

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
TUESDAY, JANUARY 21, 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, Chuck Amenta, and Ald. Lewis

Absent:

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

3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on November 18, 2013.

Motion by Mr. Amenta, second by Ald. Lewis to approve minutes of the November 18, 2013 Liquor Control Commission Meeting.

Voice Vote: Ayes: Unanimous, Nays: None. Chrmn. Rogina did not vote as chair. **Motion carried.**

4. Discussion regarding Ordinance Amending Title 5 “Business Licenses and Regulations,” Chapter 5.08 “Alcoholic Beverages” of the St. Charles Municipal Code.

Chrmn. Rogina: Gave thanks to all staff participation for their efforts that went into the changes for the liquor code amendment and thanks to the Liquor Commission for their time and input. I have a few comments because it’s important for the community to understand several things regarding reasons to the revisions and within the revisions the two-prong part of the revisions: the review by City Council and the fees. There’s many reports and blogs on this subject and I want to make sure everything is crystal clear.

First, I campaigned on this issue as Mayor and I’m happy to see that it is at least coming to a vote now. If it passes we can say we accomplished what we set out to do almost a year ago. Second the revisions are put on the table because of your input of the Commission. They are on the table because of input by the City Council at its fall retreat. Finally the Government Operations Committee of the City Council unanimously voted in favor of these revisions. Those in my mind are the reasons for tonight’s proposed revisions.

Now a lot of us have focused our attention on fees but let's not discount a very important piece of the two prongs of this proposal. The first prong is the review of all late night permits issued to licensees by the City Council. The ordinance, by State Statute, gives the Liquor Commission the right of review. When I took over as Mayor I created this commission because I wanted a variety of opinions. I didn't want to be the sole dictator by myself dictating the policy. That is why the commission was created and that is why we are going to review licenses and permits, I want the consent of the City Council. So that piece is in the ordinance.

I believe the review provides strict scrutiny of our licensees which is very important. Selling liquor in a community is not an ordinary business in the fact – it's a special privilege with rules and regulations. When things don't walk along the straight and narrow as they should, we have an obligation as a city to scrutinize that activity. City Council does, in cooperation with our fine police department, who provide us with information and then Council, Commissioner/Mayor will review it.

Ultimately the purpose of the review is to encourage cooperation between the city officials of this community and the business community to create a safe, enjoyable environment. One editorial said this could be construed to be anti-business. I would ask the question what does anti-business mean? We have a lot of businesses in St. Charles and have a lot of concerns from businesses that are not liquor licensees who are tired of the cleanup and messes left after a weekend of frivolity. Maybe we are being pro-business by taking a step toward eliminating some of that and providing a safe, enjoyable environment.

Then to the fees. I do think whether it's our fault as a city, whether it's the press's fault, or whether it's a combination of both; I still think the numbers were clearly rolled out. I say this because of couple of licensees have come to me and said they are being asked to pay an amount that is not in existence. The reason for the fees is that I believe there is an increased value being placed on a 2:00 a.m. closing; because anecdotal evidence provided by a variety of sources suggests the problems still exist. Recently I talked with a manager stating that a comment has been made here that it's been said that nothing good happens between 1:00 – 2:00 a.m. To that statement I ask what's the goal of most people in your establishment between 1:00 – 2:00 a.m.? The answer was to get drunk. I appreciate the honesty but I want them to work with us to make sure that is not the goal. When I talked with another licensee and told them if they closed at 1:00 a.m. their license would be cheaper than a 2:00 a.m. closing. They were surprised and stated they did not need to stay open until 2:00 a.m.

But to the 2:00 a.m. issue, if you recall less than two years ago there was a proposal to close all licensees at 1:00 a.m. The licensees, through a tavern association, came forth to Council and discussed this and asked the Council to work with them. So the Council with a narrow 4/5 vote said okay, we'll work with you. We as a majority agreed not to close all licensees at 1:00 a.m. Today this proposal does not demand that anyone closes at 1:00 a.m. It allows for plenty of options. There is certainly a desire on my part, I am not speaking for the entire Council, but there is a desire to reduce 2:00 a.m. licenses.

We have approximately 60 Class B&C licensees and the proposal that's going before tonight is that of these 60 licensees we have, there are only a very few exceptions that don't close at 2:00 a.m. For a 2:00 a.m. license the vast majority pay \$2,600 a year. Our new proposal, if passed tonight, will establish a license at \$1,200, but instead of 2:00 a.m. it is going to propose that license has a midnight closing.

Built into our proposal are two late night permits (not licenses). If a licensee chooses to close at 1:00 a.m., that permit will cost the licensee an additional \$800 bringing the total to \$2,000. That is \$600 less than what they currently pay. If they choose to close at midnight that's a \$1,400 swing, but that's their decision.

