

**MINUTES
CITY OF ST. CHARLES, IL
SPECIAL LIQUOR CONTROL COMMISSION MEETING
MONDAY, NOVEMBER 16, 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, Cmdr. Gatlin, Atty. John McGuirk, Mark Koenen, Tina Nilles

3. Motion to accept and approve the minutes of the September 21, 2015 Liquor Control Commission Meeting and minutes of the November 9, 2015 Special Liquor Control Commission meeting.

Motion by Ald. Payleitner, second by Mr. Amenta to accept and approve the minutes of the September 21, 2015 Liquor Control Commission Meeting and minutes of the November 9, 2015 Special Liquor Control Commission meeting.

Voice Vote: Ayes: Unanimous; Nays: None. **Motion Carried.**

4. Recommendation to approve a proposal for a massage establishment license for Main Spa to be located at 504 E Main Street, St. Charles.

Chief Keegan: This a recommendation to approve a proposal for a massage establish license for Main Spa located at 504 E Main Street, St. Charles. Cmdr. Gatlin is here from the Police Department who also assisted in the process. We visited the site and checked into the applicant's respective background. We did not find anything of a derogatory nature that would preclude the site location or applicant pursuing a license. The applicant is not here but both Cmdr. Gatlin and myself are here to answer any questions and are in favor of recommending this application.

Ald. Payleitner: The applicant, Mr. Kim, is he aware of the sorted history of similar businesses at that address?

Chief Keegan: The attorney of record that is representing Mr. Kim in this venture is well aware of some of the transgressions at that establishment. We did spend a considerable amount of time

looking at this location. The applicant and attorney are very aware of the history. We will hold not only this establishment, but all of our establishments to the same standard of zero tolerance of misconduct.

Ald. Payleitner: In looking at the floor plan, what is the purpose of a multi-purpose room?

Cmdr. Gatlin: With the past businesses that have run that operation, it is just a wide open room. There are not any services that are taken place there, they have more square footage than they really need – they have floor space that is under- utilized.

Ald. Lewis: Is this the site that has the vapor business below? And this store doesn't have to be a stand-alone store?

Chief Keegan: If you're consuming tobacco products with the smoke free act of Illinois, that has to be a self-contained or stand-alone facility. This is not tobacco products being consumed there, so they are exempt from that state regulation. There are three independent businesses operating in this building.

Ald. Lewis: Do these floors connect to one another?

Cmdr. Gatlin: They are separate entrances and you can't travel through one business to another.

Motion by Ald. Lewis, second by Mr. Gehm to recommend approval of a proposal for a massage establishment license for Main Spa to be located at 504 E Main Street, St. Charles.

Roll Call: Ayes: Gehm, Payleitner, Lewis, Amenta; Nays: none. **Motion Carried.**

5. Recommendation to approve a proposal for a class B3 liquor license for Romano Mercato Italiano, LLC to be located at 210 Cedar Street, St. Charles (former Isacco Kitchen).

Chief Keegan: Isabela Romano, who is one of the managing owners is here tonight. This is a B3 license application without a late night permit request. A B3 is for consumption on site and retail sale of wine products from the establishment similar to what a couple of other locations are doing in town. This is the former Isacco Kitchen located on 210 Cedar Street. We did a site visit and looked into the applicant. It is a joint venture between Isabela and her husband. The Police Department did not see anything derogatory of nature with the site location of the background check.

Chrmn. Rogina: Both your site plan and business plan, I for one see it to be very thorough.

Mr. Gehm: Very good packet of information.

Ald. Payleitner: From what I can see you only have three tables and three high-tops?

Isabela Romano: When we were doing the drawing, we didn't have all the tables available, so the architect who did our inside drawing wasn't sure exactly how the layout would look like. I could give you a more applicable plan.

Chrmn. Rogina: How many tables are you planning on having?

Isabela: We're looking to sit about 15 – 20 people inside.

Ald. Payleitner: Okay, but my question of the part of your establishment that is going to just sell wine – is that marked by display on your floorplan?

Isabela: No, we are also going to sell olive oil, Italian cookies, dry pasta – this is going to be altogether in the display area and the wine too.

Ald. Payleitner: Chief that is all up to muster?

