

**LIQUOR COMMISSION MINUTES**  
**August 4, 2016**

**I. CALL TO ORDER**

The Liquor Commission met on August 4, 2016 in the City Council Chambers.

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

**II. ROLL CALL**

Liquor Commissioner  
Commissioners

Mayor Chirico  
Marc Blackman  
Chuck Maher  
Dr. Jim Ostrenga (left at 3:35pm)  
Paul O'Toole  
Whitney Robbins  
Joe Vozar  
Scott Wehrli

Detective

Kavita Athanikar

NPD

Officer Dan Riggs

Secretary

Emy Trotz

**III. MINUTES OF JULY 7, 2016 COMMISSION MEETING MINUTES**

Minutes from the July 7, 2016 meeting were accepted and entered into record by Mayor Chirico. Chuck Maher moved to approve the minutes, seconded by Marc Blackman. Vote unanimous. Motion carried.

**IV. PUBLIC FORUM**

None

**V. OLD BUSINESS**

**a. Increasing tobacco age limit from 18 to 21**

Speakers –

Simon Hanna – Exhale Hookah Lounge

Joe Vozar asked how many Hookah bars are located in Naperville. There are two.

Paul O'Toole asked if they check ID's of everyone. Yes, they do.

Shelly Bateman – March of Dimes

Matt Maloney – Respiratory Health Association

Jason Pyrz – Respiratory Health Association

A letter was submitted into record from the American Lung Association.

Mayor Chirico stated that at the last meeting we discussed concerns, one being military men coming back from service who smoke.

Also a clarification, this rule is for the age for purchase of tobacco products to be changed from 18 to 21, this does not include consumption. Currently, it is codified as it shall be unlawful for any person under the age of 18 to purchase, possess or use any tobacco products.

We need to discuss other exemptions that deem appropriate if we were going to make a recommendation to City Council, we will have to decide if Hookah Lounge has the same risks as cigarette smoking.

Joe Vozar asked for a status on State legislation. There is nothing new on the State level. Kavita Athanikar stated that Evanston has now adopted this law. Chicago's ordinance is for purchase only.

Chuck Maher stated that currently we have on going tobacco checks to make sure that those under 18 are not being sold tobacco products. We are strongly enforcing this. Detective Riggs stated that tobacco checks take place 3 times a year. Each establishment that sells tobacco products are visited by a person under the age of 18. They check 75 – 80 establishments each time. Last year, there were 8 violations.

Marc Blackman asked Detective Riggs, how vigilant Naperville is on underage purchase of tobacco in comparison to other communities in terms of enforcement. We have about the same compliance rate as other cities.

Dr. Ostrenga asked Detective Riggs if we have handed out any citations on consumption and possession to under age people. Yes, we have. This is very common.

Chuck Maher asked Detective Riggs if we are tracking where the underage person got the tobacco products. NPD doesn't have this information, it's not the priority at the time of writing the citation but it is something Detective Riggs will look into.

Mayor Chirico asked Detective Riggs if from an enforcement aspect if changing the age from 18 to 21 brings up any concerns. Detective Riggs stated regards to purchasing, there are no issues. With possession, that would be harder.

Marc Blackman brought up an analogy of marijuana in Colorado. You may purchase marijuana in Colorado but once you leave the state with the marijuana, you are legally responsible and violating the law. From a cigarette stand point, is that what we are saying? An 18 year old can purchase it in another community but when they get to Naperville, they are violating the law.

Mayor Chirico stated that if it is recommended and approved by our City Council, then it is for purchase, possession and use. The answer would be yes, they could be cited. If we say purchase only, that's the scenario that you just brought up. That person would not be cited.

Chuck Maher will not be able to support this at this time.

Marc Blackman is opposed to tobacco personally. He feels there is some personal responsibility as a parent. You can't legislate a substitute for a good parent.

Dr. Ostrenga feels we should take some ownership in the health of our community. If we can make it more difficult for people to make a bad decision, is a step forward for the health of our community.

Joe Vozar would support the purchase of tobacco products at 21. He would exempt Hookah Lounges.

Whitney Robbins agrees with Dr. Ostrenga and Joe Vozar. This is a step in the right direction.

Chuck Maher would like to see some more data.

Dr. Ostrenga left the meeting at 3:35pm.

