

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, DECEMBER 15, 2014**

1. Call to Order.

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 November 17, 2014.

Motion by Ald. Lewis second by Mr. Gehm to accept and place on file minutes of the Liquor Control Commission meeting held on November 17, 2014.

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

4. Discussion of propose code revisions for Title 5 “Business Licenses and Regulations” 5.08 “Alcoholic Beverages” to go before committee for recommendation to City Council.

Chrmn. Rogina: Tonight items 4 and 5 is one of our last phases of our long overhaul of liquor, tobacco, and more recently, massage ordinances as we move into the home stretch. Chief Keegan and Deputy Chief Huffman will take us through item 4 Title 5 “Business Licenses and Regulations” and item 5 will have a discussion of revisions to Title 9 “Public Peace, Morals, and Welfare”. One thing before Chief Keegan begins is that there is a lot of detail here and the Police Department has done a terrific job of research and proposals for our review. It’s not necessary tonight that we recommend something to City Council committee. If you see at the end of this conversation that you want to do that or you want to wait until the end of January to wrap it up, that is fine as well.

Chief Keegan: Purpose of this evening it twofold. One is to foster some discussion of these talking points. We wanted to bring these updates to the commission first. We’re going to go

through some of these proposed talking points one by one. If there are questions, please interject with advice or direction. Deputy Chief Huffman and I worked on this together, so we'll both be presenting material that we researched.

It is through collaboration and cooperation that we provide an inviting social experience to those who patronize St. Charles and its establishments. Our primary goal is to make our community a destination point for residents, visitors, and business owners alike. The revision recommendations of codes and ordinances in front of you this evening is a reflection of these efforts. We want to be firm but fair in our resolve of not only codifying the ordinances, but also enforcing them. We hope to accomplish the following goals:

1. clean up some inconsistent ordinance language,
2. provide clear direction and definitions of outdated language and practices, and
3. we want to follow industry standards and best practices in regards to our rules and regulations pertaining to the issues of licenses, enforcement of code regulations and stance of zero tolerance on certain violations of liquor code infractions. Specifically the fine increases for fighting in public, public urination and intoxication, and any violation pertaining to underage consumption and possession of alcohol by a minor.

Deputy Chief Huffman and I are not going to go through the entire code page by page, but rather are going to move to any page that is struck or modify and have an explanation on how we came up with that recommendation.

DC Huffman: Please turn to page 7 – any wording in blue is our proposed language change. We require that license fees be paid by certified bank check or cash. The reason for this is we've been put in situations several times over the last year where businesses paying for their licenses have had their checks bounced and we want to avoid that type of situation and required the fees be paid certified check or cash.

The second piece is any license that is issued in advance of the completion of fingerprints background investigation may be rescinded by the Liquor Commissioner if the results of the investigation did not comply with the previous section of this code. The intent behind that language oftentimes, through no control of our own but through the state, the current information from the fingerprints does not come back in a timely manner. This can complicate the process if we find out through the background check that they're not actually eligible for the license when one has been issued. This language didn't exist prior.

Pages 9 and 10 – Class B Restaurant licenses – the intent of changing this licensing language is that the Class B licensing was very confusing and a lot of it was repetitive on what they could serve, so we are proposing to get rid of all the Class B1, B2, B3, etc. and put everything into a Class B license in the language that is proposed here. We also incorporated language directly from the state Illinois liquor code in reference to patrons taking home partially consumed bottles of wine and the regulations that go with that, such as, it has to be with meal service and the partially consumed bottle of wine has to be packaged in a tampered proof bag (showed example of bag). On page 10 language pertains to site diagrams that we still require for Class B licenses including if they are going to have an outdoor patio area.

Chief Keegan: The purpose of this bag is if we're going to allow alcohol to leave a premise and it goes into an automobile, we definitely don't want the misnomer of allowing an open container of alcohol to be transported. This bag is an industry standard bag that is sold by restaurant supply houses and all the alcohol distributors sell these; that would be mandated as part of this code change.

Ald. Lewis: Are you thinking wine or beer can be brought out, or is this just for wine?

Chief Keegan: Wine only.

Ald. Lewis: Clarify for me what's the difference between the restaurants if we get rid of all these classes, than can any restaurant serve a bottle of wine and we can take it home – any of them?

