MINUTES
CITY OF ST. CHARLES, IL
GOVERNMENT OPERATIONS COMMITTEE
MONDAY, AUGUST 15, 2011

Members Present: Chair. Martin, Ald. Stellato, Monken, Carrignan, Payleitner, Turner, Rogina, Krieger, Bessner, and Lewis

Members Absent:

Others Present: Chris Aiston, Mark Koenen, Chief Mullen, Chris Minick, Kathy Livernois and Chief Lamkin

1. Opening of Meeting

The meeting was convened by Chair. Martin at 7:38 p.m.

2. Omnibus Vote

a. Budget Revisions – June 2011

Motion by Krieger, second by Stellato to approve the omnibus vote as presented.

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

3. Finance Department

a. Monthly update regarding City's financial results for June.

Chris Minick: Enclosed in the packet are the operating results through June 2011. That is two months into our fiscal year. At this point in time the operating results for the four major funds are in line with budgeted expectations. We do have a few of the revenue streams that are performing better as compared to the amounts last year. The consumptive taxes, such as sales tax are up approximately 6% in the General Fund and the income tax is up approximately 2% over the prior year as well. At this point everything is in line with expectations and I am happy to answer any questions.

4. City Administration

a. Recommend approval of an Ordinance Amending Title 5 "Business License and Regulations," Chapter 5.08 "Alcoholic Beverages" of the St. Charles Municipal Code – Fox River Harley Davidson.

Chief Lamkin: I have presented some information for an amendment for a Class E licenses and the main reason for this is for the events that can be hosted at the dealership to not only serve existing customers but also to host some events out there. I have talked with both Villa Park and Palatine police chiefs who have experience with these types of events and they have had no problems whatsoever with the events they have had. They created similar

types of licenses for the variation for the respective communities and largely this is to have customers come in and visit. The customer piece is more important than the alcohol piece. The alcohol piece is part of the refreshment but it is also to continue to generate business at the dealership and obviously some of the larger events is to bring in other vendors and be able to generate more business there.

Ald. Krieger: If we are going to have motorcyclists drinking, can we require that they be organ donors?

Chief Lamkin: I don't know that we can require that. I can tell you that my experience with motorcycle riders is that they are organ donors. I would also tell you with my experience that motorcycle riders who go to these events, they are not people who consume alcohol to extremes. They know their limitations, there is always that exception, but motorcycle riders are used to the fact that they are on two wheels, not four, so their confidence in riding a motorcycle is different in terms of what they consume.

Ald. Lewis: Do you know how many events they will be able to have with this type of license?

Atty. Good: The license classification itself provides for up to 20 events on dates designated by the license if issued by the Mayor.

Mayor DeWitte: I will approve the application when it is submitted for what type of event they will hold. Ozzie from Fox River Harley Davidson is here and can answer any questions you may have. These venues can range from large gatherings with cookouts in their parking lot but it also includes much smaller groups, such as, monthly get togethers for people who bought bikes in a given month can meet the service manager and other services that this dealership provides, and as part of that refreshments (beer and wine) are served. We feel much better in putting this under the auspices of a license rather than just giving a business an opportunity to just serve alcohol whenever they deem appropriate.

Ald. Lewis: So this isn't necessarily sale? It's just that you can serve it?

Atty. Good: Under Illinois law sale means delivery, actual retail sale, number of circumstances. So in fact that no money is charged does not mean that it does not constitute a sale in the Illinois law.

Chrmn. Martin: I thought at one time it said, and I don't see it in here, it was at the sole discretion of the local liquor control commissioner. I believe we had a phrase in there given the Council's approval. Am I correct?

Atty. Good: No sir, not in this class, and nothing to my recollection, unless corrected by staff, has been removed; just items have been added to this category. I am not aware of that restriction ever being in this E class license.

Mayor DeWitte: Mr. Chairman, I would only add that the reason this is before you this evening is because I am seeking the Council's acknowledgement on this particular application and asking for the Council's review.

Ald. Bessner: When Zylstra did their pig roast, did we have alcohol there?

Chief Lamkin: When they did their pig roast they did work with a local license holder that was required to obtain a Class E temporary license because they were on off-site license premises.

Motion by Ald. Carrignan, second by Stellato to approve an Ordinance Amending Title 5 "Business License and Regulations," Chapter 5.08 "Alcoholic Beverages" of the St. Charles Municipal Code – Fox River Harley Davidson.

Roll Call: Ayes: Stellato, Carrignan, Payleitner, Turner, Rogina, Bessner, Lewis; Nays: Krieger. Chrmn. Martin did not vote as Chair. **Motion carried.**

b. Reconsideration of an application for Class B3 liquor license for Alibi Grill to be located at 12 N 3rd Street, St. Charles – tabled from 8/1/11 meeting.

Motion by Ald. Carrignan, second by Turner to remove this item from the table.

