

**MINUTES  
CITY OF ST. CHARLES, IL  
LIQUOR CONTROL COMMISSION MEETING  
MONDAY, AUGUST 18, 2014**

**1. Opening of Meeting**

The meeting was convened by Liquor Commissioner Rogina at 4:30 p.m.

**2. Roll Call**

**Members Present:** Liquor Commissioner Rogina, Robert Gehm, Ald. Payleitner, Ald. Lewis, and Chuck Amenta

**Absent:**

**Others Present:** Mark Koenen, Atty. John McGuirk, Police Chief Keegan, Deputy Chief Huffman, and Tina Nilles

**3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on July 21, 2014.**

**Motion by Mr. Ghem second by Ald. Payleitner to accept and place on file minutes of the Liquor Control Commission meeting held on July 21, 2014.**

**Voice Vote:** Ayes: unanimous, Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

*Chuck Amenta arrived at 4:35 p.m.*

**4. Continued discussion regarding Alibi Bar and Grill, Ltd. Violation Notice**

**Chrmn. Rogina:** This is a complaint of violation brought before the Liquor Control Commission to determine whether the St. Charles Liquor Control Commission pursuant to its authority shall revoke or suspend the local liquor license issued for Alibi Bar & Grill, Ltd., or impose a fine by reason of the complaint of violation filed by the police department of an occurrence on or about June 1, 2014. This a continuation of last month's meeting where you asked for an extension, we granted that, and now I want to read the complaint again for the record.

On or about June 1, 2014 at approximately 1:50 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:

First offense sold alcoholic beverages outside its licensed premises and/or allowed the consumption of alcoholic purchased beverages purchased on its premises to be consumed outside its licensed premises.

Second offense, allowed a patron to exit its premises while in possession of an alcoholic beverage.

I know that you received a copy of the police report and case summary, as all of us have. I'd ask at this point in time how you plead in this matter?

**Rich Simpson:** As far as I'm concerned I believe I'm not guilty, but I'm going to plead guilty. I've done as much research as I can on it; I've been to the police station three times.

**Chrmn. Rogina:** We'll note that you plead guilty. You're allowed after that plea, if that's what you want to enter, to make a mitigating statement. So, you're entering a plea of guilty?

**Rich Simpson:** Yes.

**Chrmn. Rogina:** The second piece to that is your right to make a mitigating statement. Go right ahead.

**Rich Simpson:** When this complaint came in, I had no idea that whatever took place; the officer never came in or had any conversations with me. I had no knowledge of it. During the time frame I've gone to the Police Station three times trying to research this thing, try and find out what happened. Other than the police report the Police Department can't confirm or deny it, other than the police report, there are no intoxication reports. I don't know what the glass looks like, I have no idea. I went to the people's home that was on the report but they no longer live there. Trying to go back and talk with them to see what happened. I've done everything I possibly can to research this, to see what took place or not took place and I come up empty handed. The only thing I can really do is take this as a learning experience. We hired an outside security firm to come in and validate my security to see if we were doing anything wrong. I'm waiting for a report to see what that actually says. I'm at the mercy of this court and what decision you're going to make.

**Chrmn. Rogina:** Once again I know that if there are any particular procedural rules and regulations that you feel you need to have honed down, I'm confident the Police Department, under Chief Keegan and Deputy Chief Huffman are happy to work with you. As indicated in a letter we sent to you and all liquor licensees, next month, on the 17<sup>th</sup> we're going to have a session with a person from the Illinois liquor Commission come in and talk about intoxication, having said that, we accept your plea and will take that under advisement. There's no need to stay here after the meeting because when we go into Executive Session and discuss the matter I take all this under advisement and we will not come through with any decision today. It will be sent to you within the next 7 – 10 days.

**Rich Simpson:** Okay

**Rogina:** Before you step down does anyone have any questions?

**Ald. Payleitner:** We're just curious, Mr. Simpson, you read the police report?

**Rich Simpson:** Yes.

**Ald. Payleitner:** You saw that you were mentioned in there?

**Rich Simpson:** Yes, and I also went to the police department and talked to one of the sergeants and told them it was not me. They said that they did not have a video camera and they could not confirm or deny. He said that maybe the officer thought it was me and it wasn't me. They are not saying yes or no to it. I explained it was not me; I got this complaint I know nothing of it, that's why I did so much research on this thing trying to see what took place. Other than the police report I can't confirm or deny it. That's why I went to the people's home, to talk to these people, but they don't live there. I've been to the police station three times trying to get down to the bottom of what happened. If the officer would have come to me and said we have a glass outside and here's your glass, I would have known it transpired. I have no idea. I got a police report. The only thing I know about that police report is that it wasn't me. That I know for a fact, but anything else about that police report, I can't argue it, no defense.

