

LIQUOR COMMISSION MINUTES
September 8, 2016

I. CALL TO ORDER

The Liquor Commission met on September 8, 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 (left at 3:42pm)
Dr. Jim Ostrenga
Paul O'Toole
Whitney Robbins
Joe Vozar
Scott Wehrli

Detective

Kavita Athanikar

NPD

Officer Dan Riggs

Secretary

Emy Trotz

III. MINUTES OF AUGUST 4, 2016 COMMISSION MEETING MINUTES

Minutes from the August 4, 2016 meeting were accepted and entered into record by Mayor Chirico. Chuck Maher moved to approve the minutes, seconded by Joe Vozar. Vote unanimous. Motion carried.

IV. PUBLIC FORUM

Donovan Pepper, Walgreens

He has a potential new item for discussion under New Business. The ability to license the downtown store to sell alcohol.

Mayor Chirico agreed to take the item under New Business.

V. OLD BUSINESS

a. Ten Friends Blow Dry & Style House

Kavita Athanikar stated that the Commission had before them a recommendation from staff to expand the current Class M license, Recreational Facility license. This would be expanded to include lifestyle amenities. The expansion would increase the cap to allow Ten Friends but also Eighteen Eight. This would allow them to sell two 12 oz. bottles beers or two 6oz glasses of

wine. A Patron could only get liquor service with a paid salon service. Additionally, the sale of service of alcohol is limited to less than 10% of sales revenue.

Mayor Chirico stated for clarification that Eighteen Eight was not considered because they were giving away the alcohol. Eighteen Eight has been contacted and if this modification is passed, they have agreed to accommodate their business concept to mandate a paid liquor service rather than complimentary.

Chuck Maher asked that under Requirements of Premises, golf courses were listed. Kavita Athanikar stated that when she was drafting the ordinance, she noticed that the way it was written for the golf courses was confusing. Golf courses are allowed to serve alcohol outside the physical structure. This was a clarification.

Joe Vozar asked if we have had any other rejections to a salon type service that maybe coming back to us. Kavita Athanikar stated that in the three years that she has been here, we have not.

Mayor Chirico stated that we know that many salons will provide a glass of wine to their guests and we have no way of enforcing that. Once a license becomes available, we may find that a number of salons will apply. Also, as a deterrent is the cost of the license and the investment of the business owner.

Paul O'Toole asked if there would be a cap on the license. At this time, the M License is capped at 9. The suggestion is to increase the cap to 11 to include Ten Friends and also Eighteen Eight.

Chuck Maher asked if we could take a look at this from a regional stand point and capping the areas.

Joe Vozar wanted to state for the record that these are upscale store fronts. If it's going to work, it will work here.

Dr. Ostrenga stated that we believe that this is going on right now. One of the purpose of providing the license is to legitimize it. Would this then bring up an issue should we have an ordinance that it is illegal to serve alcohol without a license?

Mayor Chirico stated that the Commission's purpose is to make sure that the sale of alcohol and tobacco be done safely. Currently, the salon's that provide this don't have BASSET trained servers and we don't know where the alcohol is purchased. There are a lot of safety issues.

Marc Blackman questioned if \$2500 is too much. My concern with regionalizing, is if we are doing it with salons, should we be doing it with other licensees. Mayor Chirico corrected that the cost is \$2200.

Scott Wehrli stated that if we legitimize it, those without a license would not be in compliance.

Chuck Maher stated that we have to be cautious in going forward.

Mayor Chirico asked Colin Dalough if the Chamber had any comments. They do not.

Detective Riggs said that we would have to follow up with the salons to let them know of the new license. We would have compliance checks.

Dr. Ostrenga moved that the Liquor Commission direct City Council to accept the ordinance for modification of the Class M license as presented, seconded by Paul O'Toole. Discussion followed. Chuck Maher suggested that this be kept on the agenda for further discussions.

Dr. Ostrenga modified his motion to allow future modification of the cap aspect of the ordinance, seconded by Paul O'Toole.

