

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, JANUARY 19, 2016**

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. Motion to accept and approve the minutes of the December 21, 2016 Liquor Control Commission meeting.

Motion by Mr. Gehm, second by Ald. Payleitner to accept and approve the minutes of the December 21, 2015 Liquor Control Commission meeting.

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

4. Recommendation to approve a proposal for a class B liquor license for McNally's Group, LLC to be located at 109 W Main Street, (former Valley Lodge Tavern).

Chief Keegan: This is a proposal for a class B liquor license for McNally's Group, LLC to be located at 109 W Main Street (former Valley Lodge Tavern). A member of the ownership group is here tonight. This is a long standing business that was in St. Charles both at The Office and moved westward to a site that they are currently moving back to. After a brief hiatus the Valley Lodge Tavern has transferred the site location to the applicant. The Police Department took a look at the application material, visited the site and met with the ownership group. They've requested a 1:00 a.m. late night permit. I can say from their previous stay in St. Charles they were definitely a crown jewel to our downtown business district. Their paperwork is in order and Mr. Shay Clark is here tonight.

Mr. Gehm: I assume everything will be back to how it was with floorplans, etc.

Mr. Shay Clark: There are some cosmetic changes and it will look absolutely beautiful, we have some new equipment in our kitchen. We've taken advantage of this downtime to spruce it up.

Ald. Payleitner: As far as the floorplan, it's all the same?

Mr. Clark: Yes.

Ald. Lewis: A lot of chatter around town on having you back – people are excited.

Chrmn. Rogina: I echo what the Chief says and evidence speaks for itself.

Motion by Ald. Payleitner, second by Ald. Lewis to recommend this to Government Operations Committee tonight for approval of a proposal for a class B liquor license for McNally's Group, LLC to be located at 109 W Main Street, (former Valley Lodge Tavern) and move it forward tonight to Government Operations Committee.

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

5. Recommendation to approve a proposal for a class D liquor license for St. Charles Hotel Partners, LLC d/b/a Hilton Garden Inn located at 4070 E Main Street.

Chief Keegan: This is a a proposal for a class D liquor license for St. Charles Hotel Partners, LLC d/b/a Hilton Garden Inn located at 4070 E Main Street. Attorney Mr. Dean Maragus is here representing Hilton Garden Inn. This is a corporate name change as well as a new ownership. The D license is a site license with a banquet facility and restaurant. The site license encompasses both the banquet facility and the restaurant. There's no change in the business or floor plans.

Mr. Dean T. Maragus from the law firm of Maragus & Maragus: I am representing the Hotel Partners LLC. We've kept the same General Manager, Peter Ehrenberg and the plans remain the same and we're ready to move forward.

Chrmn. Rogina: Hilton Garden has been a long standing business here in this community with no problems.

Chief Keegan: We're familiar with the manager on record and it's a very well run business.

Mr. Gehm: If everything remains the same it's just because of the name change and ownership?

Mr. Maragus: Yes.

Motion by Ald. Payleitner, second by Lewis to recommend this to Government Operations Committee tonight for approval of a proposal for a class D liquor license for St. Charles Hotel Partners, LLC d/b/a Hilton Garden Inn located at 4070 E Main Street.

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

6. Coordination of licensing efforts and occupancy – Information Only.

Chrmn. Rogina: We've had conversation here, at committee, and council about the whole process of liquor applications, how does it relate to occupancy, how does it relate to questions of occupancy, etc. and I want to commend both Chief Keegan and Chief Schelstreet who are here tonight with other members of the staff to talk about this process and how the two come together.

Chief Keegan: This is a quick overview this evening. If you would go to your packets and look at the second checklist of filling out liquor licenses. This process starts with Tina who runs the whole backend of this process. This is what she gives to an applicant that is required by the City. Any questions on legality of the code, she usually calls me first. If I don't know, I call Atty. McGuirk, and Mark gets the ball rolling to make sure we're all on the same page. Items 1 through 9 are the application material. This is the paperwork piece to make sure they have BASSET, a lease, articles of corporation, Dram shop insurance.

Ald. Lewis: It says Dram shop insurance or a letter from insurance agency of a proposed quote. I understand that if they are not open yet, but when you issue the license do you look a standard policy?

Chief Keegan: Yes, once it goes through the three committees (liquor, committee, council) it sits in queue and once they pay and establish their license has been vetted, Tina makes sure they have an occupancy permit, have BASSET, signed lease, everything that's on this list.

