

MINUTES
February 11, 2013
Government Services Committee
City of Batavia

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. Minutes are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. Any references to discussion and/or statements are only to provide greater clarity to the public and they may not reference all, some, or any of an individual speaker's comments.

Vice Chairman Sparks called the meeting to order at 7:30 p.m.

1. Roll Call

Members Present: Aldermen Chanzit, Liva, Sparks, Stark, and Thelin Atac
Members Absent: Aldermen Dietz and Tenuta
Also Present: Alderman Volk, Jason Bajor (7:33 p.m.), Assistant City Administrator; Kevin Drendel, City Attorney; Gary Holm, Public Works Director; William McGrath (7:34 p.m.), City Administrator; Police Chief Schira, Mayor Schielke (7:37 p.m.), and Connie Rizo, Recording Secretary

2. Approve Minutes for January 14, 2013

Motion: To approve the 1/14/13 Government Services Committee meeting minutes.
Maker: Stark
Second: Chanzit
Voice vote: 5 Ayes, 0 Nays, Motion Carried.

3. Items Removed/Added/Changed

None.

4. Ordinance 13-07 2013 Prevailing Wage Adoption (1/23/13 AMP)

Ald. Volk commented that the City has to comply with the State of Illinois law.

Motion: To recommend to City Council approval of Resolution 13-07 for the adoption of the 2013 prevailing wage.
Maker: Liva
Second: Thelin Atac
Voice vote: 4 Ayes, 1 Nay, Motion Carried.

5. Municipal Code Revision Discussion: Liquor Code (WRM 2/8/13)

Vice Chairman Sparks opined that the most notable issue was relative to the Class C liquor license where the consumer could carry in their own liquor to an establishment. Chief Schira commented that Bill McGrath has lead the research on the liquor code and that Atty. Drendel had been closely involved in the process along with a number of other City Staff. Bill McGrath commented that his February 8, 2013, was self-explanatory. McGrath stated proposals would be made to address issues present in the community that are not clearly specified by the City Code (refer to Batavia Liquor License Provisions for Government Services 2-11-13 document). McGrath stated that after review by Atty. Drendel it was realized that there are requirements elsewhere in the code relating to the Class F and Class G liquor license application requirements. McGrath mentioned that Mayor Schielke had reviewed the entire liquor code and relayed that Mayor Schielke did not have any issues with the liquor code.

Ald. Stark stated she has been to events in Batavia where there is liquor being served, but not sold and inquired if that required a liquor license if it was a public event. McGrath stated alcohol cannot be given away except inside the confines of a private party or affair by invitation only and not open to the public. McGrath explained that communication has taken place to eliminate businesses from providing liquor without a proper liquor license. McGrath stated the liquor code also spells out how establishments that allow patrons to bring in their own liquor would need dram shop insurance.

Ald. Stark asked for clarification on the transparent one-time use tamper proof bag. McGrath replied there is a State Law that was put through by Mike Madigan a few years ago and the licensed establishment uses the bag to put an open, not empty bottle of liquor into the package and seal it for the patron to transport the liquor. McGrath stated that the transparent one-time use tamper proof bag can be used from any restaurant, not just carry in establishments.

Ald. Thelin Atac inquired about liquor tastings at establishments like Trader Joe's or Whole Foods. McGrath replied those establishments have a license to sell liquor. Ald. Thelin Atac pointed out the tastings are free. McGrath commented there is a license classification that allows for a certain amount of liquor for tastings. Atty. Drendel commented that State Law allows it, but it is not addressed in the local code. Atty. Drendel added that the City has a full rewritten code, but it is not ready to bring forward at this time. Atty. Drendel mentioned the City is not confident that there is enough time between now and when the licenses renew to be able to present the entire rewritten code, so what is being presented are the more urgent issues.

Vice Chairman Sparks inquired what would prevent area galleries or other businesses to call their free wine "tastings" and have smaller glasses. Atty. Drendel stated the State Law has certain parameters for wine tastings and those incidents would not fall within those parameters. Atty. Drendel stated there is a need for the City to educate businesses on these matters and bring the local liquor code in line with State Law.

Ald. Volk inquired if there was a provision to waive liquor license fees for the government and non-profit organizations. Ald. Volk commented if it was not explicitly stated in the liquor code it should be. Ald. Volk inquired if a total limit on the number of liquor licenses for special events (i.e. marathon) should be considered. Ald. Volk encouraged being more specific in the mechanics of outdoor sale and consumption of liquor, specifically requiring fences of a somewhat solid construction. Relative to outdoor Class F and Glass G licenses item C, Ald. Volk spoke in favor of having explicit wording stating "no one is to exit with alcohol in their possession" as well as changing the wording to prohibit those under 21 from entering outdoor event areas where liquor is sold. McGrath stated prohibiting those under 21 from entering outdoor event areas where liquor is sold would present a challenge and opined making these areas larger to accommodate families that are together makes for a more calming influence for these events.

