

**MINUTES  
CITY OF ST. CHARLES, IL  
LIQUOR CONTROL COMMISSION MEETING  
MONDAY, AUGUST 17, 2015**

**1. Opening of Meeting**

The meeting was convened by Liquor Commissioner Rogina at 4:33 p.m.

**2. Roll Call**

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

**Absent:** Robert Gehm

**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 July 20, 2015.**

Motion by Ald. Payleitner, second by Mr. Amenta to accept and place on file minutes of the Liquor Control Commission meeting held on July 20, 2015.

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

**4. Recommendation to approve a massage establishment license for Still Waters Spa, LLC to be located at 2075 Prairie Street, St. Charles.**

**Chief Keegan:** This business is currently operating as Oriental Massage and is located at 2075 Prairie Street. There is a contract to purchase the business from the current owner. The applicant has been vetted through the police background. We've looked at the site and did an inspection. The owner/manager was interviewed and we did a background investigation. They would like to operate as Still Waters Spa at the address mentioned. We are recommending approval of this license and I'd be happy to answer any questions that the Commission might have.

**Mayor Rogina:** This is an operating viable establishment it's just a matter of changing ownership from the current owner to someone who's working there and will now become the owner.

**Chief Keegan:** Yes and with that is a name change.

Motion by Ald. Payleitner, second by Mr. Amenta to approve a massage establishment license for Sill Waters Spa, LLC to be located at 2075 Prairie Street, St. Charles.

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

**5. Recommendation to approve a class E-2 liquor license for Alley 64 Bar and Grill for August 29 and 30 for the Veterans Wishes/Jack Axe Event at Kane County Fairgrounds.**

**Mayor Rogina:** The reason we're on a fast track is because somehow the application didn't come forward in a timely manner. I think the difference to factor is that we have a local business and it's a veteran's event. I think the Commission would like to hear more about it.

**Chief Keegan:** This event takes place on Saturday, August 29 and Sunday, August 30 at the fairgrounds. They have applied for an E2 which is a temporary liquor license. The event itself will be contained at the fairgrounds. There will be a fenced in/roped off area for liquor consumption, beer only. Alley 64 has applied for the license on behalf of the sponsor. There will be some food service provided by Buona Beef and The River House Barbeque. Two officers have been retained by the sponsor and will be present as extra duty and will be reimbursed by the sponsor. The hours of the event are 5pm – 10pm. I would like to call Eric Klein to answer any questions the Commission might have.

**Eric Klein:** Eric Klein, 1122 Morton Street, Batavia, Illinois. The event has three different sections. It's an obstacle course and sporting event and most of the obstacles we're utilizing are from lumberjack, Scottish highland games or strongman competitions. That will be happening in the back part of the fairgrounds. Outside the fence will be a camp area. This is where we will have a 40"x 80" tent with beer and it will be sectioned off. We have sponsorships and will have things for the kids, such as, a bounce house, scavenger hunts and chainsaw sculpture. It's more for entertainment. We wanted to cultivate a family environment with this sporting event and festival. At night we have partnered with Excel Automotive to put on the concert which is a direct benefit for Operation Warrior Wishes. We have enough sponsors that the entire ticket price of \$25 per ticket is going to go directly to Operation Warrior Wishes. Right now 100% of their funds go directly through to the Vets. We're doing everything we can to support them.

**Ald. Payleitner:** That was my first question; is it a benefit? Thank you for clarifying. When I saw that it was being touted as a veteran's event last minute I wanted to make sure.

**Eric Klein:** I don't like that. I see other people do that, that's not our intent at all.

**Ald. Payleitner:** That's my second question. Chief, who dropped the ball on this?

**Eric Klein:** This is our first event. When I started down the path getting the alcohol squared away, I went and talked to Tina, she helped direct me. I think at first we weren't sure where we were going to be placed. It was special events. We came back and she said that we would need

to work with a local vendor to make this happen. I was already signed up with other distributors, I didn't know. It's really more my fault because I didn't know.

**Ald. Lewis:** Does an E2 license allow you to go to midnight?

**Chief Keegan:** I believe the petitioner and the paperwork identified that they would like to go from 5pm – 10pm.

**Eric Klein:** It should be 12pm – 12am. It's a two-day event. Saturday was going to be 12pm – 12am, initially it was 12pm – 5pm, but we understand that the Kane County Fairgrounds allow until 12pm. Most of the event should be done by 10pm – 10:30pm. We're also going to be there Sunday, but that's going to be 12pm – 5pm on Sunday.