DC Huffman: Yes, if it's in the parameters of the language. In other words they have to have a full meal service, the wine has to accompany the meal, then they can take it home if its packaged in the sealable bag.

It is confusing when you look at our definitions. We didn't want to confuse the definitions more but the definitions between a tavern, saloon, and restaurant all deal with food service and there are restrictions on taverns, Class C licensing, they have to provide a menu and it gets confusing; so we just allow this with a full meal service of the take home of a partially consumed bottle of wine.

Ald. Lewis: There's no time restriction on how long they have to keep open for a full meal service?

DC Huffman: Under a Class C license there is. It's until 11:00 p.m. and after that they have to serve appetizers.

Page 10 – Class C Tavern, Bar, Saloon licenses – Beyond a year or so we've been getting questions about live entertainment; can one have an acoustic guitar on a patio, have a band inside/outside; and what we found to be more consistent rather than relying on the former Class C language that stated only a Class C2 license could have entertainment. We were telling bar owners they could have live entertainment but would still have to comply with the zoning code with noise ordinances. That was a more clear definition of what they could do with live entertainment than anything a liquor license could authorize. So we change this language to standardize the live entertainment instead of restricting it to just Class C2 licenses and this language followed the code language already in place under zoning in Chapter 9.20 "Disorderly Conduct." Depending on where the establishment is would depend on what type of noise is prohibited. We also have the same language that we have in Class B licenses for partially consumed bottle of wine for Class C as well in accordance with the state Illinois liquor code and site plans required for indoor area as well as outdoor patio.

Page 12 – D3 licensing – this year we were approached by the Park District about alcohol service on the golf course. We looked at the language we had and discovered we had a discrepancy. That perhaps our other golf clubs, well intention, may have been violating the code unknowingly. To address this at the request of the Park District, we added language in D3 licensing that does allow for golf clubs (18-hole or 9-hole) golf courses to have cart service and halfway house for alcohol service on the golf course.

Ald. Lewis: So this would allow Pottawatomie Golf Course to have a golf cart that would drive and serve alcohol?

DC Huffman: We did research on this along with the Park District and this is an industry standard for golf courses.

Chrmn. Rogina: The council will have to approve this, but I for one do support this.

Mark Koenen: This does not obligate any one of these places to have a halfway house.

DC Huffman: Correct and this was on the request of the Park District and there is a representative here tonight from the Park District.

Under D5 we updated the language relating to the Arcada. The former language was during the exhibition of motion pictures for commercial profit that anyone under the age of 21, while alcohol is being served, must be accompanied by a parent or guardian. We eliminated that because they are not limited to motion picture shows.

Ald. Lewis: So 18/19 year olds cannot go to a concert because they are not there with a legal guardian where alcohol is being served? That happens all the time. Those concerts are full of young people and the bar is open. Are we not going to enforce that or put some other language in there?

DC Huffman: Looking at the language, it was outdated because of the motion picture shows. It is certainly up for discussion whether or not they continue to operate that way or they would need to change.

Chrmn. Rogina: We are certainly in position to give staff input as to whether or not you support the idea that 18, 19, 20-year olds can go to the Arcada for a performance and be in there without a guardian to attend the performance – they would not be buying alcohol. He is talking here about motion pictures, the language is outdated.

Ald. Lewis: So it doesn't pertain to concerts?

DC Huffman: It would.

Ald. Payleitner: If the Charlestowne movie theatre goes ahead and revamps and includes one of those dinner and a movie events that they have in other communities, where you can order a

cocktail while you watch the movie, should we include that or address it at the time if it comes up?

DC Huffman: Yes I would recommend waiting. As a staff we are not saying it should or shouldn't be that way; we are updating that language for purposes of discussion.

Chrmn. Rogina: Ald. Lewis would you like to have D5 for the language to reflect that you don't have a problem with 18 to 20-year olds attending a concert so long as they are not served alcohol? This would be a language change for D5 in order for that to happen.

Chuck Amenta: I would support that.

Ald. Lewis: We either change the language to support it or we enforce what we have. Having something labeled that we can't do and we don't do anything about it...