Mayor Chirico stated that we have three options: table it, make a motion to forward it to City Council or make a motion not to forward it to City Council.

Kavita Athanikar stated that we could also direct staff to bring it back with the options stated.

Joe Vozar moved to direct staff to bring this back to the Commission with a variety of options, seconded by Chuck Maher.

Chuck Maher asked if they could discuss the plusses and minuses of decisions other communities have made with data showing results

Voice vote. Vote unanimous, motion passed.

Scott Wehrli made a motion to take New Business next, seconded by Joe Vozar.  
Voice vote. Vote unanimous, motion carried.

## **VI. NEW BUSINESS**

### **a. Ten Friends Blow Dry & Style House**

Cathleen Stoelting, founder and owner

Frank Zito, director of operations

Lindsay Zito, artistic director

Petitioner is asking the Commission to consider drafting and establishing a salon class for limited use on premise consumption of liquor in salons. The members of the commission were given a packet of concept information. This is an emerging concept that provides styling services and not cut and color. They are targeting guests to visit 4 times a month. This is a place where women can come together and connect and support each other. This is integral to their brand. They are very upscale. Their other locations where they serve wine are: Hinsdale, Deer Park Town Center, and Glenview. Wine is integral to the Ten Friends Brand Concept. The liquor licenses in the other towns is limited use for consumption by glass. There are 10 fine wines that they offer by the glass. When she approached the Village of Hinsdale, there was not a salon classification. She approached the board of trustees and they worked together researching other communities with salon classifications and they drafted and approved an ordinance allowing salons to serve alcohol. Deer Park did not have a classification but the way

their liquor code was written, they were able to fit salons into an existing classification. The Village of Glenview did not have a salon classification so she went through the same process that she did with Hinsdale. She worked with the Village Board to draft a classification and got approval from the City Council.

Petitioner stated that she knows it's a concern that there are so many salons in Naperville but she doesn't think there would be many wanting this license. Being able to serve a glass of wine to their customers is integral to their brand. It may not be for other salons. Liquor sales are less than 5% of their total revenue and does not contribute significantly to salon profitability. It's arduous to obtain, background checks and fingerprinting. It's expensive. Have to be BASSET certified.

Scott Wehrli asked her to describe the serving process. They determine that the guest is 21. They have hospitality staff and styling staff. The stylists do not get involved in the serving. 8 oz pour for wine. Hinsdale limits them to 2 glasses per guests.

Marc Blackman asked how you suggest we differentiate between salons. Hinsdale limited the number of salon classifications. You could use square footage.

Joe Vozar asked if any food was offered. Glenview classification requires food. They have relationships with food vendors

Paul O'Toole asked the average cost. Blow Dry and Style cost \$40.

Mayor Chirico thanked Cathleen for bringing this forward and doing it in the right way.

Marc Blackman stated that her salon is selling and the others give it away. He asked how you differentiate from a salon that cuts to a salon that does blow dry.

Petitioner stated that the blow dry industry has been around for 6 years. It started in the West Coast. Cut and Color Salons run upwards of \$150. They are bringing the art of styling back. Full Service Salons first thought of them as a threat but they aren't offering the same services.

Joe Vozar asked if they do not get a license, if they would still proceed. Yes, they would. It would significantly impact the guest experience if they didn't serve alcohol.

Whitney Robbins has been to these type of salons and it's a great experience.

Chuck Maher asked if there is anything we currently have that they could fit into or do we need to create a new category.

Kavita Athanikar stated that the Class M could be expanded to include health, beauty and or life style activities. There could be further restrictions in that category for the M. Currently the M requires at least 60% of the total sales revenue be derived other than the sale of liquor. In this case it would be 95% because they are looking at a sale revenue of 5% of liquor. We could additionally add that the liquor is not complimentary, it's for the sale of liquor and on premise consumption. The Class M is capped. We can maintain that cap and for every new concept, they would go through the full cycle review: liquor concept, liquor commission and City Council over sight prior to approval. Additionally, we can restrict the sale of wine and beer by the size and the quantity. There could be a square footage requirement.

Scott Wehrli is opposed to modifying the Class M license. If we decide to create a salon license, it has to be offered to everyone.

