

**MINUTES**  
**March 25, 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 Tenuta  
**Members Absent:** Aldermen Dietz and Thelin Atac  
**Also Present:** Aldermen Frydendall and Volk; William McGrath, City Administrator; Police Chief Schira, Mayor Schielke, City Attorney G. Tyler Stevenson, and Connie Rizo, Recording Secretary

**2. Approve Minutes**

None.

**3. Items Removed/Added/Changed**

None.

**4. Ord 13-14 Authorizing Certain City Properties for Alcohol Sale and Consumption (WRM 3-11-13)**

Bill McGrath indicated this ordinance was drafted by the City Attorney. McGrath explained that since StreetScape has been a factor and there are several requests every year for the use of alcohol on City property it was felt it was best to specify the City properties on which alcohol and liquor could be sold or consumed or in which open containers can be possessed under certain circumstances determined by the City Council. McGrath stated this ordinance indicates the specific properties that could be utilized in conjunction with valid liquor licenses approved by the City Council.

Vice Chairman Sparks inquired if there would ever be an anticipation of doing anything on Houston Street once the StreetScape is completed on that area. McGrath replied there was discussion of Houston Street, but it was felt Houston Street with its heavier traffic would not be shut down as much because of alternate City properties that are available. McGrath stated in the future, if needed, a change could be made.

Chief Schira stated even when Windmill City Fest or other similar events occur at the Peg Bond Center the alcohol sale and consumption is not allowed to go out onto the roadway where the carnival is set up. Chief Schira indicated that is how the Police Department would like to continue to proceed for future events. Chief Schira mentioned that the farmers market would be moving from Water to North River and that there may/may not be a future vendor that is selling wine or similar offerings.

Ald. Stark inquired if the Peg Bond Center was Park District property. McGrath stated that the Peg Bond Center was Park District property. Ald. Stark commented then there should not be a concern past the sidewalks and beyond in that area.

Ald. Liva indicated there is oftentimes consumption of alcohol at block parties, which are city streets. Ald. Liva inquired if that needed to be addressed in the ordinance or elsewhere. McGrath stated the ordinance should be left as is and that it was not legal for consumption of alcohol on city streets. McGrath indicated he could discuss it further with the City Attorney.

**Motion:** To recommend to City Council approval of Ordinance 13-14 authorizing alcohol sale and consumption on certain city properties for certain times.

**Maker:** Stark

**Second:** Liva

**Voice vote:** 5 Ayes, 0 Nays, Motion Carried.

## **CONSENT AGENDA**

### **5. Cocktails on Clark-Class F Liquor License for MainStreet (JDS 3/20/13)**

McGrath stated this is the second year that this event has occurred on Clark Island. McGrath mentioned the event was very successful last year. McGrath noted that the Class F license that is currently in existence would cover this event. McGrath added that the Class F license under the proposed new liquor code would also be covered. Chief Schira indicated there were no issues with this event last year.

**Motion:** To recommend to City Council approval of a Class F Liquor License for MainStreet's Cocktails on Clark event.

**Maker:** Tenuta

**Second:** Chanzit

**Voice vote:** 5 Ayes, 0 Nays, Motion Carried.

## **CONSENT AGENDA**

Ald. Stark inquired if the fee was waived for this liquor license or if it was assumed. McGrath replied it was not assumed and it was up to the Committee.

Ald. Tenuta indicated this was previously discussed at the Committee level and she made the observation then that fees were being waived for various liquor licenses. Ald. Tenuta commented that she assumed there would be a fee for this Class F liquor license since there was no indication of it being waived. McGrath pointed out there is always a difference between the fee and the costs and if anything would be waived it would be the license fee, not the costs. Ald. Tenuta expressed that she was not just talking about this particular liquor license, but overall in viewing fees from a budget and operations standpoint. McGrath stated for Class F and Class G licenses very little time goes into the actual administration of the liquor license. Ald. Tenuta inquired if there was a hierarchy of time spent based on the level of the liquor license relative to the fee. Chief Schira pointed out that even under the new proposed liquor code no matter what Class license it is there is still a requirement that the license holder still be finger printed and a background investigation conducted. Chief Schira expressed that even though fees are waived for the license there still is staff time to do the initial application process.