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

Mayor DeWitte: We are back before you this evening following some additional discussion and debate and perhaps some agreement on the number of issues that were raised in past conversations. You may recall, following the July 18 Government Operations Committee meeting, there were a list of conditions that were distributed to everyone on the Council regarding this particular establishment that had come out of the committee meeting on the 18th. Specifically that the reference of tavern or bar would be removed from the name Alibi, that the establishment terminate and close operations earlier than permitted by ordinance – 11:00 p.m during the week and 12:00 a.m. on weekends, that the establishment cater to a different target market than other area establishments – establishing a 30 year old age restriction, establishing that the occupancy of the establishment be limited to 250 even though the site plan shows seating for over 400, and lastly that arrangements be made for the use of parking spaces for customers or valet service to eliminate parking concerns in the neighborhood.

In response to those conditions, a memo was received from Mr. Simpson on August 11 and by all practical purposes it appears that he has agreed to one of those items pursuant to his memo. So with that I will turn this over to Mr. Simpson and some pending dialogue can take place regarding this pending application.

Chrmn. Martin: Your honor, before you do that there is one issue that must be resolved. Mr. Simpson is requesting a B3 license and there are no B licenses available at this time and that in order to even discuss this, we will have to determine whether we will expand the B3 license number.
Atty. Good: Correct, there is no B license available; however, the first of any vote would be is to authorize the issuance of another license and an ordinance would appear on the following agenda. But as part of that discussion, before voting to authorize the issuance, you would want to attempt to agree on any and all conditions that would be applied to it.

Rich Simpson, 236 E Vallett, Elmhurst, IL 60126.

Chrmn. Martin: I have the five conditions that the Mayor referred to from the Council and I have your five responses. Removing the reference of tavern or bar from the name; and you would like to change the name to Alibi or Alibi Food and Spirits. I would like to address each one of these in order and entertain any discussion on this one.

Rich: When we were talking about Alibi Grill, I thought about calling it Alibi Food & Spirits and thought I would throw that out there to see what the panel thought.

Ald. Carrignan: Relative to spirits, I think leads us back to that whole discussion of tavern and bar. What I need to understand from you tonight is that you are a restaurant. You have to convince me of that because we are not there yet, but we'll work through this list and get there.

Rich: Would just calling it Alibi be acceptable? I am totally happy with that.

Atty. Good: So if a license is authorized and issued, that would be a condition of the license. The name is limited to Alibi and that is on the recorded record Tina?

Tina Nilles: Yes, I do.

Chrmn. Martin: That the establishment closes liquor operations earlier than permitted by ordinance and your response is you would like to talk about a full B3 liquor license. I was told at the start of this I would get one and I have data by the City to show this. Would you produce that data please?

Rich: I believe everyone got a copy of it – document dated June 30 received by the City.

Chrmn. Martin: I've read this and don't see any reference to a liquor license.

Rich: With this document was a condition part to my building permit. When I received my building permit it showed I was going to make a sports bar out of it and at that time I was going to build a sports bar because that is what the City recommended when I had multiple meetings with Russ and Rita. So we were going to make a sports bar out of it. As we started moving on with it I decided I didn't want to have a sports bar. The building plans

have actually been revised three times. My kitchen started out being small to a large and larger kitchen which lends me to go more towards a restaurant than a sports bar. So I want to have a restaurant and if you look at the interior of it you will see how much money I have put into it to make it an upper end restaurant.

Chrmn. Matin: Still without a liquor license?

Rich: At the time I was led to believe I was getting a liquor license, but had no idea I had to come in front of this committee. A letter was typed up by the City and I signed it that I was going to make it a sports bar and get a liquor license (my assumption) so that is where I was with this thing.

Atty. Good: I see nothing in the record that suggests that anyone from the City agreed or represented that a liquor license was available. As a matter of law that is impossible for anyone to do and I don't see anything that suggests that.

Rich: There is a letter of intent here stating to open a sports bar.

Atty. Good: A letter of your intent has nothing to do with an affirmative statement from anyone on the City staff in any basis suggesting that you would be given a license that does not exist.

Rich: I was led to believe that – I don't want to argue with you.

Atty. Good: There is nothing in the record that is the case.

Chrmn. Martin: As a committee are you comfortable with a full B3 license?

Mayor DeWitte: A B3 can still open to 2:00 a.m. The conditions that are attached to the license are linked to the classification.

Ald. Carrignan: The question on the table is will you go to 11:00 p.m. and midnight on Friday and Saturday?

Rich: I was fine with that, but the issue I want to discuss was if I was doing banquets. I actually got a little census that people thought that was an early time so I wanted to see if I could get a special arrangement when I have banquets and parties like that if I could stay open later or something for these events. I don't know how to address something like that.

Mayor DeWitte: I can answer that. He only needs to cease alcohol service at 11:00 p.m. and midnight. I'm not sure that condition is asking him to close his establishment. It may have been suggested that he should close and cease service at 11:00 and midnight.

Ald. Carrignan: We are talking about a liquor license so what I would look at is that we are going forward with 11:00 p.m. and 12:00 a.m.; if your business stays open and you are

caught serving liquor at that time it would be a violation of your license. I would suggest that after being open a year or two down the road and being a good public citizen that you come back revisiting the times on the license. I think it is something we can revisit down the road.

Atty. Good: So if I understand Mr. Simpson, you are agreeing to 11:00 p.m. Sunday through Thursday and 12:00 midnight on Friday and Saturday at this point in time and you are agreeable to that and you would cease service of alcohol.

Ald. Bessner: And that includes the banquet facility as well?

