



City of Naperville

400 S. Eagle Street
Naperville, IL 60540

Meeting Minutes

Liquor Commission

Thursday, April 4, 2019

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, Charles Maher, Paul O'Toole, Whitney Robbins, Joe Vozar, Scott Wehrli, and Kimberly White
Absent 2 - Pam Davis, and Mitch Stauffer

C. PUBLIC FORUM:

There was no one present to speak under Public Forum.

D. OLD BUSINESS:

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

Jennifer Lutzke, Senior Assistant City Attorney, stated that prior to this meeting she circulated a draft proposal for language if the commission recommends creating a Bring Your Own Bottle license. The definition section is on the first page of the proposed revisions. A new Class L license was created. Requirements would be that it would need to meet the definition of a restaurant, they would be limited to one bottle of wine not exceeding 750ml or three beers not exceeding 36 oz per person. Service of beer and wine has to be exclusively with and incidental to the service of food. Staff, employee or agent has to serve the beer or wine. The consumption is limited from 5pm - 11pm. This is what was required the last time we had this type of license. The annual fee is \$1,000. It states within the license, they cannot sell alcoholic liquor and the wine has to be sealed. If you already have a liquor license you would not be able to receive this license.

Previously, there was discussion about Corkage. Included in the draft revisions is a section pertaining to Corkage. This would be a permit with no fee allowed for Class A, B, I & J. This is only for wine.

Additionally added in the code under Prohibited Acts, those licensees that don't have Bring Your Own Bottle License or a Corkage Permit are not allowed to have people bring in their own beer and wine.

Karen Toner asked about the hours. Emy Trotz, Executive Assistant/Mayor, stated that the reason for the hours was because the previous licensee was

located near a day care facility. Mayor Chirico stated that wouldn't apply to this location and the hours could be modified.

Mayor stated that this is a code revision. This body is an advisory board and the final decision would be up to City Council.

Commissioner Vozar wanted BASSET training added to the Class L license requirements.

Regarding Corkage, Commissioner Vozar would like 750mil per person.

Commissioner Blackman feels they should get a Class A license.

Mayor Chirico stated that if BYOB is not recommended that there should be a recommendation to prohibit BYOB. He asked for clarification if BYOB and Corkage had to be tied together or if they could be separated. Jennifer Lutzke, Senior Assistant City Attorney, replied that they could be separated. Her recommendation would be since we currently have Corkage language on the permit should allow licenses A, B, I & J to continue that practice. And also, we should modify the BYOB and include the Class L or revise the language and make BYOB with the exception of Corkage to be prohibited.

Karen Toner replied that they are asking for the BYOB because it is very oriented with the Philly Cheese Steak in Philadelphia and they have storage issues.

Commissioner Maher asked if there would be a cap on this license class.

Mayor Chirico stated that the cap would be a decision of the Liquor Commission.

Commissioner Vozar asked if anyone had heard from the Chamber or the Restaurant Association. Mayor Chirico asked if we received a letter. Christine Jeffries, NDP, stated that the DNA did have a letter that the members unanimously did not support the BYOB. The Restaurant Association has not discussed this yet but the Chairman is not in favor of BYOB.

Commissioner O'Toole asked if the three beers could be reduced to two beers.

Commissioner Wehrli is not a fan of the BYOB and would encourage the petitioner to apply for a Class A liquor license.

Commissioner Wehrli moved to deny the petitioners request for a BYOB license and amend the City Ordinance to reflect that BYOB is prohibited within the Liquor Code, seconded by Commissioner Maher.

Aye: 2 - Blackman, and Wehrli

Nay: 5 - Maher, O'Toole, Robbins, Vozar, and White

Excused: 1 - Mayor Chirico

Absent: 2 - Davis, and Stauffer

Commissioner Wehrli asked for input from the Police Department. Detective Dan Riggs stated he is concerned with pregaming and people walking the streets with beer. There is a two beer limit but how many times may they bring the beer in?

Commissioner Blackman feels this is not needed. It will cause too many issues.

Commissioner O'Toole reiterated that the DNA is saying no. Other respected groups are saying no to this concept. Police are saying this is questionable. This is a difficult decision.

Commissioner Vozar sees this causing confusion on where you can go for BYOB.

