



City of Naperville

400 S. Eagle Street
Naperville, IL 60540

Meeting Minutes

Liquor Commission

Thursday, January 3, 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, Charles Maher, Paul O'Toole, Whitney Robbins, Mitch Stauffer, Joe Vozar, Scott Wehrli, and Kimberly White

Absent 1 - Pam Davis

C. PUBLIC FORUM:

Steve Vukasovic, owner of Balboa's Cheesesteaks, was present to request a BYOB liquor license. Mayor Chirico directed him to attend a Liquor Concept Meeting.

D. OLD BUSINESS:

Discussion related to the retail sale of CBD (Cannabidiol) in Naperville

Jennifer Lutzke, Senior Assistant City Attorney, stated for a brief overview we previously discussed the sale of CBD in downtown Naperville. One of the issues that arose during that discussion was differentiating between Hemp and CBD. Since that time, there has been a 2018 Farm Bill which was Federally passed and signed by the President, which basically removed Hemp from the marijuana definition. Also the State Legislation, the Illinois Industrial Hemp Act removed Industrial Hemp from the definition of marijuana. She is proposing that we mirror the language from the Federal Law by removing Hemp from our definition of marijuana and using the hemp definition used in the new Federal Law. The new definition of Hemp would be excluded from the definition of cannabis in the code, would include the plant Cannabis sativa L. and any part of that plant including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

Mayor Chirico stated that this topic is before the Liquor Commission because a request was made to open a store in downtown Naperville to sell CBD and Kratom. This is only discussing CBD not Kratom.

Commissioner Stauffer questioned if the term should be "limited to" opposed to "includes". Jennifer Lutzke responded that the definition being proposed is

identical to the Federal definition.

Colin Dalough, Director of Government Affairs for the Naperville Area Chamber of Commerce, spoke about CBD. Looking at the language proposed by City Staff, the Chamber is in favor with this change. He asked that this be moved forward.

Commissioner Blackman stated that what we are trying to accomplish is to differentiate between cannabis and hemp. And CBD falls under the hemp. Jennifer Lutzke responded that we want to differentiate between marijuana and hemp.

We may need to do additional clarification on CBD at a later date.

This definition is only protecting people who are possessing this product. It does not pertain to the sale of CBD.

Detective Riggs commented regarding impairment. With legal drugs or illegal drugs, there maybe signs of impairment that may be tested for without doing blood tests.

Commissioner Blackman moved to recommend approval of the language as submitted, seconded by Commissioner O'Toole.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Davis

Consider allowing cash beverage sales for Special and Temporary Permits

Jennifer Lutzke, Senior Assistant City Attorney, stated that at the last Liquor Commission meeting we discussed the sale of beverage tickets at special events. Detective Riggs reported that Emy Trotz reached out to local Mayor's regarding what type of ordinances they have regarding the sale of beverages at local events. The cities did not have any written ordinance that requires beverage tickets at various events. The majority left it up to the vendors. Detective Riggs reached out to vendors of events taking place within the State. Some said they would never go to cash sales and they believe ticket sales have worked for them in the past. Something that was consistent was when volunteers were used, they preferred to go to tickets. This mirrors some of the discussion of the last meeting. There would be a bonded company or a vested member of the organization or employee who would take the cash.

Mayor Chirico stated that this is coming to the commission because we have organizations that want to take cash instead of tickets.

Detective Riggs stated that he reached out to several police officers and that the police prefer tickets when volunteer take money.

Commissioner Vozar asked if there was a question at the last meeting that stated that over consumption could be measured better by using tickets. Detective Riggs responded that during his conversations with other organizations, several of them said that with tickets that was a means in their mind of curtailing the consumption. People had an extra step that they had to go through before they would actually get an alcoholic beverage. A lot thought this slows the process down. Some felt that they may not use all of the beverage tickets which is good for the event.

Commissioner O'Toole said this is not a safety issue but more of a monetary issue and it should be up to the event organizers. Detective Riggs responded that historically, the use of volunteers needed more police presence.

Mayor Chirico stated that this is not an ordinance, it is a Rule.

Commissioner Wehrli stated that when you attend a Mega/large event, you go get your ID checked and get banded, then you purchase the tickets and finally go and redeem the ticket for the beverage. This would reduce the check points.

The City Special Events classifies the Mega events by the number of attendees and City Services.

