

**CITY OF ROCK ISLAND
CITY COUNCIL STUDY SESSION
December 12, 2022 - 5:30 p.m.**

**City Council Chambers, City Hall, 3rd Floor
1528 Third Avenue, Rock Island, IL**

12/12/2022 - Minutes

CALL TO ORDER

Mayor Thoms called the meeting to order at 5:30 p.m. and welcomed everyone.

THIS MEETING WILL BE CONDUCTED BY AUDIO AND VIDEO CONFERENCE WITHOUT A PHYSICALLY PRESENT QUORUM OF THE ROCK ISLAND CITY COUNCIL DUE TO THE DISASTER DECLARATION ISSUED BY GOVERNOR PRITZKER.

ROLL CALL

Mayor Thoms asked City Clerk Samantha Gange to call the roll.

Present: Alderpersons Moses Robinson, Judith Gilbert, Jenni Swanson, Dylan Parker, Mark Poulos, Bill Healy, and Mayor Mike Thoms.

Absent: Alderperson Randy Hurt.

Staff: City Manager Todd Thompson, City Attorney Dave Morrison, City Clerk Samantha Gange, and other City staff.

PUBLIC COMMENT

Mayor Thoms asked if anyone in the public or virtually wished to speak. No residents volunteered in person or virtually.

TOBACCO ORDINANCE UPDATE

Community and Economic Development Director Miles Brainard addressed Council, and introduced the new Planning & Zoning Manager Tanner Osing. Mr. Osing reviewed the recent history of the

City's tobacco ordinance, and noted Council's desire to provide updated language and regulations on nicotine and vaping products. This was based on the six-month moratorium for new vape shops in the City that Council approved.

Mr. Osing said they considered two types of tobacco licenses for different types of retailers. Two categories differentiate between tobacco sales as primary or incidental to the business, which is based on the Smoke Free Illinois Act. The Class A category identifies retailers for which sales of tobacco, electronic cigarettes, nicotine products and more are less than 80 percent of the gross revenue, which would include convenience and grocery stores. The Class B category identifies sales of tobacco, electronic cigarettes, nicotine products and more generate more than 80 percent of gross revenue, and other sales are incidental. This would include tobacco and vape shops as well as cigar lounges.

Mr. Osing discussed regulations in reference to the zoning code as well as similar use zoning requirements. He noted that typically, zoning for things such as liquor stores have guidelines regarding distance from residential areas, and the goal is to do the same with the proposed Class B tobacco license. He reviewed staff recommendations, recommending that definitions be expanded to include vapes and other nicotine-containing products. Also, two separate business licenses should be established, both Class A and Class B according to retail activity. Both classes should be limited to B2, B3, and B4 zoning districts, and the Class B should be prohibited within 100 feet of residentially zoned parcels. He pointed to a map to illustrate parcels that would be allowed to locate as a Class B retailer.

City Attorney Hector Lareau addressed Council. He noted that existing businesses requiring Class B licenses but are non-conformities should be grandfathered in. He said there is an option to license vape shops per individual, as is done with liquor licenses, but another method would be to license the business that owns the shop itself. Additionally, Council could make the licenses contingent upon continued operations at the licensed location.

Alderman Swanson asked if the license would follow the individual if they left a location. Mr. Lareau said any relocation would need to be within one of the permitted locations, and it was possible. Mayor Thoms noted that the City could require the individual, as it currently is with liquor licenses, to start from the beginning of the application process. Alderman Gilbert asked Mr. Osing there appeared to be only one tobacco business located on 18th Avenue. Mr. Osing replied that the map only showed zones in which tobacco or vape businesses could be located. Mr. Brainard said Staff is attempting to achieve consistency with code enforcement, as it would assist the City in making the argument that there is fairness.

Alderman Gilbert asked if Essentials Plus was established prior to the vape shop moratorium. City Clerk Gange confirmed that they were. Alderman Gilbert asked if the license could be transferred to the individual or back to the business. Ms. Gange said the current application has the business name and applicant information. Mayor Thoms asked if that license would need to be changed if ownership also changed. Ms. Gange said the business would complete a new tobacco license application. Alderman Gilbert asked what the charge would be for the license. Ms. Gange said the proposed amount is \$250 for the Class B license, which would double what the current Class A category would be.