**Ald. Lewis:** It's a class E2 license?

**Chief Keegan:** It's an E2, but part of our licensure requires that if there is liquor consumption on site there has to be police officers present. Whatever the Commission permits as far as hours of operation you have to have Officers assigned to the event to monitor what's going on. Once we make a decision as a City and Commission today it can't deviate.

**Eric Klein:** We would request 12pm – 12am on Saturday.

**Ald. Lewis:** If an E2 only goes to 11pm it will be to 11pm.

**Eric Klein:** We would request 12pm – 11pm on Saturday and 12pm - 5pm on Sunday.

**Ald. Payleitner:** It says on the Executive Summary that beer will be served 5pm – 10pm.

**Eric Klein:** Again, that's probably partially my fault. I put in 12pm – 10pm when we did the application. I didn't understand that we could go until 12pm. I'm not sure about that.

**Ald. Lewis:** There is one other thing in the ordinance; I apologize for not being able to find it, but there is something that says there will be no competitive type games with liquor licenses. I think you have a cash prize. I didn't know if this fell into that. I want to make sure it's not a problem.

**Chief Keegan:** I feel more comfortable with this event because the consumption is only going to take place in the tent. Any of the live entertainment, and the games, will take place outside of that area. Really the tent area, unless I'm not understanding this, is where the liquor consumption and food is going to take place.

**Ald. Lewis:** How is that different from some of the licenses we gave for the ultimate fighting when they would come?

**Chief Keegan:** I think something like that where you have spectators in and around the event consuming alcohol, but the Axe Games are going to be out in the Fairground.

**Eric Klein:** The waiver we have is they can't drink before they participate which is important because we're throwing axes. Safety is very big for us; in no way shape or form are they allowed to drink any alcohol. The way things are stacking up right now, the competition should be done before 12pm, after that is when the beer tent will open.

**Ald. Payleitner:** My understanding was that this was post competition.

**Eric Klein:** The only thing I can think of that would address that is in the afternoons, for some of the spectators, we were going to open some of the zones, isolated things, such as the caber toss.

**Ald. Lewis:** I do have concerns with people consuming beverages and throwing axes and things.

**Eric Klein:** We would have to say to them if you've been drinking then you can't participate.

**Ald. Lewis:** I don't know how you would monitor that.

**Eric Klein:** In the morning it wouldn't be an issue because the bracelets won't be issued until 12pm. They won't be drinking anyway and will be done before then.

**Mayor Rogina:** Take me through 12pm – 12am on Saturday and 12pm – 5pm on Sunday. What's going to happen? How long is the Jack Axe event going to take place on Saturday?

**Eric Klein:** We'll be open at 7:30am on Saturday for the games. People will be arriving in the morning to compete from 8am – 12pm.

**Mayor Rogina:** It starts early and opens at noon for alcohol consumption. Events are going on until when?

**Eric Klein:** Right. The events as far as the competition, Jack Axe, should be completed. Everybody that we have signed up will be through the course before 12pm. Really what we're looking at after 12pm is more of a festival. We have music starting in the grandstand at 3:30pm. We will have some entertainment in the festival area in between.

**Mayor Rogina:** When does the concert start?

**Eric Klein:** The concert starts at 3:30pm we have some preliminary artists. At 6pm we will have a Jack Axe finale. The top three people of the day will be competing in the grandstand area for the prize money. After that's done, which will be about forty-five minutes, the rest of the concert will go throughout the night until about 10pm.

**Mayor Rogina:** Is there two admissions or one admission?

**Eric Klein:** There are two.

**Mayor Rogina:** The concert is separate.

**Eric Klein:** Entirely. Operation Warrior is very protective about the amount of money that comes in to the Vets and how it's structured. We were very careful with them about that. Admission is \$20 a car to come into the festival. The concert is \$25 a ticket per person. That's the charity event.

**Mayor Rogina:** At the concert beer may be consumed.

**Eric Klein:** Correct.

**Ald. Payleitner:** Not at the concert.

**Eric Klein:** At the concert as well.

**Ald. Payleitner:** I thought beer was only in the tent.

**Eric Klein:** There is going to be two locations. We're going to have the tent behind and outside the fence, and a second inside the grandstand area. It will be right next to the stands as people enter.

**Ald. Payleitner:** Still enclosed though.

**Eric Klein:** Yes, it's enclosed.

**Mayor Rogina:** When they are in the grandstand watching the concert can they have a beer in their hand?

**Eric Klein:** Yes, in the grandstand area.

**Mayor Rogina:** So it's not going to be roped off.

**Eric Klein:** The way I look at it is the whole grandstand area; if we fence off the back and have one entrance.

**Ald. Payleitner:** Then you don't have anyone under 21 watching the concert.

**Eric Klein:** Let me back up a little bit. The camp which is outside the fence is really more the Jack Axe festival part of it. At 3:30pm people are going to start trickling into the grandstand area. Now we're inside the fence. We will have a secondary beer tent that will not be closed in. We thought because the whole grandstand area is fenced all around with a gate on the backside, where we will post security, the tent is where we will check ID's.