Chief Keegan: As a suggestion, if we were to have a co-mingle event, we can make a mandatory provision for people 21 and older are wristband. We can come up with language that if we're to have a mix aged crowd, we do something to designate those over 21 or they have to consume in a certain area that is segregated away from the rest of the establishment or do a wristband credential like we do at festivals – we can look at that and bring it back.

Chrmn. Rogina: I have no problem with just changing the language for 18 to 20-year olds to attend a concert at the Arcada – just for the Arcada which D5 refers to.

All: In agreement to reflect the language to state it's okay for 18 to 20-year olds to be in the Arcada.

DC Huffman: Page 14 – E5 licensing – we found we had a discrepancy in what is allowed under an E5 license relative to the number of events that can be held per calendar year. Originally the number of events was dictated to be four per calendar year and that was through the Zylstra PUD ordinance that was passed by Council on August 15, 2005. It was supposed to be four events per calendar year and each event could be up to two days in length. At some point in the liquor code we arrived at 20 different events per calendar year. We don't have a historical perspective on that so we have a discrepancy between four in the original PUD for Zylstra and 20 that was written into the liquor code.

There are representatives here today and they have voiced that reducing it to the original four events would have a harsh impact on their business, but we put this language in here for the purpose of discussion on whether or not it should be four as originally dictated in 2005, or the 20 events that are currently in the liquor code.

Jeff Smith, Paletine, IL for Fox River Harley Davidson: I am not prepared to speak tonight but these events are directly involved with the business we do. Motorcycles is a recreational sport and we like to be a destination for people to come to which is also City of St. Charles. We keep our events organized and orderly and most of our events are during the day. We're here to

find out what's going on; we are obviously very concerned and we want to work with the City to make this fair.

Ald. Payleitner: I appreciate your diligence in coming to us in the process as opposed to after the fact. How many events do you have between four and 20 annually?

Mr. Smith: Eight to ten.

Chrmn. Rogina: How long have you been with Harley?

Mr. Smith: I've been around in the business since 1994 and here in St. Charles I helped open it in May 2011 when we changed over to new ownership. I don't know how the original four events went – that was no doubt handle with our lawyer, owner, and the City.

Chrmn. Rogina: It seems that past practice here without incidence has been more than four, less than 20.

Mark Koenen: We have not had any incidents with Harley Davidson and their events, but having said that, we have an ordinance on the books passed in 2005 and that is still of record and active and alive today. So the intention of this is to make this align to what the code was approved back in 2005. They need to say the same thing, and having said that, these are four 2-day events; so those are really eight days a year. Is the 20 events now meant to be 20 days a year of four 5-day events or however it can be laid out? So the intention is to make the two documents match and if we want to do something other than what the 2005 documents says, then both documents need to be change.

Ald. Lewis: When they want to have an event, what is the process they go through?

DC Huffman: They contact Tina and fill out the E5 application for each event. That application comes to us to review it, decide if we need to put police services at the event (can't remember the last time we ever had to do that because we just don't have issues with their events). Our officers do drive by and stop in to say hello during these events. Once the application is approved by Chief or I signing off on it, they hold their event.

Ald. Lewis: It doesn't come before Council?

DC Huffman: No.

Tina: Harley Davidson actually pays a renewal fee of \$500 which allows them, at this point, to have 20 events per year.

Chrmn. Rogina: It needs to be clarified how many days 20 events signify. I went to an event at Harley Davidson recently for a cancer fundraiser and I commend them on that. There are businesses that give back to our community but Harley Davidson stands out quite a bit when it comes to these kinds of situations. I would like to see the staff work with Harley to get what is

really the past practice or intent here – if it's 8-10 days, four events two days a piece, or is it ten 1-day events. I agree that the code and what the practice is should be in sync.

Ald. Payleitner: The original language is an E5 license shall be issued solely for the conduct of not more than 20 days of events; so that can be any combination.

Ald. Lewis: Can anyone apply for an E5 license?

Tina: No this is strictly for Harley Davidson only. They pay a yearly license fee with a license issued to them for 20 events.

Ald. Lewis: Shouldn't we have them listed in the ordinance for the E5?

