



City of Naperville

400 S. Eagle Street
Naperville, IL 60540

Meeting Minutes

Liquor Commission

Thursday, November 8, 2018

3:00 PM

Council Chambers

A. CALL TO ORDER:

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

B. ROLL CALL:

Present 8 - Marc Blackman, Mayor Steve Chirico, Pam Davis, Charles Maher, Paul O'Toole, Whitney Robbins, Scott Wehrli, and Kimberly White

Absent 2 - Mitch Stauffer, and Joe Vozar

C. PUBLIC FORUM:

There was no one to speak under Public Forum.

D. OLD BUSINESS:

Council Update - Class P & S amendments

Jennifer Lutzke, Senior Assistant City Attorney, stated that at last night's City Council meeting, the City Council approved the recommended amendments to the Class P & S liquor licenses. This will remove the serving limitations for Solemn Oath Brewery. We did add an additional requirement that 75% of what they offer for sale has to be their own labeled product. We offered clarification on the Market Event Permit, which was increased to twelve (12) per year. We added language stating that they have to pay a fee for each Marketing Event Permit. The Class S increase from 12oz to 18oz passed City Council. These changes are for all businesses under the Class P and Class S. This agenda item passed 8 - 1.

E. NEW BUSINESS:

Consider Bombay Chopsticks and Whirly Ball's request to increase the cap in Late Night Permits located outside of Downtown.

Jagmohan Jayara and Joel Lipman were present to request a Late Night Permit for Bombay Chopsticks. This is an Indian Chinese Restaurant. This is their second restaurant of this concept. The other restaurant is in Hoffman Estates. They don't serve beef or pork.

They feel they need a Late Night Permit because Indian people like to eat late. It will only be for Friday and Saturdays. The other days they close at 10pm.

They are applying for a Class B Restaurant/Tavern. They will not have an Entertainment Permit.

Late Night is capped at 41 for out of downtown.

He owns 5 restaurants. He has not had any violations.

Commissioner Maher asked how many late night permits are there in that geographical area. There aren't very many.

Mayor Chirico spoke on behalf of Whirly Ball who were unable to attend the meeting. They are also requesting a Late Night Permit. They are located near Top Golf.

Mayor Chirico asked if there are any additional restaurants coming that would need a Late Night Permit. We do not know of any who are coming at this time.

Commissioner Blackman moved to approve both requests and raise the Late Night cap by 2, seconded by Commissioner Davis.

Aye: 7 - Blackman, Davis, Maher, O'Toole, Robbins, Wehrli, and White

Excused: 1 - Mayor Chirico

Absent: 2 - Stauffer, and Vozar

Consider Urban Air Adventure Park's request to increase the Class M - Recreational license cap and direct staff accordingly.

Len Monson was present representing Urban Air, LLC requesting a Class M license. The location is on Rt. 59, the former Baby's R Us space. The building is 73,000 sq. ft of which 51,000 sq. ft. will be used as an indoor adventure park which includes a trampoline, a ropes course, indoor zip line, virtual reality feature, rock climbing walls, dodge ball, basketball area and a go-cart track. 70% of their customers are under 16 years old. They have a lot of birthday parties. They will have a cafe with a convection kitchen serving pizzas, hotdogs, and chicken tenders. The cafe will be about 30ft by 40ft. The beer and wine is for the parents of their customers. Business hours are Monday, Tuesday and Thursday 3pm - 8pm, Wednesday and Sunday 10am - 8pm, Friday and Saturday 10am - 11pm. The Urban Air concept is a franchise and has been in business since 2010 or 2011. Currently there are over 200 sites in the United States. Urban Air has special procedures for the serving of alcohol. If someone purchases alcohol, then they can no longer take part in any of the activities. No alcohol is allowed near any of the attractions.

Commissioner Blackman asked for an explanation on the location of where the alcohol would be served. Mr. Monson showed on a diagram the location of the alcohol. There is a wall that separates the tables in the cafe from the go-cart area.

Commissioner Wehrli asked if the service of liquor was through a customer service bar where the alcohol is being served by servers. It is a customer service bar. The ID check would be at the point of sale. Pitchers of alcohol would not be sold but Mr. Monson could not answer if the alcohol is restricted to the cafe area.

Commissioner Maher asked from the 200 stores, how many served alcohol. Mr. Monson could not answer that question. It is only beer and wine.

Commissioner Blackman asked for the hours when they would be allowed to sell alcohol. Emy Trotz, Executive Assistant to the Mayor, responded that they are allowed to sell alcohol as long as the activity is taking place.

Commissioner White asked for an explanation of the wristbands. Mr. Monson stated that people buy time on the attractions. They receive a wristband that shows that they've paid. There is also a time stamp to designate the period of time they may be on the attractions. When someone purchases a alcoholic beverage, the wristband is cut off.

