



City Council License Committee Meeting, Wednesday, March 17, 2021, begins right after the Local Control Sub-Committee Meeting adjourns ****VIRTUAL MEETING **** **3/17/2021**

DRAFT MINUTES

City Council License Committee Meeting

****VIRTUAL MEETING ****

Wednesday, March 17, 2020 5:00 pm

Generated by Holli Bushnell on March 22, 2020

Members present

Jack Hanson, Jane Stromberg, Chip Mason (arrived 6:02pm)

Others present: Lori Olberg, Joy Hovestadt, Laura Wheelock, Caleb Manna, Holli Bushnell, Sean Beauvais, Matt Small, Sam Tolstoj, William Fellows, Tom Poon

Meeting called to order at 5:31pm

1. Agenda

Action, Procedural: 1.01 Motion to amend/adopt agenda

motion to amend/adopt agenda.

Motion by Jane Stromberg, second by Jack Hanson

Final Resolution: Motion Carries

Yea: Jack Hanson, Jane Stromberg

2. Public Comment (verbal)

Action, Procedural: 2.01 Public Comment (verbal) Public forum was opened at 5:32pm

Holli Bushnell expressed her concern for the proposed extended outdoor entertainment permit until 1 and 2am for



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Orlando's Bar and Lounge.

Public forum was closed at 5:35pm

3. Consent Agenda

3.01 Action, Procedural: 3. motion to adopt the consent agenda and take the actions as indicated

3.02 Indoor and Outdoor Entertainment Permit Renewals (2021-2022): see attached list. Approve the 2021-2022 Indoor and Outdoor Entertainment Permit Renewals as listed with all standard conditions

Motion by Jane Stromberg, second by Jack Hanson

Final Resolution: Motion Carries

Yea: Jack Hanson, Jane Stromberg

4. Deliberative Agenda

4.01 Action: Outdoor Entertainment Renewal (2021-2022): Orlando's Bar and Lounge, 1 Lawson Lane, Suite 10

Sean Beauvais spoke on behalf of Orlando's. He reiterated that the front patio has been a revenue driver and zoning ordinance 4.4.1 which describes the city's desire for commercial ventures taking precedence over residential as legal reason for his extended hour request. He stated that he and his partners have plans in place to improve sound dampening, which is something they plan to do regardless of whether or not they receive the extended hours they have requested.

Beauvais asked the committee and Joy Hovestadt to explain why they have sided with the residential complaints over a commercial venture when their business is in the downtown commercial area. He cited an operation on Church St that experienced similar complaints back in 2016 and commented that that business was addressed very differently than his. Hovestadt explained that the committee does have discretion to set conditions on permits under their purview. If there are additional disturbances or an increase in noise complaints the committee does have a responsibility to revoke or restrict a permit.

Beauvais reiterated his desire for outdoor entertainment hours from 4pm to 2am Monday through Friday and Saturday and Sunday 11am to 2am. For live entertainment the proposed hours would be Sunday 11am to 10:30pm, Monday and Tuesday 4pm to 10:30pm, Wednesday and Thursday 4pm to 1am, and Friday and Saturday 11am to 2am.





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Bushnell asked if Beauvais could detail his proposed sound improvements. He said he was working with a builder and engineer to create a collapsible stage with a half hexagon back barrier with a sound dampening board. It would extend 2-3' on both sides and go around 8-10' high. This would mostly dampen the drummer and sound board.

Stromberg expressed her hesitation to approve the proposed times based on the fact that the restrictions from the previous hearing were never tested due to seasonal change.

Hanson reiterated the history of complaints concerning this business and also expressed hesitation to approve the later hours. He stated that he felt comfortable approving the proposed Sunday through Tuesday hours but would prefer that Wednesday through Saturday end at or before 11pm.

Hovestadt returned to explain that ordinance cited by Beauvais actually pertains to tenancy/occupancy and does not pertain to the day to day use of the buildings. The city does have a noise ordinance, but it does exempt entertainment permits. Ultimately the licensing committee is the proper place to address these issues.

At this point Chip Mason arrived and was able to weigh in on the discussion. He commented that he understood the applicant's frustration and informed Beauvais that he could bring the item before the full council if he felt it necessary

Motion to approve the outdoor entertainment application with the following hours – Sunday 11am to 10:30pm, Monday through Thursday 4pm to 10:30pm, Friday 4pm to 11pm and Saturday 11am to 11pm.

Motion by Chip Mason, second by Jane Stromberg

Final Resolution: Motion Carries

Yea: Jack Hanson, Chip Mason, Jane Stromberg

4.02 Action: Indoor Entertainment Permit Application (2021-2022): Coffee Black LLC, d/b/a Muddy Waters, 184 Main Street. Approve the 2021-2022 Indoor Entertainment Permit Application for Coffee Black LLC, d/b/a Muddy Waters, 184 Main Street with all standard conditions

Sam Tolstoi once again stated that he and Small have little intention of changing anything that was done previously at Muddy Waters. They plan to have acoustic music during the stated hours at some point, but they will be working their way up to that.