Commissioner Stauffer would revert to the event organizers to decide how they sell the beverages at special events.

Trotz stated that the Liquor Commission has required ticket sales for beverages for all of the events. Tickets are also used for Fish Frys and they would like to use cash.

Detective Riggs stated that if the Mega events use bonded/insured agents to take cash, he would not have a problem with that. The problem is with volunteers.

Commissioners Stauffer, Vozar and O' Toole would be in favor of removing this rule.

Jennifer Lutzke stated that there is no written rule. This is a non written rule that we've been following that only applies to Special and Temporary Events.

Commissioner Wehrli stated he is more concerned with over serving. Do drink tickets curb over serving or not? Insurance industry suggests that drink tickets do curb over serving. He feels Mega events need a plan. Mega events need to submit a liquor service plan for the Mayor's approval if they don't want to sell drink tickets.

Commissioner Blackman agrees with Commissioner Wehrli. The events should continue to sell drink tickets unless you come up with a new inovative plan that meets the Mayor's approval.

Commissioner Maher agrees with Commissioners Wehrli and Blackman.

This Rule came about due to theft not over consumption.

Mayor Chirico is leaning towards not eliminating this rule but modifying it depending on the size of the event and the plan to purchase alcohol.

Commissioner Maher suggested that we give it a year to see how it goes.

Commissioner Vozar moved to direct staff to analyze the last two years of Special Event license requests and make recommendations to the Commission for their review to provide the Mayor guiding principles on the use of ticket versus cash beverage sales, seconded by Commissioner Maher.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Davis

E. NEW BUSINESS:

Consider Star 7's request for a variance of the square footage requirement for a Class D liquor license.

Jennifer Lutzke, Senior Assistant City Attorney, stated that in 2005 the City annexed a property on Rt. 59 and 103rd Street that was in unincorporated Will County which included in that shopping center Star 7 Liquor. In the annexation agreement, it grandfathered Star 7's liquor license until April 30, 2019 unless the City's code was amended to allow a center of their size. Star 7 currently has a Class D liquor license which requires it to be in a 60,000 sq. ft. shopping center. The Star 7 shopping center is 44,000 sq. ft. When the liquor code rewrite took place it allowed for a variance process. Section 3-3-6 of the Naperville Liquor and Tobacco Code outlines things that should be considered

whether a variance should be granted. Those things are that the variance would be in harmony with the general purpose and intent of the code, not precedent setting, that strict enforcement of the code would result in practical difficulties due to special and unusual circumstances and that the variance would not alter essential characteristics of the business. Star 7 has filed an application for a variance and will be presenting why a variance should be granted. The Liquor Commission would make a recommendation to the City Council and the City Council would have the ultimate decision of whether a variance is granted.

Irene Bahr was present representing Star 7 with her was Hemant Dhanami, one of the officers.

She wanted to add that everyone had the memo she submitted. There were three options presented in that memo.

1. The property at the time it was annexed had a liquor license from Will County and continued to have a liquor license from then until now and is up for renewal in April of this year. They would like to have that license renewed. At the time of the annexation, there was a grandfather clause in the code. Now there is a provision for the variance.

2. Amendment to the Class D license provision. This would be limited to this circumstance.

3. Apply for a variance. They have paid the \$400 fee for the variance.

The only criteria Star 7 does not meet is the size of the shopping center. The variance they are asking for is granting a license for this location.

Mayor Chirico stated that it was Ms. Bahr and her client that brought this matter to our attention since we don't have a mechanism to track these things. This adds to the client's credibility.

Jennifer Lutzke stated that they are required to follow the Naperville Liquor ordinance. They haven't had any violations.

Commissioner Stauffer asked why the original annexation was time barred. No one knows the reason for the date. He feels that the fact that you were grandfathered via annexation is very relevant and would it be helpful to the City of Naperville to focus on that and make it an extension to the original grandfathering then making it an exception to the Naperville rules. Irene Bahr stated that the annexation agreement is set to expire in 20 years from when it started.

Jennifer Lutzke stated that granting a variance to Star 7 will not be precedent setting.

Commissioner Blackman asked Commissioner Wehrli for the reason how they came about the 60,000 sq. ft. rule. The former Liquor Commissioners didn't want a liquor store on every corner. They felt a 60,000 sq. ft. shopping center was a good size. This was during Mayor Price's administration.