Commissioner Maher moved to accept as written with the amendment to put a one year review with one location, and reduce the beer to two bottles, seconded by Commissioner O'Toole.

Commissioner Maher moved to amend the municipal code to allow for a Corkage Permit allowing 750 mil per person of wine and to specifically exclude anyone without a Corkage Permit from allowing alcohol to be brought on the premises, seconded by Commissioner Blackman.

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

Excused: 1 - Mayor Chirico

Absent: 2 - Davis, and Stauffer

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

Chip Vonlehman was present to request a liquor license for the Buzzed Bull Ice Cream Shop.

Cathy Bouchard, Le Chocolat, read about this in the newspaper. This is not fair. Years ago, what she went through to get a liquor license to serve a chocolate martini in a chocolate shop. It cost well over \$60,000 to comply with Naperville codes and restrictions to get a liquor license. Now an ice cream shop comes along and they will be granted a license. Licenses are very costly and it's not fair that the code is changing. I was told no several times. I wanted to be heard that two years later it's just being given to someone to add it to ice cream. It was a struggle.

Cathy owns Le Chocolat with three locations and holds two liquor licenses. She put the restaurant in to qualify for the liquor license.

Commissioner Maher stated that this concept is just ice cream no liquid drinks with alcohol.

Commissioner Vozar is a firm no on this. His concern is what will be next (cupcakes, fruit). He asked if the Chamber, DNA or Restaurant Association

have spoken about this. Christine Jeffries said the Chairman of the Restaurant Association feels this is a Tavern License. We have tried to limit the Tavern Licenses. There are five other ice cream stores in the downtown, it would have to be offered to them too. You can't give an exclusive license to someone who comes in. Colin Dalough, Director of Government Affairs, Naperville Area Chamber of Commerce, stated that they have no official opinion on this concept. Katie Wood, DNA, stated that they discussed this at their February meeting. Their board was favorable to the idea. The Chairman of DAC was not in favor of this concept. They felt there was a cap but others would be able to come and ask for this license.

Commissioner Maher stated that this could be equipment based, how it is being produced. If others wanted to do this, they could add this equipment.

Commissioner Wehrli stated that when going through the rewrite of the ordinances, we tried to get a handle on all of the different license classifications. We have twenty license types and ten permit types. There are three license classifications that you qualify right now, Class A-Restaurant, Class B-Restaurant/Tavern and Class C-Tavern. Most likely you would need a Tavern license since you don't have a kitchen. Those are the most restrictive license in Naperville at this time. He is not a fan.

Commissioner O'Toole stated that if we open this up then the gelato places will come in. He is a no.

Commissioner White agrees with Commissioner O'Toole. She struggled with this the last time. She asked Detective Riggs what he felt. Detective Riggs replied that if a new license was created, competitors would want to do the same. Regarding the Police, there would be different rules on how the ice cream would be offered to children.

Chip Vonlehman reiterated that they would not be serving any drinks only alcoholic ice cream.

Mayor Chirico stated that currently he fits the Tavern License but it is capped and would need City Council approval to raise the cap. A new license was also created. The Mayor asked the petitioner if they would like to be presented as a Tavern License or the new Confectionary License. Chip answered he didn't have a preference on which license he would receive.

Commissioner Vozar stated that at the last meeting staff was asked to create a new classification.

A recommendation is needed to go to City Council.

Commissioner Vozar moved to approve the Class O Confectionary License and approve the petitioners request to receive this license, seconded by

Commissioner Maher

Aye: 1 - Maher

Nay: 6 - Blackman, O'Toole, Robbins, Vozar, Wehrli, and White

Excused: 1 - Mayor Chirico

Absent: 2 - Davis, and Stauffer

E. NEW BUSINESS:

Consider Last Fling's request to sell spirits

Tyler Petersen, Last Fling Director, and John Barry, Star Events, were present to request the opportunity to sell spirits. It's not a full bar nor is it shots. It will be a mixed beverage, vodka lemonade. It would be pre mixed in a five gallon dispenser. They would follow the same restrictions and rules that are in place for serving beer and wine.

Mayor Chirico asked if it would be mixed on site. Yes, it would be mixed on site. The proportion of alcohol would be what the City suggests.

John Barry stated that they want to sell like they do beer and wine. This is financially driven. They would like to get a liquor sponsor. The amount of alcohol being controlled is the same as in a beer or glass of wine. He has done this at other events and hasn't had any issues.