Rich: Yes, it would have to be across the board. My issue is that the banquet time might hurt me a little bit, but I would have to live with that.

Ald. Bessner: I have a question to staff, but regarding our zoning ordinance for alcohol sales, is there any way to treat this as two entities as a banquet facility and a restaurant.

Atty. Good: Generally a premise is one enclosed building space and I assume staff would agree that it is one business.

Ald. Bessner: I am only asking this because when we get to #3 that seems to fall into the same area of questioning.

Chrmn. Martin: Does everyone understand that it is the complete premises? He doesn't shut down the banquet and serve at the bar?

Brian Townsend: I just want to clarify under the rules we established today, when we say an establishment has to be done at 2:00 a.m. that means all alcohol is removed from the bar. No one in the establishment is consuming alcohol so we want to maintain that same interpretation here. It means that at 11:00 p.m. or 12:00 a.m. there can be no alcohol consumed within the establishment.

Atty. Good: That is the case for all licenses, every class. Brian is correctly stating the rule and it is specifically in the code.

Ald. Payleitner: Would like some clarification about a full B3 and a B3 license is predominantly food and live entertainment – correct?

Chrmn. Martin: Do you understand that Mr. Simpson. Okay we have resolved item 2. Item 3, that the establishment cater to a different target market than other area establishments due to a banquet room would like no age limit. I believe we discussed an age limit of 30 at the last meeting?

Ald. Carrignan: I believe 30 was discussed and I think I have an issue with that. I have a 22 year old daughter that likes to go out for dinner, so why would I want to deprive her, if it

was a fine dining establishment in St. Charles, of that option. I think the 30 year age limit is an undue burden.

Ald. Lewis: Well if we are calling this a fine dining place where people can go out to eat, what about the high school kids who want a nice place to go for prom or homecoming? They will not be able to come? They can't get in? There under 21. They can go to ZaZa's, we see that all the time.

Ald. Carrignan: At that point we start restricting the liquor side of this where we have an age that is not illegally, something other than undue burden on Mr. Simpson. There is a 21 year age on alcohol, it's a restaurant and they are going to be in there for prom or whatever – that is fine. I just approve that you are restaurant.

Ald. Rogina: I agree with Ald. Carrignan and Lewis wrt the age. My question is about what group are you catering to? I have visited your place and it is well done, but having said that we still have the issue of a ticket booth. What is running through my mind is I think of ticket booth and I think of live entertainment; I think of 21 and I think of you having a concert in there.

Rich: That's not going to happen. You know how nice the place is. I am not going to bring people in there to trash the place.

Ald. Rogina: I am not questioning the live entertainment part of it, if you are going to have a singer in there or of that nature – that is not my concern. What I am concern is whether we are going to have shows? I don't know if that demands something additional to be part of the license like having a concert where you would pay a cover charge to have a concert.

Atty. Good: From a zoning standpoint it would be a different type of use. I am not prepared to answer this, but I'm not sure if that would trigger what Ald. Martin referred to earlier – a separate special event type of approval. I would not think that the property is even zone to conduct a nature of a concert.

Rich: Under my zoning of BCD-1, I am zone for live entertainment.

Atty. Good: Live entertainment is shown on the plan and specifically approved by the liquor commissioner on the site plan when issued and it can be noted on there that there will be no concerts.

Rich: I am not going to have any concerts, but I am going to have live entertainment.

Atty. Good: Live entertainment as noted by the aldermen is different from a concert where you sell tickets. Live entertainment in most restaurant facilities is that you come in and you have entertainment available. So you do not plan on selling tickets for any event.

Rich: It depends because if I have theatre or something, I may be selling tickets to pay for the entertainment.

Atty. Good: I don't know if you would even be zoned for that type of event there.

Ald. Carrignan: Why would a dinner theatre be any different from live entertainment?

Atty. Good: I am not suggesting it is. I am just thinking of the use itself and indicating that certainly the entertainment is permitted, but I'm trying to think of an event where something is sold in advance differently along the line of a concert where tickets are sold.

Brian Townsend: Ultimately we are going to discuss occupancy in the establishment where we are comfortable in terms of the number of people that are allowed and that may resolve this.

Chrmn. Martin: As I see it, live entertainment like a piano bar, a trio, or somebody come in to sing as opposed to a concert where you are collecting tickets, I would have a problem with that type of venue. So it's pretty much the consensus of the committee that we strike the age limit?

All: Yes.

Chrmn. Martin: That the maximum occupancy of the establishment be limited. You are asking for 250 plus. What does plus mean?

Rich: 250 plus staff. Technically on the print I proposed to you, seating was only for 279.

Atty. Good: So if the seating is 279 shown under the site plan; approval could be limited to that. So if that's acceptable to Council, it will be noted on the plan.

Rich: That has been approved with the Fire Department – 279 – it's on the plans.

Ald. Carrignan: I think we keep the license in line with what the Fire Chief has determined. 250 – 279 it is not a big leap.

Chrmn. Martin: Chief Mullen, is there any problem with the occupancy numbers?

Chief Mullen: No, 279 is under what is allowed.

Chrmn. Martin: Very good, we can determine that 279 is the number.

Ald. Lewis: Last time we spoke you said you could only seat that many people, but you were going to have a lot of standing room.