Chief Keegan: Some of the business models we have in other areas, some of the consumption will have to take place in the area designated for consumption in the table area and what Ald. Payleitner is speaking about is having a segregated area for over the counter sales.

Isabela: Yes we are planning all the alcohol that is meant to be consumed in the establishment to be behind the counter/cashier where the server is going to hand it out and the wine on display is packaged.

Ald. Payleitner: This meets the 50% rule etc.

Chief Keegan: Yes.

Ald. Lewis: This is a great business plan, very thorough, but unfortunately I'm not able to support it at this time until I know where we're at with our video gaming ordinance; because this is a new liquor license, you'll be able to have video gaming. Until I'm comfortable with how many establishments will be providing video gaming, I don't feel I'm in the position to approve any liquor licenses at this time. So you are just caught in my own personal position at this time.

Chrmn. Rogina: My question is whether this a Liquor Control Commission or a Gaming Commission? My point being as far as I'm concerned and the ordinance is concerned, we as a group here have a charge relative to evaluation of applicants who come forward here to present and request a liquor license; included in that I don't think there is any reference or mention of gaming as a consideration. Your second point you made, and it was also declared in the minutes of last week, about the limitation of liquor licenses; to my knowledge at this point, the Council has not even approach that subject. Doesn't mean we couldn't, as a group, recommend it to the Council that we're in favor of limiting the number of licenses. My third point would be, these are replacements of businesses that went out – so we're not adding, we're just replacing.

Ald. Lewis: This is a new one because Isacco got a new place.

Chrmn. Rogina: That's true but last week's was a replacement and this next one on the docket will be a replacement. My point is your declaration up front about not voting on recommending any licenses. I'm just thinking out loud here if you're moving away from the cards we have as a commission by that declaration? That's all I'm asking whether you feel that way.

Ald. Lewis: That's something I'll think about.

Ald. Payleitner: To Ald. Lewis' defense – I'm voting in favor; but as gone through the process of video gaming, the liquor license is our only control and I think Ald. Lewis is taking that point serious. Again this is our only control. We don't have control on a gaming license, but they can only get a gaming license if they have a liquor license.

Chrmn. Rogina: The record reflects the fact that both of you are against video gaming, but the fact of the matter when a budget is passed by the State of Illinois, and if they hold to the percentage allotment, gaming will be legitimate in this city and under those conditions, I'm thinking out loud, if we're skirting the issue here and creating some kind of bias. Every license should stand on their own merit as presented by the Police Department and whether or not it fits the requirements. We are another set of eyes and ears with respect to liquor applications.

Mr. Amenta: No comments from me – everything was well put together.

Motion by Mr. Gehm, second by Mr. Amenta to recommend approval of a proposal for a class B3 liquor license for Romano Mercato Italiano, LLC to be located at 210 Cedar Street, St. Charles (former Isacco Kitchen).

Roll Call: Ayes: Gehm, Payleitner, Amenta; Nays: Lewis. **Motion Carried.**

6. Recommendation to approve a proposal for a class B liquor license for a new restaurant business to be located at 1 W Illinois Street, St. Charles (former Top Table Restaurant).

Chief Keegan: This is a recommendation to approve a proposal for a class B liquor license for a new restaurant business to be located at 1 W Illinois Street, St. Charles (former Top Table Restaurant). This request is for a Class B liquor license with a 1:00 a.m. late night permit. The owner of record, Marwan Taib is here who also operates/own the Spotted Fox Alehouse located at 3615 E Main Street. This is under the business venture Bolingbrook, LLC. We conducted a background check, visited the site and looked at his business model and his current business that has been operating here for the last few years in St. Charles, and am happy to report we did not see anything questionable. His d/b/a is yet to be named – the wheels are in motion, he just hasn't picked the name yet.

Ald. Payleitner: I see in his business plan a name "Foxy's on the River".

Marwan Taib: I just put that in. I'm still debating as I think the name is very critical for that location, since it failed a few times, so we want to have good, catchy name. It will be something on the river, for sure.

Chrmn. Rogina: I've known you for a while and you have established yourself very nicely into our community. Your plan is thorough and I am happy that this site will be utilize and wish you success.

Ald. Gehm: Any plans for the patio when the weather is cooperating?

