MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, SEPTEMBER 21, 2015

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: Police Chief Keegan, Atty. John McGuirk, Mark Koenen, Tina Nilles

3. Recommendation to accept and place on file minutes of the Liquor Control Commission meeting held on August 17, 2015.

Motion by Ald. Payleitner, second by Lewis to accept and place on file minutes of the Liquor Control Commission meeting held on August 17, 2015.

Voice Vote: Ayes: unanimous, Nays: none. **Motion carried.**

4. Recommendation to approve a 1:00 a.m. late night permit for Macarena Tapas St. Charles located at 1890 W Main Street, St. Charles.

Chief Keegan: This is a request for this establishment to go from a midnight license to a 1:00 a.m. permit. The location is at 1890 W Main Street. We reviewed the police activity and calls for service at this address and I find nothing of a derogatory nature that would preclude the applicant from receiving a late night permit. It is the Police Department's recommendation to do that accordingly.

Ald. Payleitner: I have no issue with the late night permit, but I've noticed on social media that they are changing their name. Have you heard any indication of that?

Chief Keegan: I just heard that myself just 10 minutes ago. We will have to obviously amend the paper work of their application to the City.

Chrmn. Rogina: I just want to make note that this is on the fast track to City Council tonight as a business friendly gesture in piggy backing of what the Chief said. Normally this would go to committee than to Council, but since he's in business and would like to have the permit; I didn't

think there was anything inappropriate of this. The Council certainly has the final say in the matter. This would be your recommendation to Council tonight.

Motion by Ald. Payleitner, second by Gehm to recommend approval of a 1:00 a.m. late night permit for Macarena Tapas St. Charles located at 1890 W Main Street, St. Charles.

Ald. Lewis: I would like to amend the motion of what Ald. Payleitner had to say about the name change.

Chrmn. Rogina: So the approval of the late night permit would be for the new name of Macrena Tapas, pending what that name is.

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

5. Recommendation to approve a class B2 liquor license for Isacco Kitchen which is being relocated 131 S 1st Street, St. Charles, IL.

Chief Keegan: As mentioned in the executive summary, this particular establishment is choosing to change locations from their current location to the 1st Street business district located at 131 S 1st Street. The application before you is to transition from a B license (restaurant) to a B2. The difference in the B2 license is that there is an element of fine wine and people can go to the counter of the establishment and purchase wine similar to what's done in various other establishments in St. Charles. Mr. Vitali is in attendance tonight to answer any questions. The Police Department did a site visit and talked to the applicant as well.

Chrmn. Rogina: For clarification of the commission I add that the B2 license in this case is very similar to what is already in place at Francesca's and Pizzeria Neo. The second point, Mr. Vitali has been a fine upstanding member of our business community and I appreciate all he's done for the City.

Ald. Payleitner: My understanding is that this is a change of business plan?

Mr. Vitali: Basically the wine I sell will be for my high-end customers and is not available at local retail stores. I plan to do wine dinners with wines exclusively from France.

Ald. Payleitner: I'm talking about the catering piece.

Mr. Vitali: When customers asked me to do private chef dinners, they want me to wine pair their dinners. So instead of them going to Binny's, etc., I buy from the major small production southern wines and these wineries don't supply to major retail suppliers.

Ald. Payleitner: It's not selling wine by the case; it's in conjunction with your catering?

Mr. Vitali: Yes, and if a customer wants a bottle of Bordeaux for $100, I could sell it to them.

Ald. Payleitner: That's where my question is – if he wants to sell a case to a customer, that's allowed?

Chief Keegan: Under the current business model, like the Mayor made reference to Neo and Francesca's over the counter at the establishment is fine once a B2 is approved; as far as the home and catering, that's something we can discuss as part of the business plan.

Chrmn. Rogina: The B2 is silent.

Ald. Payleitner: I have no issue with this, it's a great business plan, I just want to make sure, as is required, that this business plan is attached to the license and that we're not misguiding Mr. Vitali and that he's getting the right license for what he wants to do.

Mr. Vitali: In the next few months I will be changing delivery for dinner along with wine pairings.

Ald. Lewis: Currently we prohibit any delivery of wine.

Chrmn. Rogina: That's for curbside. The ordinance is silent on delivery. If this body wants to recommend this to City Council, and by the time it gets to Council, you could certainly say you want to amend the B2 to include his business model which he states in his letter that he is requesting a change to his liquor license that will allow wine delivery with direct purchases of food.

Ald. Lewis: That's one way of doing it because I know what he's trying to do, but maybe there will be other people who have catering businesses; so maybe this is a line item we need to look into.

Chrmn. Rogina: We could send this to committee with the recommendation that we add that provision to the B2 license. Would I be correct on that?