DC Huffman: I can discuss this with Atty. McGuirk. The language contained in the E5 right now is such that a license shall be issued solely for a specific premises that is open to the public and kept, used, and maintained..., and I think the ordinance in 2005 identifies that specific premise which is Harley Davidson.

Atty. McGuirk: There is a separate ordinance with Zylstra that was approved and had this provision about these events and that's always apparently been in conflict with this?

DC Huffman: Yes.

Ald. Lewis: So is it the whole PUD – would it include Discount Tires now too?

Atty. McGuirk: I need to look at it – it's been a while.

Mark: We need to go back and read the original language. These are all good questions and I certainly would endorse what the property is referring to.

Chrmn. Rogina: We should try to work with Harley with what their past practices have been to some extent so they feel that they are still equal and whole to what they had in the past.

Chief Keegan: Page 18 in the box there are two question marks as to what the alphanumeric is going to be if we do license Bring Your Own Beverage (BYOB). I broke this up into two categories. One would be for beer and wine only and the other would be beer, wine, and spirits.

Chief Keegan passed out a loose leaf handout to the commission that he referenced to the generic language which stated "at no time should the maximum number of licenses in each class exceed the actual number of licenses issued except as amended from time to time by action of the City Council." My recommendation for this is to have more of a boiler plate type, all encompassing, language in the code as opposed to every time our numbers fluctuate, which is frequently, and we have to go back in and amend our code. You see on pages 18/19 the exact number of licenses covered. My recommendation is to insert this language so we don't have to go back and

modify our code each and every time the number of licenses change. I will come back to BYOB momentarily.

On page 24 it talks about BASSET training. We've done some extensive BASSET training recently with Mr. Roupos from Illinois State License Commission. I would like to recommend not only having the pourer, server (person who delivers the alcohol) be BASSET certified, but also the persons that oversee the alcohol service – that meaning bouncers and doormen. There's a big component of BASSET which is the proper carding of age verification of people allowed in. We've had a couple of incidents in the last couple of months of underage people getting into our establishments and it's imperative as a commission that we have the doormen and bouncers also be BASSET certified.

Ald. Lewis: When you say all licensees, you mean package liquor also?

Chief Keegan: Yes, but a package liquor store would not employ a bouncer, but sellers would have to be BASSET certified.

Ald. Lewis: Is it only BASSET or are there other kinds of training accepted?

Chief Keegan: There are a couple of different variations such as TIPS, but the Illinois Liquor Commission only recognizes BASSET. All programs are similar, but BASSET is really an Illinois term but some of these other programs are taught in different states and a lot are online web based.

Tina: Questioned the validity of the other programs that she understood was accepted under BASSET.

Chief Keegan: I would prefer just to be straight BASSET certification. Maybe we write some code language to say moving forward this is what is required and grandfather the others. There is a movement afoot in Cook County that BASSET certifications only be issued for 3-year increments and that's going to start July 1, 2015. The other collar counties including Kane have not went to that but there's all kinds of talk on what counties should do and what state should do. The state has remained in keeping BASSET a one-time certification and does not expire, but it's something we can talk about as a commission especially when we have violations with a licensee that we may take constructive measures with a licensee to enforce they take BASSET training again. It's a good program that doesn't hurt to have people get refreshed on IDs and service.

I have been in consultation with Mr. Roupus of Illinois Liquor Commission and reached out to different program managers of the BASSET program, my recommendation and that of Deputy Chief Huffman is right now in our code it's 21 years old to pour or sell alcohol. There is a piece about delivering alcohol and that would be the waitresses under the supervision of the bar manager or a clerk at the local supermarket. Right now our recommendation is going to be from age 16 to age 18 with the thought we would like everyone to be BASSET certified and the threshold a lot of companies use is 18 years of age. Our recommendation would be to change the delivery of alcohol from age 16 to 18.

Ald. Lewis: I would like to say my preference would be 21 across the board and then 19, but I'm willing to accept 18 as a start and maybe try to move it up to 19 in the future.

Chief Keegan: Page 28 there is a little bit of verbage change under Prohibited Sales. We added the words "or allow the consumption of" and that means if we go to a BYOB licensing, obviously those types of establishments aren't providing the alcohol but are allowing it on their establishment, so there are some code changes that need to be made here. So the term "or allow consumption" is to allow for a BYOB license since they are allowing that to take place in their establishment.

