



City of Naperville

400 S. Eagle Street
Naperville, IL 60540

Meeting Minutes

Liquor Commission

Thursday, February 7, 2019

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, Joe Vozar, Scott Wehrli, and Kimberly White

Absent 1 - Mitch Stauffer

C. PUBLIC FORUM:

There was no one present to speak under Public Forum.

Commissioner Vozar moved to close the Public Forum, seconded by Commissioner White.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Stauffer

D. OLD BUSINESS:

Consider allowing cash beverage sales for Special and Temporary Permits

Sergeant Dan Fisher reported that the Police Department drafted a letter of recommendation. In summary, ticket sales were put into affect fifteen years ago to eliminate internal theft. The Police Department would like to continue with the use of tickets for purchase of beer and wine. Last year, Ribfest used the RFID bracelets and that worked fine. Festivals using a bonded company that is working as an agent of the festival also works.

Mayor Chirico stated that we will come up with a recommendation that will go into the Rules. This does not have to go to Council for approval.

Commissioner Vozar moved to adopt a change to the Rules that requires large scale events (2000 attendees) ticket sales to be amended to include other forms that are acceptable non cash or cash controlled procedures that meet the Mayor's approval, seconded by Commissioner O'Toole.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Stauffer

E. NEW BUSINESS:

Consider Balboa's Cheesesteaks' request for a BYOB liquor license.

Rob Toner and Karen Lavere, owners of Balboa's Cheesesteak, are asking for the ability to have a BYOB liquor license. Customers would come in and bring in limited amount of alcohol. They would open it for them. They would only allow this until 11pm seven days a week. They will card everyone who comes in. Beer would be limited to 3 and wine by the bottle for two people. Everyone would be BASSET trained. They have security cameras.

Mayor Chirico asked if the Chamber had given an opinion on this item. Emy Trotz, Executive Assistant/Mayor, stated that Colin Dalough couldn't attend but wanted to report that their members have discussed it. There are a few members where this wouldn't pertain to them and they don't have any view on it but there are several members that still want to discuss it. They aren't in favor of it but would like to continue to discuss it.

Commissioner Davis asked if there are other establishments that have this type of license. Mayor Chirico responded that we do not and we do not have a BYOB license, one would have to be created. This commission does not have the authority to do that on its own. We would have to go to City Council for their approval.

Commissioner Blackman asked if they have a liquor license. No, they do not. They qualify for a Class A license but they are very small and don't have the room for storage.

Commissioner Blackman asked the Commissioners if other communities allow you to bring in your own wine. Detective Riggs responded that Naperville has this. It is called Corkage and is available for those who hold a Class B liquor license.

Commissioner Vozar asked if the State of Illinois had a BYOB license. Jennifer Lutzke, Senior Assistant City Attorney, responded that the State of Illinois doesn't require a license for BYOB. Other municipalities have specific licenses for BYOB. Our code now doesn't specifically address BYOB. Her recommendation would be to vote to allow a BYOB liquor license or specifically prohibit it in the code. We would make a recommendation to City Council to prohibit it and add a text amendment to the code. Her recommendation at the end of this discussion would be to make a recommendation to allow for a BYOB liquor license or provide specific language in the code prohibiting BYOB.

Commissioner Wehrli stated that we had a BYOB liquor license years ago prior to the rewrite of the entire liquor code. The reason it was eliminated was that we went a couple of years without a BYOB license.

Commissioner Robbins asked how they will manage if someone doesn't drink all of the beer and wine. They will only be allowed to bring in 3 beers and they will look into the packaging of the wine.

Commissioner O'Toole asked what would happen if someone came from Bar Louie and brought a beer. It has already happened. They take the drink away and call Bar Louie to let them know they have their glass.

Detective Riggs asked if they will be serving the drinks. They do not have servers. When they come in to order the food, they would be asked if they are drinking and what they will be drinking. They will open it for them. Detective Riggs replied that this is different from corkage. With corkage, the server takes the bottle of wine and serves it to the customer.

Commissioner Blackman asked who is responsible if someone shows up intoxicated and they have a beer in your establishment and something happens, who is responsible. Jennifer Lutzke responded that they would have to have Dram Shop Insurance. Then if something happens, they would be covered by the insurance.

Commissioner Davis asked if they could go ahead and do BYOB now. Jennifer Lutzke stated that is an unclear area, it is not specifically prohibited in the code. Her recommendation is if we do not create a classification for BYOB we should specifically prohibit it in the code.

Commissioner Vozar stated that some municipalities have enforced public drinking as a means to control this. The language was silent but it was not legal in a public place to consume alcohol.

Commissioner White asked how would they handle if someone came to their place, went to Bar Louie and then came back to their place. They haven't thought about this. They could limit it to 3 beers a day. Commissioner White asked how many seats were in their restaurant. There are 16 seats in their restaurant.

Commissioner Vozar feels Class A license works and they should try to make that work. He will be recommending a Class A.

Mayor Chirico stated that we talk about the proliferation of licenses. We should consider if this license is approved, how it will be used or misused.

Commissioner Davis is in favor of the BYOB with proper training.

Commissioner O'Toole if they would be open to reducing the number of beers to 2 and they would be open to that.

Jennifer Lutzke clarified that Corkage has been omitted from the code. This will be cleared up since Class B licenses are still doing it.

Commissioner Robbins mentioned that she travels to New Jersey and she has done BYOB. She sees their vision and gets it.

Mayor Chirico said there is some work to be done. We need to clarify corkage.

