



CITY OF CARBONDALE, ILLINOIS
LIQUOR ADVISORY BOARD
Minutes of the Regular Meeting of
Thursday, August 2, 2018 continued to August 16, 2018

The City of Carbondale's Liquor Advisory Board held a meeting on Thursday, August 2, 2018, in Room 103 of Carbondale City Hall, 200 South Illinois Avenue.

1. Roll Call

Present: John Mills, Steve Payne (ex officio), and Donald Monty

Absent: Mark Robinson, Tasis Karayiannis, and David Cisco

A quorum was not available to act on the agenda items; the meeting was adjourned to a date and time certain, that being August 16, 2018, at 5:30 p.m., when a quorum would be available to act. Meeting recessed at 5:42 p.m.

August 16, 2018

Present: John Mills, Tasis Karayiannis, David Cisco, and Donald Monty (5:35 p.m.)

Absent: Mark Robinson and Steve Payne

A quorum was available to take action on the agenda items. City Staff present for the meeting included City Clerk Jennifer Sorrell, Deputy Police Chief Stan Reno, and Assistant City Attorney Brandon Woudenberg

2. Approval of minutes from June 7, 2018

D. Cisco moved, T. Karayiannis seconded, to approve the minutes of June 7, 2018. VOTE: All voted aye; motion declared carried.

3. Election of Officers

D. Cisco moved, T. Karayiannis seconded, to continue the consideration of this matter to September 6, 2018. VOTE: All voted aye; motion declared carried.

Following the vote, D. Monty arrived.

4. Review of Fourth Quarter Reports from the Police Department and Development Services for License Year 2017-2018

Deputy Police Chief Reno responded to the Board inquired about the low number of violations; it was indicated that there were not as many bar checks, since patrols were focused elsewhere; remarks about when beer garden complaints were received; and that there had been a decrease in amplified sound complaints since July 1. The Board has questions regarding establishments which had several violations, but not a prompt follow-up. The Clerk indicated that during annual inspections, when violations are found, they operator is given a 30-day correction timeline. Specific locations noted included Applebees and Tres Hombres; there were also questions about what "other non-specified items" entailed. John Lenzini or Brice Dion will be able to respond to these inquiries at the next meeting.

J. Mills moved, D. Cisco seconded, to accept and forward the reports to the Commission. VOTE: All voted aye; motion declared carried.

5. Review of the First Four Sections of Title Two, Chapter Four Pertaining to the Requirement to Hold a Liquor License, the Nature of the License, the Application for a License, and Persons Ineligible to Hold a License

The Clerk noted that there is no absolute necessity to make changes to the Code, but as complex as the Liquor Code is, and the tendency towards using more “white space” in modern writing, in addition to bullet points or number items, the hope is to streamline the language as much as possible to make a useable document for licensees to follow.

Staff reviewed many municipal liquor codes to find language which could be used in lieu of current language or that might yield other beneficial ideas. Ultimately, the goal is to simplify as much as possible.

Section 2.4.1 – Addition of definition of “sale” and “sell”

D. Monty noted the absence of “...possess or display for sale...” from the alternate language.

D. Monty indicated that the second definition of “sell” or “sale”, was more encompassing. He indicated that the absence of possessing or displaying in the definition may be an answer for legal.

The Clerk stated that the question arises periodically about defining “sales” of alcohol in situations such as an amenity to customers paying for a service or alcohol being provided for “no charge” in lieu of a suggested donation or as part of a ticketed event.

There was a question as to whether there are any licensed salons; the Clerk indicated that no such classification currently exists, but there are municipalities who do issue such licenses. However, the training of servers, maintenance of dramshop insurance, requirement for State licensing, etc. are all complicating factors.

D. Cisco suggested that including “retail sale” would address some of the concerns, citing fraternities as an example. J. Mills raised the question as to whether it would be an expected service.

D. Monty expressed support for maintaining the language for exceptions somewhere in the Code. The Clerk noted that the earlier language addressed what selling actually includes and that it is not necessary to also define what it does not include. J. Mills indicated his agreement. D. Monty stated without the exemptions being specifically spelled out, someone reading the Code would not know that they wouldn’t be covered. The Clerk indicated that someone reading this section of the Code is probably a license holder and they would be sellers of alcohol; further, as the license holders are held accountable to the requirements of this Code, it is important that it be simplified and concise. Mr. Monty suggested referring exceptions to the State liquor code.

D. Monty indicated that “per incident and each and every day thereafter” might not be clear to the reader. The Clerk noted this was a recommendation from the City Attorney. There was a question as to who makes the determination with regard to the fee and the Clerk indicated that these are determined by the court. Assistant City Attorney Woudenberg indicated that it did not occur frequently. D. Monty suggested substituting “violation” for “incident” and including some indication at the end of the phrase that the “each and every day thereafter” referred to the continuation of the violation.

Section 2-4-2

There were not questions or comments regarding this section.

Section 2-4-3

The Clerk noted that one option was to utilize the State of Illinois liquor application which prospective licensees are required to submit to the State. This would provide the details included in their State application, save the applicant the step of completing a second application, and serve as a notice to prospective licensees that the City is not the only licensing authority.

