

**MINUTES
CITY OF ST. CHARLES, IL
GOVERNMENT OPERATIONS COMMITTEE
MONDAY, AUGUST 1, 2011**

Members Present: Chair. Martin, Ald. Stellato, Monken, Carrignan, Payleitner, Turner, Rogina, Krieger, Bessner, and Lewis

Members Absent:

Others Present: Chris Aiston, Peggy Forster, Mark Koenen, Chief Mullen, Chris Minick, Kathy Livernois and Chief Lamkin

1. Opening of Meeting

The meeting was convened by Chair. Martin at 7:15 p.m.

2. Omnibus Vote

a. Transfer Resolutions (18)

Motion by Carrignan, second by Stellato to approve the omnibus vote as presented.

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

3. Finance (Purchasing)

a. Recommend approval of an Ordinance Authorizing the Sale of Items of Personal Property Owned by the City of St. Charles (miscellaneous items).

Chris Minick: We did place these items out for bid on the public surplus website. These were just excess items we had available for sale to members of the general public and we are requesting an authorization to dispose of the items.

Motion by Carrignan, second by Stellato to approve an Ordinance Authorizing the Sale of Items of Personal Property Owned by the City of St. Charles (miscellaneous items).

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

b. Recommend approval of an Ordinance Authorizing the Sale of Items of Personal Property Owned by the City of St. Charles (nine vehicles).

Motion by Stellato, second by Turner to approve an Ordinance Authorizing the Sale of Items of Personal Property Owned by the City of St. Charles (nine vehicles).

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

4. Police Department

a. Recommend approval of street and parking lot closures for the 2011 Scarecrow Festival.

Chief Lamkin: I've included in the information, the outline as requested of the special events company that is helping to manage this year with the CVB. This is similar to last year. There is an EMA cost estimated about \$528 that we had in addition to what is outlined here. Otherwise most of this is similar to the past. There is a request to use part of the parking lot directly north of City Hall which is different from the past but we have done this with some of the other special events, so we don't see that as a problem as long as we have the normal exits. There is staff here from both the event sponsor and the company that is coordinating that part if you have any questions for them.

Motion by Carrignan, second by Stellato to approve street and parking lot closures for the 2011 Scarecrow Festival.

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

Ald. Martin: I would like to commend the Police Department for receiving an excellent grade of the re-accreditation. I think that represents the excellent police department and dedication of our officers. Thank you.

Chief Lamkin: Thank you – what I would add for you is when we go up and have the hearing panel, no less than being in front of all of you, one thing that was very good to hear is the feedback in our accreditation report is the encounters they have with people in our city. When our assessors were here along with our staff and police department, they just could not speak high enough of us and for that I am very proud of the fact that we are able to have people work in this city and certainly we love this recognition. We were given a Flagship recognition last time, which is an elevated recognition. They have changed that and made it a Recognition of Excellence. For us that was an extra chip and it was very nice to have some great feedback. The interview panel's eyes opened a little when I talked about the Family Circle recognition.

5. Engineering Department

a. Recommend approval of an Ordinance Requesting the Intergovernmental Transfer of Real Estate from St. Charles Community Unit School District No. 303 and Authorizing the Execution of an Intergovernmental Agreement in Connections Therewith – Little Woods School.

Mark Koenen: This deals with a project on the east side of St. Charles. It deals with the acquisition of the Little Woods School site which is along Rt. 25 on the west side of the

road, south of Pinelands. A number of years ago when the school district was working with the City on their bus barn project along Peck Road, we asked for a first option of refusal on the acquisition of the Little Woods School site. At that time there was some conversation on their long-term life and using it as a school facility. They said sure. Most recently they approached us and said that don't really have a continuing need to use that facility and is the City still interested in acquiring it? We did some exploratory work in terms of some feature needs and decided, yes it did have opportunity for the City of St. Charles, at least initially with assisting us with the construction of the Red Gate Bridge as a lay down site for materials and certainly construction parking and everything else that goes along with a construction project; but in the longer term, for a future water tower site. So the school district and the City both drew an appraisal and the appraised numbers that were provided: the school district's appraisal was for \$1.33M and the City's appraisal was for \$570K. To that affect we generally came to midpoint of those two appraisals at \$950K and the City would acquire that through an offset in what currently is being paid by the school district to have a police office in each of the two respective high schools. We pay that over a period of eight years and it seemed to be a win/win situation for both parties. I would ask for a positive recommendation to the Council to advance this for vote.