Detective Riggs added that the restaurants that do have corkage charge a fee for it. When they are serving the wine, they are being served under that establishments liquor license and their insurance.

Mayor Chirico asked if you could bring in beer too. Corkage is just for wine.

Commissioner Blackman stated that the traditional way is for wine but there are craft beers that people might want to bring in and technically should be allowed to. There would be a fee for corkage.

Mayor Chirico stated that we ask staff to bring back for discussion: a BYOB Class, clean up recommendations on Corkage, and clean up recommendation on the ability to bring in beer and wine to Class A & B.

Commissioner Vozar moved to direct staff to bring back a proposed draft for a BYOB license and amend the code for Corkage across the licenses. Included in these drafts are history on BYOB and Corkage, seconded by Commissioner Maher.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Stauffer

Commissioner Vozar moved to direct staff to bring back for our next meeting information regarding what other municipalities have done to address both BYOB, Corkage and best practices, seconded by Commissioner O'Toole.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Stauffer

Consider Buzzed Bull Creamery's request for a new liquor license classification

Chip VonLehman, Buzzed Bull Creamery, is looking to bring a Buzzed Bull Creamery franchise to Naperville. They will not serve a drink. The liquor is infused in ice cream, shakes or coffee. They make the ice cream in front of the customer which is flash frozen with liquid nitrogen. He showed a video. They are family friendly.

Mayor Chirico feels the deal breaker would be the coffee. Chip mentioned that The Craftsman serves coffee cocktails. Mayor Chirico feels this will be a challenge. He asked how much alcohol would be in the ice cream. There would be 1 1/2 oz - 3 oz of alcohol in the ice cream.

Commissioner Wehrli stated that Craftsman has a Class B liquor license. We have had someone in the past come in, ask for this same thing and was

denied. They then made changes and got a Class A license. There is a precedent.

Commissioner Davis thinks the concept is good. She doesn't feel that was done in the past has to regulate what we do in the future.

Commissioner White asked if there could be a cap put on this license. Yes, there could be a cap.

Commissioner Vozar stated that we have gone through this with Starbucks. He would encourage them to become a restaurant.

Mayor Chirico asked if the coffee was a significant part of the concept? Chip replied if it came between having the concept here and not serving liquor in the coffee and not having the concept here at all, he would look at not serving liquor in the coffee.

Commissioner Davis does not want to limit him on what he can serve.

Commissioner Maher sees this being different from Starbuck's request . They were asking to sell beer and wine. He would like to be more open for discussion.

The coffee drink has an ice cream base. It is not just coffee with alcohol in it.

Commissioner Wehrli asked how they keep the people in the store. They would use a different colored cup for the ice cream with liquor or serve it in a glass dish.

Commissioner Blackman asked if someone had a Class C - Tavern where food is not required, would they be able to bring in nitrogen ice cream and have this concept? Yes but Class C's are capped. A license with infused food could be created.

Jennifer Lutzke clarified that they are looking in the downtown area and there is a prohibition of package stores in the downtown .

Commissioner Maher asked if they would be open to put a restaurant in their establishment that would allow you to do both? Their preference is not to do that.

Commissioner Robbins asked about the name Buzzed. It is the name of the Franchise.

Commissioner Davis moved to direct staff to establish a class of license that includes liquid nitrogen with a cap of one, seconded by Commissioner Maher.

Aye: 6 - Blackman, Davis, Maher, O'Toole, Robbins, and White

Nay: 2 - Vozar, and Wehrli

Excused: 1 - Mayor Chirico

Absent: 1 - Stauffer

Consider whether Bellissimo Bar meets the requirements for a liquor license

Commissioner Maher moved to take no action and direct staff to put this item on the agenda when the petitioner is ready to do so, seconded by Commissioner O'Toole.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Stauffer

F. REPORTS:

Approval of January 3, 2019 Liquor Commission Meeting Minutes

A motion was made by Commissioner Maher, seconded by Commissioner O'Toole to approve the January 3, 2019 meeting minutes.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Stauffer

1. Restaurant Association Report - Jeffries

No report.

2. BASSET- Employee Training Statistics - Riggs

Detective Riggs reported that in January, 86 people attended BASSET training with 10 no shows.

3. Tobacco Enforcement Review - Riggs

Detective Riggs reported that he did a round of compliance checks and out of the seventy checked there were three that didn't pass. There were two gas stations and one convenient store.

Mayor Chirico would like this discussed in the BASSET classes.

4. Liquor Report - Riggs

Detective Riggs reported that in January 2018 there were 15 DUI's and in January 2019 there were 16 DUI's.

5. Liquor Concept Committee Update - Trotz

Trotz reported the following Liquor Concepts
January 17, 2019

UMAI AJI-YA (formerly Boraan's)
Rt. 59/ North Aurora Rd.
Class A

Godavari
Class B
Located next to the Patel's Grocery Store

Balboa's
They presented today.

Country Inn & Suites is changing to a Holiday Inn Express
They will no longer have a bar and will sell from their mini market.

There was a special meeting for Seoul Taco on Washington Street where
Halsted Deli was located.
They will be a Class A.

Buzzed Bull Creamery came in.

A couple of restaurants that came in and I talked to the Mayor about because
they were existing restaurants.
Mapo on Naperville Wheaton Road. Class B
Wamas 3124 S. Rt. 59 Class A

G. EXECUTIVE SESSION:

H. ADJOURNMENT:

Commissioner Maher moved to adjourn the meeting at 4:20 pm, seconded by
Commissioner O'Toole. Motion was approved unanimously.

/S/ Emy Trotz
Emy Trotz
Executive Assistant/Mayor