Commissioner Davis asked if they had a lease on the portion of the building they will be using. They do have a lease and would like to open February 1st.

Commissioner Maher asked if they would open up without alcohol. Mr. Monson couldn't answer that question.

Commissioner Blackman was concerned if this is something that should be considered seeing that 70% of the clientele is under 16 years of age. Mr. Monson stated that this is similar to a Chuckee Cheese.

Commissioner Blackman moved to increase the cap on the Class M license by one, seconded by Commissioner Robins.

Aye: 7 - Blackman, Davis, Maher, O'Toole, Robbins, Wehrli, and White

Excused: 1 - Mayor Chirico

Absent: 2 - Stauffer, and Vozar

Report on the passing of SB 2436 regarding the Liquor Control Act of 1934.

Jennifer Lutzke Senior Assistant City Attorney, stated that on August 2, 2018 Governor Rauner signed a new law that allows the local Liquor Commissioner to grant exemptions with in a 100ft of a church, school or any business with in the 100ft exemption. Each municipality is required to have language in their code that allows for the local Liquor Commissioner to have that authority. In order for Naperville to have our local Liquor Commissioner to have that authority we would need a text amendment to our code.

Mayor Chirico stated that the current liquor code prohibits the licensing of a

business selling alcohol within 100ft of a church, school or daycare. He is not recommending a change in that ordinance. It is a State Law change and he wanted to make everyone aware of that change.

Receive the revised Liquor Commissioner Rules and direct staff accordingly.

Jennifer Lutzke, Senior Assistant City Attorney, stated that she had provided a copy of the revised Liquor Rules which basically modified the current rules. She gave a brief summary of the changes.

Article 1 - Rule One Violations of State Statutes or City Ordinances

This purpose of this Rule is to clarify standards used for violations. This was basically a clean up of language.

Article 2 - Rule Two Procedure for Renewal Application

The purpose of this Rule provides a time line of the schedule for filing renewal applications. The time line for late fees was shortened because renewals will be going on line in the near future. Also removed was that managers, assistant managers and sole proprietors have to be fingerprinted every 5 years.

Article 3 - Rule Three Clarification and Implementation of Certain Sections of Chapter 3

Provides additional information concerning Dram Shop Insurance requirements. Also allows the Liquor Commissioner to issue a liquor license for a probationary period or upon a condition precedent. It also clarifies the definition of an intoxicated person. We did remove language pertaining from this Rule to the observation and enforcement of the regulations for package stores and beer and wine package sales. There was language requiring a partition that was removed. Liquor confinement restrictions are present in section 3-3-12.8 of the code. Removed some redundant language and updated the appropriate citations to the current code.

Article 4 - Rule Four Abandonment and Disuse

This Rule talks about tendering a liquor license to the Liquor Commissioner when a license becomes inactive, someone stops doing business or is terminated without renewal.

Article 5 - Rule Five Employees Age Restrictions

Prohibits anyone under twenty one from serving in a managerial capacity. The title of this Rule was changed from Educational Requirements to Age Restrictions. We also removed the BASSET training requirements because the rewrite moved that language into the code. We also removed the FireWatch Program certification language.

Article 6 - Rule Six

Deleted this Rule. It pertained to Class O liquor licenses and we currently don't have any Class O licenses.

Article 7 - Rule Seven (Six) Procedures Upon Hearings, Discovery and Depositions

This Rule talks about procedures for hearing discovery and depositions. This was moved up to be Rule Six.

Article 8 - Rule Eight (Seven) Procedure for the Sale and Distribution of Alcoholic Beverages Under Special Event and Temporary Permits
This provides restrictions for Special Event and Temporary Permit licensees. We replaced the Class E and Class L language. We deleted the requirement that sale and distribution of alcoholic beverages stop at 9:30pm. The times will be in the license and that's what they need to follow. The beer container restriction was increased to 16 ounces and the wine container restriction was increased to 6 ounces. This was renumbered to Rule Seven.

Article 9 - Rule Nine (Eight) Form of Applications for Licenses and Renewals
It provides information on where applications and renewal forms are available. It also talks about the Police Department Background Investigation forms being part of the application.

Article 10 - Rule Ten (Nine) Residency Requirements
This Rule is regarding clarification of Section 3-3-5.11 of Chapter Three of the Municipal Code. This clarifies the residency requirement.

Article 11 - Rule Eleven
This Rule talks about clarification of the ownership of the licensed premises. This was deleted. The referenced code was not included in the rewrite and we aren't concerned if they own or lease the property.