Mayor Chirico stated that we will see in the next few months what impact we have.

Scott Wehrli stated that it needs to be attested somewhere that there percentages of liquor sales are accurate. Mayor Chirico asked if we could include language that requires them to provide a statement that this doesn't exceed 10% of their revenue. Language can be included that maintains for the Recreational Facilities that 60% of their revenue is from sales outside of liquor and for Life Style Amenities it is 90% of revenue is from sales outside of liquor. We can further add language "for the review of the Liquor Commissioner."

Roll Call

Vote unanimous, motion carried.

b. Liquor Code Rewrite Update

This went before the City Council last Tuesday night and passed unanimously. It was a great job by all that were involved. It was a group effort and a great project. Mayor Chirico thanked the committee again for their work.

c. Water Street Liquor Licensing Update

Kavita Athanikar stated that this item was also in front of City Council last Tuesday and passed unanimously allowing for the five requests for Late Night Permits for the new businesses that will be coming into the Water Street District to be able to have their Class B Restaurant Licenses and also be permitted with a Late Night Permit.

d. Two-year Liquor License Renewals

Mayor Chirico stated that last month we reviewed the survey sent to the licensees and overwhelmingly the licensees thought this would be a great option to have. It will be an option. We can do this administratively, letting the licensees know they have this option.

Joe Vozar asked if we would still have the annual meeting for everyone to pick up their licenses.

Mayor Chirico said they would still come in and pick up their license, they just won't have to go through the red tape.

Chuck Maher moved to maintain the code language that the liquor licenses will continue to terminate each April 30th but if a licensee opts for a two year renewal, that licensee, with the appropriate paid fees, will only complete renewal paperwork once every two years, seconded by Marc Blackman.

Vote unanimous, motion carried.

e. Increasing tobacco age limit from 18 to 21

Speakers –

Colin Dalough – Naperville Area Chamber of Commerce

The chamber request is to know the affect if Naperville is more restrictive than other communities on raising the age to purchase tobacco.

Jason Pyrz – Respiratory Health Association

Simon Hanna – Exhale Hookah Lounge

Asked if they raise the smoking age, to make an exception for Hookah Lounges.

Pat Lord, Citizen

Marc Blackman asked Pat Lord if the path she is recommending is to go through each municipality to change this or is it with the State and where do we stand with the State. Pat Lord said it would be much better for everyone if the State would enact legislation to take care of this. However with the political difficulties at the State level, it is unlikely to happen. There has been some success at the municipal and county level.

Chuck Maher said this is a huge emotional issue. We should ask our state legislators to address this committee on what they are doing in the state. Going one community at a time is not good for business and it's not good for setting political policy. He would like Representative Wehrli and any other representative that covers Naperville along with Senator Connelly to come and address this commission.

Joe Vozar is opposed to smoking. Anything we can do to make it difficult to get cigarettes is a step in the right direction. He is in favor of raising the age to 21.

Chuck Maher left the meeting at 3:42pm.

Mayor Chirico stated that he received a note from Ms. Athanikar that the Illinois Senate did approve Tobacco 21 in May, 2016. It is pending in the House.

Joe Vozar stated that our actions here may influence Springfield even more.

Dr. Ostrenga thanked everyone for their comments today. He wanted to address the issue that people may go to another town to purchase. He would like it to be purchase, possession and consumption, which will carry more weight. He does respect the Hookah exception. He also thinks it should start locally and not wait for the state.

Whitney Robbins thinks that Naperville is constantly being looked at. If Naperville takes the baby step to approve this, this is the way to go and not wait for the State.

Mayor Chirico stated that we have been focusing on the purchase and not possession or consumption. We thought it would be difficult for enforcement. We were tailoring it to the sale of tobacco.

Detective Riggs agrees with the Mayor. It would be more difficult to enforce possession.

