



Meeting Minutes

Liquor Commission

Thursday, September 5, 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 - Mayor Steve Chirico, Charles Maher, Paul O'Toole, Whitney Robbins, Mitch Stauffer, Joe Vozar, Scott Wehri, and Kimberly White

Absent 2 - Marc Blackman, and Pam Davis

C. PUBLIC FORUM:

There was no one present to speak under Public Forum.

D. OLD BUSINESS:

Consider Vita Sana's request for a liquor license

Douglas Sharma, owner of Vita Sana located at 232 S. Washington St. Suite #6, was present to request a liquor license. He sells fine global oils, olive oil and vinegars. He also sells home goods similar to Pier One and Crate and Barrel. The store is 80% retail. There is a small cafe that serves sandwiches and soups twice a week. He sells Kombucha, which is a fermented tea. He would love to sell canned alcoholic Kombucha. Twice a week, he will host meetings, 8 - 10 people. These events would take place on Tuesdays and Thursdays from 5pm - 7pm.

Mayor Chirico asked if the parties were private. Yes they are private. There would be no advertising for these parties.

Jennifer Lutzke, Senior Assistant City Attorney, stated that when the concept was presented at Liquor Concept it included selling craft beer for consumption. He no longer wants to do that. He will sell craft beer for consumption off premise. She asked how he will be selling wine. He wants to sell wine by the bottle for off premise consumption. And also sell wine by the glass up to 18oz per person. If that is all he is asking to do, he will qualify for the Class S liquor license. When he presented at concept, he was asking to also sell craft beer.

We will look into alcoholic Kombucha and see if it's a beer or wine.

Commissioner Vozar asked if the place had a full kitchen. It does not have a full kitchen.

Emy Trotz will work with him on his license application.

E. NEW BUSINESS:

Consider revisions to the Class M license pertaining to Lifestyle Amenities facilities

Mayor Chirico has requested this to come to the commission. The Class M license is \$2,200. The Mayor was present at an opening of a barber shop and they had a limited amount of beer. This license came about because of hair salons business model, they served wine. Most hair salons are probably not in compliance. They do this as a professional courtesy. Those who are in compliance pay a high fee. He would like to find a more equitable way for these small hair salons and barber shops to be compliant. He would like to modify the license for these businesses.

Commissioner Stauffer asked how many licenses do we have of this license. For the Life Style Amenities, there are 3 licenses. The Class M has a cap of 14. Commissioner Stauffer feels the fee should be kept the same for both recreational and life style amenities.

Mayor Chirico wondered if this could be a permit rather than a license.

Commissioner Vozar feels that \$1,000 is high. He would suggest \$500. This classification has a cap. To raise the cap, it would have to go to Council.

Jennifer Lutzke, Senior Assistant City Attorney, stated that a permit is typically an add on to a license. It would be more appropriate to keep it as a license and reduce the fee but we can look into doing a permit.

Commissioner Maher asked since there is no sale, does that make it more appropriate for a permit or another classification?

Commissioner Wehrli stated that one of the businesses does charge for drinks. That may be the distinguishing factor in the licensing.

Jennifer Lutzke, Senior Assistant City Attorney, stated that we only regulate the retail sale of beer, wine and spirits. A licensee can't give away alcohol. Some municipalities treat this like a private party.

Commissioner Robbins stated that the alcohol is complimentary and usually they only serve you one glass of wine. The other sells the alcohol and has a drink menu. A permit for \$500 seems reasonable.

Jennifer Lutzke stated that we need to get more information from the businesses to see how they are serving the alcohol. She recommends it be kept as a license and reduce the fee.

Commissioner Maher stated that we would need to look into the cap for the Class M license.

Mayor Chirico feels \$250 would be a reasonable fee. It would be a way to track who is doing this. The Mayor also questions requiring BASSET training. This is a State requirement.

Commissioner Stauffer commented that if they are not selling wine, we might want to stay out of it.