D. Monty indicated that he would like to see a direct line for line comparison of the current code with the alternate language provided in the Exhibit. There was an extended discussion about whether or not it was necessary to codify all of the information to be included on the application form. D. Monty viewed it as the City Council mandating the content of the application, as opposed to Staff determining the content to be included. J. Mills indicated that he could see both points. Mr. Monty stated that he had tried to compare the Code with the information included in the State form; he indicated that the only information on the application is that which was specifically required by the Code. The Clerk disagreed noting that the details required in the Background Operation Questionnaire exceeded that which was specified in the Code.

There was no discussion regarding the proposed language from Moline relating to identifying the active manager of the business.

Renewal Section –

D. Monty suggested adding “including all required documents” in the alternate language of Section 2.4.3.b. The Clerk noted that in reviewing various municipal codes, there are some municipalities who handle renewals by submission of a sworn statement and updated forms; as some liquor licensees complain about the renewal process, this was included as an option with those complaints in mind. D. Monty indicated that it would be important to be informed of any material changes, and that those changes can occur incrementally over a period of time. The Clerk agreed, but noted that unless the licensee disclosed the change or recognized the change as one which should be reported, more often than not it would not be discovered. The issue is more concerning with the change becomes harmful or problematic.

Section 2.4.3.c – D. Monty suggested including “if any new or renewal application” in this section; the Clerk remarked that “any application” would include new and renewal applications. J. Mills agreed.

The Clerk noted that the language proposed was merely a suggestion; it was perfectly acceptable to keep the current language.

2-4-3- Liability Insurance – The Clerk indicated that the purpose of this change was to ensure that any changes in the State requirements for minimum coverage would be adopted by reference. There was discussion about the State not requiring dramshop insurance for package stores (referred to as “carryout licenses”); the City’s Code is more restrictive in requiring both general and liquor liability insurance for all licensees. D. Monty indicated that he favored keeping the requirement for both. He asked if dramshop insurance came into play for sales to intoxicated persons; Attorney Woudenberg indicated that he believe the general liability would be the coverage utilized. T. Karayiannis asked if liquor stores are required to have their staff trained. The Clerk stated that the City’s requirement was for 50% of employees to be BASSET trained. The Board asked about how different municipalities have addressed BASSET training for package liquor stores.

Requirement of Building Plans and/or Business Plan –

The Clerk noted that the next two sections were intended to serve as alternatives to one another, as a mechanism which creates a minimum threshold demonstrating both the financial and business preparedness of an applicant. She noted that this has been a frequent concern expressed by the Board, and the two alternatives identified provide benefits to the applicant as well.

D. Monty suggested that instead of one or the other, perhaps requiring both, but without the requirement of the plans being sealed by an architect or engineer. The Clerk expressed concern about how accurately a layperson could draft such plans on their own without professional services. Mr. Monty suggested requiring the specific to-scale requirements being sought. He further would like to see sufficient detail to demonstrate that they have a financially viable operation.

T. Karayiannis indicated that the business plan/financial disclosure requirement would make the applicant think carefully before entering into the liquor business. The Clerk agreed that the hope for this requirement is to ensure the applicant is prepared or will consult with someone who is able to prepare them.

D. Cisco noted that the discussion recently has been to find ways to streamline the process and weed out unnecessary requirements. He stated that he was not aware of an application where the plans were actually material. Further, he was not sure if it was germane for the Board to tell applicants that the business plans or layout might be improved; the applicants would learn as they go. The Clerk responded that often the deficiencies were an indicator of what was to come; that a hasty approach was problematic for a business which doesn't allow for legal shortcuts. Mr. Cisco stated that some people are not detail oriented paperwork-wise, but might make a great manager. He remarked that the financial plan would be an indicator of the seriousness of the candidate and could demonstrate the business acumen needed to be successful. The Clerk noted that one reason for including the ability to stay action on the application until certain contingencies were met was to provide an option besides denial for those applications which are not up to snuff. It would allow them to find assistance to better prepare them. J. Mills stated that a rudimentary business plan is something the applicant should already have, whether or not the Board reviews it. D. Monty replied that unfortunately, they often do not. D. Cisco suggested that this could be an emergent role for the Board to review the plans and table/postpone the advancement of a license until it is of a passing quality. The Clerk responded that could be a role for the Board in those instances where the Commission determines that the application is deficient in some way, choosing to remand it to the Board until it is brought up to par.

Section 2-4-4 –

Residency – The Clerk stated that the reason for using Jackson County was to ensure it was a clear delineation for applicants. Several Board members suggested that it seemed arbitrary and perhaps too restrictive. The Clerk noted that there are many municipalities with broader residency requirements. It was suggested that the owner or manager be within a reasonable proximity to the business, such as Jackson/Union/Perry/Williamson. Another suggestion was to treat individual owners the same as LLCs and corporations, so that if the owner does not reside in the defined area, their actual manager's residency will suffice; the expansion of the boundary would mean that the true manager, as opposed to someone with a Carbondale address, would meet that criteria.

2-4-4-A.4 – It was noted that this language was probably related to a specific instance. Assistant City Attorney Woudenberg noted that Illinois' definition of expungement differs to that of other states.

6. Citizens' Comments

The Clerk informed the Board that there is business to conduct in September.

Next Meeting: September 6, 2018

7. Adjournment

Meeting adjourned at 7:04 p.m.

Jennifer R. Sorrell, City Clerk

Date Approved