Marwan: We're thinking to modify the outside a little bit. We hired an architect that does all of Shodeen's properties. The changes will be more cosmetic just to create some ambience; size and layout will be the same. No one has put any touches into this establishment for the last 25 years. Whatever changes we decide on will be submitted to the City for approval.

Chrmn. Rogina: Marwan added at patio onto his current business which looks nice and hopefully is doing well for you.

Marwan: It's been great. A patio gives you a competitive advantage and it gives it ambience. With this new business it's going to be more family oriented with an affordable price point. Too many fine dining attempts have not gone well at this location in the past. I think the success of the building will be the ambience. You can't put any more food into St. Charles.

Ald. Payleitner: By the time this goes before committee/council could you have sealed up on your d/b/a name?

Marwan: I've hired a consultant and will come down to three names and we'll then funnel those names through the City, Chamber and DSCP to come up with the final name.

Chrmn. Rogina: Back to Mrs. Romano, when are you planning to open up your business?

Mrs. Romano: December 1.

Chrmn. Rogina: You know you may open but won't be able to sell alcohol until final approval of the Council?

Mrs. Romano: Yes.

Marwan: Hoping to be open for Restaurant Week to get exposure within downtown and that leads to March Madness, St. Patrick's Day Parade, etc.

Motion by Mr. Gehm, second by Mr. Amenta to recommend approval of a proposal for a class B liquor license for a new restaurant business to be located at 1 W Illinois Street, St. Charles (former Top Table Restaurant).

Roll Call: Ayes: Gehm, Payleitner, Amenta; Nays: none; Lewis - Present. **Motion Carried.**

7. Discussion regarding Citation and Hearing Notices for:
a. A'Salute Lounge and Grill

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 A'Salute Lounge and Grill or impose a fine upon by reason of the Complain of Violation filed by the Police Department of an occurrence on or about October 30, 2015.

Now comes the petitioner James Keegan, Chief of Police of the City of St. Charles, Illinois and files this complaint before the Local Liquor Control Commission of the City of St. Charles that on or about October 30, 2015, at approximately 2:11 a.m., the licensee, A'Salute Lounge & Grill, by and through its employees, officers, and/or agents, committed the following offense in or upon the licensed premises at 2400 Eat Main Street, St. Charles, IL 60174 and allowed persons who were not employees of the licensee, to remain on or about the licensed premises after 2:00 a.m.

We do have the arraignment form submitted by the owner Mr. Donzelli and he plead guilty but requested a hearing mitigation of which I will grant.

Chief Keegan: We attempt to be very business-friendly here in the City of St. Charles especially with the Police Department in working with our owners and bar managers, but there are certain things we take a zero tolerance approach to which one is occupancy after hours. The charges brought before you this evening is for the occupancy, we did not substantiate that there was consumption taking place but there were folks outside the realm of their business – more folks inside than just workers.

Mr. Donzelli: We had quite a few police officers and vehicles there because a gentleman had called the police about a concern of a woman who was there of which I was taking home. About 1:45 a.m. I was clearing off tables myself. I have a new cocktail waitress, so I was helping her out. There were a few people in there such as a bartender who was not working that night but asked her to help out the cocktail waitress while I was called outside in the back by an officer in trying to explain the situation with the woman, who was a cook of mine also but was not cooking that evening. I was out with the officers for 10-15 minutes, otherwise I would have been inside the bar taking care of business. No one had a drink in their hand nor were they consuming any alcohol. There were so many police there that people were just standing around looking to see what was going on. There was one person on premise after 2:00 a.m. using the washroom. But some of the people that were there were employees. I plead guilty because of the gentleman that was using the facilities of my business. Also for the record, I have never had a police call in all the years I've been in business here in St. Charles.

Ald. Payleitner: There seems there was a number of people at your place. You said you were out back because of police officers at your door, but it says the first call was at 2:07 a.m. so that

was after 2:00 a.m. and the police arrived at 2:11 a.m. Of the seven other people listed, how many were employees and how many were patrons?

Mr. Donzelli: There were five employees and one was a fiancé of an employee who was there and he usually takes her home and I didn't think that was a problem.

Ald. Payleitner: The police report states there were 8 people of which you were one of those eight. How many were working at the time?

Mr. Donzelli: There were six total counting me...

