turner and seconded by Ald. Bessner to approve a **Resolution 2018-113** Authorizing the Execution of an Agreement between the City of St. Charles and International Brotherhood of Teamsters Local Union No. 330

Payleitner –

I want to confirm, this takes us above our 75th percentile, correct?

Director McMahon-

It is above the 75th percentile but less so than the increases that they were proposing so what we're doing is slowly turning that and righting it so it is back in line with the 75th percentile.

Payleitner –

So you see that happening down the road?

McMahon –

I do, yes.

Payleitner –

Thank you.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Lemke, Turner, Bancroft,
Vitek, Bessner, Lewis

NAY: Payleitner, Gaugel

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

II. Committee Reports

A. Government Operations

1. Motion by Ald. Bancroft and seconded by Ald. Gaugel to Not Approve an **Ordinance** amending Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.250 “Regulations Applicable Generally” of the St. Charles Municipal Code. (Alcohol Delivery).

Rogina –

Before we vote on this, there needs some conversation and I'd like to start with the following, The Chief has provided for you, in the packet, that this proposal-let's go back to committee a few weeks ago when we had an interesting conversation and I sat in the bullpen and listened carefully and here are a few things I learned from this. Those who voted to not approve this ordinance felt that it can't be enforced. To some extent based on other testimony including my own, that's probably correct because we know that delivery of alcohol take place all the time in our community. I was an example of giving my two bottles of wine that came to my home by a common carrier for my birthday last year. For us to have an ordinance on the books that prohibits that when it is already going on, seems self defeating. That's the first point. Another individual said, not mentioning names but another said that it needs to be heavily regulated, its happening anyway and then I will point out that Ald. Payleitner carefully said, measured her words in saying if we go silent on the matter, silent and say nothing about delivery, we would have to strike the prohibition of it, but say nothing about it, it's allowable. Obviously following all state statutes and local ordinances. I believe, listing from over there, if I'm wrong you'll prove me so on the vote but I believe that most of you up here have no problem with an actual delivery system assuming that we follow state and local statutes and ordinances regarding any said delivery. The Chief verified that and said he and the police department could live with us going silent on the matter, and allow it. He also indicated in questioning by at least the liquor commission, that there is a possibility of making changes here or there but the face remains that it comes down to, what I think to be, a relatively harmless exercise but if in fact there are violations, we have the equipment through state statutes and local ordinance to prosecute or adjudicate a said matter. With that, I told the chief, if he wants to come to the microphone and if there are questions he can answer but, the way I see it and I'm not trying to force anyone to do anything, I'm suggesting that I think there are probably a desire to do that and not have a ton or regulation. Having said that, what we'd have to do is defeat this motion. It's on the table now and it would be defeated, the proposed ordinance defeated and taken away if you vote yes. If you vote no, you support the proposal of last week. I'll take any and all questions.

Lemke –

What I would suggest is that maybe more discussion on a committee level, that is okay, we might have two ordinances that we have looked at but I think if we do this properly we might become the model ordinance that other communities will pick up on and if there are any violations with this discussed at committee and brought back to council, I think we end up in a better position.

Rogina –

Art doesn't mind seeing something, at least as I interpret it, some regulation in the ordinance.

Turner –

I would like to see this completely taken off the books and let the state handle it. I think the problem comes in, maybe some others here are getting at, the UPS and FedEx know what's going on, its going to be at your door. I think what we're getting at is having the 7-11 and Blue Goose and everyone else is going to start delivering and I don't know if they are truly aware of the regulations when it domes to delivering alcohol and we don't have to put an ordinance on they just have to be informed that there is state statute on this. The city will enforce it if a violation is caught.

Rogina –

We also have ordinances relative to Bassett training and delivering to minors is a state statute. It's all there and I think that is what Ald. Payleitner is getting at back two weeks ago and that's why, I did have individual conversation with her and said that if we went silent, as you said, someone who delivers alcohol is going to bound by all the rules regarding alcohol. If they have a license in our town, they are following our licenses as well.

Payleitner –

To Ald. Turner's point, I would think that the next step after the dust settles on this is for the chief or the liquor commissioner to, what you're saying Bill, send out notice to all the licensees. A simple communication.

Rogina –

That would, we send out notices congratulating them on passing compliance checks all the time, there isn't a reason that we cannot send out notice indicating what the council has done and in one fell swoop, now they all would be notified of that. Good point.