Ald. Payleitner: Number 6 – copy of site plan (seating diagram); also what I look for if there are extra rooms that are identified as to use. Usually an architecture drawing will show all of that, but I want to make sure it's just more than seating.

Chief Keegan: I know some people in the applications take it to a different level than others and we need to be cognizant of this in moving forward. We try to do the best we can but some folk, such as, one establishment came in without a signed lease but a letter of intent. They didn't want to put the cart before the horse and spend a lot of money in doing some buildouts if they didn't know they could obtain a liquor license. Sometimes you may see an intent for a lease or a quote on Dram shop insurance because they're testing the waters to see if they're going to get a liquor license before they move forward and call an architect, etc.

Chrmn. Rogina: That seems to be common practice throughout the burbs that licensees will go for a liquor license knowing that if it's accepted, they still have work to do. But knowing that they get denied for some reason, why go through all this extra pain and suffering because I'm not

going to get it. And so we're clear on this point, the granting of a liquor license never trumps the fact that occupancy wins out at the end of the day.

Chief Schelstreet: If you refer to Mr. Vann's submittal here or the one we include, what I would like to discuss is the Chapter 34 Review. It's very common for us or Ms. Tungare to receive a call from a perspective business person. Hey I'm very interested in moving my establishment to St. Charles and I'm looking at 123 W Main Street and I would like to find out what is required. So staff assembles, and it doesn't cost anything, and everybody gets together and they walk around and we say okay if you're looking for this sort of an occupancy, then you will have to consider the facts that you need a fire alarm, sprinkler system; and then Economic Development goes through all the programs that the City offers for that. Then all the issues that could be required if they choose to go forward are identified. That is where we're seeing some say okay I could have some significant costs here if I do want to come; so before I move on... that's where a lot of that can be generated.

Chrmn. Rogina: Okay this conversation took place last week and I think there's some merit in this argument. Can it be that once in a while, that someone might be hesitant or appear at council committee to recommend a liquor license because of just the nature of the totality of the circumstances surrounding this occupancy? Let's not hide anything – let's talk about the Arcada.

It's an old building with a lot of issues and so we, in part, parcel all this which might be the granting of the license and the occupancy, and so forth. So I do see in some respects when people are dealing with alcohol, people do get a little nervous and I for one get nervous once in a while. The point is well taken and as a commission, how do we deal with that.

Chief Schelstreet: There are two paths this can go down. If it's a new business there are a number of steps. First and foremost are plans. We need to have accurate detailed plans from professional people; requirements of stamps from engineers from all sorts of things, such as, the swing of doors, to weighted corridors which means that certain separation walls have to be rated for 1 to 4 hours to separate occupancies. This is an in-depth program with many steps and it's not unusual for a business to submit plans, we review the plans, send them back because we are going to have questions, please offer us further details on a, b, c as happened in this circumstance of the Arcada, and then we have to wait for them. It goes back and forth. Once we do have those plans then we do site inspections; we call them new construction inspections. One of the Fire Prevention Bureau inspectors will go out and say here's what on the plan, here's what is reviewed and that doesn't match. We work through that; or yes this matches and once all the requirements of the code have been met, then a certificate of occupancy will be issued.

There is one other way, which this has happened in the past, where we have an existing business. When business moves out a tenant, the building owner has the building and wants to move a tenant in and there are outstanding violations – whether it be from the fire or building departments – this happened both ways. When the liquor license comes through for signature, we don't sign because there are outstanding violations that need to be corrected.

Ald. Lewis: When a new business opens at the Arcada and it's also a change of use, such as at McNally's where the use has not changed. I think there would be more situations when its completely changing to a restaurant that doesn't have a kitchen in it.

Chief Schelstreet: It's a much more in-depth situation type of examination and because staff has done this, we are also sensitive to one of the conversations we had that obviously we know is the Arcada and it's a historical building, so that could bring in the Historical Commission if you decide you want to change something that might alter the outside of the face of the building or anything that might be covered under the Historical Preservation Commission during the Chapter 34 Review, they would be advised of that.

So if you want to put in, for example, a kitchen exhaust system and perhaps discharge in a sensitive area, those folks would be advise that this could become an issue. How they choose to proceed is up to them, but we would give them that information.