Motion by Jane Stromberg, second by Chip Mason

Final Resolution: Motion Carries

Yea: Jack Hanson, Chip Mason, Jane Stromberg

4.03 Action: Communication: Caleb Manna, Excavation Inspector, Department of Public Works, re: CityPlace Burlington - Bank and Cherry Street Right-of-Way. Approve and recommend that the City Council approve the Encumbrance Application of BTC Mall Associates, LLC, and authorize the Mayor to execute the attached License Agreement for continued use of right-of-way space on Bank and Cherry Streets, retroactive to November 14, 2020

Caleb Mann explained that this is a new encumbrance agreement to pick up where PC construction's permit left





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off/expired. While some restoration of this area was done to this area in 2020 at the request of the city, but there are still portions of the right-of-way that are encumbered. BTC Mall Associates is seeking to step into that role with a new license agreement to maintain and occupy that space. Existing conditions will remain, it's just the area behind the painted construction fence.

William Fellows commented that his group would like to see this encumbrance stay in place through the bulk of construction. There should not be too much variation on what is there now, and they plan to do most of their staging inside the site.

Manna added that this agreement will backdate to 11/14/2020 when the previous agreement expired.

Laura Wheelock added that Fellows and his organization has been the controlling entity behind PC's agreement. It makes sense to have the ownership be with the property owner.

Mason sought to confirm that this new license agreement is identical to the previous agreement. While this is a new agreement, this is almost identical to the previous agreement with PC, Hovestadt confirmed. Mason asked why this permit expires in 2022. Fellows confirmed that it will need to be renewed. The first portion of the Northern building completes in 2023 and the second in 2024. They expect that they'll have to revisit the nature of the encumbrance when they reach the southern portion of the construction. Wheelock explained that the expiration date of the permit is tied to a provision if the project doesn't start. She also confirmed that they will be coming back as the project develops once scope and need are realized.

Hanson asked about the retroactive nature of the encumbrance. Wheelock explained that BTC attempted to take ownership of the space back in November, but other things were standing in the way. Now that those issues have been cleared there are resubmitting this application and making the ownership change.

Motion by Jane Stromberg, second by Chip Mason

Final Resolution: Motion Carries

Yea: Jack Hanson, Chip Mason, Jane Stromberg

4.04 Action: Communication: Caleb Manna, Excavation Inspector, Department of Public Works, re: 15 Ward Street - Driveway Apron and Curb Cut. Approve and recommend that the City Council approve the Encumbrance Application for 15 Ward Street requesting continued use of a preexisting curb cut and driveway apron.

Manna explained that DPW received complaints about illegal parking and an illegal curb cut on the property. In investigating these issues, they determined that there was not an illegal curb cut installed, but when the house was constructed in the 1940s there was a curb cut and driveway apron installed to the property although there is no driveway. This was paved in sometime between construction and the 2000s. DPW is willing to stand behind the violation (if you don't have room for a driveway on the property there should not be a curb cut and apron), but at the time of construction this regulation was not in place. DPW's recommendations would only allow for one car to be parked on the property. If there are any property changes or construction by the city the apron and curb cut will be removed. The terms are for 5 years and will not be renewed. At the end of 5 years the owner will be responsible for removal of the curb cut and apron to return the area to greenbelt. Additionally, if the property is sold prior to the end of the agreement the apron will be returned to greenbelt.

Mason asked if there is additional parking available as this is "the only house in Burlington with no parking available." Due to ordinance changes, that's no longer the case, but Mason sought to confirm that there is parking nearby. Manna



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confirmed that there is public parking on the other side of Ward St.

Tom Poon, the resident, commented that the winter parking ban caused issues with accessibility to his vehicle. He was able to resolve this issue with the assistance of a neighbor. He commented that the lack of a driveway will be problematic in terms of resale. Poon also asked what would happen if the home owner had accessibility issues. Wheelock reported that the DPW commission would designate an accessible spot on the street as long as the resident has a valid tag. If there are multiple households on the street, multiple spaces would be designated.

Motion by Jane Stromberg, second by Chip Mason

Final Resolution: Motion Carries

Yea: Jack Hanson, Chip Mason, Jane Stromberg

5. Other Business

The next meeting will be scheduled via email.

6. Adjournment

Action, Procedural: 6.01 Motion to adjourn

Motion to adjourn at 6:43pm

Motion by Jane Stromberg, second by Chip Mason

Final Resolution: Motion Carries

Yea: Jack Hanson, Chip Mason, Jane Stromberg