Turner –

When I've worked for business around this city and when it came to delivering a bottle, when I was working for the florist, we couldn't deliver at 5th Avenue a bottle of liquor because they didn't have a liquor license but I think that we are getting a lot of people that are getting the license that slowly are expanding and they need to be really informed that this might be new to them but if they see others delivering and they would think that they can too but they ought to know the rules.

Rogina –

That's right and in fact there are maybe many of you up here, then I'll go to Ald. Lewis, there are probably many of you that have delivered a bottle of liquor as a gift to someone, in a bag-said Happy Birthday or whatever and handed them a gift that was liquor so I would consider that to be delivery.

Lewis –

I don't think that would be because we don't have liquor licenses, we're talking about, it's not illegal for me to take a bottle to someone, it would be...

Rogina –

Would it be for Bill, running a flower shop...

Lewis –

Probably

Rogina –

Running a flower shop, he brings a bottle of wine.

Lewis –

Probably because it's a business. When he's selling it and it's a business.

Turner –

I wouldn't have a liquor license

Rogina –

Were you selling the liquor? Selling the...

Turner –

No, we didn't do it.

Lewis –

I guess I have a question for the chief, is there any time that you would have wished you had an ordinance that you're thinking that would have been really helpful for me to have had this ordinance?

Keegan –

No, and frankly I was honest with both the liquor commission and committee, we haven't had anything brought to our attention. This is really more so that we have providers that want to do this and are contacting the police department asking for either regulations or best practices and some actually noticed in our ordinances that it is prohibited but no, we have not had any issues whatsoever.

Lewis –

Do you think it would be helpful if there was a little box that they might check that they want to deliver when they apply for their license and you might know the people who are delivering that this is what they want to do or is that redundant?

Keegan –

It might not hurt but truth be told, I think it is the common carriers that are doing this more than the business proprietors. So it is the third party companies that are driving this mainstream. Outside of FedEx and the others, I'm talking about Grub hub, Uber eats, and Errand up, the common carrier companies. Not really our license holders that are expressing the interest but these common carriers.

Lewis –

How would you ever be able to stop Uber Eats to see if they are 21 or wouldn't you have to have some cause to stop them in the first place?

Keegan –

If we were to investigate a matter brought to our attention that alcohol was delivered to a minor, that is always against the law, that is a state statute. Using Ald. Turner's example about the flower shop, it is always against the law, gift or not, to deliver alcohol to a minor. The law will always support us in that matter, regardless so if we were to be brought into an investigation – let's say a minor was intoxicated or was in possession of alcohol, if we determined that the common carrier or business that delivered it, yes there could be criminal repercussions for that, if not civil or ordinance violations if the business had a license.

Rogina –

I think it was said by one of 10 esteemed colleagues up here, one of the 10, that it would be good if we passed something. I'm looking at you directly when I say pass something that makes your life easier as the police chief and that we could enforce and still be business friendly at the same time. I want to ask the question, by going silent perhaps having the ordinance referencing that fact that you cannot violate any state statute or local ordinances, but stay silent on the matter so that alcohol delivery is allowed, is your life okay as the police chief?

Keegan –

Absolutely. I looked back through the discussions two weeks ago, I did look at our ordinances and under 250 section 17 there is clear language that says that delivery is prohibited. If we were to strike that language, and come up with some delivery language that pretty much mirrors what the Mayor is discussing about following all applicable ordinances and laws, I think that puts us in a better situation as far as from an enforcement standpoint but also we are not allowing a practice that our ordinance prohibits.

Payleitner –

Your Honor, after we take this standing vote, I'll make such a motion.

Rogina –

Okay, that's very good. Let's get it very clear what has to be done here. We have to get this item A-I off the table, the way to get that off the table here, because it was moved and seconded a negative recommendation, is to support the negative recommendation and vote yes on it. Vote yes and you are voting to take, not approve the ordinance proposed in committee. If you vote no, you are saying you want to keep it the way it was presented to us in committee. Is there any question on that before I have Chuck call the roll on that? The roll.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

Rogina –

If I may say something about that unanimous vote, I feel good about that. I didn't want to see a tie breaking vote on this issue, it's an important issue to our city and I didn't want to see something that was close that was 5-5, 6-4 something in that-I know that's okay but I feel good about this now Ald. Payleitner.