Alderman Robinson asked if that was consistent throughout the state. Ms. Gange said the only near-comparable situation is in Chicago, as other similarly-sized cities do not currently have anything of note. Alderman Robinson asked if Rock Island would be the only city in the area enforcing this type of license. Ms. Gange said that would be the case on the Illinois side of the Quad Cities. Alderman Healy said if the business name was in the license it would carry value. Alderman Robinson asked what was to be accomplished with the proposal. Ms. Gange said it appeared there was consensus amongst Council that vape shops should be limited. Mayor Thoms added that if the

proposal would be passed as is, current vape shops would be grandfathered in and could stay, and any new applications would follow new rules.

Aldersperson Robinson said he would prefer to see a map with the locations of all vape shops, or know how many are in the City. Mr. Brainard said Staff could create a map which shows current locations. Ms. Gange said there is not currently a process to regulate vape shops, and there are approximately seven or eight in the City. Mr. Brainard added that current tobacco license holders in the City total approximately 40. Ms. Gange noted there is currently nothing in City ordinance to distinguish vape materials. Mayor Thoms said many convenience stores sell electronic cigarettes, but most would likely fit into the Class A category.

Aldersperson Gilbert asked if the City should limit the number of new vape shops, or would the new zoning recommendation act as the limiting factor. Mr. Brainard said if a cap is placed on a type of business, it is seen as an arbitrary number and harder to defend as opposed to a uniform zoning requirement. Aldersperson Gilbert asked whether a vape store replacing an existing one would be allowed. Mr. Brainard said the new business would need to pursue a variance to the zoning code. Aldersperson Healy said if a business license were transferable to a business, that would be more valuable to an existing business owner. Mr. Lareau said if the business is licensed, it does not mean the license is transferable, it means the business is transferable.

Aldersperson Parker said a number of vape shops also sell glass pipes, and asked if there was research done on the subject. Mr. Lareau said he did not complete research on head shops and those items. Aldersperson Parker said there are a number of places within the City that sell glass pipes, and they are not required now, nor would they be required to have a tobacco license per the proposal. He suggested that regulating glass pipes by considering them tobacco paraphernalia may be important. He asked what the current legal status was for selling flavors for vapes. Mr. Lareau said the status is in flux, and his understanding is flavored liquids are allowed for use. However, vape pods that attach to electronic pens cannot be flavored with anything other than tobacco or menthol.

Aldersperson Parker asked if it was within the abilities of the City to regulate vape flavors in licensed businesses. Mr. Lareau believed it would be within the City's home rule powers to do so, but there may be a question of federal preemption. Aldersperson Parker expressed approval with the zoning map and the updates, and supported making the license go to the individual, not the business. He requested additional information on glass pipe sales, and suggested utilizing home rule authority to ban the sale of flavors for businesses licensed in the City. Ms. Gange noted that there have been other Illinois cities who have acted with regards to vape products and flavors. Aldersperson Parker asked if the aforementioned grandfathered businesses would not be allowed to sell vape flavors even if the banning of flavors was enacted. Mr. Lareau agreed that was true, but any business may have potential for takings arguments against the City for removing a predominant earning.

Aldersperson Healy noted that customers would go somewhere else for the items and sales would be cut in the City. Aldersperson Robinson noted that the exact number of vape shops is not known, and asked how the City would enforce any updated ordinance. Ms. Gange said because there is not a general business license, that would be correct. She said it could be determined with the new licensing period in May of 2023, and notify known tobacco-licensed businesses in the City regarding the changes to the ordinance.

Mayor Thoms asked for Council opinions regarding the proposed changes. Aldersperson Healy said he would want to have sales stay in the City as much as possible, and he is unsure whether to license the business or the individual. Aldersperson Poulos asked if vape flavors are something that would entice a younger person to begin vaping. Aldersperson Parker noted that was the purpose of the regulation. Aldersperson Poulos said he agreed with the concept of regulation, but that it was a slippery slope. Aldersperson Swanson said she believed the federal government will regulate flavors regardless. Aldersperson Poulos said he preferred a license stay with an individual. Mayor Thoms and

Aldersperson Gilbert agreed.