Chief Keegan: In reviewing our current license, I know what Ald. Lewis is referring to with the curbside delivery piece and had the issue with the Lundeen's drive-thru service. There was some language in there under a packaged liquor establishment of what you could/couldn't do at the curbside. As far as what the Mayor is speaking to in this business plan, the code is currently silent on it. On the floor, as part of this discussion, we could move forward and draft language, but once again as business models keep evolving, we seem to be doing that frequently or we remain to be silent.

Ald. Payleitner: He's not contradicting anything and it's a door-to-door service, not a car.

Mr. Vitali: I basically buy wine that is not available at other retail stores. People buy wine online and have it delivered. My delivery is going to be with food. In the winter lots of people call up for delivery and would like a bottle of wine with their food and instead of them having to go out to the liquor store, I do deliver that.

Chrmn. Rogina: Putting this into the B2 category is that it fits the model closest to Francesca's and Neo, although not exactly.

Ald. Lewis: If I come into your store and want to buy a case of your wine, I can do that?

Mr. Vitali: No, you can buy a pound of pasta and case of wine.

Chief Keegan: I can answer that. Currently with a B license he can't do that. By asking for a B2 there is a sliding scale for that.

Ald. Lewis: I can go there and buy one small salad and five bottles of wine and take it home with me and use it like a packaged liquor store?

Chief Keegan: Yes. That really isn't their business plan per se; lots of times it's a bottle at a time, but there is nothing in the code that states otherwise.

Mr. Vitali: My new store location is going to be much smaller and, with wine dinners, customers will try 5/6 wine tastings; so one will say they want three bottles of this kind and three bottles of that kind, etc. I order them and they come back to pick up with a small order of food to go.

Ald. Payleitner: If it's silent I'm okay with it. I just don't want to lead him astray.

Ald. Lewis: Is the B2 license more expensive than a B license?

Chief Keegan: It is $600 more.

Ald. Lewis: Does that come with a late night permit?

Mr. Vitali: I barely stay open until 10:00 p.m.

Chrmn. Rogina: Is the concept clear that we can move this along with the idea that we'll revised the B2 license so the recommendation to committee would be a B2 license with a provision that would not only apply to Mr. Vitali's place of business, but to anyone else who would apply that would like to have a catering business and delivery of wine?

Ald. Lewis: I think we can move it along. I'm questioning the fairness to the package liquor stores vs. anyone opening up a restaurant and getting a B2 and becoming a package liquor store and a restaurant.

Mr. Vitali: The wine issue is 5-10% of total sales per year; but instead of giving it to someone else, I would give it to myself.

Ald. Payleitner: I would feel better as long as this whole thing is attached to his business plan than I have no problem moving it forward as he seems very upfront about what his plan is.

Chrmn. Rogina: Is there a motion to approve a B2 license with the amendments that Ald. Payleitner has presented attached to the business plan, and language for committee that would reflect what he is trying to do and that is delivery of his goods plus wine as pairings.

Ald. Payleitner: I think pairing is important because that's his intent and that's way different.

Chief Keegan: Before the commission votes, I would like to add that we don't codify in our current liquor code under A, B, or C. A is package, B is a restaurant, and C is a tavern of these provisions per se about deliveries. This falls under "Additional Regulations" under "Q" at the very end of our ordinance. So if we plug this into B2, for instance, it's leaving out the other A's and C's. If we're going to do that I'll work with John and staff to put in some catch-all language into the code.

Ald. Payleitner: And I'm comfortable as long as the language is in his business plan of what his intent is.

Chrmn. Rogina: So as it goes to committee two weeks from now, this will be straightened out and will go to committee with this group recommending Mr. Vitali's game plan.

Motion by Ald. Payleitner, second by Mr. Gehm to recommend approval of a class B2 liquor license for Isacco Kitchen which is being relocated 131 S 1st Street, St. Charles, IL as stated in his business plan.

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

Chrmn. Rogina: Now we are looking for a motion to direct staff to create language for a license to reflect delivery of food and wine for a catering business.

Chief Keegan: To clarify direction that we make this part of our B2 license or part of our all-encompassing code?

Mr. Gehm: Part of the encompassing code – Section Q which would attached it strictly to the B2 category.

Chief Keegan: Makes sense. Maureen, you and I have had some off-line conversations about that wording, maybe we should clean it up once again and I'll work on that with Atty. McGuirk.

Chrmn. Rogina: The motion is to direct staff to come back with an all-encompassing universal language for the liquor code reflecting catering and delivery of food and wine.

Moved by Ald. Payleitner, second by Lewis to direct staff to come back with an all-encompassing universal language for the liquor code reflecting catering and delivery of food and wine.