Rich: With standing room it was at the 400 capacity. I am eliminating the standing room.

Atty. Good: Okay, Mr. Simpson, you agreed to the 279 and removal of the standing room only area.

Chrmn. Martin: Okay we are all in agreement of item 4, now item 5. Arrangements be made for the use of parking spaces for customers or valet service. And your answer is I will do all that I can to get extra parking. Have you made any arrangements for extra parking?

Rich: I have not. The VFW meeting is tonight and I am here this evening, so I will have to wait until next month. I have approached the VFW hall and talked to them and also talked to gas station at Main and 4th about utilizing their lot so that I can get some valet going back and forth. It will behoove me not to get extra parking so that I can get in there and turn some tables. Anything to get parking, I am going to do.

Chrmn. Martin: Have you considered valet parking outside of the SSA 1B?

Rich: Tell me where I can go and I'll consider it.

Ald. Carrignan: I think that is part of the point that he is in SSA 1B and that precludes us effectively of playing this parking game. The parking is a non-factor in our decision making.

Ald. Stellato: I disagree with you and the reason is that because today the use is a retail establishment. Mr. Simpson is asking for a change of that use to go to an establishment that requires serving alcohol. Once you do that you increase the capacity in the building up to 279. If it was still the Antique Market and if there were 50 people in there, you might be lucky. So the question is – do we have enough parking, in our mind, to agree with a change of use to reach that number. To me it is the most important factor. I know you're saying it's not. It's the number one most important factor here.

Ald. Payleitner: I agree because we are also responsible for the other businesses in the area. We are going to be taking parking from them.

Ald. Stellato: I was hoping to hear something from Mr. Simpson tonight that he had figured something out about parking. We just went through an application with the bus depot saying they were not allowed to open up until they had something worked out with the signals to make sure their business didn't impact other people. I didn't hear anything tonight that he has worked anything out. Same situation.

Rich: Like I said I have approach the VFW hall and their meeting was this evening.

Ald. Stellato: I understand what you're doing, but personally I would say we would not be able to do anything until we have something worked out or your application that would be contingent upon you working that out for some parking relief in that sector.

Ald. Krieger: I have noticed that there appears to be two lots connected to St. Patrick's Church at State and 4th. Have you thought about approaching the church? The church is on Cedar, but if you go north on 4th there are parking lots near the church were the school was. Maybe they would consider a valet.

Ald. Lewis: This seems that this is a matter of trust. I understand you are the owner of the building and you have owned it about 12 years? In those 12 years, I don't know you and you want me to trust that you're telling me you are going to do what you are going to do, what are some of the things you've done to support the City of St. Charles when you owned that building – some of the philanthropic events you have supported?

Rich: I've supported all the events, Chamber of Commerce, partners of the businesses…

Ald. Lewis: What are all the events? What have you done other than to own the building and pay taxes, what have you done? How have you supported St. Charles?

Rich: When I had the shop, we were part of all the events that we could be part of. We had the business Chambers inside there.

Ald. Lewis: Okay I remember the Chambers being in there. Those are the kinds of things I am looking for.

Rich: We put the art on the building when the Art Committee asked. Anything the town has asked me to do, I have done. You can validate with the building department and anyone else in town that I have been a pleasure to work with, never argue with anybody, never said no to nothing. Anything that has been approached to me I have said yes to. I have been a man of my word for every year I've been in this town.

Ald. Lewis: I am just trying to develop that line of trust that you want us as a Council to give you; so I was just asking for some examples of things that would elude from that. Thank you.

Kim Perdue, 3802 Chesapeake Road, St. Charles. I've been a resident for 31 years and just happened to be walking through St. Charles a couple of weeks ago and dropped in and looked at the building. I think St. Charles would be proud to have this type of establishment there. I would look forward to bringing my family there. He has just put so much into it, I think it would be something to be proud of and just wanted to comment on that.

Vanessa Bell-LaSota, 1610 Howard Street, St. Charles. Now that I hear you own the business for 12 years and you're familiar with the surrounding community and you certainly know the trends with all the festivals and traffic within the community, my question is…

Chrmn. Martin: Excuse me, would you please address the questions to the Chair.

Vanessa: I'm sorry, my question is I am little confused with restaurant use, banquet use, if it has a 250/279 capacity, how much of that is banquet, how much of that is restaurant, would it actually be inhabited with 250 people at one time or just allowing for weddings and that sort of thing? My concern is that having owned the building for 12 years, I think you ought to consider the community first, not even the other businesses, but the impact to the adjacent community, if it were to be populated with that many people, where is the parking? I think the investment of time would have been first. My question is why have you not secured the parking plan before investing so much into the building? That is the argument for pushing this matter forward.

Chrmn. Martin: Please let him answer each question as you ask it?

Rich: Which question are you asking?

Vanessa: Why did you not plan for parking before you planned for a facility to hold 250 people? You are very open to finding parking, but you have not yet, and yet you invested so much, the community is concerned about the parking whether its valet or a parking deck?

Rich: There is a parking deck, parking on the street, and behind me. I am a taxpayer and I am entitled to that parking and I am in a zone for it. Plus it's to my benefit to get additional parking to have people come into my establishment when parking is not available.