Page 29 we get into the two different subsections of BYOB. One is for wine and beer and two is for spirits as well. If we have BYOB establishments in St. Charles and right now from our research we found three. Two are restaurants and one is a social club – cigar and coffee establishment. If we don't license the establishments, the business owner/proprietor runs the risk of potential litigation on their part. If we don't enforce the fact that we require BASSET certification, and more importantly DRAM shop insurance – that's the piece that is really important here. In talking with two of the three proprietors they are very much in favor of going through not only BASSET certification but also acquiring DRAM shop insurance. One establishment is already BASSET certified and has DRAM shop insurance and is using the bags. He has signage in his establishment that does not allow spirits – just beer and wine that has to be in conjunction with purchase of a meal.

I separated the ordinance recommendation due to the spirit piece. The social club/cigar shop I'm speaking of has a locker component there and there is a membership component that allows for spirits to be brought in as well as smoke their cigars. This is up for discussion but if we do allow folks to bring in alcohol into establishments on a BYOB basis, we definitely need to mandate that they leave with sealed bags; they cannot get into an automobile with unsealed containers of alcohol and I don't know what that threshold is if it's strictly just wine or we talk about beer and spirits. I don't want to encourage that everything needs to be consumed on sight and then we're imploring people to drink in excess. If we're going to condone this as a city and license it, we got to make sure we are following best practices such as DRAM shop insurance which is basically liability insurance. Whether they deliver alcohol or not is irrelevant. If they're allowing someone into their establishment to consume alcohol they're going to be expected to follow our code, rules, and regulations of the state and city accordingly – meaning underage consumption of minors and making sure folks don't become intoxicated. Once they allow all this into their establishment there is some liability that goes with it.

Chrmn. Rogina: The issue here is beer, wine, spirits, the two-tier licensing of \$100 vs. \$250. I've been two of the places and they are model citizens and they're very supportive as the Chief indicated of this type of process.

Ald. Lewis: Is DRAM shop insurance expensive?

Chief Keegan: The one establishment I spoke with pays \$300 for an entire year. I think insurance agencies look at the size of the establishment and volume. I would not expect a BYOB license too expensive.

Atty. McGuirk: It's just a question of underwriting. If you have a small facility and don't serve much it would be less; if you're Pheasant Run it's quite hefty.

Ald. Lewis: I read "at the licensee's discretion," so he wouldn't have to open up your beer or wine. You can do that yourself?

Chief Keegan: That's called a corking fee. Some establishments don't want to touch the corks because then they think there are some liabilities; where others may provide the soda or juice that might accompany a mix drink. There is discussion on if they are allowing it, they're not charging for it, there might be an ancillary fee to package it or exit their facility. There are two trains of thought on this but this allows them to charge that fee if they so choose.

Ald. Lewis: I thought it might be better to have the owner of the establishment be involve in the opening of the bottle whether they choose to charge a fee or not. Ald. Lewis talked out a scenario of a party of six people each bringing in their own alcohol – what is the limit? You can have six different choices when there are six people in the party.

Chrmn. Rogina: Right now we have no rules in place but they can do this unless the house says no. I've actually been in one of these places and the house said no. They are not going to have a plethora of alcohol coming into their establishment.

Chief Keegan: Keep in mind this is a pretty pro-active ordinance because we have set rules for all liquor licensees to follow with the city and state for licenses with the exception of BYOB. This is a little different in the industry and it's because we want to have some oversight. I researched communities that do this and this is what I found to be an industry standard as far as the amount.

Ald. Lewis: It just seems the more people you have the more you can bring in. I would like to see this thought about a little bit more.

Chrmn. Rogina: When you say thought about, do you want the ordinance to limit the amount of alcohol any group or individual can bring in?

Ald. Lewis: We're training people not to over serve, but yet I and my husband can each bring in a bottle of whiskey – how can we not be over served?

Chrmn. Rogina: It would be controlled by the licensee in them saying ma'am/sir get out. A licensee can be very pro-active in not allowing what they want in their establishment. We've been silent on this subject and I thank the staff for bringing this forward and this way we can develop some degree of control.

Ald. Payleitner: Maybe it could be a per table allowance instead of per person.