Motion by Carrigan, second by Stellato to approve an Ordinance Requesting the Intergovernmental Transfer of Real Estate from St. Charles Community Unit School District No. 303 and Authorizing the Execution of an Intergovernmental Agreement in Connections Therewith – Little Woods School.

Ald. Martin: I read in the paper, saw it on television, and heard it on the radio – I think this is an excellent job of staff in negotiation. It's a win/win situation.

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

6. Administrative Office

- a. Reconsideration of an application for Class B3 liquor license for Alibi Bar & Grill to be located at 12 N 3rd Street, St. Charles.

Mayor DeWitte: This is another look at this application. There have been ongoing discussions with the property owner. Mr. Simpson is here this evening if there are any additional questions.

What I heard from the last meeting that was held by this Council was the fact that there was a concern on the emphasis of this establishment be that of a restaurant as opposed to another bar in the 3rd Street recreation area. To that end in following with a number of conversations with Mr. Simpson, he has in fact agreed to restrictions of a potential liquor license for his establishment and the times we have discussed and he has agreed to Sunday through Thursday alcohol service would ceased at 11:00 p.m. and Friday/Saturday alcohol service would ceased at 12:00 midnight. As you recall most B licenses in the area have 2:00 a.m. licenses. I think this is a significant consideration of the applicant and again as I

mentioned before that I think it does emphasize the restaurant aspect of this establishment as opposed to being simply another bar on 3rd Street.

Two other points, and the one that is most significant, is the method of this application has come before notwithstanding and I would attend to agree with everyone that it has been a little bit fractured as it has come before the Council. I think what is important to remember that we have a businessman here that has invested \$400K to \$500K in our downtown business environment. I think given today's economy and given the inability to fill a number of spaces that we do have in our downtown business district, I don't think this can be overlooked that this does represent a significant business investment in our downtown business district. Given his agreement of consideration for reduction of alcohol service – as I told him it doesn't necessarily mean he has to close his restaurant at 11:00 or 12:00 midnight, but every drop of alcohol will be off the bar at the designated closing times. With those revisions to his original application I would present to the Council for consideration.

Chrmn. Martin: This request is a reconsideration of the application therefore it requires a vote of reconsideration. That vote must come from one of the positive sides of the motion that was made two weeks ago. Is there a motion to reconsider?

Atty. Good: The prevailing side was a no, so someone who voted no would need to reconsider and the second can be from anyone.

Motion by Ald. Rogina, second by Monken to reconsider the application a Class B3 liquor license for Alibi Bar & Grill.

Roll Call Vote: Ayes: Stellato, Monken, Carrignan, Payleitner, Turner, Rogina, Bessner and Lewis; **Nays:** Krieger; **Chrmn. Martin** did not vote as Chair. **Motion Carried.**

Atty Good: Chairman, that means the matters before you are new.

Chrmn. Martin: The motion to reconsider passes and we will now address the reconsideration of the application of Class B3 license.

Ald. Stellato: I would like to get clarification on parking. My question is along the line that statistically speaking the spaces per thousand, whether it is retail use, restaurant/bar, what is the difference in that? I noticed in our last executive summary the square footage was 8,000 square feet; so at 10 per thousand at this use we need 80 spaces and if it were not a restaurant/bar – just a retail store – it is 4 spaces per thousand. So it would be 40 spaces if it were just a retail business and an additional 40 if it is food/liquor usage. I just wanted to get clarification as we go down the line here how that is impacted with the parking.

Mayor DeWitte: Those points are all well taken. I too am concern with the parking in that area. My concern particularly had he requested a license that was a 2:00 a.m. license, I just sense that parking inching closer and closer – further and further out into the residential neighborhood. Having said that, as you may well know, this particular business is located in

SS 1A which technically makes the City the responsible party for parking within this particular business area. I appreciate the concern and I share it, but the fact of the matter is that technically Mr. Simpson is not responsible for providing parking in this particular part of the business area.