**Chrmn. Rogina:** Anyone else? And let the record reflect that member Amenta has joined us.

**Ald. Lewis:** I'm interested in your thinking of this being the Police Department's job to let you know what's going on outside your building or is it your job to be sure that nothing leaves your building?

**Rich Simpson:** Both. It's definitely our job to make sure that nothing leaves. That's why my security actually patrols my outside parameter all night long.

**Ald. Lewis:** They didn't see this particular occurrence?

**Rich Simpson:** No. Absolutely not.

**Ald. Lewis:** You went to the Police Department three times and no one would talk to you?

**Rich Simpson:** I had conversations with the officers. They were cooperative as can be with me. I thank the police department for trying to help me out with the situation. But at the end of the day, nobody could confirm or deny it. We have a police report and that's the end of it. We can't go any further than that. I've done everything I can to go outside that police report and see if there was more information, or something to confirm that it even took place. I couldn't do so. I'm in a catch 22. I can't do nothing. I don't know what to say.

**Chuck Amenta:** Do you know for a fact if you did or did not have someone posted at that door?

**Rich Simpson:** I know for a fact. I have two security guards by that door.

**Chuck Amenta:** They missed it coming out then? The security guys did?

**Rich Simpson:** If it was our glass, then yes they missed it. The officers didn't say, most of the time if something happens, the officer comes in and tells us, informs us of it. This time nothing happened. I've gone a year and a half without an incident.

**Ald. Payleitner:** I guess that they wouldn't have come and talked to you if they thought they had already had talked to you. According to the police report the officer there talked to you.

**Rich Simpson:** No the police report says he saw me.

**Ald. Payleitner:** No. He talked to you. The owner of the Alibi Restaurant cracked the rear open enough to reach his arm out and grab the drink from the ledge. I quickly stopped him, informing him that was my evidence at this point. So it sounds like there was an interaction.

**Rich Simpson:** Okay.

**Chrmn. Rogina:** She's reading from the police report.

**Rich Simpson:** Absolutely, yes. That's why I went to the police department and talked to the sergeant. It was not me. It did not transpire.

**Chrmn. Rogina:** Anything else, anyone? Thank you.

**Rich Simpson:** Thank you so much.

## 5. Continued discussion regarding The Filling Station Violation Notice

**Chrmn. Rogina:** The second order of business is a continued discussion regarding The Filling Station violation notice. Peter, you can come up. This order we also granted an extension from last month, as you recall, so this is an extension of the July 21, 2014 Liquor Control Commission whereby a complaint of violation being brought before the liquor commission and whether the St. Charles Liquor Commission pursuant to its authority shall revoke or suspend the local liquor licensee issued to The Filling Station, or impose a fine by reason of the complaint of violation filed by the Police Department of an occurrence on or about July 10, 2014, and if I could read that into the record again; on or about July 10, 2014 at approximately 2:01 a.m., the Licensee, The Filling Station 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 300 W. Main Street, St. Charles, Illinois 60174:

First offense: Sold alcoholic beverages outside its licensed premises and/or allowed the consumption of alcoholic beverages purchased on its premises to be consumed outside its licensed premises.

Second offense: Failed to maintain an employee or agent posted during the required hours at each entrance to the licensed premises.

**Peter Milligan:** Guilty

**Chrmn. Rogina:** Guilty, we'll note for the record that the licensee has pleaded guilty to the offenses in question. I'll give you the floor for mitigation statement.

**Peter Milligan:** Thank you for the extension, first off, to have some time to ponder this. Thank you for allowing me to offer what I consider mitigating circumstances. About a year and half, two years ago this trouble started to bubble up to the surface and the City asked me and the other establishments in town to change the way we do business. I changed. Aside from my previous incident/violation, for the last year and a half, to the best I can recollect, I haven't had any 911 calls, no over serving, no serving of minors, I haven't had any police squads lined up outside my restaurant, no ambulances, no fights, not one. You asked and I delivered.