Commissioner Wehrli said there are two areas where they serve beer and wine. Is your plan to add on to those beer and wine booths or a new space? They would be added to those two locations. There wouldn't be spirits at Naper Settlement.

Commissioner O'Toole asked if these drinks would be mixed as ordered? No, they will be premixed in a 5 gallon giant bucket.

Commissioner Blackman asked if professional bartenders would be mixing the drinks? Yes, professional bartenders would be making these drinks. There will be a mixed station behind the booths. They will have a strict menu that they need to follow the recipe.

Mayor Chirico stated that the Jaycees had said that the Last Fling would go back to being a smaller community event. This seems like it's going in the opposite direction. John Barry said it's more for customer service. He's trying to accommodate what the consumer expects.

Commissioner White asked if they will be limited to two drinks at a time. Yes, only two drinks at a time. She asked if it would be only vodka. It will depend what alcoholic company will sponsor the event.

Mayor Chirico asked the total content of each drink. It would be a 12oz drink with

1 1/2oz alcohol.

Commissioner Vozar asked Detective Riggs what he thought. Detective Riggs stated that the drink with spirits has the same alcoholic content as a beer. He does not see an issue.

Commissioner Blackman asked if there are any concerns that if this is allowed other events will want to do the same thing. Detective Riggs would like verified what is being brought in the coolers. This is a concern.

Commissioner Maher stated that we have to be cautious because Ribfest is on the agenda next and if this is allowed they may ask for the same thing. Mayor Chirico responded that we take each request on a case by case basis.

Commissioner Vozar asked staff what the process is for this permit. Is it beer and wine only?

Commissioner Blackman asked John Barry if he would come to the next Liquor Commission meeting and give the Commission some Best Practices to help them make a decision.

John Barry is happy to come and outline protocol. He said the timing is of the essence.

Mayor Chirico asked if he would include the security of the liquor.

Commissioner Vozar asked if they would be willing to only sell the alcohol at one location for the first year.

John Barry agreed.

Mayor Chirico requested John Barry to also bring back a layout of the serving area.

Commissioner Vozar moved to table this agenda item to the May 9, 2019 meeting and ask the petitioner to bring back the information discussed, seconded by Commissioner Maher.

Consider Ribfest's request to include three spirit samplings consisting of one ounce of spirits each with the purchase of admission

Rick Grimes, Ribfest Executive Director, wanted to talk about sampling opportunities at the park. They are looking on expanding the samplings. They are looking at three locations - Sky Box, VIP and general park area. They are not using the RFID system this year. The wrist bands will have 3 tabs on it for the 3 tastes. For the Sky Box and VIP Area, would have a 1oz spirit with 3oz mix. The other would be a 2oz sampling of hard cider. The sponsor would have people making the drinks. In the general area, there would be a 2oz sampling of cider and 1/4oz of spirits for a total of a 1oz sample.

Detective Riggs stated that there were no issues last year with the tastings.

Commissioner Blackman asked if there was a cost for the samples. No, they are part of the admission.

Mayor Chirico asked if the ticket stub is attached to the wristband. Yes, it is attached.

Commissioner Vozar said the combination of the two samples to total three samples.

Commissioner Blackman asked if someone appears to be over served, would they be able to receive the three samples. No they would not be served.

Commissioner Maher moved to accept the proposal as presented, seconded by Commissioner O'Toole.

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

Excused: 1 - Mayor Chirico

Absent: 2 - Davis, and Stauffer

Consider proposed revisions to the Liquor Commissioner's Rules concerning cash sales at Special Events and residency requirements

Jennifer Lutzke, Senior Assistant City Attorney, stated that she had circulated draft proposed revisions to the Rules since the last Liquor Commission Meeting. The proposed new Rule would require that all events with expected attendance of more than 1,800 people shall not have a cash bar unless the bar is staffed by employees, staff members, or a third party-company that is licensed, bonded and insured. Instead of a cash bar, an event may use ticket sales, Radio-Frequency Identification technology, or a similar technology approved by the Liquor Commissioner for the sale of alcoholic liquor. Additionally, we removed the Rule that pertained to residency requirements. This is before the Commission for approval of those revisions.

Mayor Chirico said at the last meeting the number was 2,000 but it was lowered to cover all major events.