Mayor Chirico stated that in some ways given that we know this is currently happening, if we create this license, we would have better controls and a safer environment. Then the up would be how narrowly we want to define this.

Joe Vozar concurs with Commissioner Wehrli. Also, we would have to change the definition of a Recreational Facility. He does not think Class M works. It is either a new classification or it's not allowed. He is ready to draft an ordinance with a cap for the next meeting. We would assess it after a year.

Mayor Chirico asked Commissioner Vozar how you respond to Eighteen Eight who also requested a liquor license. Joe Vozar stated that was complimentary and this is a purchase.

Chuck Maher stated that if we are going to create a new category then what about coffee shops and other groups who have come to this commission with a very well thought out business plan. We should create a classification and use this as an opportunity and set a cap.

Mayor Chirico said maybe going forward we have a Class that is capped that allows for flexibility for concepts that we haven't heard of yet.

Paul O'Toole stated coming in here, he was a no. He would look at expanding the M. He feels that is the easiest and cleanest way to go. It should also be capped.

Marc Blackman thinks staff should take a look at this and bring something back. He wants everyone to be aware that if you start expanding into coffee shops and other places, we need to be conscious of people who don't want to be around alcohol or can't be around alcohol.

Whitney Robbins thinks we need to look at the paths and Class M might be the right path. She thinks the presenter did a phenomenal job with their presentation. There are other neighboring communities doing this. This has been going on for years by salons that serve alcohol and aren't checking id's. This would pave the way and do it responsibly.

Chuck Maher stated that teenage girls will love this facility. There will be a lot of under twenty one year olds in this establishment. He would like staff to bring back information and take a look at the most appropriate way to go about this.

Mayor Chirico thanked the presenters for being here.

Joe Vozar moved to direct staff to put together proposals on various options as discussed, specifically the Class M or new ordinance, and bring them back to the next meeting, seconded by Chuck Maher.

Voice vote. Vote unanimous (6 ayes, 1 absent), motion passed.

**b. Sullivan's Request for temporary outdoor seating**

Chris Pieters, General Manager for Sullivan's, was present to request temporary outdoor seating. They are requesting a temporary lease from the City to have temporary outdoor seating on Main Street in front of the restaurant, between Jackson and Chicago. They will be undergoing renovation of the restaurant over the next couple of months. The space is 8 – 10 ft. in front of the restaurant and 30 ft. long. It will take up half of the space on the sidewalk in front of the restaurant. The temporary permit would be for about 25 days, the month of September, after Labor Day until the end of the month.

Marc Blackman asked if there were any issues with our City codes.

Kavita Athanikar stated that Sullivan's holds a Class B liquor license which is a Restaurant/Tavern license. They do not have an outdoor seating permit. The code does allow for outdoor seating permits for Class B license holders. The outdoor seating area would sit on city owned land. In order to transfer control, we would have to lease or sell that portion to Sullivan's so that would transfer control where Sullivan's would hold the insurance if there was a violation. They would be issued the violation and the City would not have control when liquor is served in that area. The other way to allow this is to codify a specific license, like we've done for the Settlement, or codify a sidewalk permit for some sort of license that would allow for liquor service on City owned land. In this instance, due to the time frame and the temporary nature of their request, staff has proposed that Sullivan's engage in a lease with the City from Sept. 6, 2016 through Sept. 30, 2016. In order to have an outdoor seating permit to allow them to sell and serve liquor outside.

Chuck Maher asked how many seats would be in this area.

Chris Pieters stated that there would be about 16 seats, 4 tables.

The entire restaurant will be under renovation. The time frame they are requesting is when the bar and lounge area is completely shut down.

Chuck Maher asked if it would be just sitting or if people would be able to stand. It would just be sitting.

Joe Vozar asked if the outdoor seating requires a fenced area. Kavita Athanikar stated that outdoor seating has to be clearly designated with a permanent or semi- permanent fence or barrier, her understanding is the Sullivan's will erect such a structure around it. The photo you were given was more for location purposes, so you would know where the outdoor seating would take place.

Marc Blackman asked if the space outside would be just for food or would people be able to have a drink. Chris Pieters stated that the food and beverage would be the same capacity as what the bar area had.

Scott Wehrli asked if there are engineering codes and best practices regarding the sidewalk that will be followed. Yes, there are.