Vanessa: My first question is why wasn't the plan secured before the investment was made? When considering building use and capacity with the Fire Department, that is all well and good that it can handle 250 people, but again I bring the question back to the community. In discussions with our local police within our ward, the statement was made that response time to calls outside of the downtown area, we have to understand and tolerate that the first response to the downtown businesses, a bar core, on the weekends. So my question/comment would be I think we tolerate the maximum of delay from the response time from the police – a resident from my community made a call and it took 11 minutes for the police to get there. He was told that we have to understand that response time is going to be slow on weekends. So my concern, not directed to you Mr. Simpson, but to Council and the City is why are we approving a business that could have the capacity of 250 to bring more burden on response time with our police?

Chrmn. Martin: That's irrelevant.

Vanessa: How is that irrelevant?

Chrmn. Martin: Very simple, when the Fire or Police Department gets a call – they are going to answer it whether it be at 12 N 3rd Street or 24 N 3rd Street. Therefore, your question or line of thinking is not relevant to this issue. Next question please.

Vanessa: I guess I got the answer. You live in Elmhurst. It's easy to understand when you live in the community the impact you'll make on the community. I think I got all my

questions. I didn't get an answer for your plan for parking. I didn't get an answer for your consideration for the community? You said there was going to be a close and cease service at midnight, then when would the business itself close? When will people be leaving your establishment?

Rich: 30 minutes to an hour afterwards probably.

Atty. Good: That is not a limitation on the license. He can stay open as long as he chooses to do so provided alcohol is not being served.

Craig Bobewiec, 508 Cedar Street, St. Charles. I live by Lincoln Park and I have lived there almost 30 years. I am a neighbor of David who spoke to you at the last meeting. My biggest concern that I wish all of you would consider is the parking. Right now we get overflow up into our city streets. We are not part of any SSA district. We are a residential district and the overflow part of parking comes up to us. We're picking up beer bottles out of the parkways, you get people coming back to their cars at 1:30 – 2:00 a.m. and I know that they don't mean to be loud and obnoxious, but it's perfectly quiet out, you hear it through your windows. What's to stop, if he has 250 people in his business? That's probably a hundred cars added to already what is downtown. What's to stop them? Is there anyway the Council can put something in to stop them from coming up 6th Street, Cedar, and all that? I don't think using the church parking lot is the answer and that's infringing on our residential neighborhood, our residential quality of life. After 10:00 we want it quiet. We don't want to be dealing with these people every weekend of our lives. Mr. Stellato I commend you for making that the top priority because I really think that is the top priority in not allowing our neighborhood being put in any way because of another business. I don't want to see the man not succeed, we have a lot of young kids in that neighborhood.

Rich: One thing I want you to realize is if I do go ahead and get church parking, it would be valet so people in my establishment would not be in your area. I can't control everyone else.

Mr. Bobeweic: Isn't there a way that we can somehow control what happens on the west side of Lincoln Park in this neighborhood. In a couple of years we are going to have the Lexington subdivision built and that is going to double, at least, if not quadruple the traffic in our area neighborhood and now let's bring another 300 patrons at 2 a car; you're looking at another 40 cars on a Saturday night, if he is packed, in addition to all these other cars in the area. They are naturally going to flow where it's convenient and we're convenient.

David Amundson, 500 Cedar Street, St. Charles. I'll pick up the conversation from two weeks ago. Just one little vignette and this is no way reflecting on you or your clientele, but this is just on the scene and general culture going on downtown St. Charles. My family was out late and got home at 11:30 and at 11:44 five very inebriated people start walking up our street and one is so bad that he cannot walk and is being carried by two of his friends which dropped him three times as they transited the 66-foot width of my lot. Fifteen minutes later they had managed to make it 200 feet further. Their language was vulgar and that's the by-

product of the culture we have. Even if his clientele is impeccable, they are going to consume parking spaces which are going to push people out further in our neighborhood, which means we will have to put up with more of that kind of behavior. That is one of my sticking points in the whole thing. Everyone who comes into your establishment is impeccable and never has more than two drinks and goes home; it's everyone else around competing for the number of fixed spaces. Parking, traffic, drunks wandering and driving through our neighborhood – it's ridiculous. It didn't happen 10 years ago and it happens regularly now. Ten years ago I could sit in my living room and not see any police bars going off and only on Main Street between 4th and 5th and nearly every weekend now I see somebody stopped on just that one block of Main Street that I can see from living room; this is regular and habitual. Again it might have nothing to do with this particular application, but it is adding to the mix.

Rich: I may be a blessing for you because if that is the situation, I may be able to push out some of the younger crowd and bring the older crowd in.

Ald. Bessner: Is there any peak times where there are problems in that vicinity of 11;30 to 12:30 or does it go over right to 2:00 a.m.?

Chief: People leave at different times from the bars and not all bars stay open as late as they are allowed. I don't believe I can say there is an actual peak time – it is somewhat staggered.

Ald. Bessner: I was just tyring to find out if this business would create its own cycle of problems at the 11:30 – 12:30 time or if it is already happening or not happening at that time?

Chief Lamkin: For businesses that close at midnight, those people have the choice to go home or go to some other place and no one has any control over that. And some of the bars recognize that and they don't want to be the last stop.