**Mayor Rogina:** We have the Kane County Fair, we have the grandstand, is there beer in the stands?

**Chief Keegan:** Yes.

**Mayor Rogina:** There is. The Kane County Fair gets the liquor license from us. That includes a Rodeo, or Demolition Derby and someone is able to go into the grandstand with a beer and drink it while watching under our licensure.

**Ald. Payleitner:** During the fair week only.

**Mayor Rogina:** The same thing is happening here. I was trying to determine whether we're setting new territory or if we're doing something we've done before.

**Eric Klein:** I was under the impression we were not setting new territory.

**Chief Keegan:** There's a vetting process, and I want to make it very clear, the onus is going to be on the liquor license. In this case Alley 64. Anywhere there is consumption in the fairgrounds we have to have an officer that observes the behavior. The vetting, wrist banding, and the credentialing is going to be done by the license holder, Alley 64, if it's going to be a separate location outside of the tent which is what was in the license material. I have to make sure I have an officer that can observe behavior at all times. If we are going to limit it to now two locations I have to make sure to have enough officers to cover.

**Mayor Rogina:** Based upon the application and now with all the conversation; do you have enough officers?

**Eric Klein:** One of the things we were going to do is when we were switching over to the concert is shut down at the camp. There is only going to be one beer tent operating at a time.

**Chuck Amenta:** At 3:30pm the festival tent closes, at 3:30pm, not 3:45pm, 3:30pm shuts it down.

**Eric Klein:** There would be about a 15 minute window where we would shut down one and take about 20 minutes to open the other.

**Chuck Amenta:** There won't be people hanging around in the first tent finishing up their beer and then going into the next tent.

**Eric Klein:** No.

**Ald. Payleitner:** That's on Saturday, what about on Sunday?

**Eric Klein:** Sunday won't be as much of a deal. It's just a five-hour stint.

**Mayor Rogina:** No concert on Sunday?

**Eric Klein:** No Concert on Sunday.

**Mayor Rogina:** No fundraising on Sunday.

**Eric Klein:** No.

**Ald. Lewis:** Any competition?

**Eric Klein:** There is in the morning for teams of five people.

**Ald. Lewis:** There won't be a grand prize finale with a competition?

**Eric Klein:** They will be doing it in the camp area close to that.

**Ald. Lewis:** By the tent?

**Eric Klein:** Yes.

**Mayor Rogina:** Liquor on Sunday from 12pm – 5pm.

**Eric Klein:** Yes.

**Chief Keegan:** What is your expected numbers for the Concert on Saturday night? If we move the beer location and co-mingle the crowd in connection with wrist bands, how many people will be expected in the grandstand?

**Eric Klein:** I'm guessing it's going to be hundreds. I can keep track of the competitors but I have no way to really garner that. I'm thinking we could have anywhere from 200 – 500 people.

**Chief Keegan:** With your food vendors and alcohol vendors from Alley 64 how many kegs of beer?

**Rick Brown, General Manager, Alley 64:** The process we're talking about is having two locations 12pm – 5pm, shutting down at 5pm, starting the other from 5pm – 12am. We have enough security in place, enough BASSET certified people, managers and supervisors in place to make sure that everybody is going to be wearing a wrist band who actually gets alcohol within the grandstand or not. If they have a wrist band they can consume, if they don't have a wrist band and officers or any of our security sees it they will be questioning that person on the spot. We are covered on that part of it. As far as kegs it depends on the customer consumption. We have a distributor on call and can actually go get more if needed. We are going to probably purchase 30 -35 kegs. They will be on two trailers, six varieties, all kegs, all drafts poured by 2 to 3 people at a time with 3 supervisors walking.

**Chief Keegan:** All plastic cups? No glass?

**Rick Brown:** All plastic cups. No glass.

**Chuck Amenta:** You mentioned you had plenty of supervisors. Can you quantify how much security, how many supervisors, and how many bartenders? How many folks will you have on hand to help make sure, outside of the officers, how many people?

**Rick Brown:** It's me, two managers, and a couple more, so five supervisors. As far as bartenders it will vary depending on the customer consumption, 2 – 3 people pouring. That might even include us, and we're part of the security license, and as managers we're more apt to look out for that because we're protecting our license.

