



City of Naperville

400 S. Eagle Street
Naperville, IL 60540

Meeting Minutes

Liquor Commission

Thursday, August 9, 2018

3:00 PM

Council Chambers

A. CALL TO ORDER:

Mayor Chirico called the meeting to order at 3:00pm.

B. ROLL CALL:

Present 9 - Marc Blackman, Mayor Steve Chirico, Pam Davis, Charles Maher, Paul O'Toole, Whitney Robbins, Mitch Stauffer, Joe Vozar, and Scott Wehrli

Absent 1 - Kimberly White

C. PUBLIC FORUM:

There was no one to speak under Public Forum.

D. OLD BUSINESS:

1. Consider VR 360's request to expand the Class M liquor license cap and direct staff accordingly.

Marcus Beam was present to request the increase in the Class M liquor license cap. Mayor Chirico stated that Marcus had been before this commission before but was directed to go through the Planning and Zoning Commission to make sure that his business could be located on a first floor space in downtown Naperville. Seeking that permission, he is here now to request the increase in the cap for the Class M Liquor License.

Marcus stated that the slogan for his business is "Drink, Laugh, Play". The average customers are males between the ages of 21 - 45. They also appeal to families and teenagers. A patron's visit is from one hour to an hour and a half.

They will offer non alcoholic drinks, beer and wine. Everything will be served in bottles or cans. Technology will be used to monitor alcoholic sales. The patron has to go to the bar to buy drinks.

Commissioner Stauffer asked if all of the staff would be BASSET trained and they will be.

It's a gaming center that offers liquor.

The license would be a Class M - Recreation. There is no limit on the number of servings.

The Downtown Naperville Alliance supports this business.

Commissioner Maher moved to increase the Class M liquor license by one, seconded by Commissioner Davis.

Aye: 8 - Blackman, Davis, Maher, O'Toole, Robbins, Stauffer, Vozar, and Wehrli

Excused: 1 - Mayor Chirico

Absent: 1 - White

2. Consider proposed amendment to the Class G liquor license.

Jennifer Lutzke, Senior Assistant City Attorney, stated that the proposed amendments to the Class G License was based on the discussion we had after Pride was approved to receive a Class G license. The amendment cleans up the language and defines what we mean by square footage. It now says square feet of gross building floor area. The word Shopping Center was also added. The cap will be reduced from 6 to 4.

Commissioner Vozar moved to approve the revised Class G amendment as presented, seconded by Commissioner O'Toole.

Aye: 8 - Blackman, Davis, Maher, O'Toole, Robbins, Stauffer, Vozar, and Wehrli

Excused: 1 - Mayor Chirico

Absent: 1 - White

3. Discussion related to the retail sale of CBD (Cabbabidiol) and Kratom in Downtown Naperville

David Palatnik, owner of CBD/Kratom, handed out information about his business. He will be preceding with out Kratom. He has been in discussion with Jennifer Lutzke, Senior Assistant City Attorney, to make sure that the products he will be selling do not contain cannabis. He will email a letter from his attorney about his products. He will be selling CBD oil, CBD edibles, CBD lotions, CBD water, CBD Tea, CBD coffee, and CBD smoothie packets.

Mayor Chirico asked if the products contain THC and there are traces of THC but they are below the legal limit. The legal limit is 0.3%.

Commissioner O'Toole asked if any of the products he sells are addictive? Not to his knowledge.

There is CBD in hemp oil.

CBD is used for pain, nausea, anxiety and sleeplessness.

In order to prohibit Kratom, we would need a text amendment to our ordinance.

Currently, the city's code has a definition of cannabis. CBD does not fit in that definition. To prohibit CBD, there would need to be a text amendment to the ordinance. The text amendment would be applicable to all CBD products that are currently being sold.

He is opening at 22 E. Chicago next to Bar Louie.

