



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title: Update Regarding St. Charles Tavern Association and Joint Efforts of City and Association

Presenter: Chief Lamkin

Please check appropriate box:

<input type="checkbox"/>	Government Operations	<input checked="" type="checkbox"/>	Government Services 03.25.13
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input type="checkbox"/>	

Estimated Cost:	\$	Budgeted:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----------------	----	-----------	-----	--------------------------	----	--------------------------

If NO, please explain how item will be funded:

Executive Summary:

At the September 24, 2012 Government Services Committee meeting, the Police Department was directed to monitor downtown bar activity through the holidays and provide an update for discussion at the January 28, 2013 GSC meeting. Since that time, the downtown bars formed an association to provide an avenue for communication and collaboration in addressing public safety issues. At the January 28, 2013 GSC meeting, an overview was presented by Chief Lamkin and Steve Baginski, from the bar association. At that time, Chief Lamkin was directed to compile statistical information to determine whether there has been improvement. In addition, ordinances related to specific consequences for specific violations were to be explored. Also requested was whether there are any model ordinances that required a 1:00 a.m. closing, with a provision for a 2:00 a.m. closing based on “good behavior.”

The attached chart using like periods of time for the years 2010-11, 2011-12 and 2012-13. Also noted within the calls, are the instances where the bars themselves have reached out to the Police Department for a response to assist with a problem patron.

- Disturbance calls are being initiated by establishments and are generally due to not allowing a person entry or where they need someone to leave. This is positive.
- Fight calls have been reduced by over 60%, with more than half called in by the establishments.
- Intoxicated persons remains consistent with the previous year.
- Unwanted persons has reduced by 36% with over half being called in by establishments.

Attachments: *(please list)*

Chart; Memo; Naperville Code

Recommendation / Suggested Action *(briefly explain):*

For discussion only

For office use only: *Agenda Item Number: 5.g*



Memo

Date: 3/13/2013
To: Government Service Committee
From: Chief James Lamkin
Re: Liquor Licensing Question

In the review of bar related issues, Attorney Tom Good was asked to look into questions related to license options for violations and extended hours. For purposes of this review ordinances were checked from a number of communities, including:

- a) Bolingbrook
- b) Naperville
- c) Schaumburg
- d) Evanston (college town)
- e) Champaign (college town)
- f) Normal (college town)

Are there any model ordinances granting later closing times?

In response to the question regarding model ordinances, where a license holder may be granted a later closing time than what is normally allowed, based on privilege of good operations with no alcohol related problems or license violations, Mr. Good provided this review. Naperville has a Late Night Permit available for issuance as an adjunct to its Class B license. Copy attached. Noted is the nonrenewal, suspension or revocation of such permit is subject to due process hearing rights otherwise applicable to any liquor license.

Are there any model ordinance identifying specific consequences for violations?

In response to whether there is a model ordinance identifying specific consequences for specific violations, Mr. Good provided this review. State law provides a range of penalties, from none, to a fine, suspension or revocation. State law does not set a schedule of penalties for specific violations. Under State law the Local Liquor Control Commissioner has the discretion to determine penalties, subject to appeal to the State Liquor Commission. No ordinances were located identifying specific penalties for specific violations, nor could the State Liquor Control Commission identify any. There are always factors aggravating or mitigating any fixed penalty.

As an alternative, some municipalities provide for a Local Liquor Commission, consisting of 3, 5 or 7 members, etc. The Mayor would be the chairman and appoint members, subject to the consent of the City Council. The Commission decides all matters, based on majority vote, which would permit input of multiple persons.

Is there a better way to distinguish bar licenses from restaurant licenses?

In response to the question in determining a better way to distinguish bar licenses from restaurant licenses, Mr. Good provided this response. State law defines a restaurant as any public place kept, used, maintained advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

There is no State law definition for tavern, bar or saloon.

In the most recent redraft of the St. Charles liquor code, significant time was spent discussing this issue as it relates to taverns and restaurants. The current code is restrictive; however, other communities have less and greater restrictions.