I would like to reiterate something I brought up the last time, and that is according to The National Shoplifting Prevention Organization, and according to those statistics only one in fifty shoplifters are caught despite sophisticated camera equipment, electromagnetic anti-theft devices or undercover agents. If you put something down your pants you're going to get away with it forty-nine times before you're caught. With billions of dollars in losses annually, I'm sure the retailers would figure out a way to stop it if they could but the fact is, you can't stop it. It's impossible.

At least when shoplifters get caught they get arrested. As far as I know, in this particular instance, these individuals were not punished in any way. No personal responsibility. I want to know why is 100% of the onus on me? They perpetrated the crime, they walked scott-free. I don't think that's right. Now about this particular incident, despite what the police report says, my doorman was at the gate when those people walked out. He told me that he was there, paying attention, and that they were not carrying beer with them. My manager told me, she's here to testify as well, that he was at the gate when they left. I have signs posted at the exits that clearly state not to leave with alcohol. The officer did not see them leave. So whether they were carrying alcohol or not, he didn't see it. I would say that since I had a guy standing there, paying attention, he's not blind, he's not an idiot, he's not going to let 4 or 5 people walk out with beers in their hands.

Finally, I have a question for you all to ponder. Do you make any distinction between violations? Is over serving someone into a drunken oblivion, or serving alcohol to a minor; is that violation equal to a legal adult purchasing a fully taxed legal beverage and sneaking it out? Is that the same, because as far as I can tell, I don't know. I feel there should be some distinction. I would argue that this is a lesser offence. If it was such a big crime, why did the officer let these people off scott-free?

I would ask that you show me some leniency. I've made a lot of corrections. I've done my best. I would say of all the violations this is the least serious in my opinion. That's all I have.

**Chrmn. Rogina:** Before you leave, are there any questions for Mr. Milligan?

**Robert Ghem:** The police report says that they did notice that it was alcohol, so they did know what the substance was. Also, the subject of this did admit that they came from that establishment, and it doesn't look like they were trying to shoplift or steal it. There seems to be some inconsistency with what you said.

**Peter Milligan:** I'm not denying that it was alcohol, or that they came out of The Filling Station. I'm saying they didn't walk out with it in their hand. You can't expect a criminal, partially intoxicated, caught red-handed to speak the truth. They are going to say what they need to get out of trouble.

**Robert Ghem:** According to what the police report says, they weren't hiding or concealing it. It was out in the open and it was a 12 ounce bottle of alcohol. That's why I was asking the question.

**Peter Milligan:** That's not 100% correct. After the officer told them to dump the alcohol and was finished confronting them; there is something mentioned about a bottle on a wall. That was him placing his bottle, trying to get rid of it, after the officer had already dealt with him. One of them was able to conceal it from the officer. The officer in question did not notice that he still had one. At least one of them was concealing it. If he pulled up in an unmarked squad they weren't trying to conceal it because they didn't see it coming.

**Robert Ghem:** Okay, thank you.

**Ald. Payleitner:** The wording in that doesn't agree with what you said. One of the male subjects put his open beer bottle on the brick wall and the others put it on the sidewalk as I confronted them. They saw the policeman and decided to put their drinks down, is how I read that.

**Peter Milligan:** My manager that was in charge would be happy to testify that it was afterwards.

**Chrmn. Rogina:** My only reason for not going through all of that is that this is the mitigation statement. If in fact you plead not guilty you have every right for her to testify and get into this in much more detail. I'm ready to answer your one question later on, but does anyone have any general questions?

**Ald. Lewis:** You've used this shoplifting before. The last time you referred to shoplifting, is it only alcohol that's shoplifted out of your establishment? Do people walk away and not pay their bill, or is it only alcohol that seems to walk out the door?

**Peter Milligan:** Occasionally people leave without paying their check. I've had some stuff pried off the walls and stolen.

**Ald. Lewis:** So there are other things that are shoplifted out of your place? When you refer to shoplifting, taking it out of your place; usually shoplifting means they haven't paid for anything. I'm not quite sure how you relate this to shoplifting?

**Peter Milligan:** It's relevant because if you conceal something down your pants and walk out of the building; you can't stop that. I don't have x-ray vision, I can't pat people down.

**Ald. Lewis:** I think it's been paid for. Typically when you refer to shoplifting the items have not been paid for.

**Peter Milligan:** Whether it's paid for is irrelevant. My point is that if you want to sneak out with something you can.