Colin Dalough, Director of Government Affairs and Business Development for the Naperville Area Chamber of Commerce, stated that they do not want to speak to the specific permit or applications before you but to the policy of whether or not the City of Naperville should allow the sale of Kratom or CBD. Regarding Kratom, it is an opioid like substance or it is an opioid. He sees no reason why the City of Naperville should allow Kratom to be sold within the City boundaries. The Chamber would be opposed to Kratom categorically. Separate from that is the question of CBD. He agrees that there is confusion on what CBD is. He stated that there are state bills that may affect this and they are in front of the Governor for signatures. The Chamber stands ready to help with research. The Chamber has members that are interested in selling CBD but are interested in having a clear statement from the Liquor Commission and the City Council on what is legal and what is not legal, so they may operate within the laws of the City of Naperville.

Currently the City ordinance is identical with the State ordinance concerning cannabis.

Commissioner Blackman moved to table this topic pending legal interpretation of CBD and reserch information about the differences between Hemp oil and CBD oil and the implications and direct staff to bring back a revised ordinance language or clarification, seconded by Commissioner Vozar.

Aye: 8 - Blackman, Davis, Maher, O'Toole, Robbins, Stauffer, Vozar, and Wehrli

Excused: 1 - Mayor Chirico

Absent: 1 - White

Commissioner Vozar moved to direct staff to develop an amendment to the ordinance to restrict the sale of Kratom in the City of Naperville, seconded by Commissioner Robbins.

Aye: 8 - Blackman, Davis, Maher, O'Toole, Robbins, Stauffer, Vozar, and Wehrli

Excused: 1 - Mayor Chirico

Absent: 1 - White

4. Discussion Related to the Delivery of Alcohol

Jennifer Lutzke, Senior Assistant City Attorney, stated that at the last Liquor Commission Meeting, Miss Kitty's requested being able to deliver alcohol within the City of Naperville. The state law currently allows for the delivery of alcohol as long as it is not prohibited by the local municipality and there is confirmation that the person purchasing it is twenty-one (21) years old or older. At the last Liquor Commission Meeting, Ms. Lutzke was directed to put language into the ordinance that concerns the delivery of liquor within the City of Naperville. The proposed amendment requires the following:

Alcoholic liquor must be delivered by an employee of a liquor license holder who is twenty-one (21) years of age or older. Deliveries must be during prescribed hours that are set forth in the ordinance for liquor license holders to be open.

The employee that transports alcoholic liquor within the City must get a signature from the purchaser who must be twenty-one (21) years of age or older. Government issued identification establishing proof of age must be produced to the delivering employee. A record shall be kept by the liquor license holder who delivers alcoholic liquor within the City indicating the purchaser's name, address, driver's license/state identification number, time, date and place of delivery and the individual employees identity. All employees of liquor license holders delivering alcoholic liquor within the City shall meet the BASSET requirements of our ordinance. The delivery of alcoholic liquor is limited to alcoholic liquor by the package for off premise consumption. Any liquor license holder delivering alcohol must have a valid liquor license that authorizes the sale of alcoholic liquor by the package for off premises consumption.

Commissioner Blackman asked Detective Riggs what his thoughts were on this. It hasn't shown itself to be a problem. Detective Riggs likes the idea that there is training involved. The State doesn't require BASSET training for delivery.

Currently Instacart does delivery of alcohol.

Commissioner O'Toole feels that the first point, Alcoholic liquor must be delivered by an employee of a liquor license holder is over kill. He feels a lot of these points are over kill. The systems working and it's legal in the state.

Commissioner Stauffer questioned the BASSET training requirement. Requiring the delivery service to keep a copy of the drivers license, time and date of delivery, feels like we are building a bureacracy that exceeds the social good it creates. He asked Detective Riggs if BASSET training was just about checking ID's? No, it's a significant part of the class, but they discuss fake ID's and things to look for.

Jennifer Lutzke clarified that this ordinance is only for Naperville current liquor license holders. It would not apply to those apps that you were referring too. It's a mechanism for our liquor license holders to be able to compete with those

businesses that are offering it. We wouldn't be able to regulate Instacart since they are not a liquor license holder of the city.

Commissioner Robbins asked if Miss Kitty's was the only liquor licensee that has requested this. They are.