Chuck Maher asked how much sidewalk would remain from the street to the fence. There needs to be 6ft but there will probably be 8ft left. It's a wide sidewalk and they will probably not even take up half of it.

Chuck Maher moved to direct staff to recommend to City Council approving Sullivan's request for a temporary outdoor seating from September 6, 2016 through September 30, 2016 with limited seating of 20 patrons, seconded by Marc Blackman.

Vote unanimous (6 ayes, 1 absent) Motion passed.

**c. Water Street Liquor Licensing, part 2**

Kavita Athanikar stated that last month, we discussed the first four licensing requests for Water Street which included 64 Wine Bar who is requesting a Class B-Restaurant/Tavern license and a Class S- Specialty Wine which have both been approved and a Late Night Permit pending City Council approval. Additionally, we discussed Quiubo (Bien Trucha, Inc.) who is requesting a Class B-Restaurant/Tavern license which has been approved, a Late Night Permit and an Outdoor Seating Permit which need City Council approval. The Late Night Permit because it is capped and the Outdoor Seating Permit, similar to Sullivan's, because it is on City owned property and would require a lease and City Council approval. Hotel Indigo is requesting a Class J-Hotel/Tavern Liquor License and that has been approved. Elements requested a Class A-Restaurant Liquor License that has been approved. Since then we have met with the remaining licensees that are requesting liquor licenses. The first is Blue Sushi. They are requesting a Class B-Restaurant/Tavern Liquor License also with a Late Night Permit. Their typical hours are Monday thru Thursday 11am to 10pm. Friday and Saturday their hours extend to midnight and that is where the Late Night Permit comes in. Since we are at our cap in the downtown, this will need City Council approval. Next we met with State & Main, an Irish Pub. They have 24 Canadian locations, one US Store in Glen View, and six locations in the US but by the name Elephant and Castle. They are requesting a Class B- Restaurant/Tavern Liquor License which has been approved and a Late Night Permit that needs City Council approval. Their hours Sunday thru Thursday are 11am to 1am, and Friday and Saturday until 2am, which necessitates the Late Night Permit. Finally, we met with Santo Cielo (Bien Trucha, Inc.). They will occupy a roof top location on Water Street. They are requesting a Class B-Restaurant/Tavern Liquor License along with a Late Night Permit. Their hours run into the 1am and 2 am. The Class B license has been approved and the Late Night Permit will need City Council approval. In summary, we have seven new licensees coming to the Water Street District of which five need Late Night Permits. We are looking for a recommendation from this commission to City Council that the Late Night Permit cap be increased. Currently, we are at nineteen for a cap in the downtown and we are looking for a cap increase to twenty-four.

Marc Blackman moved to recommend to City Council to increase the downtown Late Night Permit cap to twenty-four, seconded by Paul O'Toole.

Vote unanimous (6 ayes, 1 absent) Motion passed.

**OLD BUSINESS**

**b. Liquor license/Permit Fee Analysis**

This has been incorporated to the Liquor Rewrite and will go to City Council as a package.

**c. Liquor Code Rewrite**

Within the code there are two definitions, one for tobacco products and one for alternative nicotine products. Currently, the tobacco product definition states: any substance containing

tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco. In addition, it contains the following language: any “alternative nicotine product” as defined by State Statute. The definition of the “alternative nicotine product” states: a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. “Alternative nicotine product” excludes cigarettes, smokeless tobacco, or other tobacco products. In reviewing these two definitions, the cleanup committee felt it made more sense to strike the language in the tobacco products definition to make it clearer. When this was originally codified, this language was put in there so there would be regulations similarly to tobacco products, so they can enforce violations. We have stricken this language and also added within the tobacco section to say “tobacco and alternative nicotine products”. Any where there is a restriction on a tobacco product, we have included the same restriction on alternative nicotine products.

Mayor Chirico and Kavita Athanikar met with Councilwoman Gustin. In the exception section, it states that it would not be a violation if the use of tobacco by a minor takes place under the direct supervision of a parent or if such use takes place in an established place of worship or tribal meeting place. Councilwoman Gustin suggested changing the word “or” to “and”.

Joe Vozar moved to approve the changes provided by Counsel, seconded by Chuck Maher.