Chuck: Different people like different types of alcohol such as wine vs. beer. I think it would be difficult to regulate that. There needs to be some control or restraint by the patrons as to what they're going to bring and how they're going to act. Then there needs to be some control by the manager of the establishment as well.

Ald. Lewis: I'm okay with the beer and wine but not okay with beer, wine, and spirits. I don't think spirits need to be brought into this.

Chief Keegan: I segregated this by the term social club because the spirits are stored on sight in the locker component. We can have further discussion on this. The social club piece – cigars and spirits are stored on sight and not departed from the establishment and we can discuss on what we allow or don't allow leaving with the sealed bag, but that is how I separated the two. These are really small businesses, two restaurants for example, told me the reason they didn't acquire a liquor license is because they didn't think they had the volume to support the fees of the license and more importantly the stock of the alcohol. They don't have the business to support outlaying the capital of the stock of beer and wine on hand.

Chuck: In talking about beer in an open container departing the establishment, is there language we should consider about a specialty beer being put into an aluminum bottle as opposed to a half drunk bottle of Bud Light? There are specialty beers that are more corked.

Chief Keegan: This is geared more towards wine. My initial blush as for example, a six-pack. You consume two beers and four are left; obviously we are not going to let you leave with a half drunk bottle of beer, but the ones intact and sealed you can depart with, but there has to be regulations whether they are sealed in a bag or there are instructions from a proprietor that it must be concealed in the trunk with a bag.

Chrmn. Rogina: My question is to do with the hours of operation which is a question mark. Is the proposal here to suggest keeping it in line with a midnight license which is consistent with our base liquor license except for package liquor which is 10:00 p.m. Two of three we know are restaurants and we wouldn't have to worry about late night permits unless they applied for one.

Chief Keegan: All three of the establishments I visited all closed between 9:00 and 11:00 p.m. Page 29 refers to what we just talked about. The spirit piece with the social club is something I want to further research and talk to council about after meeting with our attorney. It's a social setting like a club with the locker facilities and the availability right now is they currently, since we don't sanction/govern/oversee this particular part of liquor consumption; right now there are spirits that are consumed on sight and about 95% of the patrons that consume the spirits there have a locker where the spirits are stored on sight. There are a small number of people that usually leave with spirits and they bag it and put it in their trunk; but right now it's not regulated by the City.

Ald. Lewis: There are some suburban area restaurants that have liquor lockers; is there anything in our codes that pertain to that or is there anything stopping one of our restaurants from wanting to pursue that?

DC Huffman: I can think of nothing in our code that actually addresses that outside of the language that Chief has put out for BYOB.

Ald. Lewis: With these BYOBs, I hope we don't open ourselves to other sorts of entertainment by having BYOB places.

Chief Keegan: I specified in the first piece that food sales must take place in conjunction for beer and wine. The secondary piece is the social club and I haven't work with counsel yet because I wanted to get some direction from the Liquor Commission. There are some things I want him to research from a legal perspective in using best practices that I saw, but it hasn't gone through the prevue of our city attorney and we'll do that at the next steps.

DC Huffman: Turning to bottom of page 31, we've added "and Beer" to the section of Class A, Class D-1, and Class E-Licenses – Wine and Beer Tasting. We get asked all the time about beer tastings and we've not had any language to allow that. The beer is limited to 2 ounces of beer during a tasting. We removed the restriction from Liquor Commissioner to approve wine tastings under E licensing for St. Charles not-for-profit groups for fundraising. We felt that it allowed the Liquor Commissioner more authority in authorizing wine or beer tastings under an E license and that's actually consequent to many requests we've had from outside groups going to places like the Q Center or Pheasant Run who are actually fundraising, they are just not a St. Charles group; so we've been limited in that regard and we wanted to broaden that authority for the Liquor Commissioner.

Page 32 under Section D – this is for underage persons prohibited in license premises at certain times. We've received several inquiries about establishments where you can rent a private room; e.g., McNally's upstairs area where if an underage person was there, could they not be at the party if their guardian/parents weren't there. We've added the restriction shall not apply to private gatherings within the establishment where a location has been segregated from the general public.