Include in the ordinance that payment must be made at time of purchase on line.

Commissioner Stauffer would like to strike 11.5 in the ordinance.

Jennifer Lutzke clarified that this is only for licensees who have an off premise license.

Commissioner Stauffer moved to make a recommendation to City Council to change this ordinance to allow alcohol delivery service, striking 11.5 and adding payment in advance on line to be in compliance with the Illinois statute, seconded by Commissioner Robbins.

Aye: 8 - Blackman, Davis, Maher, O'Toole, Robbins, Stauffer, Vozar, and Wehrli

Excused: 1 - Mayor Chirico

Absent: 1 - White

E. NEW BUSINESS:

1. Consider Noon Whistle Brewing's request to expand the Class P liquor license cap and direct staff accordingly.

Mike Condon, Noon Whistle Brewing Company, presented information about his business. They are a small production brewery with a tasting room in Lombard. They opened in 2014. They have outgrown their space. They are looking for a second location to be a production facility. They are looking for a building with 30,000 sq. ft with 20 ft ceilings. There will not be a kitchen. In looking at space in Naperville, there maybe some parking challenges.

Commissioner Vozar wanted him to be aware of the current Naperville ordinance with the restrictions on servings. He is aware and would be interested in discussing possible changes in the future on the serving limits. At this time, there is a three drink limit.

Commissioner Vozar moved to give an indication to the petitioner that the Commission, after the location is chosen, would be willing to support increasing the cap on the Class P license by one, seconded by Commissioner Blackman.

Aye: 8 - Blackman, Davis, Maher, O'Toole, Robbins, Stauffer, Vozar, and Wehrli

Excused: 1 - Mayor Chirico

Absent: 1 - White

F. REPORTS:

1. Approval of June 7, 2018 Liquor Commission Meeting Minutes

A motion was made by Commissioner Maher, seconded by Commissioner O'Toole to approve the June 7, 2018 meeting minutes.

Aye: 8 - Blackman, Davis, Maher, O'Toole, Robbins, Stauffer, Vozar, and Wehrli

Excused: 1 - Mayor Chirico

Absent: 1 - White

2. Restaurant Association Report - Jeffries

Christine Jeffries, NDP, reported there are new restaurants - Che Figata, Vai's and Midici's.

Sales tax numbers are in for 2017. From 2016 - 2017 on food and beverage, we went up 5.3%. In 2008, the total retail sales for food and dining was \$268 million. Last year, it was \$405 million.

Naperville has the highest gross retail sales outside of the City of Chicago. In the category of food and dining, Naperville is number one outside of the City of Chicago.

A new business coming in is Whirly Ball next to Top Golf.

Dine Naperville is working with Loaves & Fishes on a program called "Dollar Up, Hunger Down".

3. BASSET- Employee Training Statistics - Riggs

Detective Riggs reported that since the June meeting we have had 173 people attend BASSET class with 16 no shows.

4. Tobacco Enforcement Review - Riggs

Detective Riggs reported that the next grant has been completed and approved but the State is waiting for Tobacco 21 to be signed by the Governor before starting any inspections.

5. Liquor Report - Riggs

Detective Riggs reported that in June 2017 there were 12 DUI's and in June 2018 there were 9 DUI's. In July 2017 and July 2018 there were 19 DUI's.

6. Liquor Concept Committee Update - Trotz

Trotz reported the following Liquor Concepts:

July 19, 2018

Last Fling - requested to serve a 22 ounce plastic stein of Oktoberfest beer.

Mayor Chirico approved this request.

Miss Kitty's - he is looking to expanding his business to the space next door.

This was approved by Mayor Chirico.

G. EXECUTIVE SESSION:

Commissioner Maher moved to table Executive Session until the September meeting, seconded by Commissioner Vozar. Motion was approved unanimously.

H. ADJOURNMENT:

Commissioner Blackman moved to adjourn the meeting at 4:51pm, seconded by Commissioner Vozar. Motion was approved unanimously.

/S/ Emy Trotz
Emy Trotz
Executive Assistatn/Mayor