Aldersperson Robinson asked if the point was to reduce the number of vape shops in the City to protect the youth or prevent undesirable businesses from being in certain areas, he would prefer to partner with local cities instead, as everyone should be involved in the issue. Mayor Thoms said the reasons were both image-related and a desire for moderation in the number of shops in the City.

Aldersperson Swanson noted agreement, pointing to the large number of shops on 18th Avenue. She said the intention of the proposal is to place this type of businesses where similar ones are located, but not to run them out of town. Aldersperson Parker said it appeared individual Council discussion regarding the proposal was still in need. Mr. Thompson said Staff still has some research to finish that would answer some questions and bring options back to Council.

Mr. Brainard said there is a deadline with regards to amending the Zoning Code on February 1, 2023 with any proposed changes. Those changes would come back to Council for final approval on February 15, 2023. If Council is amenable to the proposed zoning districts and hundred-foot separation, they should let Mr. Thompson know to help guide Staff. Ms. Gange noted that the moratorium on additional vape shops runs through December, and an extension to the moratorium will be available for Council to approve on December 19, 2022.

DOWNTOWN ROCK ISLAND PLACE MANAGEMENT AGREEMENT WITH QC CHAMBER OF COMMERCE

Mr. Thompson discussed the downtown Special Services Area (SSA) organization place management agreement with the Quad Cities Chamber of Commerce. He added that the two documents of the agreement are preliminary drafts, and wished to get them before Council to provide an overview and hear initial questions, as well as give the public an opportunity to provide input.

Mr. Brainard discussed the document structure. The first is the agreement to provide place management services for the downtown, and has three exhibits. The first is considered the ordinance itself for the SSA establishment. The second consists of the bylaws for the downtown place management organization. The third consists of the chart of responsibilities included in the Development Association of Rock Island (DARI) agreement and the development agreement with the Chamber of Commerce. Mr. Brainard said the documents presented are based on those used by Bettendorf, Iowa for their downtown place management organization. The agreement document provides detail for the City's partnership with the Chamber of Commerce as the provider of services.

Mr. Brainard noted there is a deadline of March 31, 2023 for Council to select the initial board for the place management organization. June 30, 2023 is another deadline for the appointed board to establish an annual workplan, performance metrics, and a budget. He discussed other parameters of the agreement, including an annual review. Organization members would be appointed to an initial three-year term with options for two one-year extensions.

Mr. Brainard discussed the second document, which details the process of the place management organization. Involved are both the Chamber of Commerce and the Quad Cities Community Partnership (QCCP), which consists of all area downtown organizations. The organization would be responsible for running the Rock Island downtown area, and would have a board of directors and a staff member, or director, employed by the Chamber of Commerce; however, the board would still set the agenda for the downtown. He said the composition of the board would be 12 voting members, three of which would be the City Manager, the Mayor, and the Fifth Ward Aldersperson. The CED Director and a high-ranking member of the Chamber of Commerce would be non-voting members. The remaining voting members would include two residents, three downtown business owners, three property owners, and someone to represent the non-profit sector. The non-permanent members

would have three-year terms, rotating in groups of three. There are policies in place for replacement or removal of board members, and meetings would be run in a manner similar to Council, including public announcements of any held meetings 48 hours in advance. He noted that the preference would be to have all meetings be in person.

Mr. Brainard discussed steering committees, or subset groups of the larger board. These would include nominating, budget, event, and livability committees, each with five members. They would be headed by a single board member, but would be filled with non-members to assist in having as many voices involved as possible. He said the Quad City Community Partnership would have authority to hire the actual downtown director, subject to board approval, and also recommend or deny the budget for approval. He referred to the discussed documents as a framework and not a detail of the operations.