**Ald. Lewis:** We might disagree on that one. I have another question. There is discrepancy on what the police report says and how many people were working. It states in here that the officer learned that only one bouncer/door person was working. But you say that's not true.

**Peter Milligan:** No, that's true.

**Ald. Lewis:** They were at that door and not at the other door.

**Peter Milligan:** Right

**Ald. Lewis:** Are you not supposed to have two at each door at all times?

**Peter Milligan:** Not two at each door.

**Ald. Lewis:** One at each door. Isn't that how it's written – the ordinance?

**Peter Milligan:** Yes, it is. I wasn't aware of that.

**Ald. Lewis:** That's what happened last time, you only had one person.

**Robert Ghem:** There was nobody at the door at the last one.

**Ald. Lewis:** So again, we have nobody at the door. One person when there is to be two. Two people, one at each exit at all times.

**Peter Milligan:** That correction has been made.

**Chuck Amenta:** You talk about this violation being very prevalent. This year we have only had three violations of this matter. I would encourage you to reach out to other bar owners in town and see what they're doing to stop this situation from happening. This is the second violation you've had and only two other establishments have had this happen. There are other bars, taverns that are doing this well and not having this violation occur. I would just encourage you

to reach out to some of your friends in the community to see what they are doing. Also, if you have a doorman that's at that door and there are folks outside with alcohol, I would encourage you to have them call the police. That might help you as well. That way they might not tag it on you. If in fact, and I'm not saying in this circumstance it did, but if it didn't come from your establishment; it doesn't get tagged to you because you are the one that's reporting it. I don't have any questions, just those thoughts that may help to avoid this in the future.

**Peter Milligan:** Thank you.

**Chrmn. Rogina:** One more thing before you go. I think you're entitled to an answer to the question you posed, do we make distinctions between violations? I can't speak for the Liquor Commissioner prior, but my guess would be we've all followed the Illinois statutes with respect to penalties for various offenses. I think that's the best way to answer your question with respect to penalties for various offenses. When the penalties are established, there is a range of penalties and I think this group here has tried its best to maintain a progression of penalty with respect to whatever the violation. Whether it's open alcohol outside the bar, serving a minor, or any other violation. I think we're in line with the state statutes. I see your point. If you ask anybody running an establishment that serves liquor if there are violations that are more serious than others; I suppose you could argue there is. Having said that, I think the City is certainly following the Illinois statutes in respect to penalties.

**Ald. Payleitner:** You honor can I just make one statement? Your shoplifting comparison I found interesting, but it didn't appear these people were sneaking anything out. As a matter of fact when the policeman talked to them, they said that they were from out of town and weren't aware of the open alcohol laws here. That would imply to me that they were far from hiding it; assuming that wherever they came from they could have open liquor on the sidewalks. It seems more likely that there was in fact a distracted person at the door as opposed to them sneaking it out.

**Chrmn. Rogina:** Anything else. Thank you.

## **6. Executive Session (5 ILCS 120/2 (c)(4)).**

Motion by Mr. Gehm, second by Mr. Amenta to move into Executive Session at 5:05 p.m. to discuss liquor violations.

**Roll Call:** Ayes: Gehm, Payleitner, Lewis, and Amenta; Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

Motion by Mr. Gehm, second by Ald. Payleitner to return from Executive Session at 5:33 p.m.

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

## 7. Other Business

**DC Huffman:** As you are aware and through your guidance we added the definition of “intoxicated” to our ordinance to help us educate our bar owners in regard to over serving alcohol to an intoxicated person and harboring an intoxicated person. Through that process we talked about an education piece that we wanted to provide to them as well. In that regard, I’ve put together a brochure entitled “*How Much is Too Much*”. It’s in draft form right now and we are requesting that as a liquor commission, individually at your leisure, you go through it and contact me if you would like to see something added to it or have questions about it.

**Chrmn. Rogina:** Since this is a draft and when you have a chance to go through and provide input, there is no need today to have any conversation on this unless any of you have any general questions.

**Bob:** How soon would you like feedback on this? What is your timeframe in getting this out to the licensees?

**DC Huffman:** We would like to pass these out at the September 17<sup>th</sup> meeting in its final version.

**Tina:** So by September 10 you would like any comments back to you?

## 8. Adjournment

Motion to adjourn by Mr. Amenta, second Ald. Lewis 5:35 p.m.

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