McGrath shared that he would be glad to bring back to the Committee the Class F and Class G licenses that have been issued over the last few years and discuss the issue of whether to waive fees or not waive fees in the future on these different liquor licenses.

Vice Chairman Sparks inquired what should be done regarding the fee for this particular Class F liquor license for MainStreet's Cocktails on Clark Event. McGrath indicated staff recommends waiving the fee because of the minimal work needed for this license for MainStreet. Mayor Schielke stated in his office the licenses are reviewed for unique things and there is a review process. Mayor Schielke pointed out that MainStreet is in partnership with the City of Batavia and is an organization that the City of Batavia financially supports. Mayor Schielke opined to charge a fee for this particular license would be like charging the City a fee itself. Mayor Schielke added not all fees are being waived for these types of liquor licenses. Ald. Stark pointed out that when this item comes before the City Council the waiving of the fee should be apparent. Ald. Tenuta mentioned that this issue was not to point at MainStreet and she spoke of her support for MainStreet. Ald. Tenuta stated the waiving and not waiving of fees is a topic that needs to be discussed further for all these types of liquor licenses.

**Motion:** To recommend to City Council approval for the Class F Liquor License for MainStreet's Cocktails on Clark fundraiser event with the fee waived for the liquor license.

**Maker:** Stark

**Second:** Liva

**Voice vote:** 5 Ayes, 0 Nays, Motion Carried.

## **CONSENT AGENDA**

### **6. Liquor Code Amendments (WRM 3/22/13)**

Bill McGrath stated tonight's discussion was the third time the draft of the municipal liquor code was being reviewed by the Committee. McGrath reviewed his memo of 3/22/13 with the Committee (refer to document).

McGrath commented that the point about allowing no more than 5% ownership interest in a liquor business was also to include appointed officials and at the suggestion of Chief Schira adding the wording direct/indirect to also cover the families of city employees, elected, and appointed officials. Chief Schira pointed out that this wording in the local liquor code would only regulate these issues in the City of Batavia and that there was no restriction of having a liquor license in another City.

Vice Chairman Sparks inquired as to the definition of family. Chief Schira replied family would mean immediate family. Ald. Liva pointed out the City makes appointments and inquired if, for example, Commissioners on the Historic Preservation Committee would be included in this liquor code regulation. Chief Schira stated he was recommending any official appointed to any position in the City. Vice Chairman Sparks requested that if these points were added to the local liquor code that immediate family should be defined with an explanation. Chief Schira stated that a definition could be provided in the code.

McGrath stated that Chief Schira and the VFW representatives had further discussions on the activities conducted on the VFW property. McGrath stated that the recommendation for the code was that there not be alcohol allowed outdoors within 50 feet of the property line, which caused some problems because of existing facilities on the VFW property. McGrath indicated the current draft reduced it to 10 feet and commented that it appears satisfactory to both parties. Chief Schira pointed out it was actually 10 feet or a physical barrier such as a fence.

**Dale Richard, 1118 Larkspur, Batavia, Illinois**, introduced himself and indicated he was representing the Batavia Overseas Club VFW 1197. Richard thanked the Committee for all their considerations surrounding the liquor code issues relative to the VFW. Richard indicated if all that Chief Schira discussed with him was put in writing in the newly revised liquor code he was very satisfied with that outcome. Chief Schira stated he walked the VFW property with Richard and that the local liquor code addresses the issued related to the VFW. Ald. Tenuta inquired what the standard amount of footage was for the VFW liquor license. Chief Schira replied that the original draft was 20 feet and now it would be 10 feet or a physical barrier. McGrath pointed out this type of license only applies to non-for-profit clubs that have been in existence for two years that have properties of at least two acres in size. McGrath commented the two organizations in Batavia that would fall into this type of liquor license would be the VFW and the Knights of Columbus. Chief Schira shared that the liquor code was purposely written very restrictively for these instances.