Payleitner –

Your Honor, I make a motion to direct staff to bring back to October 15 City Council meeting an updated ordinance on alcohol delivery, eliminating the prohibition of said alcohol delivery and indicating that all deliveries are governed by state statute and local ordinance.

Vitek –

Second.

Rogina –

Seconded by Vitek, if I understand the motion, basically it is to eliminate the prohibition of alcohol delivery, eliminate prohibition of alcohol delivery and the footnote there was to make sure that in the ordinance to be brought back to city council, that was the motion right? To city council in two weeks, an ordinance clarifies that all state statutes and local ordinances apply. Moved and seconded, any further conversation? Chuck, the roll.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

Item 2 was removed from the agenda by Mayor Rogina and approved by the council.

- *3. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve Funds Transfer **Resolution 2018-T-3** Authorizing Budgeted Transfers in the Aggregate Amount of \$1,349,135.58 for Miscellaneous Transfers.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

B. Government Services

- *1. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve an **Ordinance 2018-M-35** Amending Title 10 “Vehicles and Traffic”; Chapter 10.40 “Stopping, Standing and Parking”; Section 10.40.010 “Parking Time Limits” of the St. Charles Municipal Code.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *2. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-114** Authorizing the Mayor and City Clerk of the City of St. Charles to approve the Bids for Bid Package #3A, Bid Package #2 Scope Changes and Unsuitable Soil Remediation Costs for the Police Station Project with Riley Construction.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *3. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-115** Authorizing the Mayor and City Clerk of the City of St. Charles to approve an Agreement for Demolition, Abatement and Exterior Improvements for the Renovation to City Owned Building at 107-109 East Main Street (Former George's Sports) to Schramm Construction.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *4. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-116** Authorizing the Mayor and City Clerk of the City of St. Charles to approve a Budget Addition for the Walnut Avenue Electric Improvements.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *5. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-117** Authorizing the Mayor and City Clerk of the City of St. Charles to approve a Purchase Order for the Walnut Avenue Electric Improvements with Archon Construction.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *6. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-118** Authorizing the Mayor and City Clerk of the City of St. Charles to award the Contract Extension for the Fall 2018 and Spring 2019 Parkway Tree Planting Program to Pedersen Company.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *7. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-119** Authorizing the Mayor and City Clerk of the City of St. Charles to award the Bid for the 2018 and 2019 Storm Sewer Maintenance Program to National Power Rodding, Inc.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *8. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-120** Authorizing the Director of Public Works to Execute Change Order No. 4 for the Phosphorus Removal and Digester Improvements Project to IHC.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *9. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-121** Authorizing the Mayor and City Clerk of the City of St. Charles to approve Acceptance of Temporary Construction Easement at 1040 Dunham Road.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *10. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-122** Authorizing the Mayor and City Clerk of the City of St. Charles to approve Acceptance of Permanent Utility Easement at 1040 Dunham Road.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *11. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-123** Authorizing the Mayor and City Clerk of the City of St. Charles to approve the award of a 2019 Ford F-150 Police Responder to Sutton Ford.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE
ABSTAIN: NONE

MOTION CARRIED

- *12. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-124** Authorizing the Mayor and City Clerk of the City of St. Charles to approve the award of a Gehl Model R165 Skid Loader to B&K Power Equipment, Inc.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *13. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-125** Authorizing the Mayor and City Clerk of the City of St. Charles to approve the Disposal of one lot of Retired Scrap Transformers and Switchgear by the City of St. Charles.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

- *14. Motion by Ald. Stellato and seconded by Ald. Silkaitis to approve a **Resolution 2018-126** Authorizing the Mayor and City Clerk of the City of St. Charles to approve Acceptance of Temporary Construction Easement at O'Reilly Auto Parts.

ROLL CALL VOTE: AYE: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Gaugel,
Vitek, Bessner, Lewis

NAY: 0

ABSENT: NONE

ABSTAIN: NONE

MOTION CARRIED

C. Planning and Development

None

D. 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)

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

11. Adjournment motion by Ald. Lemke and seconded by Ald. Bessner at 8:05
VOICE VOTE: AYE - UNANIMOUS ABSENT: NONE MOTION CARRIED

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).