Dr. Ostrenga moved that the Alcohol Control and Tobacco Commission of the City of Naperville propose an ordinance to City Council that the purchase, possession and consumption of tobacco products should not be allowed to persons under the age of 21 in the City of Naperville.

Kavita Athanikar wanted to inform every one of the current statute. It shall be unlawful for any person under the age of 18 years to purchase tobacco products or to misrepresent his or her age, or to use any false or altered identification for the purpose of purchasing tobacco products. Additionally it says, it shall be unlawful for any person under 18 years of age to possess or use any tobacco products.

Dr. Ostrenga modified his motion to purchase, possession or use of tobacco products. And to allow licensed Hookah Lounge establishments to continue their operations as they currently are as an exception to people under the age of 21, second Joe Vozar.

Mayor Chirico suggested that this motion should be modified to direct staff to bring back an ordinance that we could vote on.

Joe Vozar agrees with that and in order to expedite it, he asks staff to bring back the current motion and also just the purchase of.

Dr. Ostrenga withdrew his motion and Joe Vozar withdrew his second.

Dr. Ostrenga moved to direct staff to craft two possible ordinances regarding the purchase, use or possession of tobacco products in the City of Naperville by persons under the age of 21 and have it ready for the next meeting with a carve out of the Hookah Lounges and a second option would be for purchase only, second Vozar.

Vote unanimous, motion carried.

For the record, Commissioner Maher just left and he was opposed to raising the age to 21.

VI. NEW BUSINESS

a. Proposal for annual Basset Training

Speakers –

Councilwoman Rebecca Boyd-Obarski

Recommends they establish some form of additional training/refresher course. She offered to work on a formal proposal.

Colin Dalough – Naperville Area Chamber of Commerce

The Chamber is concerned with the burden that would be put on the businesses.

Marc Blackman asked what is being discussed, is the training something they would have to do through the City? The ideal would be a course provided by the police department that targets what we want our servers to have. She would agree for the Managers to be trained and then go back and hold a refresher seminar in their establishments.

Paul O’Toole asked if it could be an online test. If the Police Department could develop something that is in the nature of the training that we all take in an online course, that would be fine.

Mayor Chirico put in to the record that we received a letter from the Restaurant Association opposing the requirement for annual BASSET training.

Joe Vozar was against everyone having to do an annual BASSET training, he is now open minded about the idea to carve out something that is efficient, and appropriate and gets to the point. There would be value to that and would support that.

Mayor Chirico said we could add items to the Annual Meeting to make it more robust, including a mini seminar or mini update of new changes so managers could take that back for training.

Marc Blackman moved to direct staff to come up with potential, feasible alternatives that would be efficient and easy to implement, second Scott Wehrli.

Scott Wehrli stated that we had discussed that we have the initial BASSET Class in person and after three years, they could take the renewal on line or in person. We need to establish a method on how to get the Naperville information out to everyone.

Scott Wehrli further stated that there was a training that was put on privately through a partnership with the City and NDP, Bar Employee Security Training. We may want to revisit that again. Also, he suggested that we could send out a weekly update that managers could use to train their staff.

Vote unanimously, motion carried.

b. Walgreen's Request

Kavita Athanikar updated the commission that currently within the Class V Pharmacy License Classification, there is a restriction in place that does not allow liquor sales within the downtown. This affects one pharmacy, Walgreens that is located in the downtown. Additionally within the liquor code there is a general restriction that does not allow for additional package good stores to enter the marketplace in the downtown.

Mayor Chirico asked Commissioner Wehrli to give a historical perspective on the reason behind that restriction.

Scott Wehrli stated that the Walgreen licenses were issued at a time when we were basically locking down the downtown area due to incidents that were happening that were alcohol related. The ordinances that were put into effect specifically addressed hours and service. The restaurants and bars are now going in the right direction. Incident rates are down.