Chief Keegan: Page 34 – this is the last piece of the language recommendations in the code and this dovetails into my opening remarks and what we are going to talk about in the following code recommendations. These are zero tolerance pieces of the ordinances. We are asking, on behalf of the Police Department, if there are certain alcoholic related offenses or violations that we want to take a strong stance on as a city and we want to set the tone. It starts with sometimes corrective behavior, whether it be a citation, fine, arrest. I am asking permission to make the minimum fine on any alcoholic related offense \$250. It currently sits at \$25. The maximum per ordinance, because a lot of these are adjudicated, is \$750 and can't exceed that threshold, but what I'm asking for is the authority to go before committee and then council where there are four/five violations that I will be talking about; but the bare minimum if you want to come to

St. Charles to socialize and have a good time, which we strongly encourage, but we are also going to mandate that you watch your “p’s & q’s” in an orderly fashion because we don’t want anyone’s behavior to take away the good fun that most people are here to do. This is the only piece of this ordinance that talks about some of the violations and if no one has any questions on this, I will just fast forward.

Chrmn. Rogina: Moving to item 5 on the agenda will address this in more detail, I just want to preface to your comments that lots of times we have licensees say we put the heavy hammer down on them, but what about the offender out in the street fighting, etc. To me, what you’ve done here, is to address this and we’re sending a message with respect to those individuals who can’t contain themselves, to put it bluntly.

5. Discussion of proposed code revision to Title 9” Public Peace, Morals and Welfare,” Chapter 909 “Fight”, Chapter 9.16 “Profanity – Indecent Conduct”, and Chapter 9.20 “Disorderly Conduct.”

Chief Keegan: We want St. Charles to be a destination point. We want our residents, business owners, and visitors to feel safe. When there is inappropriate behavior, albeit it fighting, public urination, public intoxication, anything related to the consumption use of alcohol, we want to be very strict and firm in our resolve.

The first ordinance we talk about is “Fighting Prohibited.” We didn’t make a recommendation to change the minimum fine/fee here because it currently sits at \$500. The maximum we’re allowed per city code because some of these are adjudicated is \$750; but I did change some language to state the following. The first violation will be a mandatory \$500 fine and any subsequent violation shall be no more than \$750. That says if you’re a first offender and we cite you, this can include mutual combatant – which means if we can’t differentiate who is the aggressor where two intoxicated people are involved in an altercation; whether or not we can determine who started it, they are both going to be accountable with a minimum \$500 fine. If we catch either of them again and we research their name and history every time we have contact with them, they are going to face at least a \$500 fine, but we would like the ability to go higher and go to the maximum. We want to take a strong stance on this and we don’t want this behavior in our city.

Next is profanity, indecent conduct which relates to public urination and defecation. This is another thing we don’t want in our city. We take a strong stance on this. Right now the ordinance currently reads that the first offense can start at \$100 and up to \$750. My recommendation, which is based upon research of reviewing ordinances of surrounding communities who are the strongest fines/fees in the area. Once again we want to make a strong statement, be firm, and be very clear and upfront that we don’t tolerate this in the City of St. Charles. The minimum fine would be \$250 first offender and subsequent violations can be no more than \$750, but the adjudication court has the availability to go anywhere from \$250 up to \$750.

Ald. Lewis: I support the fines but I'm curious if it does deter the behavior. Do you find that higher will help eliminate some of this behavior – is there any way to document that?

Chief Keegan: This is hard to quantify but I can say that if you're cited once in being caught doing this, I certainly hope you think twice before one tries to do it a second time. If we fine someone an extensive amount of money, I hope it would be the first and last time they ever try that type of behavior. Once we get some media coverage and some press articles out on this and people see what the fines are, that will curve some behavior.

Next "Disorderly Conduct" – This is the same recommendation for fines and subsequent violations, but there is also a piece under emergency treatment exemptions and this is an Illinois Compiled Statute (IOCS) regulation which is 20 IOCS 301-55-15 and this says that there has to be a qualifying event to cite anyone for being intoxicated in public. Laying in a curb or not having a behavior that may be alarming, albeit be fighting, use of profanity, public urination; if someone is intoxicated to the point where they are not in charge of their faculties, as public servants the first and foremost thing we need to do is make sure they are not in harm of themselves. That sometimes involve emergency treatment whether that's a ride home, ride to a treatment center, but to be drunk and intoxicated is not against the law; but if you're doing that in such a fashion of disturbing or alarming someone by the uses I've already listed, there would be a violation that would go along with that. Our first priority is their public wellbeing and to make sure they are not going to wander out in traffic, take a nap on a cold night and face the elements. We will approach those folks to make sure they're okay and if they are in need of intervention, we'll provide that for them. But if there is another component going along with that where they are disturbing others – there will be a penance and a consequence.