Commissioner Vozar asked Detective Riggs if this was consistent with what the Police Department recommended. Yes, it is consistent with their recommendation.

Commissioner Vozar moved to accept the changes to the Rules as presented by staff for revisions to the ticket cash sales, seconded by Commissioner Blackman.

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

Excused: 1 - Mayor Chirico

Absent: 2 - Davis, and Stauffer

Consider removal of the Outdoor Seating Permit's "Sunset Provision"

Jennifer Lutzke, Senior Assistant City Attorney, stated that last year the Liquor Commission recommended to City Council that they remove the sunset provision to the Outdoor Seating Permit. Instead of accepting the recommendation, City Council extended the sunset provision to April 30, 2019. This is before the Liquor Commission to make one of the following recommendations: vote to remove the outdoor seating permit from the liquor code, vote to remove the sunset provision portion of the outdoor seating permit from the liquor code or vote to extend the sunset portion of the outdoor seating permit for another year.

Mayor Chirico asked Detective Dan Riggs if there have been any issues or complaints regarding outdoor seating. There haven't been any issues or complaints. Mayor Chirico stated that the first year there was a complaint on the Craftsman's seating area but that was changed and he is not aware of any further complaints.

Commissioner Vozar stated that the businesses owners would like to see the sunset provision removed in order for them to invest in nicer furniture and a better layout.

Commissioner Vozar moved to remove the sunset provision for outdoor seating from the Liquor Ordinance.

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

Excused: 1 - Mayor Chirico

Absent: 2 - Davis, and Stauffer

F. REPORTS:

Approval of February 7, 2019 meeting minutes

A motion was made by Commissioner Maher, seconded by Commissioner Vozar to approve the February 7, 2019 meeting minutes.

1. Restaurant Association Report - Jeffries

Christine Jeffries, NDP Executive Director, said that on DineNaperville.com has a listing of the Easter Brunch specials.

2. BASSET- Employee Training Statistics - Riggs

Detective Riggs reported that in February 101 people attended with 17 no shows. The March class had 99 people attend with 24 no shows.

Mayor Chirico asked about the online training. There have been just under 100 people trained through the online training.

3. Tobacco Enforcement Review - Riggs

Detective Riggs reported that they are currently in between the tobacco compliance checks. They are finalizing the violations from the last time.

Jennifer Lutzke, Assistant Senior City Attorney, stated that 7-eleven at 1490 E. Chicago Avenue was cited for their employee selling cigarettes to a minor on February 2, 2019. In March 29, 2019 7-eleven entered into a stipulation waiving their rights to a hearing, admitting to the infraction and agreed to pay a \$500 fine. On April 1, 2019 Mayor Chirico, the Liquor Commissioner, entered an order assessing the \$500 fine for that violation.

Mayor Chirico stated that we have had seven violations on tobacco this past year. Currently, there is a provision in the code that states if you receive a violation for selling tobacco products to a minor that you have to have your employees take a special course for a year. We currently don't have this program but Detective Riggs will put together a class similar to BASSET that talks about age specifications and ID checking.

Commissioner Wehrli asked if the violations were for cigarettes or vape. It was only cigarettes.

4. Liquor Report - Riggs

Detective Riggs reported that in February 2018 we had 23 DUI's and for February 2019 there were 18 DUI's. For March 2018, there were 22 DUI's and in March of 2019 there were 33 DUI's. We did have some special grants in March around St. Patrick's Day that accounts for an increase in DUI's by about 10.

5. Liquor Concept Committee Update - Trotz

Trotz reported the following Liquor Concepts
February 21, 2019

Gyu-Kaku
47 E. Chicago
This is a Japanese Steak House with no Late Night.

Last Fling and Ribfest have already been discussed.

Hampton Inn would like a liquor license.

Absolute BBQ on Ace Lane, formerly India BBQ is requesting a Class A liquor license.

March 21, 2019
Food Truck Festival will be held in August at Naper Settlement. He is looking for a charity. It will be 20 - 30 Food Trucks.

G. EXECUTIVE SESSION:

H. ADJOURNMENT:

Commissioner Vozar moved to adjourn the meeting at 5:00pm, seconded by Commissioner Robbins. Motion was approved unanimously.

/S/ Emy Trotz
Emy Trotz
Executive Assistant/Mayor