- i. Schaumburg simply adopts State law definition of restaurant and its liquor code does not appear to have further restaurant specific conditions.
- ii. Bolingbrook adopts State law definition of restaurant, but also has license specific further conditions such as minimum percentage of gross sales attributable to food, and in one class no entertainment is permitted or outdoor signage regarding liquor is allowed plus gross sales restriction.
- iii. Naperville has definitions similar to St. Charles. St. Charles language is slightly less restrictive as to “restaurants and taverns.” Naperville restricts alcohol sales to 11:00 p.m. in restaurants and taverns; however, they have the option of the late night permit, as mentioned above.
- iv. Evanston has basic definitions. As a college town it has multiple liquor districts and numerous classifications. They do not require licensee for consumption on premises, licensee to have some level of food available. St. Charles does not require food in taverns, bars or saloons unless outdoor liquor is permitted. It also appears that hours for sale of alcohol are more restrictive than St. Charles, with a few exceptions.

Basically there is not an answer for everything. Even with more restrictive language, there is no guarantee that enforcement issues may not occur. There are restrictions requiring licensees to maintain electronic records of each day’s sales to prove the level of food sales as required. Some also have a requirement that a licensee provide an audited statement if required.

Downtown Activity Bar September 24 - February 24

■ 2012-13
 ■ 2011-12
 ■ 2010-11

Assault/Battery	<p> ■ 10 (6 calls generated by bar staff) ■ 9 ■ 4 </p>
Disorderly Conduct/Public Indecency	<p> ■ 6 ■ 2 ■ 2 </p>
Disturbance	<p> ■ 17 (6 calls generated by bar staff) ■ 7 ■ 16 </p>
Fight	<p> ■ 7 (4 calls generated by bar staff) ■ 19 ■ 20 </p>
Intoxicated Subject	<p> ■ 15 ■ 14 ■ 12 </p>
Keep the Peace	<p> 0 0 ■ 1 </p>
Liquor Control	<p> ■ 3 ■ 3 ■ 3 </p>
Unwanted Subject/Remove Subject	<p> ■ 7 (4 calls generated by bar staff) ■ 11 ■ 6 </p>

All such liquor service shall be from a service bar only; said bar not to be available for customer use.

- 1.5. Restaurant licenses shall be issued only to restaurants that have dining facilities as stated.
- 1.6. The annual fee for a class A license shall be one thousand six hundred fifty dollars (\$1,650.00).
2. Class B—Restaurant And Tavern:
 - 2.1. A restaurant and tavern license authorizes the retail sale, on the premises specified of alcoholic liquor until eleven o'clock (11:00) p.m. Sunday through Saturday.
 - 2.2. The primary business conducted on the premises shall be the service of meals. A full menu, including entrees and side dishes, and a fully staffed and operational kitchen shall be required until nine o'clock (9:00) p.m. Sunday through Thursday, and ten o'clock (10:00) p.m. Friday and Saturday.
 - 2.2.1. Kitchen Hours:
 - 2.2.1.1. Notwithstanding any other provision of the Chapter, Class B—Restaurant and Tavern licenses are not required to open and staff their kitchens on Thanksgiving Day and Christmas Day.
 - 2.3. No Class B liquor license holder shall sell or permit to be sold, offer for sale, give away or permit to be consumed any alcoholic liquor after eleven o'clock (11:00) p.m. on any day.
 - 2.4. A restaurant and tavern license authorizes the retail sale, on the premises specified, of alcoholic liquor by the drink for consumption on the premises, and beer and vinous beverages by the bottle or carafe, or beer or margaritas by the pitcher of a capacity not to exceed sixty (60) ounces.
 - 2.5. All such liquor service shall be by the drink only, excepting vinous beverages by the bottle or carafe, or beer or margaritas by the pitcher of a capacity not to exceed sixty (60) ounces.
 - 2.6. The annual fee for a Class B license shall be two thousand one hundred dollars (\$2,100.00).
 - 2.7. Late Night Permit:
 - 2.7.1. The late night permit is issued as a condition of a Class B—Restaurant and Tavern license and authorizes the holder of a Class B—Restaurant and Tavern license to serve alcohol liquor from eleven o'clock (11:00) p.m. to one o'clock (1:00) a.m. Monday through Friday and two o'clock (2:00) a.m. Saturday and Sunday without meal and kitchen requirements.
 - 2.7.2. The City Council may modify the number of Late Night Permits upon either a petition to the City Council by a Class B—Restaurant and Tavern license applicant or the revocation, surrender, expiration without renewal, or abandonment of a Class B—Restaurant and Tavern license or late night permit.
 - 2.7.3. Upon petition to the City Council by a Class B—Restaurant and Tavern liquor license applicant to modify the number of late night permits, the City Council may, but is not limited to, considering the following criteria: 1) the surrounding land uses, 2) the business concept, 3) the proximity to other liquor establishments, 4) the applicant's prior liquor business experience, 5) the public's health, safety, and welfare, 6) public safety resources, 7) market