Ald. Stellato: I don't disagree with your comments, your Honor. I do want to take those statistics a step further, We are talking spaces per thousands which by ordinance, if the building was not in an SSA, the building would have to comply with; but then you look at the amount of people that are allowed into the restaurant – 429 versus 80 spaces, it just doesn't jive. It seems that it is so far off. That is where I am going and that is my concern. I am hoping to hear something tonight that makes me feel more comfortable with those numbers.

Ald. Carrignan: We have an agreement that they will close at 11:00 pm and 12:00 midnight. Is that codified?

Mayor DeWitte: We don't have an agreement that they will close at 11:00 p.m. and 12:00 midnight; they will stop serving alcohol.

Atty Good: It is not codified. What occurs is that this will be a B license and there is a site plan that is required and, in approving that site plan, as well as approving the license specifically in the code, the Mayor can impose such further conditions as he deems reasonably necessary.

Ald. Carrignan: So there is an enforcement provision in the code. That is my concern that we codify it and have an enforcement provision.

Ald. Lewis: Does the 429 include staff?

Rich Simpson: Yes.

Ald. Bessner: My concern originally was of any mechanisms or controls put in place to make sure folks that are underage are not in there of what I consider to be a gray area of possibly 8:00 pm to 11:00-12:00 midnight. This question asked by myself at the last meeting if anybody underage can get into this establishment at any time and I was told yes. So I am little concern about that 18/19/20-year crowd being able to possibly move in and out of there freely at a time not necessarily important.

Rich Simpson, 236 E Vallett, Elmhurst, IL 60126. If you would like I would definitely put security at the door that would impose to keep anyone you would like that is underage out of there. I would have no problem with that. Because it is a restaurant I would card inside, but I would love to card at the door.

Ald. Bessner: I guess until it is in place, that is the ultimate solution. Again there seems to be some vagueness on this being a nightclub or a restaurant and that has been my concern all along.

Ald. Rogina: You are saying that, but I read your business plan very carefully. You suggest this is going to be a sports bar and piggy backing off of Ald. Bessner, I envisioned it to be something along the lines of Real Time Sports or Old Towne Tap which is a sports bar theme. There are children and young people in there as Ald. Bessner has said.

Then I asked a question two weeks ago and you gave me an affirmative, but I will ask it again. Giving the restrictions placed upon the license – 11:00 p.m.-midnight, are you intending to still have entertainment in there such as bands, disc jockeys, whatever?

Rich Simpson: Yes, I intend to have entertainment.

Ald. Rogina: If you have a band in there, is the assumption that they would close up at midnight?

Rich: Yes.

Atty. Good: I don't know if this assists in answering the question, but there is a provision on underage persons prohibited in B & C licensees in the liquor code. This is a specific regulation applicable to all B & C licenses. Under each person's prohibited license premises at certain times, notwithstanding any provisions of this chapter to the contrary, no class B or class C shall permit any person under the age of 21 years to enter or remain upon the premises after the hour of 11:00 p.m. unless such person is accompanied by his/her parent or legal guardian from or after 11:00 until closing. Every class B and class C licensee shall verify that any person entering or remaining on license premise is at least 21 years of age unless a person is accompanied by a parent or guardian. And, from after 11:00 p.m. there must be someone at the door checking IDs.

Ald. Rogina: If the place is only open until 11:00 p.m. during the week, then theoretically an underage person under 21 could be in there up to closing time which 11:00 p.m. is closing time during the week.

Atty. Good: On days that they are open until a later hour as far as liquor from after 11:00 p.m. this restriction applies across the board to all B licensees.

Ald. Stellato: I don't believe the restriction was to close at 11:00 p.m. It was to stop serving alcohol.

Atty. Good: Right, it could stay open later. My understanding is that the Police Department enforces that restriction routinely.

Chief Lamkin: When we go through the bars late at night, we are checking for identification and that goes on all night long. Most of the bars now are checking the doors prior to 11:00 p.m. so they are checking IDs as people go in.