Ald. Liva stated he was surprised that wording did not include being responsible to the current drinking age in Illinois. Atty. Drendel stated State Statute would apply. Ald. Liva commented for Class C – Carry in License Item A. 6. his concern was if State Law were to change then the City of Batavia would have to update the liquor code. Atty. Drendel stated that there has been discussion on this issue and simply referencing State Law might be an approach, but it has not been a consistent approach. Ald. Volk suggested wording could be incorporated reflecting the local liquor code was consistent with the existing state statutes. Vice Chairman Sparks inquired if the local liquor code had to follow the State Law relative to individuals bringing their own liquor to an establishment. Atty. Drendel stated the Carry In license is so that locally there can be regulation of the practice. Vice Chairman Sparks asked what the cost of the Carry In license would be. Atty. Drendel stated suggested fees have yet to be covered. McGrath indicated the fees for Carry In liquor licenses are generally lower than others and stated he would anticipate the fee would be approximately \$100 to \$150.

Ald. Stark inquired as to the purpose of dram shop insurance. McGrath replied dram shop insurance is to protect the bar against liability from a patron being injured due to being over served alcohol.

Vice Chairman Sparks stated his concern with placing so many restrictions on establishments where patrons can carry in liquor was how costly it would be for those businesses if the local liquor code was changed as well as a reduction in those patronizing those businesses if the establishment could not keep up with all the proposed newly enforced regulations. McGrath stated the restriction the City of Batavia is interested in for these businesses is to make sure there is dram shop insurance coverage. Ald. Thelin Atac stated for businesses to cover these fees they could charge a corking fee. McGrath stated the matter could be researched further. McGrath commented the message heard from the City Council was a request for accountability relating to these types of liquor use situations.

Vice Chairman Sparks asked what would occur if an underage person was drinking in one of these establishments where currently there is no dram shop insurance for carry in and that individual was injured. Mayor Schielke replied the establishment would be

charged with serving liquor to a minor. Chief Schira stated the offending person is the minor in possession of the alcohol and potentially their parents. Chief Schira stated if the liquor license was in place the establishment would face the ramifications. Chief Schira stated dram shop insurance was important. Chief Schira stated it is important to have competitive liquor license fees. Vice Chairman Sparks reiterated his concern of how all of these issues would impact the small business owner. McGrath stated the City of Batavia would communicate with the businesses impacted by these potential liquor code updates. McGrath stated that in reviewing other cities that have carry in licenses in place they all require dram shop insurance coverage.

Vice Chairman Sparks inquired if the potential updated liquor code covered instances of consuming liquor outside of establishments. McGrath stated there would be separate license arrangements specifically tailored for drinking outside. Atty. Drendel stated the adjunct outdoor license provisions have yet to be brought to the City Council as they are still being worked on. Atty. Drendel stated there are anticipated community events to occur on River Street and that outside of those events the City would not want individuals leaving the area with open liquor, so some control would be needed.

Mayor Schielke relayed an incident of an establishment in the southern suburbs that had carry in with patrons serving underage drinkers in their party and that the underage drinker left the establishment and got into a vehicle accident resulting in personal injury. Mayor Schielke stated the lawsuit following this incident implicated the restaurant and that city where this took place. Mayor Schielke stated if there was a clearer definition on liquor codes for carry in it would reduce lawsuits such as this one in the southern suburbs. Atty. Drendel stated liability would attach whether or not there is an ordinance or requiring dram shop insurance. Atty. Drendel stated requiring dram shop insurance at least provides coverage protection. McGrath stated for the special event licenses there is a requirement that someone should be present who has had BASSET training and suggested the same requirement should also be for carry in licensees as well. Ald. Liva stated BASSET training should apply to all liquor licenses. Vice Chairman Sparks inquired how one obtains the BASSET training. McGrath indicated BASSET training is online. Chief Schira stated the State of Illinois charges a small fee for BASSET training. Ald. Stark compared license fee amounts with Freeport and Woodstock and indicated \$150 would not be an excessive liquor license fee amount.

Vice Chairman Sparks reiterated his concern over requiring small business owners to pay a liquor license fee, purchase dram shop insurance, and pay for BASSET training impacting their feasibility as a business. Ald. Stark stated the business can always opt not to serve alcohol at their establishment. McGrath stated the City can discuss these matters with the local businesses and return to the Committee afterward to discuss further.

6. Executive Session: Collective Bargaining (Jason Bajor 2/11/13)

Motion: To adjourn to Executive Session for the purposes of discussion of collective bargaining.

Maker: Thelin Atac

Second: Stark
Voice vote: 5 Ayes, 0 Nays, Motion Carried.

The meeting was adjourned to Executive Session at 8:07 p.m. and when Regular Session resumed at 8:16 p.m. all the same committee members were present.

7. Project Status Update

None.

8. Other

McGrath indicated the potential updated liquor code would be shared with licensees to get input from them. McGrath stated at the next Government Services Committee meeting a draft would be given for the proposed updated liquor code.

9. Matters From The Public

None.

10. Adjournment

A motion was made by Ald. Stark and seconded by Ald. Thelin Atac to adjourn the meeting at 8:17 p.m. All were in favor and the motion was carried.

Minutes prepared by
Connie Rizo