If a licensee chooses a 2:00 a.m. late night permit that additional fee will be \$2,300 more for a total of \$3,500. That is \$900 more. It's been misinterpreted in a few places that the licensee will be paying \$2,300 more than their currently paying and that's not true. Any questions?

Mark Hoffman, 221 S 2nd Street, St. Charles, 2nd Street Tavern: I have a 2:00 a.m. license and my question is why the \$900 increase just on this one license where all the other licenses are actually reduced?

Comm. Rogina: This is trial and error. There was an intent on the part of the leadership here from the last vote to close all the bars at 1:00 a.m.; so what's the impetus to encourage that and at the same time say you can stay open until 2:00 a.m. but a message has to be sent that this is going to have a premium on it based upon what we've seen upon downtown activity here in our community. I could be more specific in saying it could be, after a year, be less. We may decide to recommend to the Council something less; and if things don't change, it might be more. The economist in me would say we are trying to find equilibrium, find the number that is going to work. There's no guarantee this proposal is going to work. I'm hoping very much so to see new behavior in our downtown. I say new behavior not with rolling up the sidewalks at 10:00 p.m. but with some more responsibility placed on our licensees and then transferred to our citizens. That's going to be a review by us and by the Council after this has been implemented. The 10-0 vote by the committee sends a signal that they thought the \$900 was a good number.

Ald. Payleitner: At the same time that we were talking about changing the closing times, we were also having conversations about let's make a distinction between bar, tavern, and restaurant and charge them accordingly. What a nightmare that turned out to be as we researched other towns. This way, I think, we're letting them make the decision. That it isn't up to us, it's up to them to pay accordingly; and there is a little incentive for the earlier closing time.

Comm. Rogina: Mr. Hoffmann I'll be candid with you that it's a privilege to stay open until 2:00 a.m. I don't see a problem with you receiving that. You've been a good licensee in our community but we are putting a premium on a 2:00 a.m. close. This is based upon the fact that after a year and a half I don't think we've seen any noticeable change in the activity downtown despite the fact a Tavern Association came to us and said "work with us." I've been here for eight months and have not talked with one member of the association or hospitality group. In my mind this is fair. It may not be construed that way in all circles but we're going to give it a look-

see. I would go to the point to encourage the theory of a 1:00 a.m. unless there are any other questions on this first item.

Ald. Lewis: I remember that vote a year and a half ago when the vote was 4 to 4 and being in the last seat the vote came to me and I was very much ready to vote for the 1:00 a.m. license; however, when they stood up and presented themselves with an attorney and said they were caught off guard by having only a two-week notice; I thought alright, I'll give them the benefit of the doubt. My vote broke the tie and they got to continue to stay open until 2:00 a.m. There have been several times in the past two years I thought I wished I had voted the other way and we wouldn't be here now. You'd all would have been closed at 1:00 a.m. and wouldn't have the opportunity to have this panel discuss options on how to stay open until 2:00 a.m. I think this may be a positive that we are doing that because it very well could have been voted the other way. I don't think we saw the improvement we were looking for in those next several months after the Tavern Association was created. Instead we saw in their windows signs that said no fighting. In walking downtown and seeing these signs in windows of establishment on how you're supposed to behave is not what we were looking for and I think the Tavern Association did dispense with itself. They don't hand stamp anymore and they were going to monitor and make phone calls to everyone. I don't think that ever really happened. So we were left with coming up with something different to do and I think what the Mayor has suggested has really been a positive solution to move forward.

Mr. Brian Volpe, 1219 Dean Street: As I understand the City is doing away with all 2:00 a.m. licenses and are having only 12:00 midnight licenses. Most establishments have been good and now you're revoking his 2:00 a.m. license and everybody only gets a midnight license. Then if you're liked or pay a special fee you can stay open until 1:00 or 2:00 a.m. That's what I heard.

Comm. Rogina: Midnight license being \$1,400 cheaper.

Mr. Volpe: But there's no license after 12:00 midnight.

Comm. Rogina: Correct but there are late night permits.

Mr. Volpe: The standard is to have all 12:00 midnight licenses then there will be permits for whoever decides they can pay the price. It's not about the fees, it's about the license structure. The City of St. Charles says no more 1:00 or 2:00 a.m. licenses – it's now just 12:00 a.m.

Comm. Rogina: Correct.