Atty. Good: There is an exception for employees who are actually working, not for an employee to remain on the premise to visit or party. Someone who is effectively working may remain on the premises after hours solely to perform duties. They must be getting paid at the time.

Ald. Bessner: So would there be any reason to card individuals who come in after 11:00 p.m or 12:00 midnight depending what day of the week it was, even though alcohol has ceased?

Atty. Good: If it is in a liquor license premise – it is required.

Ald. Carrigan: Mr. Simpson, I am going to try and put my conundrum into this. I look around town and I don't think St. Charles really needs any more bars. Restaurants on the other hand I don't have an issue with. Then I look around and see McNally's and Pub 222 and they are a restaurant and they are a bar. If that is your establishment, than I think we can use that downtown. If it's a bar and the name of it is Alibi Bar & Grill, it leads me over to that side of the page that I don't know if I am ready for another bar and grill. Help me out here?

Rich: It is going to be a restaurant. Come take a look at it.

Ald. Carrigan: How about taking "bar" out of the name then? Find something creative. Because that is what I read and when I read and see that – that is what you are presenting to me. If you would consider that; it would be helpful.

Rich: That would be fine. I could do a d/b/a real quick. That is not an issue.

Ald. Rogina: To piggyback off of Ald. Carrigan, you do say in your business plan that the Alibi Bar & Grill will operate within the drinking places industry. I want to point that out, but I want to make a comment and it goes back to what the Mayor said. I appreciate the fact that you have invested the kind of money within our downtown area. What bothers me is this parking issue that Ald. Stellato pointed out earlier. I know what is going to happen. You said two weeks ago that we all could park in the parking garage. We know where your place sits and we know who will bear the brunt of this. It will be the neighbors in the St. Pat's area. I am concern about them and I know it is out of your control. As a councilman I know our city needs another garage sooner than later.

Rich: I have approached the VFW hall to see if I can negotiate a deal to lease their entire parking lot.

Brian Townsend: I just want to clarify one point, that as an owner of a downtown business, he is not required to provide parking. That doesn't mean that he can't. That is an option available if he chooses to do that. Also the fact that the SSA exists, the City collects an SSA tax for the purpose of supporting downtown parking in that area.

David Amundson, 500 Cedar Street, St. Charles. We live right across the street from St. Pat's and have live there for 10 years. I am going to back up to be a little more theoretical to approach this whole issue of the bar density in downtown. You hear frequently that the most important asset you have is your reputation. When we moved here this was kind of an antiquing, quaint little town. Everything was peachy keen. In the ten years we have been here we have watched store after store close (and in some cases level) and be replaced with bars. We have watched the traffic on our street increase, have listen to more conversations at 2:00 a.m. that are very loud and very drunk happening on our front street as people roll out of the bars. I have watched drunk drivers meander and scuffing curbs in our neighborhood. I've watched drunk people urinate in the park, St. Pat's, and other homeowners' properties. We are bearing the brunt of the cultural shift that this town has gone through. On one hand we still cling to the cute historical antiquing town. I went through a toll way plaza and there was a banner stating "come, visit historic St. Charles, go antiquing, see Pottawatomie Park." I read it and said if there was truth in advertising is should say "come for the motorcycles with the open pipes and stay for the pub crawl." That is the opinion I've become to have for the place I call my home. I will continue to call it my home, but it's beginning to come a little bit untenable. The perception is changing amongst people in Kane County and Fox Valley.

I am the first male member of the TriCity Mothers Twins and Triplets Club. I am a stay-at-home mom with our twins and I hang out with moms. One of them had mentioned about going out with her husband and what could she do. There were three immediate responses stating don't go to downtown St. Charles because it's too rowdy, too young, and too college scene. That's the kinds of things that are happening and we are encouraging more and more of this. And, whether we are aware of it, the perception of our town is changing.