**Chuck Amenta:** We're looking at potentially 500 people with 7 to 8 Alley 64 supervisors.

**Rick Brown:** It's a controlled area we don't have to worry about the whole fairgrounds. We just want to make sure the person getting the alcoholic beverage has properly been carded, identified as someone who can consume alcohol is 21 and above, and then press on from there.

**Ald. Payleitner:** It's much more manageable when you don't have two open at the same time.

**Rick Brown:** I assure you that is not happening. The people shutting down one are going to open up the other. Once we get people transferred from one location to the next we will go ahead and start again. We work closely with the officer on duty to let them know we're shutting down. We completely lock up one trailer and go to the other. Nobody can pour, nobody can do anything. That's our vision. Alley 64 does no food in this process, just the alcohol process.

**Ald. Lewis:** I found what I was looking for. Item H: Athletic amusements, contests, demonstrations, entertainment, activities, events and exhibitions. The license premise is: Prohibited. Races between persons, it says it right here, baseball, kick boxing, wrestling, hand-to-hand combat, martial arts, ultimate fighting. We've gone through this before when we had the ultimate fighting and where they can have their license, at what age they are allowed to go in, I'd say this is the same thing. I don't know much about Jack Axe games, but when you do tell me that people are competing by throwing axes it makes me pause a little bit when we're going to have a big festival beer tent and what assurance is there in this final competition that from 12pm – 9pm these final participants haven't enjoyed the party.

**Eric Klein:** We are going to take the top 3 people, and will know who that is before 12pm. We will approach them and let them know that we want them to participate in the championship for the money. However, in order to do that, sorry, you have to miss the party as far as the drinking. If they want the prize money and want to compete, that's what they have to do. As far as the other competitors they will be done before the beer tent is open.

**Ald. Lewis:** Sunday you will have another final competition for the teams.

**Mayor Rogina:** There has been a recommendation made. We'll see if you could go along with this. I think we would be able to manage a quorum on this. The recommendation, and I tend to support this, otherwise I think we're asking for trouble tonight. I think there are too many unanswered questions and perhaps conflict with our ordinance. We should postpone for a week and have a special City Council meeting next Monday. It's still ahead of your event. Because it's a special Council meeting you would be responsible for the cost. I feel that tonight we're not going to get clarity. If you had a week to work with the Police Department and staff to sort this out and perhaps could get to the end result you're looking for.

**Eric Klein:** When you say we're responsible for the bill what does that mean?

**Mayor Rogina:** \$175.00 per council member.

**Eric Klein:** How many council members will there be?

**Mayor Rogina:** I don't know. All ten could be there due to the fact that there is also a committee meeting that night. We would have a special meeting either prior to or after the committee meeting and there is a good chance all ten would be there.

**Eric Klein:** I don't know. This is making it very difficult for us...

**Mayor Rogina:** The other alternative is this: You could come before the City Council tonight, my suspicion is you will get the same reaction and a lot of the same questions from a larger group.

**Eric Klein:** Help me put a fine point on it, and maybe there are multiple points, but what's really the main issue we're trying to address?

**Mayor Rogina:** Possible conflict with some of our ordinances, lack of clarity as to who's going to be sitting where and at what points in time, concern about minors sitting in the stands.

**Ald. Payleitner:** I also think the on-the-fly nature of this isn't going to sit well with my colleagues up here. If you have that extra week and were able to give us some hard facts.

**Eric Klein:** That doesn't make sense financially. It's \$2,000.00 to get a maybe. We still don't even know if that would fly. Honestly, it's making it difficult to be here and do this. I understand that there are rules here for a reason. I'm a law abiding citizen. I would want to make sure that we're doing it the right way. I think the way we have it set up is, we're not doing it while they are in the process of the competition. I understand some of the points. What is the way to make it work and address those points and make it agreeable?

**Mayor Rogina:** I think this is the smarter approach.

**Eric Klein:** It's a costly approach and we're just getting started. It doesn't help us.

**Mayor Rogina:** You're on the agenda tonight. If you want to come before us tonight as a group we're not going to stop you from doing that.

**Ald. Lewis:** Legal counsel hasn't had time to address some of the issues that have been raised. I don't know if there will be time to do that between now and 7:00pm. That's one of the reasons we request 45 days. I saw an advertisement come across my email on your event that listed all the beer vendors. I hadn't heard anything about it and you're already advertising your beer vendors. What's going on? I'm not so sure that if I hadn't saw that and brought it to our attention that you would have had the permission that you needed. Then you would have been under a serious violation.