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

6. Discussion regarding Citation and Hearing Notices for:
a. JDB Investment Group, LLC d/b/a Hotel Baker

Chrmn. Rogina: This is a complaint of violation being brought before the Liquor Control Commission to determine whether the St. Charles Local Liquor Control Commission, pursuant to this authority, shall revoke or suspend the local liquor license issued for The Hotel Baker or impose a fine upon by reason of the Complaint of Violation filed by the Police Department of an occurrence on or about July 25, 2015. Now comes the petitioner, James Keegan, Chief of Police of the City of St. Charles, IL and files this complaint before the local Liquor Control Commission of the City of St. Charles and states as follows:

On or about July 25, 2015 at approximately 11:20 p.m., the Licensee, JDB Investment Group, LLC, d/b/a Hotel Baker, by and through its employees, officers and/or agents committed the following offense in or upon the licensed premises at 100 W. Main Street, St. Charles, IL. That offense being allowed a patron to exit it's premises while in possession of an alcoholic beverage. On or about July 25, 2015, JDB Investment Group, LLC, d/b/a Hotel Baker, was operating under a Class D2 liquor license issued by the City of St. Charles.

Chief Keegan: Mrs. Salas and the Chef are here from the Baker Hotel along with their attorney.

Chrmn. Rogina: There was an arraignment form presented to you and we're here to see if there is an entering of a plea.

Atty. Joe Klein: We're here to present facts and mitigation.

Chrmn. Rogina: I understand what you're saying and the plea will be guilty and request a hearing in mitigation of which you'll be given opportunity to present evidence in support to minimize any penalty?

Atty. Klein: Yes. I'm here representing the Hotel Baker. The complaint arises from an incident that occurred about 11:20 p.m. on Saturday, July 25, 2015. First and foremost the Hotel Baker apologizes to the Commission and St. Charles Police Department for the incidence. Over the years the hotel has taken affirmative steps to keep this kind of incident from happening. All hotel servers, restaurant, and bar banquets are BASSET trained. Although there are five points of ingress/egress from the front of the building into the Hotel and Rox City Grill, all have been closed with the exception of the main entrance of the hotel for purposes of maintaining security. There is a permanent sign affixed onto the wall next to the doors in the lobby that specifically advises hotel guests/visitors that alcohol is not allowed off of the premises. There is a larger, more moveable sign that sits in the vestibule between the revolving doors and front entry doors that also specifically advises guests that alcohol is not allowed off the premises. The hotel registration cards specifically prohibits guests from having parties in their rooms. Hotel guests are reminded of the hotel's no party policy when they check in. At events and weddings an

announcement is made to guests that alcohol is not allowed off the premises and with weddings, in fact for whatever entertainment is happening that night, they are directed to make an announcement at the event to all the guests. The doormen are trained to watch for anyone taking alcohol off of the property.

Since this incident, the hotel has designated specific staff who are assigned to the front entry on Fridays/Saturdays, even on Sundays if there is going to be an event. In addition the hotel has assigned additional duties to the manager on duty to patrol the lobby area in an effort to prevent anyone from leaving the hotel with alcohol. There are some additional interactions under consideration right now, adding language to our event contract that advises the primary event contact that alcohol is not allowed off the premises. Adding language to the guest confirmation letter that is sent to all guests that alcohol is not allowed off premises. After this proceeding I would hope to schedule a meeting with the St. Charles Police Department to view our security measures and get their guidance and advice as to what we can do better. The hotel has hosted 139 weddings with 15,521 guests. They hosted another 138 social events with 5,974 guests. They've housed 16,500 hotel guests and served 19,800 plus patrons at the Rox City Grill.

Guests and visitors walk in/out of our hotel 24/7, but isn't this a reminder to us that there is no such thing as too much notice to our guests, too much training for our staff, and too much vigilance by our staff. We believe it is our responsibility in partnership with the City and Police Department to ensure the safety and protect the City of everyone who visits the hotel. We're sorry that we let you down and we'll step up our efforts and do better.

Chrmn. Rogina: I have two points of appreciation that you made. The fact that your cooperation be will schedule with the police department to work with the City to the best of your ability. You used the word partnership with the City and I think that's an important point with every licensee in this community who should take note of the fact that we are partners in this and if alcohol is going to be served in the City, that we have to work in tandem together. Mistakes are going to happen on occasion and the more we can work together the minimum times these types of occurrences can occur.

Ald. Payleitner: This big giant sign, I've seen it. That's new since the last violation – correct?

Atty. Klein: No, I don't think so. Sometimes it gets moved around to where events are happening.

Ald. Payleitner: I appreciate the repetitive attitude, but I want to know what was added since the last violation?

Atty. Klein: Since the last violation its been principally staff issues. We've added staff to the front door, added responsibility to managers on duty, specifically in patrolling the lobby areas, particularly later at night.

Ald. Lewis: After reading the police report, there were actually two people that walked out. The one was not cited because she gone in already with her beer and she came back outside to find her friend – correct?