I am seeing cultural shifts. More than once when I am running my errands around downtown I have had to walk around vomit stains on the sidewalk. That's not the kind of town I want to live in. The City Council passed a urination law. That should be a sign that something is going wrong. The pendulum is swinging a little bit too far. I am not going to say "No Bars." There is a place for them in our society. I don't have a problem with that. The problem becomes one of saturation. When I was a student at University of Illinois and Champagne decided it was getting too saturated with bars so they addressed it by capping the number of liquor licenses at less than presently existed and this just allow attrition and history to bring it back into play. From my perspective from watching the number of people going through my neighborhood at 2:00 in the morning telling funny stories – I think we are past that saturation. Something needs to be done. Another restaurant – fine I don't have a problem with that, but more places that are in the drinking industry – yeah I have a problem with that. I am not the only one in the neighborhood and we can all tell similar stories. I am all for economic development, but I would like to see economic development not require

police presence to keep it in line. I think we are robbing Peter to pay Paul. We're taking in tax money but we are spending it on police protection. I would like to see economic development that doesn't require enforcement of public urination law. I would like to see economic development that does not lead to the damage and destruction of other downtown merchants, such as the drunk driver that drove through the façade of Thai Zie Restaurant this winter. That is one culture at war with the other culture we are trying to nurture. That is the given trade we have going on in this town right now.

In terms of our neighborhood, it has got a little bit less since the parking garage was built. There is not as many drunks rolling through our neighborhood at 2:00 a.m. but with a 200 seat or whatever bar and grill two blocks from our house they are going to be back again and they will be back in force. None of us in the neighborhood want more of that. The other thing that brings it back home is that I am not out driving at 1:00-2:00 in the morning, but at some point in time my kids will be out driving and I am going to have to expect them, as a parent, to drive back into what has got to be the highest concentration of drunk drivers in Kane County, I would guess. There are a lot of not-so-guided missiles roaming around our streets and this culture we are fostering is only adding to that number.

Chrmn. Martin: And that ladies and gentlemen is why I have voted no for so many years against liquor licesnes. Well said sir.

Ald. Lewis: Have you ever considered valet parking?

Rich: Yes I have. I have actually talked to the gas station on 4th Street trying to get some of their space to valet. I am also in negotiations with the VFW and on the August 11 I have a meeting with them and again on the August 15.

Ald. Lewis: I also read in your business plan that you are trying to attract an older crowd. Older to me is my age, where I can go have dinner, a cocktail, and some dancing to Sinatra. Is this what we are thinking or is it going to be loud music. What is your plan for entertainment?

Rich: It will definitely be an older crowd entertainment?

Ald. Lewis: Where is the dancing and entertainment on your floor plan?

Rich: There is actually a sound stage and a regular stage in the corner. They referred to the site plan on page 12 of the handouts.

Mayor DeWitte: Just inside of the main entrance by the vestibule, you move the tables and chairs directly to the left of the vestibule – that is the dance floor.

Ald. Lewis: Okay, so you'll remove those tables after a certain hour? So it's not set up for entertainment and at what point do you think you might remove the tables?

Rich: Around 7:00 – 8:00 p.m. I don't have it zeroed in yet.

Ald. Bessner: So is your plan to close at 11:00 pm – midnight?

Rich: Yes. Once you close up there are other things to do which will add an extra hour before I leave.

Mayor DeWitte: So are you going to call this place the Alibi Grill?

Ald. Stellato: Once again I am having a hard time supporting this. I am going back to parking. You just answered to Ald. Lewis on what kind of music you are going to play. We would have absolutely no control for what you would do with music. There is nothing in the ordinance that would preclude you from doing what you wanted. I just can't keep away from the parking. Brian is right that we don't have to force you to provide parking. If you want to open up a restaurant today without liquor you could go ahead and do it and there is nothing we could do to stop you. You could go right now today and put as many people as you want into that district, park as many cars as you want; there is nothing we can do. What we can say, however, whether or not you can provide liquor and that is where we draw the line. I just think it is so imbalance with 427 people vs. 80 spaces provided – just doesn't add up and to exasperate the problem knowing liquor to be served, when I have control over that personally... You say you are working things out with the VFW and that, but those things are not worked out yet, there no agreements in place. That's why I am taking this position – it's a parking issue.