Ald. Payleitner: The title of Intoxication of Public Place Prohibited will be changed too?

Chief Keegan: I'll work with legal counsel on that. I have all the state language that regulates the modification of this ordinance and will consult with Atty. McGuirk.

Ald. Lewis: Going back to Item 4, page 7, under license restriction or issuance, no such license shall be issued to a person who is not a resident of the City of St. Charles.

Atty. McGuirk: Most of the businesses are listed as corporations and this has never come up before me. Most people create an entity and apply for a license.

Chrmn. Rogina: It seems that staff will go ahead with the necessary tweaking and adjustments from tonight and come back in January to this commission for us to put a stamp on all the changes for the purpose of moving along to Council Committee in February.

Chief Keegan: Reference to the loose leaf pamphlet he handed out to the commission – DRAM shop insurance. In my six months here it has come to my attention, on occasion, where DRAM shop has lapsed or there's been a question from a proprietor or insurance company. I've done research on this and will work with Atty. McGuirk. I added some language to the DRAM shop piece under 5.08.060 "that in addition a copy of such insurance policy must be made available at

all times for inspection and/or upon request of the Police Department.” Once again, our job is sometimes looking out for folks when they are not looking out for themselves, and some of these proprietors, if they’re letting their DRAM shop insurance lapse, it can really be a recipe for disaster.

There is a fine component that I’ve added into this and there is an inspection piece here that I would also like to address. Rather than doing compliance checks of sending in underage people into liquor establishments to make sure the proprietors are compliant with laws/ordinances with underage service; an inspection would be done by our officers going into establishments a few times a year to make sure their signs are in place, they have DRAM shop insurance and BASSET certification. This is a checklist that we want to start doing with your blessing to get out there and make sure that the i’s are dotted and t’s are crossed and DRAM shop insurance is a piece of that. We would like the availability for the language in our code to not only say show proof of DRAM shop insurance when they get their license and annually, but you need to have it posted upon inspection. Right now it says that your city and state licenses must be framed in an inconspicuous part of your facility. I would like to make sure that proprietors, just like BASSET cards, have their DRAM shop certificate on hand and ready for inspection.

Chrmn. Rogina: I believe I speak for myself and the rest of the commission that the checklist and DRAM shop is a great idea.

Ald. Lewis: In any of your research was there anything about DRAM shop insurance with businesses that give alcohol away or come in and shop and have champagne. What about DRAM shop insurance for that type of business and there’s concern that it’s violating state law.

Chief Keegan: You can’t bring alcohol into an establishment that has a liquor license, you can’t co-mingle products that are brought in and are sold there.

Ald. Lewis: I think there’s an impression out there that if I don’t have a license, I can give it away and they’re not violating anything.

Chrmn. Rogina: This is a concern and there’s activity like this going on in our community whether it be an open house or a ribbon cutting, etc., so it’s a question we have to find out and put them on high alert that if you do this – this is the risk you run.

Chief Keegan: The insurance agent I spoke with equated this to like having homeowner’s insurance and putting a pool in your backyard but not putting the pool under your homeowner’s umbrella.

Chrmn. Rogina: A question to Ald. Lewis’ point, would a regular community business that has sales and decides, as part of a sales promotion, to have liquor served – would their own regular liability insurance cover something like this; but this may be moot since it’s not covered under the state code.

Chief Keegan: I’ll do some research on this for the January meeting.

Chrmn. Rogina: Thanks to both Chief Keegan and DC Huffman on a tremendous overview on this subject matter.

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

7. Other Business
None.

8. Adjournment

Motion to adjourn by Mr. Gehm, second by Ald. Payleitner to adjourn meeting at 5:55 p.m.

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

Motion carried.

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