Article 12 - Rule Twelve
This Rule provided clarification regarding a Class K licensee being exempt from the requirements of a liquor establishment not being located within 100 ft of a church, hospital, home of the aged or indigent person, veterans wives or children. This Rule was deleted.

Article 13 - Rule Thirteen (Ten)
This clarifies what tasting means under the code. Added licenses that were not included and renumbered it.

Commissioner Wehrli stated that Article Twelve was in place for Belgio's Catering which is located near a school.

Jennifer Lutzke replied that in the rewrite of the code under 3-3-12.9 under the location restriction section, Class K is exempted from that requirement.

Commissioner Blackman made a motion that the Commission has received the revised rules and accepts them, seconded by Commissioner White.

Aye: 7 - Blackman, Davis, Maher, O'Toole, Robbins, Wehrli, and White

Excused: 1 - Mayor Chirico

Absent: 2 - Stauffer, and Vozar

Consider allowing cash beverage sales for Special and Temporary Permits.

Detective Dan Riggs wanted to give a history to everyone about the reason that beverage tickets are used for beer sales. It started out several years ago because Ribfest volunteers were taking money. After that it was decided that tickets would be used instead of taking cash. Since going to beverage tickets there haven't been issues of taking money because it's more controlled. This past year with Ribfest, they used the RFID wrist bands. They also took credit cards and cash. We can't say for certainty that no cash was mishandled because it wasn't monitored as closely as it was done before when tickets were in affect. When Detective Riggs learned that this topic was on the agenda, he reached out to Sergeant Dan Fisher who is in charge of Special Events and other high ranking officers to get their opinions. They all agree that tickets are the best method for beverage sales. Ribfest used a bonded company to handle the cash. Smaller organizations wouldn't be able to afford to hire a bonded company to handle the cash sales. The tickets have also been a benefit with last call. Last call at an event means no more ticket sales and it happens before the beer tents are shut down. Sergeant Fisher reiterated that tickets sales is the safer way regarding beverage sales. Detective Riggs added that Christkindle Market uses cameras to monitor their employees.

Commissioner Blackman asked why this topic was in front of the commission. Mayor Chirico stated that several event organizers have come to him because making people stand in line to purchase a ticket and then stand in line to get their drink is not a good experience.

Commissioner O'Toole asked regarding cash sale versus the ticket purchase, if I have tickets remaining and I missed the last call, can I get my money back. Usually, you will not get your money back. That seems to be a problem.

Commissioner Wehrli stated that we could differentiate the large events from small events. It was discussed on what other large events do regarding beverage ticket sales.

Commissioner Wherli stated that maybe we could check into other events and see how they handle beverage sales. We could find some Best Practices. The Liquor companies may even have some suggestions.

Commissioner Davis asked if we could say if you use a bonded company, then you can take cash.

Detective Riggs said that sounded reasonable.

Commissioner Blackman stated that he feel Commissioner Wehrli has a point. We are trying to solve something that we are not the experts. If there are companies or events that are requesting this, then we need to find out what other municipalities have done.

Mayor Chirico directed staff to reach out to other communities and special events in the area to find out how beverage sales are handled.

Commissioner Wehrli stated that it has always been the opinion that tickets reduce over serving. He would like to see information on that.

Commissioner Maher stated that he would like to find out the beverage sizes at these other events.

F. REPORTS:

Approval of September 6, 2018 Liquor Commission meeting minutes.

A motion was made by Commissioner Maher, seconded by Commissioner Davis to approve the September 6, 2018 meeting minutes.

Aye: 7 - Blackman, Davis, Maher, O'Toole, Robbins, Wehrli, and White

Excused: 1 - Mayor Chirico

Absent: 2 - Stauffer, and Vozar

1. Restaurant Association Report - Jeffries

No report.

2. BASSET- Employee Training Statistics - Riggs

Detective Riggs reported that in September we had 114 attend with 25 no shows and in October 116 attended with 22 no shows.

3. Tobacco Enforcement Review - Riggs

Detective Riggs reported that last weekend they did tobacco checks and two businesses sold to under age teens.

4. Liquor Report - Riggs

Detective Riggs reported that in September 2017 there were 25 DUI's and September 2018 there were 19 DUI's.
In October 2017 there were 12 DUI's and in October 2018 there were 17 DUI's.

They did five liquor compliance checks and there were no violations.

5. Liquor Concept Committee Update - Trotz

Trotz reported the following Liquor Concept:
October 18th
Bombay Chopsticks

G. EXECUTIVE SESSION:

H. ADJOURNMENT:

Commissioner Maher moved to adjourn the meeting at 4:07pm, seconded by

Commissioner Robbins. The motion was unanimously approved.

/S/ Emy Trotz
Emy Trotz
Executive Assistant/Mayor