Mr. Volpe: Okay so that's our base line for closing and if you want to pay more you can stay open later. So why don't we go to 3:00 – 4:00 a.m. if they're willing to be pay \$2,000 more. Why can't they stay open later? We are not solving the problem. The money you are charging doesn't solve the problem; it just says we'll just drink more. When I used to go out to tavern/bars my goal wasn't to get drunk. It was to go out and have a nice time and enjoy friends that I don't get to see on a regular basis. You're not getting to the core of the problem which I tried to explain at the Council meeting. I guess there is BASSET training but that's not good

enough with just 4 hours training and you get a certificate and say go serve drinks and we don't care. What I'm saying is we need to train the people who are serving better by coming up with a yearly renewal or whatever timeframe where they have to get recertified that they understand what they're serving and providing to their customers. Make them more aware. It's not about putting a dollar in your pocket because you gave them a drink and they go and stumble away. You're penalizing other good establishments by letting the guy go from the place that closes at 12:01 to stumble into their place, they haven't even bought a drink yet and they could already be starting problems in there. So if you can control how, what, and the amount they are being served that's going to be a better solution. That is not being addressed. All we are talking about is whether it's after 1:00 or 2:00 a.m. you're going to pay more. Maybe we also need to have a little more police presence down there. They do a good job but maybe they need to be more out there so people see the police walking around. It may lessen the amount of people who want to fight. Education in the system is the best thing and perhaps if you had more of the bar/tavern owners here to discuss this – we could all come up with a better solution.

Chuck Amenta: If I heard you correctly you're asking the City Council and Liquor Commission to police your establishment; and if there is a problem within your establishment is it not the responsibility of that establishment to contact the police if they have a problem to try and stop that so that their patrons know immediately that kind of behavior is not going to be tolerated? So what someone does out on the street - fine, but they go into the next place, to your point, so maybe the Tavern Association should ban together, if it even exist, to police themselves and work together to maybe hire more training. This association was put together but my understanding never followed through. I never have spoken with any them. I think the idea of more police presence is great, but shouldn't each establishment police themselves?

Mr. Volpe: Let's make our servers better than what the state minimum requires. Maybe we should set the standards to having our people well trained and made more aware. If we are going to let them self-police then we need to be harder on the establishments when something seriously does happen instead of giving them a Monday night slap on the wrist that you don't get to serve alcohol. It needs to be Friday/Saturday night which will be a greater impact. Teach your people to do better otherwise we're going to take away your days that really count.

Chuck Amenta: I do believe the punishment that has been doled out by the Mayor since this Commission has been form has been good and there hasn't been any repeat offenders.

Ald. Payleitner: It's my understanding that this is exactly what this permit is. It's extra accountability. It's really tough to pull a license on someone but the Mayor has the power to pull a permit. If they're not behaving they lose their permit of staying open later.

Comm. Rogina: Mr. Volpe you're misconstruing semantics with licenses and permits.

Ald. Lewis: In comparison to other surrounding communities we are not unusual in having a 12:00 midnight closure or 1:00 a.m. closure. I went to the State of Illinois website where they have a list of different communities where they list the businesses' different closing times for

different days of the week. Campton Hills close across the board at 1:00 a.m. Batavia closes at 1:00 a.m. during the week and 2:00 on Friday/Saturday.

Mr. Volpe: I'm just trying address what the real problem is. It's not about the time, it's about the consumption.

Comm. Rogina: Our goal is to eradicate the problem.

I want to bring one other thing to our attention. With this amended code we are allowing our licensees to stay open until 2:00 a.m. New Year's Day if they so desired. I had a licensee make a comment to me that he does close at 1:00 a.m. most of the time but there are these rare occasions when he needs to stay to open later, but you're forcing me to stay open until 2:00 a.m. in order to protect myself when these occasions happen. I thought about his point. This is not in the proposal tonight but I wanted to hear your thoughts on the idea to maybe encourage more 1:00 a.m. closings to say to a licensee that you have X number of times a year aside from New Year's Eve where you can stay open until 2:00 a.m. for special occasions.

Ald. Lewis: Like an E license for a special event?

Comm. Rogina: Exactly and you apply for it. I would like your thoughts on this. We could amend the liquor code at a future time on this. So licensees would actually pay less money and close at 1:00 a.m. and have some flexibility moving forward. What are your thoughts?

Ald. Lewis: I think it's a good idea. What would the cost be – like \$50 a day and no more than 4 or 5 per year?

Comm. Rogina: The number would be debatable and we would come with a proposal to you. I wanted to get a sense where this group is at. If you all were okay with this we could move it to City Council at some point.

Chuck Amenta: Would we consider a per extension permit at a cost? If it was decided \$50 per event (arbitrary number) that you could apply for it X amount of weeks in advance. You would then have the opportunity to purchase X amount of extensions between your 1:00 to 2:00 a.m. We would have to put a cap on the amount of extensions but I think a 1:00 a.m. permit holder would find that to be an advantage for evenings like a Thursday night before Thanksgiving or some other evening that would be beneficial to them as a business. I think it's a good idea to discuss it.