Discussion continued between the two above as to the actual number of people on premises of who was working and not working.

Chrmn. Rogina: The fact is there were patrons who were not employees in the establishment after hours.

Mr. Amenta: If an employee is on the premises but isn't working that night – are they consider an employee or patron?

Atty. McGuirk: The position of the Police Department is if they're not working as employees on the clock, than they are a patron.

Chrmn. Rogina: We'll be going into Executive Session to discuss this. I have 7 – 10 day to act on this citation and you will get notified at such time. There will be no decision tonight.

b. The House Pub

Chrmn. Rogina: No one is here to represent the House Pub although the licensee has pleaded guilty and wanted to come here to mitigate but he is not present. Can I proceed under a guilty plea or do I need to postpone until next month?

Atty. McGuirk: Our notice says if they don't appear they are in default; although in this case he did file that he was guilty. That is up to you if you want to continue tonight. Has he contacted anyone at the City?

Tina: No he has not.

Chrmn. Rogina: I feel I'm in a position to deal with this matter and will read into the record as follows: This is a complaint of violation being brought before the Liquor Control Commission to determine whether the St. Charles Liquor Control Commission pursuant to this authority, shall revoke or suspend the local liquor license issued for The House Pub or impose a fine upon by reason of the Complaint of Violation filed by the Police Department of an occurrence on or about October 20, 2015 and states as follows that on or about October 20, 2015, at approximately 2:40 a.m., the licensee, The Stavi-Werks, Inc., d/b/a The House Pub, by and through its employees,

officers and/or agents, committed the following offense in or upon the licensed premise at 16 S Riverside Avenue, St. Charles IL 60174. First offense: allowed persons who were not employees of the licensee, to remain on or about the licensed premises after 2:00 a.m.; and second offense sold, gave, delivered or allowed the consumption of liquor to an intoxicated person. The record will reflect that licensee is not present and therefore in default of St. Charles city ordinances.

4. Other Business

Chrmn. Rogina: There has been one request within the timeframe of 45 days prior to the event, referring to a request from a licensee, The Finery, to ask for a 1:00 a.m. late night permit for New Year's Eve. That will go directly to City Council per the ordinance E-6 for advice and consent of City Council on December 7.

Ald. Payleitner: One other item – could we add a definition to our Liquor Code where we say a liquor license in good standing – could we define that?

Chrmn. Rogina: If they have a liquor license it would be in good standing if it's not suspended; otherwise they are operating so they are in good standing.

Ald. Lewis: So once they pay a fine and are in operation – they'll always be in good standing? Their past doesn't have anything to do with good standing?

Chrmn. Rogina: Once a year you have the right to renew that license and the Council can do what the please as far as requesting a definition or restrictions made.

Ald. Payleitner: I just wanted to be clear on what the definition is.

Chief Keegan: I would make a parallel to a driver's license. As police officers, if you run someone's license, you're going to look to see if it's valid, canceled, suspended, revoked and if valid is what comes up from the Secretary of State's office, in my mind's eye that's a license in good standing. If I do a query on a license and it has a blemish, per se, but it didn't rise to the level of being canceled, revoke, suspended; and in this case a liquor license if they are operating and valid, in my mind's eye, I would look at that as a good standing of a license.

Mr. Gehm: I guess a situation that could occur is if you suspend someone's license at the time they come for a renewal, they would not be in good standing at that time.

Ald. Lewis: So it all depends on the standing of your transgression?

Ald. Payleitner: Chief Keegan gave me the clarity that I needed. It's not that its bad or good but valid.

Chief Keegan: Also if a liquor license is ever revoked or suspended and there is a video gaming license connected to it, that too is also revoked or suspended in concert with the liquor license. You can't have one without the other.

5. Public Comments – none.

Motion by Ald. Payleitner, second by Mr. Gehm to enter into Executive Session to discuss liquor violations at 5:20 p.m.

Roll Call: Ayes: Gehm, Payleitner, Lewis, Amenta; Nays: None. **Motion Carried.**

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

Motion by Ald. Payleitner, second by Gehm to come out of Executive Session at 5:40 p.m.

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

7. Adjournment

Motion to adjourn by Mr. Gehm, second by Mr. Amenta at 5:41p.m.

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