Ald. Payleitner: I understand 100% that you need to know every level of detail of doors opening, electric, etc.; but for me are some real detail drawings I still have big questions on, but the ones drawn on paper they say here's a party room, this is a reception area – that is what I would say is part of the business plan – not necessarily a site plan but a business plan so we know what the use will be. The details I trust you on 100% but I would like to see when it says indoor site plan it would be how many people they will be squeezing in and is there an outdoor or private party room.

Chrmn. Rogina: To that point and Ald. Lewis' point, it's all coming here and I ask the question, how does staff assure commissioners, aldermen, and the mayor that the granting of a liquor license here, based upon requirements, does not impede anyway, shape, or form; or does not necessarily answer questions that you still have to have answer? It's at the staff level, therefore, occupancy is not going to come before the commission or before the city council?

Chief Keegan: It's an administrative function through our staff.

Ald. Lewis: I see what you're saying but I had a wonderful meeting with several of the fire department guys and Bob Vann and once this license is granted, and if he doesn't get this done this year, does it just linger out there year after year until he finally gets his permits?

Chrmn. Rogina: Or to a question that Ald. Payleitner asked me off-line, he/she decides they're going to change things, I got my license, I'm going change things and it's not going to be a restaurant now; it's going to be a bar. We've learned our lesson on that one, but how does that play into everything. To her question, they have to go through the process again, would they not?

Chief Keegan: That's two parts, for example. If an applicant comes in, such as, Ray's on the west side or Charleston on the River or even McNally's group; folks like that who are restaurant owners and have a proven track record – they've done it before; they might have the overhead

and the know-how to let it float a couple of months where they obtained a liquor license and with the buildout process it's going to take a couple of months.

Fast forward to Title House, those proprietors are first time operators that didn't have the capital or maybe didn't want to invest in the risk, so they wanted to come here first. You are going to see different folks with different business models, and different ideas and experience sometimes; but the fact remains the same whether it's Title House who comes in first before they even seek a building permit or maybe Ray's where they wait out a couple of months. They're still going to have to go through that vetting process because there's going to be some sort of buildout/permit.

What I worry about are folks that come in and don't change anything and it's status quo and we sit on it – that's a red flag. If someone comes in and there's nothing really to do with a permit or what we're talking about tonight, before Tina actually issues that license, we're going out to give it one more look and have one more set of eyes on it to make sure it matches.

Chuck: It's fair to say that each liquor license is contingent upon them satisfying your requests regardless of what the City Council may do or our recommendations may be?

Chief Schelstreet: For new businesses I would say that's a certainty for construction because we have an in-depth process. I agree with Chief Keegan, we do not have a business license in St. Charles. That would be something that causes me concern, for example I will use someone who is a non-liquor establishment. We do fire inspections with every business in town every year. Last year it was hobby shop and this year it's a body shop. We go on calls for owner investigations and when did the body shop move in. There are possibilities for certain issues as Chief Keegan described to arise.

Mark Koenen: A comment on Ald. Lewis' question regarding the timeline and duration that a permit is valid for when someone comes in to get a license but they have to do a buildout? If the Liquor Commission supported by Government Operations and City Council says yes we'll give you a liquor license contingent on some buildout; that's a license with a finite period. All licenses expire in St. Charles at the end of our fiscal year April 30. So if you give that approval now, before April 30, there is a vetting process that goes with license extensions.

Ald. Lewis: So if it's granted now and it's not open by May 1, he has to start the process over?

Mark: They would have to reapply.

Chief Keegan: They need to also make a decision with their business plan. Do they want to proceed with their license now in January/February knowing it's going to be renewed at the full price at May 1 – we don't pro-rate our licenses. So if someone is going to be building out for the next 2-3 months and are not going to be turn-key ready, we've had that discussion with a couple of applicants, as of late, where come April 30 your license expires and you have to renew again. So, do you want us to push you along and open for two months knowing you have to renew your license and go through the whole process two months down the road. Is that fair to say Tina?

Tina: Yes, with the caveat that we do not pro-rate our licenses but anyone who comes in after the second half of our fiscal year (October 31) we don't double the license fee as we do for all first time liquor applicants. In that case we charge them the standard license fee for instance \$1200 vs. \$2400 because six months later they will renew their license for a new fiscal year at the price of \$1200. They get a break, per se, but in essence the double fee is collected because of the turnaround of the renewal period after they have first applied.