McGrath stated that the Carry-In Liquor category no longer requires pouring by the licensee per the direction of the Committee. Chief Schira stated the City is not requiring that the establishment pour the liquor, but if the establishment chose to pour the liquor it is their prerogative and could potentially charge a corkage fee. Chief Schira added the City is not getting involved in whether the establishment does or does not pour the liquor. McGrath stated there are some establishments that have a "set up" charge to provide the glasses and the ice whether they pour or the patron pours the liquor. Chief

Schira pointed out some charge a fee because they have to obtain dram shop insurance and try to recoup their insurance premium.

McGrath commented since the new liquor code has been drafted discussion would be needed on whether there would be a restriction on the number of licenses in each category to a finite number. McGrath explained although the City knows the type of licenses some of the business would apply for, it is uncertain what some of the other businesses might desire. McGrath shared that it was Staff's recommendation to allow an unlimited number of each type until the first meeting in May. McGrath expressed that after that time there would be a recommendation change to match the number of licenses renewed in each category. McGrath added after the draft liquor code is passed then new applicants would need to appear before the Committee for new liquor licenses. McGrath noted that some cities have unlimited numbers for certain categories.

McGrath commented that the license fees were not created as a vehicle by which to raise revenues, but rather was a means to simplify an old liquor code system. McGrath stated that basically none of the fees have changed except for one instance from \$1,800 to \$1,500, but in that category if live entertainment is needed there is an extra \$300 fee bringing it to the same level it is currently. McGrath mentioned that Batavia is significantly lower than any of the cities it surveyed. McGrath expressed that perhaps the City Council might want to look at the fee situation throughout the year. McGrath commented that liquor is different from other things the City regulates and that having a liquor license is a privilege.

McGrath spoke of the different types of licenses and fees. McGrath explained that for this draft of the liquor code it is envisioned that the applicant would declare what type of establishment they own that sells liquor and the license would be based on that and then there were add-ons licenses from that point that carry a different smaller fee. McGrath indicated a review of the business size should result in a different fee and that time should be taken to devise a system that is reasonable. Ald. Liva stated since some cities have an unlimited number of licenses available to restaurants he wanted to know what the purpose for limiting the number of licenses was even though a liquor license is a privilege. Mayor Schielke commented that it was a dangerous precedent to have an open number of liquor licenses. Mayor Schielke explained the current set up requires applicants to appear before the City Council and request permission, which he opined was in the best interest of the aldermen to understand businesses going on in their wards. Mayor Schielke expressed he felt the current system was a good check and balance of liquor licenses held in the City of Batavia. McGrath stated the system presently used in Batavia is becoming more and more historical, but also mentioned that he could not remember when the City arbitrarily denied a liquor license. Ald. Volk indicated it was Grand Central Store that was denied a license. McGrath commented there needed to be rational reasons to deny an applicant of a liquor license. Ald. Liva was in favor of streamlining the process, but not losing control of the process. Ald. Tenuta stated she understood the limiting of licenses, but did want it known that the City is willing to expand the number of their licenses if the right business were to present

itself. McGrath shared that he felt there was never an issue of the City not being responsive to a business seeking a license.

McGrath indicated that the City Attorney did a lot of work on the draft of the new liquor code in particular on comparing classifications. McGrath stated in looking at classifications it was best to set them up in terms by square footage amounts with maintaining the ban on liquor sales taking place in any establishment that also sells petroleum products. McGrath opined the real issue is about proper enforcement and responsibility of locations that sell liquor. McGrath spoke of reviewing the fees further in the future. McGrath distributed a survey (see document) of liquor sales at gas stations, convenience type stores, and Walgreen's in 12 neighboring areas. Chief Schira stated for the most part, most communities do not allow the sale of liquor at gas stations, but do allow the sale of liquor at convenience stores and pharmacies. Chief Schira shared his concern that liquor sales should be properly supervised and the fact that liquor is shoplifted more easily from these establishments that have a single clerk working the liquor sale location. Ald. Volk commented he was still not in favor of selling liquor at gas stations. Ald. Volk maintained that the liquor license fees should support the cost to provide the license. Vice Chairman Sparks agreed with Ald. Volk. Ald. Tenuta and Vice Chairman Sparks also stated they were not in favor of selling liquor at gas stations.