Aldersperson Gilbert asked if the proposed agreement was similar to what the Chamber has with Bettendorf, Iowa. Mr. Brainard confirmed it was similar. Aldersperson Gilbert asked how the Chamber could provide capital, physical, or other improvements as detailed in the document. Mr. Brainard said one example of such an improvement would be if the Chamber secured a grant for benches in the downtown, the City would partner with the Chamber to have Public Works install them. Aldersperson Gilbert asked if the Chamber would be getting any tax money prior to the June 30, 2023 budget deadline for Council approval. Mr. Thompson said the agreement contemplates making SSA tax payments beginning quarterly with the execution of the agreement reflecting January 1, 2023. Mr. Brainard added the process would be sped up depending on the appointments to the board, directed by Council. He said the emphasis is to ensure a budget and workplan that is vetted by the board of stakeholders.

Aldersperson Gilbert noted sections G, H, and I in the agreement, and asked if those were the only ones referencing accountability. Mr. Brainard confirmed they were. Aldersperson Gilbert asked Mr. Thompson if he was comfortable with the stated accountability. Mr. Thompson said he felt it was adequate. Aldersperson Gilbert asked when Council would be able to view exhibit C. Mr. Brainard said it could be shared at any time, but did not include it as to not create confusion.

Aldersperson Robinson asked why an online voting member would not be allowed for the board. Mr. Brainard said if there is a desire by the board to meet remotely, and a majority of Council is in favor, that stipulation could be changed. City Attorney Morrison said he would research the breadth of the Governor's Executive Order for COVID-19 to ensure which bodies it covered beyond Council. Aldersperson Robinson asked why it was settled that the Fifth Ward Aldersperson be the representative Council member on the board. Mr. Thompson said that could be changed, but the Fifth Ward takes up a majority of the downtown area. Aldersperson Healy suggested flexibility for Council membership based on the initial board term and then future terms.

Aldersperson Healy noted the section of terms and conditions regarding the reporting of the downtown director to the Chamber with guidance from the board. He asked why the director would not report to the City Manager. Mr. Brainard said that individual would be an employee of the Chamber and not the City. Aldersperson Healy expressed concern that the director would not report directly to the City Manager. Mr. Brainard said a change to that designation would change the framework of the partnership. Aldersperson Swanson noted that other cities that are partnered with the Chamber have the same arrangement.

Aldersperson Gilbert referenced the responsibilities and general powers section of the agreement, and asked whether property management, acquisition, and development as listed were typical placemaking responsibilities. Mr. Brainard noted that economic development is a team sport, and different partners play different roles. He added that such language is the same that has been used in neighboring communities. Aldersperson Gilbert said the language was not in the SSA establishing ordinance, and said the agreement are expanding it again. Mr. Brainard said if there is a desire to

amend the language, it can be done. Mr. Thompson noted that the Chamber can generate dollars aside from SSA dollars. Alderperson Gilbert asked how one could apply for the proposed board. Mr. Thompson said that was yet to be determined based on the comfort level of Council and the Mayor, but a special application will need to be created.

Alderperson Gilbert asked if nominations would go to the governing board or back to Council for approval. Mr. Brainard said the way the agreement is drafted would send nominations to the board. Alderperson Gilbert suggested the board create an annual calendar of meetings. She asked if there was a process to amend bylaws. Mr. Brainard said it could be added if it was not yet there. Alderperson Gilbert asked if the City could also have the ability to dissolve the Rock Island Downtown Alliance (RIDA) as the QCCP does. Vice President of Place Management and Executive Director of the Downtown Davenport Partnership Kyle Carter addressed this, stating that his team has not yet had the chance to evaluate the bylaws, and would attempt to answer that through legal channels. Alderperson Gilbert asked if that response would come back to Council. Mr. Carter said it would. Alderperson Gilbert asked who was responsible for debts and obligations. Mr. Brainard said if those are held by RIDA, RIDA would be responsible.

MOTION TO ADJOURN

MOTION:

Alderperson Poulos moved to adjourn; Alderperson Swanson seconded.

VOTE:

Motion passed on a 6-0-1 roll call vote. Aye: Gilbert, Swanson, Parker, Poulos, Healy, and Robinson. Nay: None. Absent: Hurt.

The meeting adjourned at 6:42 p.m.



Josh Adams, Deputy City Clerk