Ald. Lewis: I think for myself is the issue of whether we don't have a license to give – correct? And do we want another liquor license or not. We don't have parking. I hear residents all throughout the 5th Ward that they don't want any more bars; so we are here discussing if we are going to create another liquor license to open up a bar/restaurant. You can take the word bar out but there are a lot of places that still have bars. I have just heard so many residents that are against opening up more establishments that I am having real difficulty in making this decision.

Ald. Krieger: Per capita we have more liquor licenses than Naperville and Aurora – per capita.

Ald. Rogina: We have to address the issue at hand here. Ms. Perdue's comments are well founded. I visited the establishment and it is a credit with respect to its décor. The residents who spoke here tonight, they live this stuff and none of them spoke out of turn either. I am

very concern about their issues. Ald. Stellato made a key point, in my opinion, that parking is an issue and we would be remiss to put blinders on with respect to that. And his point on granting a license contingent on some effort on parking goes a long way in helping me make a decision. We need to take a look at whether we should try to assist the neighborhood. So this issue has been nothing but a roller coaster ride to me. Trying to give a man who has invested quite a bit of money, an opportunity to establish a business and at the same time begin to erase the concept that we are a bar town. We are not interested in granting another license for a bar so that is where I am at. I don't have any answers. I am trying to frame the argument.

Ald. Carrignan: A few weeks ago we asked Mr. Simpson to address the five issues that we have before us and I think he has addressed each one of them relative to the name, relative to the time, relative to the age, and relative to the occupancy. The issue on the table is parking. He has made his point that he is a restaurant – not a bar. That is my interpretation so far. To Dan's point and I do concur that the SSA still plays a part in it. But the change of use is what we are looking at and we look at the change of use and we have to have additional parking. I think it would make sense to put a motion forward to add a new class B3 liquor license with the conditions that Mr. Simpson has agreed to with an additional condition that he supplies off-site parking to hold 50 cars; and if he finds a place to hold 50 cars we will grant him the license. The issue is parking.

Rich: Last week we also spoke that in the event I didn't have a liquor license I could open tomorrow and have a restaurant and still bring in the same people without the restrictions. I agree with you a 100% about the parking. I would be foolish if I didn't get some additional parking to bring in the people, but it really shouldn't be a condition of this liquor license because I feel either way I could or could not open and the problem is still going to be there.

Ald. Carrignan: I agree, but of the five points we brought up that was one of the five points so it is a condition.

Rich: And like I said I am going to do every reasonable effort that I can and if the City wants to help me I will take that help.

Ald. Carrignan: I understand. You hit four of the five and you got to hit the fifth. Dan has also let me see relative as to the change of use and the number of occupants in that change of use, it does impact parking downtown and it impacts the rest of the neighborhood. So if the motion would go forward to grant the liquor license and you had a place for 50 cars, I think that would be a reason to grant you a license.

Chrmn. Martin: Is that a motion? You are asking to amend a B3 license?

Atty. Good: It wouldn't be amending the class itself, but I think we're asking if the license is actually issued – conditions that would be imposed on this specific license in the site plan? At this point the conditions only get attached at such time as the license is issued. Meaning the conditions have been satisfied, the Mayor would see a site plan that says Alibi,

times would be noted, occupancy would be noted, and removal of the standing room. Absent some proof of the parking is permitted, I think with these four conditions you could approve a license and the Mayor could put them on the site plan this evening, for example, Until you have proof the parking is there, there's no proof to make a condition on the license. What are you going to do if you issue the license and there is no parking? I know what you intend and maybe the best way to do it is this – that staff be directed to bring an ordinance creating an additional Class B3 license to the Council at such time as the applicant provides evidence of parking for 50 spaces. That's the last thing that we need some proof. The other items can be listed on the license as issued. So it would be suggesting a motion that staff bring an ordinance creating a license to Council for approval as such time that the fifth additional condition, evidence of supplying 50 parking spaces for the term of the license, is provided. We have an ordinance creating and authorizing the additional license, and with the last condition satisfied, the Mayor would then be authorized to issue the license and note all those conditions on the license itself.

Ald. Carrignan: Would you think at least a straw poll, if that motion was made.

Chrmn. Martin: We have before us the issue for a B3 license that was denied, it was asked to be reconsidered and it was reconsidered previously. At the reconsideration meeting it was asked to be reconsidered until tonight. We tabled it, we asked Mr. Simpson to provide us with some answers to some specific questions and that has been done. At this point I am ready to entertain a motion to approve or disapprove the motion with the changes made of the five items.

Ald. Turner: Is the fifth item that he is required to have 50 parking spaces?

Chrmn. Martin: Let me review the five. Alibi is accepted, 11:00 – 12:00 hours of liquor service has been accepted, we remove the age limit, and 279 people on the premises at one time. Technically item 5 is not relevant to this issue because as a member to the SSA 1B he is not responsible to provide additional parking. However, he has change the use from a shopping location with demands of 50 parking spaces to demands of over 100 parking spaces. That creates a problem. We cannot as a City provide those parking spaces at this time. Now if we had gone back to 1989 when I asked for a parking deck over there we would be handling this.