Ald. Carrigan: At 429 seats, I am trying to think of a larger place – would that be the largest restaurant in the downtown area? I can't picture ZaZa, Francesca – they're maybe 250. I am just trying to get a handle on the scope.

Rich: Again occupancy is 429 seats, but if I don't have a banquet going, that room is going to be sitting empty which is over 100 seats. That area will not be used unless there is banquet or private party going on. So the seating capacity will be reduced. Also when we have entertainment that is another 80-100 seats lost for entertainment.

Mayor DeWitte: I would like to make a suggestion, assuming this committee takes action on this in a positive direction tonight. It would still need to go before the Council on August 15. If it gets approve tonight tentatively to the Council meeting, I would suggest like Brian and I did, take 10 minutes and take a walk through this building. I was impressed by the quality that is going on. It is not being done inexpensively. I don't anticipate it just being another water hole in the downtown district. This man is making a respectable investment in a very old property. Depending on which way this goes tonight, I would encourage anyone who is interested to go over and see what is being implemented.

Chrmn. Martin: My question is why must this committee determine how Mr. Simpson is going to run his business? He has come before us with a plan of what he is going to have and it was denied last time because it was too wishy-washy. I'll do this and I'll do that and

now he is back here again with no better answers. I don't think you know what you really want.

Ald. Turner: Could I get an explanation from staff? What's the difference between total occupancy load of 421 and seating of 245? He only has 245 seats on here. Where does this 421 people come in – just standing around?

Chief Mullen: The occupancy load is determined based on what class of assembly load they are looking at. So he has a combination of a bar type occupancy that has a much smaller square foot per person occupancy because people are standing around vs. a restaurant which has your tables and chairs and aisles which is a larger occupancy. There is a variety of concentrations here, so the occupancy load for the restaurant is a mixed occupancy load of 15 sq/ft per person.

Ald. Rogina: I want to give you a chance to operate a good restaurant in this downtown area. I do support Ald. Stellato because I am really concern about the parking issue and I support Ald. Martin that you really came back with the same plan that you had two weeks ago. It would be nice if I could sit down and read adjustments of what we discussed here in your plan; whether that means us tabling it for a while longer. I know you've made a significant investment, but I am very concern about the parking. If you could give us a clue at some point that perhaps you are working to resolve the parking issue as well – something that is concrete.

Mayor DeWitte: I can only answer that statement from the point of all the B licenses in our community that this will be the only license in town that will be restricted as to the hour he will be allowed to serve alcohol and I believe that gives the emphasis to this particular business a restaurant. I guess you could vote it down and he can try to open it as a restaurant without alcohol service, but what kind of a competitive nature do you put him in, if you put him in that situation?

Ald. Rogina: I want to have him at the same competitive advantage as ZaZa's or any other place here in town that is a restaurant. In my mind I am really nervous to vote because I am not sure what it is yet that we're dealing with.

Ald. Monken: I would like to approve to take one more look at this for action at the next Council meeting. If you can respond to all the comments that have been made here and our concerns, put it into a clear text for us that explains exactly the environment/atmosphere that you want to do, and gives us all a chance one more time to take a look at what you have put into the facility, and then we will take final action on last presentation.

Atty. Good: That would be a motion to table.

Motion by Ald. Monken, second by Turner to table the reconsideration of an application for Class B3 liquor license for Alibi Bar & Grill to be located at 12 N 3rd Street, St. Charles.

Roll Call: Ayes: Monken, Payleitner, Turner, Rogina, Bessner, Lewis; **Nays:** Stellato, Carrignan, Krieger. Chrmn. Martin did not vote as chair. **Motion carried.**

Ald. Carrignan: Mr. Chairman, could we at least give Mr. Simpson some of the specific points we would like answered at the next meeting. Parking would be one that is very important, the name of the business, hours of operation, what type of operation is it going to be? What is the main emphasis of this establishment: nightclub, bar? Look at the floor plan and see how it is laid out relative to those considerations. I don't want to see you keep coming back here. Let's get this done and if you can answer those questions satisfactory to the six of us, we will go forward.

6. Additional Items

7. Adjournment

Motion by Carrignan second by Stellato to adjourn meeting at 7:58 p.m.

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

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