**Eric Klein:** No. The City shared with me that we needed to work with local vendors to do this. Once we got there it was out of my hands a little bit. Alley 64 has been gracious enough to work through this with us. I felt powerless trying to work with the City to get this thing done because it wasn't in my ballpark at that point. Tina knows when I was here to address all this stuff and even then I thought we were getting close to the wire.

**Ald. Lewis:** Was that this month?

**Eric Klein:** No, that was a couple months ago.

**Mayor Rogina:** Let me interrupt by saying if you went to Tina a couple months ago that process could have been started and we may have been on the agenda last month as opposed to now. Here's what I recommend, it would be nice to have the Committee's stamp of approval, a motion with no recommendation to give them two choices. If you want to appear tonight, you can come here tonight.

**Eric Klein:** Can I get a couple minutes to talk to some of the folks and find out what better information I can provide for tonight or are you saying that you're not ready for the legal answers to the questions we've raised?

**Ald. Lewis:** I think we need some legal answers.

**Eric Klein:** I'm thinking about other events that are similar, the Spartan Race or the Tough Mutters, Warrior Dashes, things like that. They aren't throwing axes but they're throwing spears and other things that are similar.

**Ald. Lewis:** Is that here in St. Charles?

**Eric Klein:** No. I think that's my point. Maybe they could and would like to be able to do it here year after year. This is where we live. If we can't, then we can't.

**Mayor Rogina:** I'd entertain a motion allowing Eric to present tonight or if he chooses to wait until next week. No recommendation from this Committee. He's on the agenda if he comes

tonight before Council perhaps he will present in a bit more succinct manner and make the necessary adjustments.

**Mark Koenen:** I would like to suggest that if we're going to have a special council meeting the information would need to be to the City by noon on Wednesday. We have to publish 48 hours in advance. We have to post it on Friday afternoon.

Motion by Ald. Payleitner, second by Lewis to give Eric Klein the choice to present at the City Council Meeting on August 17, 2015 as scheduled or hold a Special City Council Meeting on August 24, 2015.

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

**6. Discussion on recent "Happy Hour" changes posted by the Illinois Liquor Control Commission regarding Public Act 99-0046 which went into effect on July 15, 2015.**

**Mayor Rogina:** On July 15 the State passed a statute permitting happy hour. Prior to that St. Charles mirrored the state statute which until that date did not permit a happy hour. We agreed at Committee to let the state statute play it's self out and then have a conversation as to whether we want to recommend to Council Committee any changes in the happy hour statute. We can adopt that as it is and take no positon.

**Atty. McGuirk:** The act is in effect. If we do nothing to restrict it beyond what we already have, it's the law. Under Home Rule we can make it more restrictive. If there is anything in here, such as, the amount of hours per week for happy hour, we can make changes to be more restrictive. Not less restrictive.

**Ald. Lewis:** Does the new happy hour regulations apply to temporary or E licenses?

**Attny McGuirk:** I think it would apply to all licenses. Any place where they sell alcohol.

**Ald. Lewis:** If we had a temporary license they could have a happy hour?

**Attny McGuirk:** If it's temporary for a day they aren't going to be able to do that for four hours.

**Mayor Rogina:** We would be recommending to Council Committee. Is there anyone who has any thoughts on the matter?

**Ald. Lewis:** I think we have followed state statute in the past. I'm comfortable with their new regulations.

**Mr. Amenta:** I think if things get out of hand maybe it would be an opportunity to review it, but until that happens let's give it a shot.

**Ald. Payleitner:** I think it's sufficient and straight forward for now.

**Mayor Rogina:** I recommend a motion to Council Committee that we adopt the State's statute happy hour as printed. Moved and seconded. Further Conversation?

**Ald. Lewis:** Can they advertise?

**Mayor Rogina:** Council McGuirk are there any limitations?

**Attny. McGuirk:** Whatever conforms to the zoning code they can do. They do have a requirement of a seven-day advance notice on their website.

**Ald. Lewis:** It has to be on their website.

**Attny. McGuirk:** Yes, in advance.

**Ald. Lewis:** They can put signs in the windows.

**Mayor Rogina:** Within the confines of our zoning laws.

**Attny. McGuirk:** Yes.

**Mayor Rogina:** It's understood they are going to have to follow the ordinance. They can't do anything special above and beyond.

**Ald. Lewis:** I guess we'll see where that goes.

Motion by Ald. Payleitner, second by Mr. Amenta to move the State Statute regarding Happy Hour to Council Committee for adoption.

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

**7. Other Business**

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

**9. Adjournment**

Motion to adjourn by Ald. Payleitner, second by Mr. Amenta at 5:00 p.m.

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