Ald. Stellato: I just want to state that all this discussion is good and we have exposed some flaws that we need to work on in relation to that quadrant and how the neighborhoods operate. At the end of the day if we could draft a template that could be used for other businesses that want to relocate in this quadrant or the downtown that requires a liquor license and are going to do things like strain the parking area, require change of use, I think we are doing good work here. I would like to see what staff and the operator can come up with as far as finding secure parking that is dedicated just to this business; and if that works it should be a road map for other people coming in to say, if you want to come into downtown and want to ask permission to get a liquor license, which seems to becoming a little more controversial than in the past, then you are going to have to provide parking.

And if you do like Mr. Simpson does, and its successful, we might be able to solve some of the problems, like taking the parking out of the neighborhoods, not allow people to park there and, if they do, they have some type of permit parking; but some way to control the impact on the neighborhoods. Maybe this is the right step. I would prefer to see staff sit down with the ownership and try to come up with some type of plan and then take a look with what they came up with. You know where I stand, but I am also willing to look at something that we might not be realizing today.

Atty. Good: Am I understanding that the parking is not a condition of this motion at this point subsequent to direction from staff?

Ald. Stellato: I'm suggesting that before we go any further on the liquor license that staff and owner sit down and work out some type of parking plan. Come back with that plan attached to this request and let's take a look at it.

Atty. Good: At this point it appears you are not looking at a motion to create a liquor license because you cannot issue it at this point and you do not want it sitting available and you want the condition of 50 parking spaces.

Chrmn. Martin: Lacking a motion to approve or deny the liquor license, I would like to accept Ald. Carrignan's suggestion to get comments from the members of the committee. I got your Dan, Jon would you like to comment.

Ald. Monken: Based on the discussion we've had, I do think staff should look at the possibility of the parking issue. We've covered the other four points and agree with all of that. I don't know if you looked into St. Pat's school possibly the parking lots back there might be a consideration. My comment is yes, I think it's something we have to table right now until he meets with staff. I think we all agree with this situation and I would like to see us move forward.

Ald. Carrignan: I believe he has met the first four points. I would like to see you come back with 50 cars off site. I don't think staff is responsible for that. I think it is your obligation to go out and find it. I would like to see you come back with 50 parking spaces and I vote yes.

Ald. Payleitner: I agree with the others. I think this whole issue back and forth with this history, we've had a change of plans, or lack of plans, and it's made me a little dizzy. We were clear on our expectations and I think that number 5 is huge as we protect the other businesses in the area as well.

Ald. Turner: I don't know if I'm in favor of this even with the parking.

Ald. Rogina: I think it's in our best interest to have our staff work with Mr. Simpson on point 5.

Ald. Krieger: I go back to my comment per capita. We have more liquor license than Aurora and Naperville; and I think this is a bad use. The parking and general area over there is overrun.

Ald. Bessner: I would like to see what you come up with parking as well as giving us complete assurance that there will be no 18 – 20 years old lost in that crowd at night. I go back to what Ald. Payleitner said as well. This has evolved and still is. I know where it started and I know where it is now, so hopefully the controls will be in place for that.

Ald. Lewis: I think the cart was put before the horse in this matter. Before you started, I think it was suggested to you by other entities of the City, but for some reason you felt confident that you were going to get your liquor license. I don't think we need any more establishments that are serving that amount of people (250 people) staff is going to have to park somewhere else. I probably would be inclined to vote no.

Chrmn. Martin: At this point it seems to be the consensus of the committee that additional investigation must be made on the parking issue.

Mayor DeWitte: I would like to make a suggestion. All we are really trying to do is get this issue into the public forum so the Council can make a decision on whether this application is valid or not. I hear some no votes coming down the pike on this discussion based on the comments some council members have made. Having said that and in fairness to Mr. Simpson, what is the likelihood that if, in fact, nothing happens with his application until he acquires off-site parking for 50 automobiles; there is a very high risk that once he gets that taken care and comes back there still may not be enough votes to approve this liquor license and Mr. Simpson and the staff would have simply gone on a wild goose chase for next two weeks/30 days while that project was pursued. May I make a suggestion that the parking issue becomes a contingent condition on the issuance of the license? That the Council takes an up or down vote tonight on the issuance of the license and make acquisition of those 50 parking places a condition of the license being issued. That way he is assured he'll have his license and he'll have his 50 parking places secured.

Chrmn. Martin: That was the question I was going to ask Atty. Good.

Atty. Good: We can work that. Mr. Simpson, on the record, you've heard the conditions. Alibi is the name, 11:00 – 12:00 a.m. closing hours, 279 occupancy plus staff, and removal of standing room only area. Do you agree if a license is authorize by the Council that no license need be issued unless you satisfy all five conditions inclusive to providing all 50 parking spaces. Do you agree that have no right to a license unless all five of those conditions are satisfied?

Rich: Yes.

Atty. Good: Okay he is on the record and won't be able to argue that.

Ald. Payleitner: One clarification please. Is it 50 parking spots or 50 new parking spots?

Atty. Good: It would be 50 dedicated parking spots which generally wouldn't be on the street or parking garage since he can't take control of any public parking spaces. So it would have to be on some location that is not currently public parking.