Chrmn. Rogina: If it's below 6 months the fee is always double the number. I have one more question. We recommend the license and Council grants the license whether they open up or not. There's another process with the State of Illinois after we've given them the paperwork here locally.

Chief Keegan: This body precedes over three licenses: massage, tobacco, alcohol. Massage and tobacco runs in reverse. The folks are granted a state tobacco license first. They come in to the City to get a license through our vetting process and the same thing with a massage license. You have to be a masseuse through the Illinois Department of Professional Regulations first in order to get a massage site license here in St. Charles. Alcohol related you have to have a local license first, so it's a completely different process. Once you get that local license issued from us, you have proof of that license and take it down to the Thompson Center to get a state license. Some municipalities run fiscal, others run calendar year. They have to show a hard copy of the City's license, so the vetting and application process is very important.

To get back on task, the first page is what Tina passes out to the applicant on the front end (checks and balance system). The page regarding the background checklist; here's my role in what happens from the Police Department. My officers/staff look at the material from the applicant. If there are any questions with any common code language or with their business plan, I work hand-in-hand with Mark and Tina and get that ironed out in advance. We look at their background, paperwork, BASSET, lease, site plan – we make sure they have the character, ability, and knowledge to be a responsible license holder in the City. As far as anything with code of what they can do in the building itself, fire depression systems, exhaust hood, anything with egress/ingress – the Fire Department does those calculation loads on what the maximum amount of folks are allowed in the establishment. Police does not do that. I make sure they meet our code as far as their ability to possess a license. If I have questions I ask counsel, Mark is a good resource, but oftentimes once that license is vetted through the Liquor Commission and onto committee/council, the backend stuff is done by the city departments. We have a lot acronyms here that might appear foreign to you, but they are checks and balances to make sure everything is in order. We not only look at criminal character, it goes beyond the fingerprints. They have to sign waivers to make sure they are who they say they are. We just don't rely on the name and we query every database we can to ensure their credibility is beyond reproach.

Ald. Payleitner: Tell us more about the Illinois State process?

Chief Keegan: Once in a while we have a state violation, such as, if they come in and their lines aren't sanitized for their tappers, or mixing spirits, or were sited under a state violation, we want

to make sure that besides having another establishment in another community, we also check with the state.

Robert: What does the acronym TLO stand for?

Chief Keegan: That's the Terrorism Liaison Office – just making sure that's there's no outstanding issues. I-CLEAR is a state database run by the City of Chicago and State Police and it's a fingerprint database for criminal history.

Ald. Lewis: You fingerprint managers, is that difficult to keep track of? I would think they go through managers frequently; so do they just send their new manager over?

Tina: My corporate license holders are very good about doing that as they have a licensing department; the stand-alone licensees not so much. At renewal time when I get the applications, I will cross check names on the application to see if they are different. Also when I send out the renewal applications, I do mention that any new managers in their establishments need to come in to be printed and I catch them that way as well.

Chief Keegan: Mr. Lee Roupus was here today from Illinois Liquor Commission and revisited some guidelines to the group that attended. We talk about fingerprinting of managers and we now have a new automated process called LiveScan where prints are done digitally and sent electronically to State Police – it cuts down on response time. There's a lot of work that goes into doing a background of vetting tobacco, massage, alcohol, not to mention some of the behind scenes administrative tasks – it's cumbersome but we do it for a reason to make sure we have good businesses in town.

Chrmn. Rogina: I did step into this meeting today for a while and I think we are developing a strong relationship with our licensees thanks to both the chiefs here and their staff. Moving forward we are in a very good position.

Ald. Lewis: Do I have to recertify myself? I got my BASSET training last year.

Chief Keegan: BASSET was never a state requirement until this coming year. It starts July 1 2016 and the enforcement period starts January 1, 2017. They are now only good for three years where before it was a lifetime certification. Cook county is the only county that has made it mandatory, Kane has not as of yet, but St. Charles has always made it mandatory and we expanded it to include those that oversee alcohol service, those that pour and deliver it. If you touch it or see it, we want you BASSET certified.