Commissioner O'Toole feels that \$250 is fair or \$2200 if selling alcohol.

Mayor Chirico stated that if it's part of their business model to sell alcohol, then they would need a license.

Commissioner Wehrli stated that State law contradicts what we are talking about. The State law reads no licensee, individual partnership or corporation shall give away any alcoholic liquor for commercial purposes or in connection with the sale of non alcoholic products of promote the sale on non alcoholic products. We can't have ordinances that conflict with State law.

Staff will make sure that we are not in conflict with the State.

Commissioner Stauffer suggested that people not advertise the alcohol.

Commissioner Maher moved to direct staff to research this further on state regulations and make a recommendation on the direction that needs to be taken, seconded by Commissioner O'Toole. Motion was approved unanimously.

Consider Red Arrow's request to allow Class B licensees to sell Crowlers and remove the onsite manufacturing requirement from the Growler Permit

Joe Tota, owner of Red Arrow, was present to request the sale of crowlers. The Governor recently signed a bill to allow the sale of crowlers at Class B license establishments. A crowler is a can of 32 ounces of beer that is sealed. A growler is a 64 ounce container that is glass. The crowler sells for \$12 - \$16 depending on the type of beer. It is an opportunity for their customers to sample some beer and then purchase it to go. They are requesting two options.

Option #1 - Amend the Class B license to allow them to sell crowlers and remove the portion of the code in the growler permit that requires the manufacturing of beer on site.

Option #2 - Amend the dispenser permit to allow the sale of crowlers.

Jennifer Lutzke, Senior Assistant City Attorney, stated that the Governor signed a new bill on August 23, 2019. Prior to the signing of that bill, only manufacturers could sell growlers. The new bill allows retail liquor licensees to fill crowlers and growlers. The State removed the requirement that the beer needs to be manufactured on site. This would be allowed under the state law but there is a prohibition of the sale of package good in the downtown that would need to be considered for this request as well as that there is nothing in the code that pertains to crowlers.

Commissioner White asked for Joe to explain further the second option. About a

year ago, the City created a dispenser permit for businesses that had the customers self dispense beer and wine. Ms. Lutzke clarified that the state law requires employees to fill the crows and growlers. She further stated that this would be the appropriate amendment.

Commissioner Vozar asked if a Class B could possess a growler permit. This is true but the business needs to manufacture the beer on site.

Commissioner Stauffer wondered if we could say that growler is either glass or aluminum.

Jennifer Lutzke stated that the definition has specific requirements and specifications for what a growler is and it would need to be changed to allow aluminum. Modifications would need to be made to the code to make it work.

Mayor Chirico stated that this is beyond the authority of the Liquor Commission and would be a recommendation to the City Council for approval.

Mayor Chirico asked if we need to take action to become current with the state law change. And if it were a positive recommendation to City Council what would that look like?

Jennifer Lutzke stated that there are a few options. Commissioner Wehrli would probably be the person to speak on why there is a restriction on package good sales in the downtown. We could check to see if it prohibits any package store. We don't know if there is a shopping center in the downtown that meets the requirements of the license. If not, we could remove this restriction. Or we could put in an exception, only allowing Class B licensees with a growler permit.

Commissioner Maher asked for clarification that if you buy a bottle of wine and don't finish it, you may take it home.

Mayor Chirico asked if there was a limit on how many crows could be purchased. We don't know.

Commissioner Vozar feels different about a current business adding on crows rather than a new business that would just sell crows.

Commissioners Wehrli asked if Red Arrow would live with a growler instead of a crowler. Yes he would.

Commissioner Stauffer moved to direct staff to look at eliminating the manufactured on site qualification, that this would be distinguished from package liquor by virtual of being filled on site, and expand the definition of growler to include crowler, seconded by Commissioner O'Toole.