McGrath stated the City Staff were seeking a recommendation from the Committee to have this newly drafted liquor code before the City Council on April 1, 2013. Chief Schira stated the only current liquor licensee that has contacted him was the VFW.

Ald. Liva inquired if the number of licenses would be limited to the number of locations that were less than 1,400 square feet (convenience store type). McGrath stated that discussion on that would take place after May 1, 2013. McGrath pointed out any establishment under 1,400 would only be able to sell beer and wine. Ald. Liva inquired if other communities' ordinances specify that an establishment must also dedicate a certain amount of square footage within the establishment just to the sale of liquor. McGrath stated the Batavia city liquor code did in order to be careful with the type of establishments it issued liquor licenses to and was administered on a case by case basis. Ald. Liva stated currently there are ample locations in Batavia one could purchase beer and wine from. Mayor Schielke opined several businesses would be applying for liquor licenses if locations selling petroleum products were allowed or lowering the square footage requirement. McGrath pointed out the ban currently is against selling liquor where petroleum products are also sold, but mentioned that in the U.S. today all types of commercial establishments are offering products traditionally not sold out at that particular establishment and square footage is becoming more and more challenging. Chief Schira stated the issue complicates itself even more when you factor in the square footage then dedicated to liquor sales. Ald. Liva opined pharmacies (Walgreen's and CVS) are larger than 1,400 square feet. Ald. Stark commented Batavia is one of the few towns where liquor is not offered at 7-Eleven stores or pharmacies.

McGrath stated the new draft liquor code reads that Class B1 is where the primary business is the sale of alcohol with the store being in excess of 1,400 square feet and

have no petroleum products sold there. McGrath added that Class B2 is grocery stores, 8,000 square feet of food, with no more than 1/3<sup>rd</sup> of the store devoted to liquor, with a 1,000 square feet minimum for the sale of alcohol. McGrath pointed out Class B3 is for ancillary business where it is incidental to non-alcoholic liquor retail sales and they would not exceed 25% of the annual gross sale of the license with beer and wine only, also with the prohibition of selling petroleum products at the same location. Vice Chairman Sparks inquired if this meant that 7-Eleven could sell liquor. McGrath replied if the new draft liquor code is approved with the B3 license then the 7-Eleven that was not a gas station could sell liquor. Vice Chairman Sparks spoke of the time limitation and the need to move the new liquor code forward to City Council. McGrath suggested an approach to take could be removing the B3 and keeping the status quo. Vice Chairman Sparks asked the Committee to weigh in on whether they wanted to pass the new liquor code as written or remove Class B3. Ald. Stark inquired how many additional locations in Batavia would then be able to sell alcohol if the liquor code was passed including Class B3. It was determined there would be about four more locations. Ald. Volk spoke in favor of keeping the status quo and letting the upcoming City Council deal with the potential pending B3 liquor code issue.

Ald. Stark inquired about the Class A tavern license and live music fee. McGrath stated if a venue had live music they should pay the \$300 fee in addition to the fee for being a tavern. Chief Schira pointed out that any establishment that has live entertainment would need to obtain an adjunct live entertainment license.

There was a brief discussion on Class B3 and McGrath commented that he could examine the issue further, conduct more surveys, have the police talk to more officers, and have Jason Bajor discuss it further with the economic development contacts.

**Motion:** To recommend to City Council approval of the newly drafted liquor code as is except removing the Class B3 license.  
**Maker:** Liva  
**Second:** Chanzit  
**Voice vote:** 4 Ayes, 1Nay, Motion Carried.

## 7. Project Status Update

McGrath reminded the Committee that at the last meeting the members were advised that the Economic Development Specialist would no longer be working for the City of Batavia. McGrath indicated the City was recommending filling the position with a full-time employee as an Economic Development Coordinator, Grade 13.

Ald. Liva and Ald. Tenuta stated they were in favor of filling the position with a full-time employee. Vice Chairman Sparks spoke in favor of filling the position with a full-time hire.

## 8. Other

None.

**9. Matters From The Public**

None.

**10. Adjournment**

A motion was made by Ald. Stark and seconded by Ald. Chanzit to adjourn the meeting at 8:40 p.m. All were in favor and the motion was carried.

Minutes prepared by  
Connie Rizo