Chief Schelstreet: Ald. Payleitner had brought up the floorplan on how many tables and that's important to us because of how occupancy loads are determined. Is it going to be fixed seating meaning booths or moveable seating – cocktail tables with chairs? That will drive how many people can be on the floor. Once we determine how many people are acceptable based on that calculation we then look at the existing exits if they can handle that load. Now for the building in questions, we're not only going to look at the doors that get out of the specific club but also

look at the stairwells because we now have to add in the flow coming off the balcony – they're going down and then you have the flow coming out of the main entrance. We're going to check all of that to make sure that those exit ways can handle it, they're wide enough, they have the proper ratings. That's what went back to Mr. Onesti – good drawings showing dimensions for the space, all ratings are maintained including ratings on the stairwell doors. We do recognize the age of the building and its previous uses. Sometimes that can be a benefit as in the sprinkler protection was installed when the dance group was up there and sometimes because the age of the building we do need to call for additional detail. The pace that this moves is up to the business owner. We'll review whatever they give us expeditiously as possible; however we need you to submit the plans.

Chrmn. Rogina: We can issue a license contingent upon meeting building code, liquor code, any city ordinance so that at the end of the day we can give the nod to someone and say we can give you a license but you got a mountain to climb here.

Chief Schelstreet: As we started the discussion, one of the things that Tina does look for is the certificate of occupancy when applicable.

We are happy to take any elected official or committee member and escort them through any facility that they have questions about. It's a 100% transparent process and we're more than happy to show it to you and answer any questions about process or code.

Bob Gehm: We recommend the approval of a liquor license but they have a mountain to climb because they need occupancy to open and also need a state license; so in order for them to open they need all three of these items to be in good standing before they can serve one drop of alcohol.

Chief Keegan: We require both state and city license to be posted at all times.

Ald. Lewis: For the state license they can apply for a state license now and apply for a license now?

Chief Keegan: They can.

Ald. Lewis: So they got both licenses without anything every being...

Tina: On rare occasions a new business will want to fast track to get their licenses in order to be ready to open up when the time arrives and they need proof of a city license to submit to state. I will make a stamped copied license to give to them to help assist them to get their state license processed, but they can't open until I give them their original license that has a City seal on it.

Ald. Lewis: What about temporary occupancy – can they get their license for that?

Chief Schelstreet: Temporary occupancy is for stocking, e.g., a liquor store, we can issue a temporary occupancy so they can put their items on the shelf but not to let the public in.

Atty. McGuirk: They can only get the premise ready – not entertain the public.

Chief Schelstreet: Generally they are waiting for finishing tasks to be complete like exit lights to be installed, fire extinguishers to be hung, uncomplicated things. All of the life safety issues would already be resolved.

Tina: I would like clarification when I say site plans on my check points, I am just getting a drawing of the seating, table, bar structure, a.k.a. seating diagram. I receive some plans done up professionally while others could be sketched on a napkin.

Ald. Payleitner: As long as the information is on there and attached to the license that I can refer back to – I'm good with that. There's no reason for them to go the added expense.

Chief Keegan: Some have asked me whether you need to be a St. Charles resident or not. Our code states they need to be a resident or be an LLC (Limited Liability Corporation) and that is done through the Secretary of State's office through Articles of Corporation. Anyone who has a business especially with Dram Shop insurance, you are not going to want your house or assets to be held in peril, so most of our applicants do not reside in St. Charles and that is allowed in our code as long as they're an LLC or corporation.

Ald. Lewis: I've learned through this process of applying for these liquor licenses with our staff, that they all want to open them up yesterday. I feel it takes a great amount of time from staff to do what the applicant is asking for, they jump through hoops and run circles to try and get it all done; then it sits there. I'm concerned about this "rush" process. It seems everything that's coming before us is it has to be done next week. I don't know if it's fair to staff to put that rush through on all these liquor licenses. There is a process and a reason for the process and it's reasonable. I don't know how we address this urgency to them always having to open up yesterday.

Chief Schelstreet: I respond to this as the exact situation we have across the street. The business owner drives the speed of the process. Both departments live and die by customer service. We try to do the absolute best we can and do what we need to do; however, if we have more plans to review than that's where it stops.

Chrmn. Rogina: At the end of the day you have a raised a good point. It's a great balancing act between allowing the free market to work and the resident's demand for their community to provide safety and regulations so that everything is running smoothly. So whose caught in the middle here? Staff and elected officials and that's the way it is. Your point is on target but it's a great balancing act in trying to find the appropriate amount of regulation and at the end of the day not to be accused of not being business friendly.

7. Other Business

8. Public Comments – none.

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

10. Adjournment

Motion to adjourn by Mr. Gehm, second by Ald. Lewis at 5:21 p.m.

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