Atty. Klein: My reading of the police report was when the patrol car drove by, they noticed someone sitting outside with a beer. I don't know if they actually saw that person come outside of the hotel with the beer. When they turned around that person was no longer there, but another person was.

Ald. Lewis: I was just wondering that besides the sign was there anyone there manning the door?

David Lasahn, 413 S 19th Street, St. Charles: Chef: At that moment I can't say that I saw anyone leave the premise.

Atty. Klein: Now that we have specific staff dedicated to the front we will now have a higher level of diligence.

Ald. Lewis: I understand how these things happen having so many guests in/out from out of town and they will walk out the door. That's why I think it's very specific that there is always someone at door and it seems when we get into these issues it's because there's not somebody at the door.

Atty. Klein: Hopefully we've addressed this particularly on these busy nights and wedding nights.

Mr. Amenta: I appreciate the pro-active approach you've done rather than coming and making excuses.

Chrmn. Rogina: As in past practices, we'll move into Executive Session and I will take the recommendation of the Commission under advisement and issue a ruling in 7-10 days.

b. Alibi Bar & Grill, Ltd.

Chrmn. Rogina: This is a complaint of violation being brought before the Liquor Control Commission to determine whether the St. Charles Local Liquor Control Commission, pursuant to this authority, shall revoke or suspend the local liquor license issued for Alibi Bar & Grill, Ltd. or impose a fine upon by reason of the Complaint of Violation filed by the Police Department of an occurrence on or about August 30, 2015. Now comes the petitioner, James Keegan, Chief of Police of the City of St. Charles, IL and files this complaint before the local Liquor Control Commission of the City of St. Charles and states as follows:

On or about August 30, 2015 at approximately 1:18 a.m., the Licensee, Alibi Bar & Grill, Ltd., by and through its employees, officers and/or agents committed the following offense in or upon the licensed premises at 12 N Third Street, St. Charles, IL. The offense being allowed a patron

to exit its premises while in possession of an alcoholic beverage. On or about August 30, 2015, Alibi Bar & Grill, Ltd, was operating under a Class B liquor license issued by the City of St. Charles.

Chief Keegan: As in the last violation, I really don't have anything else to add. Mr. Simpson from the Alibi is here and can step forward and answer any questions that the Commission might have.

Chrmn. Rogina: As in the previous hearing the arraignment form was not submitted so we do not know what you plea is.

Rich Simpson, Jr., 4705 Washington, Downers Grove IL: I'm pleading guilty with a chance to explain. Since last year we have doubled up our security staff at the front doors. I also have large signs that are permanently fixed to all doors that state you cannot go pass this point with alcohol. We're doing a great job in keeping alcohol inside. People try to go outside with beers all the time because every bar has a patio except for mine; so they are kind of use of that. In this particular incident, before I guess my fate is decided, the patron snuck this beer out underneath his clothes. He put the beer inside his pants with the shirt over it. I have a signed statement from the patron stating that and wanted to share that. Since then we've put in double security cameras. I had one camera facing the outside door but now have cameras all around as well as having cameras put on the outside of the building to try to prevent any further incidents or to bring in video evidence. I apologize for the bottle getting out but it was kind of an uncontrollable situation being hidden under his clothes.

Chrmn. Rogina: You thought that was an uncontrollable situation?

Rich Simpson: Yes when someone has something in their pants, its not like my security staff can go and strip search everyone in/out of the door.

Ald. Lewis: Again in the narrative it says the officer had asked him and he stated he had walked right pass the bouncer at Alibi with the beer in his hand and never concealing. So he has now changed his story when he talked to you.

Rich Simpson: When I got the report I contacted Kevin to get his side of the story so to help improve if there was something we could as to why this beer bottle got out there. He stated to me he snuck it out in his pants and said he was willing to write a letter or come here before everyone. I've got a signed statement from him that I will leave here with you as well as pictures of my signs.

Chrmn. Rogina: It would be appropriate if we have those items attached to our packets. May we have them for the executive session?

Mr. Amenta: How many people were at that particular door at that time?

Rich Simpson: Three, I have two security staff that are fixed at every exit, no matter what and then my father is also there at night, Rich Simpson, Sr. who is usually by the door too.

Chrmn. Rogina: We'll be going into Executive Session momentarily to discuss both these offenses and it will be 7-10 days to render a decision after I discuss this with the Commission.

7. Other Business

8. Public Comments – None

Motion by Ald. Payleitner, second by Mr. Gehm to move into Executive Session at 5:09 p.m.

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

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

Motion by Ald. Payleitner, second by Mr. Gehm to come out of Executive Session at 5:24 p.m.

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

10. Adjournment

Motion to adjourn by Ald. Payleitner, second by Mr. Gehm at 5:25 p.m.

Voice Vote: Ayes: Unanimous; Nays: none. **Motion carried.**