Chuck Maher stated changing it from or to and changes the meaning that a parent would not be able to allow the minor to use tobacco in the home. That is correct.

Mayor Chirico commended the Liquor Squad on the huge job they did and the manner in which they went about making the changes. They did a great job.

Vote unanimous (6 ayes, 1 absent) Motion passed.

**a. Two-year Liquor License Renewals**

Mayor Chirico stated that the Commission members all received copies of the survey results. This will reduce work load. This will not take place until next May.

Scott Wehrli stated that the Hotels were here earlier to speak in favor of the two year renewal.

Marc Blackman stated that if someone went out of business, we would prorate the fee back. This is happening today. Before they are reimbursed, any fees owed the City are deducted.

Joe Vozar had a concern that there were a handful who did not like it. It is an option.

Marc Blackman moved to ask staff to bring this back in the form of a motion, seconded Scott Wehrli.

Voice vote, 6-0 Motion passed.

**VII. REPORTS**

**a. Restaurant Association**

No report.

**b. Beverage Alcohol Seller Server Education Training (BASSET) – Employee Training Statistics**

July – Special Class for Old Town Pour House 33 attended with 1 no show. The class was held on site at their establishment. Mayor Chirico asked if there were any issues holding the training at the establishment. Detective Riggs stated that as long as the facility is set up for meetings, it can work. It's too hard to bring in the projector and other equipment.

Scott Wehrli asked if the onsite training cost the same as the training at City Hall. It does.

Chuck Maher suggested that if we had a minimum of 40 and a business only had 30 people, could they pay for 40.

Mayor Chirico suggested that we offer off site classes to businesses at a minimum of 40 people at a cost of \$1200.

Chuck Maher moved to direct staff to come up with a minimum rate of \$1200 for holding external BASSET training off site, seconded Joe Vozar.

Vote unanimous (6 ayes, 1 absent) Motion passed.

**c. Tobacco Enforcement Review**

The compliance checks begin in September. Before that time, Detective Riggs will meet with all of the tobacco licensees and supply them with information from the State and what the rules are regarding compliance.

**d. Liquor Reports**

27 DUI's July 2016

24 DUI's July 2015

They will be doing liquor compliance checks once a month.

**e. Liquor Concept Committee Report**

**July 28, 2016**

**Up North Ale House**

1595 North Aurora Road

Formerly Blockbuster

Jim Karras (owns Bottoms Up)

Casual American Grill & Bar which will provide a family-friendly dining location. It will have a rustic modern feel and a music venue once a week with bands or dueling pianos. It will have TV's for sport viewing and an outdoor patio. They are also adding Pizza to the menu.

Requesting a B liquor license with a Late Night Permit and an outdoor seating permit.

The Mayor approved this concept.

**A Colorful Affair**

20 W. Jefferson

Mansi Hans

Moving from 3017 English Rows

Has an M license.

Paint and sip studio offering creative classes, parties for adults, families and corporations.  
This was approved.

**Taka Sushi**

Chitose Tsutsumi  
2960 Artesian Road

This is an existing restaurant with a new owner who is requesting a liquor license. The restaurant has not had a liquor license.

This is a full service Japanese Restaurant.

Requesting an A liquor license.

This was approved.

**Ten Friends Blow Dry & Style House**

Previously discussed.

**Shinto Sushi & Thai**

1739 Freedom Drive  
2<sup>nd</sup> location

Shinto Sushi & Thai focuses on authentic Japanese Cuisine and grill concept, with traditional rolls, maki and special rolls.

Requesting a B liquor license and a Late Night Permit.

Mayor Chirico approved giving them a liquor application.

**Santo Cielo (Bien Trucha Group)**

Patrick Neary  
Roof Top Bar on Water Street

International themed farm to table small plates paired with unique craft cocktails, local beer offerings and global wine selections.

Mayor Chirico approved giving them a liquor application.

**Sullivan's**

Previously discussed.

**EXECUTIVE SESSION**

None

**IX. ADJOURNMENT**

**Next Meeting:** The next regularly scheduled Liquor Commission meeting will be held on September 8, 2016 at 3:00 p.m. in the Council Chambers.

No further business to come before the commission.

Joe Vozar made the motion to adjourn the meeting at 5:01p.m., seconded by Chuck Maher

Vote unanimous, Motion carried.