Ald. Lewis: I agree.

Robert Gehm: I think it's a good idea and they could apply for it with some lead time ahead of the event or situation.

Chuck Amenta: Would this just be for a 1:00 – 2:00 a.m. extension or could it be for a 12:00 midnight to 1:00 a.m. as well?

Comm. Rogina: I think we can be flexible. It would be up to the leadership committee to come back to the Council Committee with a proposal but at least the concept comes with your blessing.

Ald. Lewis: We would have to be careful that we don't do it too often otherwise we would negate what we are trying to do.

Ald. Payleitner: Like if a licensee did 10 of these at \$100 per event they would be better to get a permit for 2:00 a.m.

Robert Gehm: It then becomes a business decision rather than the ordinance driving it.

Mr. Hoffmann: I would like to share a thought. The \$900 additional for a 2:00 a.m. license seems more like a penalty than it does a privilege. And that on top of the 2% additional alcohol sales tax that we have to pay that's been in effect for these last couple of years; it doesn't feel like we are a value to the community. I sense there are probably a lot of people who don't think we are a value to the community except that we do provide jobs and we do pay taxes, we do all the things that a small businessman does because that's what we are. Sometimes we don't get the feeling from City Council or powers that be that we are a valuable part of the community and that stings all the owners. It doesn't mean everything is going to happen right. I don't think everything happens right in any business, but it's an unusual feeling that a lot of us have, me in particular.

Is there any consideration given the fact the St. Charles is doing well financially, that the 2% will be dropped off. It was a need at the time and St. Charles, as I read the reports in the paper if they are right, has been doing well. You've maintained your credit rating. Is it something that could be considered to be dropped in the future or reduced or spread out over all the businesses in St. Charles not just this one. I know you can't give me an answer today but it would certainly be good if that could be considered. Second, would St. Charles consider the video gambling, the poker machines, that so many of the other cities, counties, towns are adopting. Is that something on the agenda to discuss?

Comm. Rogina: First I really respect you coming here and representing yourself in a professional respectful manner. I want you to know as Commissioner that the City Council and Liquor Commission wants to work with you. We respect you as business people in this community as any other business. We want your businesses to succeed. We are going to have a meeting of all the liquor licenses on Thursday and that will be a better opportunity for all of them if they have questions/concerns to put them out on the table and let's talk about them.

Mr. Hoffmann: Please let them know because not all of us feel that way. That message is not coming through to the bar owners that we are valuable to the business community. I am speaking only for myself. My tavern is different than any other bar or club. It's been there for 50 years and is part of a lot of people's lives and it's a tradition good or bad. But in my talking with other bar owners they get the consensus that they are more of a nuisance to the City and if

you can convey to the bar owners what you just said I think it will go a long way to whatever it is that we need to do to help out.

Comm. Rogina: A couple of points are that we should have an ongoing dialogue and you should feel free at any given time to have a conversation with me or any member of the Council. Secondly I don't think anyone disrespects you as a member of the business community, I think the only thing that is disrespected, and I can say this clearly, is sophomoric actions by buffoons. That we have an obligation to eradicate.

Mr. Hoffman: I agree and those guys don't even walk in through my door.

Comm Rogina: With the budget process in session I would ask Mr. Koenen to comment on whether the alcohol sales tax is set in stone or if that's flexible and then I'll make a quick comment about video gambling.

Mark Hoffmann: The alcohol sales tax is part of the current fiscal year budget and we are in the process of doing budget right now. There has been no conversation of changing that. I would say St. Charles has a good revenue stream and alcohol sales tax and a variety of other sources of revenue have created an environment of a good financial position. We also have costs at the same time so we have to balance it. I don't know if we are ready to cut revenue streams at this time. The good news is there is no conversation about increasing the alcohol sales tax.

Comm. Rogina: I don't think anything is ever set in stone. We're always flexible and are willing to listen. To your video gambling point, when I was running for Mayor that question was asked on how do I support video gambling. At that time I said I don't think my constituents would be for it in the 3rd Ward. However, I would support that concept in places where the Moose, who has come to ask for their machines to be put back in, I would support something like that and try to sell it to the Council. I can't speak for the Council here tonight, but because all the money generated went to social services. It didn't go to profit. However if we did that with private clubs would we have to do it with any licensee in the community, the answer is we would. I believe at this point in the game our City Council would not support this. And, yes we do understand the revenues that are brought in but it doesn't mean it can't be discussed and you can come before the City Council Committee and engage them in a conversation asking about this.

5. Other Business - None

6. Executive Session – None

7. Adjournment

Motion to adjourn by Mr. Gehm, second by Amenta at 5:33 p.m.

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