conditions, and 8) any other criteria that is relevant to the issuance, establishment, and administration of a retail liquor license.

2.7.4. The nonrenewal, suspension or revocation of a late night permit and the licensee's right to a hearing is subject to the provisions of this Chapter.

2.7.5. The annual fee for the Late Night Permit shall be two hundred dollars (\$200.00). (Ord. No. 12-004, § 2, 1-17-2012; Ord. No. 12-025, § 2, 3-20-2012; Ord. No. 12-055, § 1, 6-5-2012)

3. Class C—Tavern:

3.1. Authorizes the retail sale of alcoholic liquor for consumption on the premises sold.

(Ord. 08-182, 10-7-2008)

3.2. All such liquor service, excepting vinous beverages by the bottle or carafe, or beer or margaritas by the pitcher of a capacity not to exceed sixty (60) ounces, shall be by the drink only and may be served from a customer bar.

3.3. The annual fee for a class C license shall be two thousand one hundred dollars (\$2,100.00).

(Ord. 03-181, 8-19-2003)

3.4. No class C license shall be issued to a premises not within a shopping center complex of not less than sixty thousand (60,000) square feet of gross building floor area. No more than one class C license shall be permitted in any such shopping center.

3.5. The square footage requirements for class C licenses are not applicable to renewal of existing class C licenses, and shall not preclude the issuance of a liquor license to the purchaser of an established premises for which a liquor license has been previously issued.

(Ord. 07-239, 11-6-2007)

3.6. Authorizes the licensee to sell to the general public, alcoholic liquor in the original sealed package only, for consumption off the premises.

(Ord. 08-182, 10-7-2008)

4. Class D—Package Store:

4.1. Authorizes the retail sale, on the premises specified, of alcoholic liquor in its original package, not for consumption on the premises.

4.1.1. No class D license shall be issued to a premises which is not located within a shopping center of at least sixty thousand (60,000) square feet of gross building floor area unless such premises having been previously grandfathered from this square footage requirement.

4.1.1.1. In shopping centers of at least one hundred thousand (100,000) square feet of gross building floor area, an additional class D license may be permitted if such license is located in a premises which primary business is other than the sale of alcoholic liquor. For purposes of this Subsection, a primary business other than the sale of alcoholic liquor, if not more than twenty-five percent (25%) of the annual gross revenues from the premises is derived from the sale of alcoholic liquor.

(Ord. 07-239, 11-6-2007)

4.2. If the sale of alcoholic liquor is conducted on premises which are utilized primarily for other retail sales activity, the display of liquor shall be confined to a liquor display area as approved by the Liquor Commissioner. The liquor display area shall generally be a designated portion of the premises which includes all liquor. In particular, but without limitation, there shall be no aisle displays, or stocking of liquor in any public area of the establishment except in the approved liquor display area. Any changes to the