Commissioner Vozar stated that the property owner is not present. He wants to make sure that we can proceed with the variance without the property owner being present.

Jennifer Lutzke stated that the property owner has renewed Star 7's lease. The property owner was informed that Star 7 was seeking a variance.

Commissioner Wehrli moved to recommend to City Council that a variance be granted to Star 7, seconded by Commissioner Maher.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Davis

F. REPORTS:

Approval of November 8, 2018 Liquor Commission meeting minutes.

A motion was made by Commissioner Blackman, seconded by Commissioner Maher to approve the November 8, 2018 meeting minutes.

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

Excused: 1 - Mayor Chirico

Absent: 1 - Davis

1. Restaurant Association Report - Jeffries

Christine Jeffries, President of the Naperville Development Partnership, Naperville Convention and Visitor's Bureau and Dine in Naperville, was present to report on the Restaurant Association. She distributed a copy of the 2019 Dining Guide to the Commission members. She also gave them a Naperville Banquet Guide. This is used at Trade Shows.

She thanked the Mayor's Office, TED and City Clerk's Office on notifying them when a new restaurant opens. There are 320 restaurants in Naperville.

Restaurant Week will be January 20th - February 3rd, 2019.

2. BASSET- Employee Training Statistics - Riggs

Detective Riggs reported that in November we had 111 attend with 16 no shows. In December, we had 75 attend with 10 no shows. The online training since it began in March, 2018 has had 216 people trained.

3. Tobacco Enforcement Review - Riggs

Detective Riggs reported that they finished the first round for the grant period. They are required to pass out the new materials for 2019, including signage. The next round will begin in the next few weeks.

Jennifer Lutzke gave an update on the 2018 Tobacco Enforcement. In April 2018, Detective Riggs did tobacco enforcement checks. An employee of

Stogies & More was fined for selling cigarettes to someone under the age of 21. They were issued a violation. On September 26, 2018 an order was entered after they waived their right to a hearing and were fined \$500.

Also in April 2018, Vape & Tobacco was cited for selling cigarettes to someone under the age of 21. On September 18, 2018, Mayor Chirico signed an order assessing a \$500 fine after they stipulated to the violation that was issued to the business and they waived the right to a hearing.

On April 2018, Vape 58 was issued a citation for selling vape juice to someone who is under the age of 21. During the second round of checks, they were issued another violation for selling vape juice to someone under the age of 21. Violations were issued against Vape 58. On December 26, 2018, they stipulated to a finding of guilt and waived their right to a hearing. On January 2, 2019 an order was entered assessing a \$1500 fine.

4. Liquor Report - Riggs

Detective Riggs reported that in November 2017 there were 10 DUI's and November 2018 there were 15 DUI's. In December 2017 there were 21 DUI's and in December 2018 there were 16 DUI's. Total number of DUI's in 2018 were 216.

Jennifer Lutzke stated that on May 31, 2018, Malloy's Fine Wine and Spirits were fined for having three employees without BASSET training. In November 15, 2018, the owner entered into a stipulation with the City waiving their right to a hearing, admitting to the violations and agreeing to a \$500 fine. The Malloy's violation as well as the prior revocation of the Mexican Grille's liquor license for the violation are what was cited in 2018.

5. Liquor Concept Committee Update - Trotz

Trotz reported the following Liquor Concept:
There was no Liquor Concept meeting in November.
December 20, 2018

Winter Ale Fest
February 23, 2019 Frontier Park
Opens at 11:30am but will not begin serving until noon. The last serving will be at 4pm with the event finished by 4:30pm.

Winery
They are looking at the Quincy Avenue area for their location. They will come to the Liquor Commission at a later time. They won't be opening until the Fall of 2019.

Bellisimo Bar Co.
She has a 25 year old Vespa vehicle that is trailered that she will take to Special Events and weddings and sell prosecco and limited beer from the vehicle. There is no current license for this concept. She will come to the February Liquor Commission meeting and present her concept.

G. EXECUTIVE SESSION:

H. ADJOURNMENT:

Commissioner Maher moved to adjourn the meeting at 4:31pm, seconded by Commissioner Vozar. The motion was unanimously approved.

/S/ Emy Trotz
Emy Trotz
Executive Assistant/Mayor