Aye: 4 - Maher, O'Toole, Robbins, and Stauffer

Nay: 3 - Vozar, Wehrli, and White

Absent: 2 - Blackman, and Davis

Abstain: 1 - Mayor Chirico

F. REPORTS:

Approval of June 6, 2019 meeting minutes

A motion was made by Commissioner Vozar, seconded by Commissioner Stauffer to approve the June 6, 2019 meeting minutes. Motion was approved unanimously.

1. Restaurant Association Report - Jeffries

Christine Jeffries, Restaurant Association, reported that she and Katie Wood are polling all 300 restaurants in Naperville asking if they have a food truck, food cart or do they have mobility capability. Once this information is collected, it will be available to anyone doing an event in Naperville asking if they would show vendor preference. Christine is meeting tomorrow with Marcie Schatz, Deputy City Manager, regarding food trucks.

Naperville is again the number one retail sales for restaurants on dining and entertainment. Sales were \$411.5 million dollars in sales. That's 1.7% over last year and in 2009 we were \$272 million. This is sales tax and food and beverage tax.

2. BASSET- Employee Training Statistics - Riggs

Detective Riggs reported that in June 108 people attended with 14 no shows and in August 97 people attended with 14 no shows.

3. Tobacco Enforcement Review - Riggs

Detective Riggs reported that the upcoming tobacco grant is in process. We have been approved for it. He is waiting for materials from the State. Once he receives the materials, he goes to all of the licensees in town, presents them with the information and let them know that we will be doing compliance checks over the next few months.

Jennifer Lutzke, Senior Assistant City Attorney, stated that at Tuesday's City Council meeting they passed the ordinance that increases the age for possession to twenty one for tobacco and alternative nicotine products. There was some action on Kratom that leaves possession at 18 and prohibits the sale to anyone 21 or under.

In May, 2019 at the last round of tobacco enforcement checks, we issued a violation to Walgreens located at 3035 Book Road, Naperville. In this past month on August 26th they stipulated to the under age sale of tobacco citation and on August 29th, the Mayor as the Liquor and Tobacco Commissioner entered an order assessing a \$500 fine that is payable within 90 days.

4. Liquor Report - Riggs

Detective Riggs reported that in June 2018 there were 9 DUIs and June 2019 there were 27 DUIs. To account for this Detective Riggs pulled the reports for

the DUIs. In June, there was one road safety check and three special DUI safety checks. The combined total from the safety checks and the three DUI details was 12. In 2018, we did not do the safety checks or the DUI details. In July 2018 there were 19 DUIs and July 2019 there were 16 DUIs. In August 2018 there were 18 DUIs and August 2019 there were 17 DUIs.

5. Liquor Concept Committee Update - Trotz

Trotz reported the following Liquor Concepts
June 20, 2019

Board & Brush Creative Studio
They were coming to River Square Shopping Center. They were given the liquor license application but haven't applied.

Meladee Hughes
She wanted to have a place where seniors would come and eat and enjoy a glass of wine. This concept did not fit in any of the current license classifications.

Naperville Humane Society
They had an anniversary celebration and they received a temporary liquor license for that event.

Guzman Y Gomez
This is a Class A restaurant located off of Naperville/Wheaton Road where Hawthorne Credit was located.

Lazy Dog
They will be located on Rt. 59. They will have a Class B & a Class G. They sell package beer and wine and they meet the 60,000 sq. ft. requirement.

July 25, 2019

All Saints
Oktoberfest 10/5/19 was approved

Tap in Pub
On September 21st they are having an event to benefit the Humane Society. They requested a one day entertainment permit and a one day outdoor seating permit. Those were granted.

Board & Barrel has closed.

Trotz is working with Chili's for corporate to take over the ownership of Chili's.

G. EXECUTIVE SESSION:

H. ADJOURNMENT:

Commissioner Maher moved to adjourn the meeting at 4:25pm, seconded by

Commissioner Vozar. Motion was approved unanimously.

/S/ Emy Trotz
Emy Trotz
Executive Assistant/Mayor