Donavan Pepper, Walgreens, requested the Commission to consider allowing the downtown Walgreens to sell alcohol. Walgreens have been licensed since 2014 and there have been no issues in respect to selling alcohol in the seven stores in Naperville. It has always been their intent to come back and request a license for the downtown location. The City Council at the time gave a yearlong moratorium and now we are back with this formal request.

The store is located 400 S. Main Street. Having alcohol sales at this location would benefit their customers. The store closes at 10pm, Monday through Sunday.

Marc Blackman asked when the provision was put in place. This was put in place with the creation of the V-Pharmacy License.

Joe Vozar stated that the Class V has the 5% use of the total gross square footage. He asked if this store would comply with the 5% location. Yes, they would.

Dr. Ostrenga stated that the Class V had a time restriction. Kavita Athanikar stated that the pharmacy had to be open and the pharmacist had to be on duty but with the liquor code rewrite, it was changed to manager on duty instead of pharmacy.

Whitney Robbins asked if we lift this code, would that open the door for a competitor to come into downtown. It potentially could but there is a cap.

Marc Blackman asked from a historical perspective, how much of the improvement in the downtown equates that Walgreens didn't sell alcohol.

Scott Wehrli stated that we had testimony back them about pre-gaming. That was a concern.

Detective Riggs said this happens occasionally that they bring in alcohol from Jewel or other liquor stores.

Scott Wehrli stated that his biggest concern is that we are about two years of the ordinance changes. We will be issuing 9 new liquor licenses within two or three blocks. He is not in a position to support Walgreens request at this time because he wants to make sure the downtown incident rate doesn't go up.

Paul O'Toole thinks Hotel Indigo will also have an impact.

Dr. Ostrenga said he and Commissioner Wehrli were on the commission when the Class V was drafted. One thing taken into consideration at that time was that this store is close to North Central College and Naperville Central High School.

Donavan Pepper stated that if you look at their business model they have minors coming into their stores. They are a responsible retailer and take things seriously.

Joe Vozar asked if they would be willing to stop liquor sales at 5pm or 6pm.

Donavan Pepper responded that the pharmacies close at 5pm and customers are finding it inconvenient to shop at those stores. They would not support this. This would put them at a competitive disadvantage.

Whitney Robbins asked if prior to 2014, are there statistics that proved Walgreens was part of the problem. They did not have a license.

Mayor Chirico stated that as a councilman at the time Class V was approved, he felt it was a mistake to restrict the downtown location. However, he voted to support the Class V as proposed.

Marc Blackman stated that we have approved all of these licenses recently because we feel they add value to Naperville and are responsible establishments. He doesn't feel the Walgreens issue of selling alcohol is related. There is a benefit for the convenience and trust Walgreens to be responsible.

Donovan Pepper thanked the Mayor and Commissioners for their time.

Marc Blackman moved to allow the Pharmacy V license be issued to the Walgreens located in downtown Naperville, seconded Joe Vozar.

Vote 4 ayes, 2 nays (O'Toole, Wehrli). Motion passed.

VII. REPORTS

a. Restaurant Association

No report.

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

August 164 attended, 39 no shows

c. Tobacco Enforcement Review

Detective Riggs reported that he just started handing out the materials to the establishments on the tobacco checks. They will begin the tobacco checks at the end of the month.

d. Liquor Reports

20 DUI's August 2016

39 DUI's August 2015

Detective Riggs completed 14 compliance checks for serving under age and all passed.

The total number of compliance checks are over 70.

Joe Vozar stated that as we have violations, should we make those issues public.

Marc Blackman likes the idea.

Mayor Chirico stated that this commission could ask for a report once there has been a disposition.

e. Liquor Concept Committee Report

August 18, 2016

Draft Picks

They are asking for a one day outdoor seating permit to have an anniversary party on October 9th. The committee went and looked at the location. This was approved.

EXECUTIVE SESSION

None

IX. ADJOURNMENT

Next Meeting: The next regularly scheduled Liquor Commission meeting will be held on October 6, 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 4:40p.m., seconded by Whitney Robbins.

Vote unanimous, Motion carried.