Ald. Stellato: I am going to play devil's advocate here. We talked about trust earlier and haven't seen what I thought I would tonight. I know you said VFW hasn't met, but if those 50 spaces are too far away from the restaurant that they are impractical to use for either valet or patrons of the restaurant, we are doing no good here. That discussion of what those 50 spaces are, I can't answer that question until I see the plan, where they're going to be, how they're going to operate, what the lease looks like. There are so many other things that are going to have to happen with this that I can't go forward with that and say its contingent upon 50 spaces. There has to be more discussion on that.

Mayor DeWitte: Well if I could play devil advocate on the other side, let's assume he simply is going to use the spaces that Scotland Yard was using located wherever those people were parking. All of that available parking that those people were using is no longer being used. What's to say his patrons just don't take the parking that Scotland Yard had public or private. I guess I'm just arguing the other point. We can debate this parking issue forever. I'm with you, I would like to see something in writing that he has made an agreement with some private property owners that he has access to 50 parking spaces. I think that is fairly cut and dry and we know enough people who own property in the downtown business district that we know when this agreement is going to be established and available.

Ald. Stellato: You are also asking for a read from me tonight as to whether or not I would agree to that and I'm saying, in principle, yes I agree with you; but if those spaces are so ridiculously far away that they are impractical I have to have the right to say no. So I don't want to leave Mr. Simpson here saying, okay I got a deal struck and all of sudden he finds later somebody votes no on it.

Mayor DeWitte: So is it fair to say Tom that a subsequent vote needs to be taken once an agreement is presented to the Council regarding…

Atty. Good: Yeah, with utmost respect it doesn't do any good to authorize a license unless it is tie down based on what I am hearing.

Mayor DeWitte: He will have to bring it back to the Council for the entire Council to review the agreement that he ultimately brings back for approval.

Chrmn. Martin: Basically we are tabling the issue.

Mayor DeWitte: We are tabling on the basis that he'll know whether in fact he will have a license or not if he is able to come up with private parking for 50 spaces.

Chrmn. Martin: You're asking that we take a vote on whether the Council is willing to issue a B3 license subject to approval of the parking spaces – contingent? What if that motion passes and he comes back with a parking plan that is not acceptable?

Mayor DeWitte: Then he doesn't get his license.
Atty. Good: That can be part of your motion. It's a straw poll because you'll be voting again when you see the plan for practical matters.

Ald. Stellato: Once again I don't want to mislead. You were asking me if I would be willing to approve that. Yes in principle. Once again we haven't seen the plan. I can look at it and see if the plan works, but is that going to help you make a decision.

Atty. Good: Even if you passed the motion to authorize the issue it will still be contingent upon parking being acceptable to you which leaves the whole issue open.

Chrmn. Martin: That brings up an interesting concept. We are voting on a liquor license. What is to prevent him from opening as a restaurant without a liquor license?

Ald. Stellato: Nothing, we can't stop him if he wants to open without a liquor license.

Rich: Which I am going to move forward and open because I am in a situation so I am going to open. But I'm also going to do everything I can do to get that parking.

Chrmn. Martin: If you don't come up with it you won't be issued a liquor license.

Rich: I'm hoping someone in the City is going to work with me and can give me some suggestions and guidance and put me in the right direction to get this.

Ald. Stellato: Why are we not just tabling this?

Chrmn. Martin: Anyone on this committee can make a motion to table this any time they want to.

Motion by Ald. Stellato, second by Carrignan to table the reconsideration of an application for Class B3 liquor license for Alibi Bar & Grill to be located at 12 N 3rd Street, St. Charles.

Voice Vote: Ayes: Nine, **Nays:** Rogina. Chrmn. Martin did not vote as chair. **Motion carried.**

Chrmn. Martin: Your motion to table this issue did not resolve or make any recommendations. The motion has been tabled to the next Government Operations Committee meeting.

Craig Bobewic: May I suggest something in the grand scheme of parking. Maybe what the Council or city needs to address is all the bars and businesses downtown of the staff

employees. Are they parking immediately outside of their businesses, taking the prime parking stalls? Maybe we should look at how do we move the staff to neighborhoods, so that when they come out of the bars they are not drunk and free up the best parking for the patrons. That would create more parking for everyone instead of having their employees park outside of the door of where they are working at.

Chrmn. Martin: I was chairman of the Downtown Partnership Parking and Traffic committee for better than 10 years and that issue was addressed about once a month. We actually went to the trouble of issuing parking stickers for employees and that lasted about one month and was dropped. The problem is if you have an employee that you don't want parked in front of your place, he is going to park in somebody else's place, and so on and so on. The real answer to that question is that the employees and property/business owners have enough sense to tell their employees to park two blocks away and walk over her and that's not going to happen either because we tried that. Any other suggestions are open to consideration. The Hotel Baker has a shuttle bus because they are faced with the same problem or was when they came in. They initiated a successful valet service and got a shuttle bus in addition and the best to my knowledge we don't have a problem with the Hotel Baker parking.

Brian Townsend: For the most part it has been resolved by the parking deck and creative use of valet service.

Ald. Carrignan: Maybe we are getting near a discussion about a parking deck at the northwest quadrant. We are probably getting very close to that point.

6. Additional Items

7. Adjournment

Motion by Carrignan second by Monken to adjourn meeting at 8:57 p.m.

Voice vote: unanimous; Nays: None. Chair. Martin did not vote as Chair. **Motion carried.**

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