



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes Public Safety Council Committee

Tuesday, September 5, 2017

4:30 PM

Municipal Center

Special Called Meeting

1. Call To Order

2. Roll Call by City Clerk Donna Jackson

Mayor Harold Perrin was in attendance.

Present 5 - Gene Vance; Chris Gibson; Chris Moore; Mitch Johnson and David McClain

3. New Business

ORDINANCES TO BE INTRODUCED

ORD-17:071

AN ORDINANCE TO AMEND CHAPTER 6 - ALCOHOLIC BEVERAGES IN THE JONESBORO CODE OF ORDINANCES AND ADD SECTION 6-30 TO ARTICLE II PERMITS

Attachments: [Jonesboro Application for Private Club Permit.docx](#)

Councilmember Chris Moore asked City Attorney Carol Duncan if she would give a run down on this. Ms. Duncan said she emailed this out so you could have it to read ahead of time. Again, this is just a jumping off point. We needed something in the system for the Council members to have something to consider. After meeting with the Mayor and the Chief, both Chiefs, Fire Chief and Police Chief and also the City Planner, we came up with just a basic concept and then we are waiting for guidance from the Council on how you want to proceed. One thing I will say is after seeing the proposed regulation changes that the ABC is doing in Little Rock, I think there are potentially going to be other things that we have to consider. They have proposed regulations and I think they are voting on them either tonight or tomorrow she said that also put us approving transfers of location and changes in business type. While technically state law does not require that, I think once they put it in their regulations, it is as good as state law requiring it because they are not going to consider anything without something from the City Council. Really all I did on the application that I sent you is I made a change where we also we ask the applicant if they are not primarily a food service vendor then what are they. Tell us what you are doing there so we can look at that.

Chairman Mitch Johnson said that was a good point. That is something that really bothers me. I think there is a lot out there that is not a primary food service. Ms. Duncan said she talked to them in Little Rock about that and apparently that is not required by law. I, for some reason, had it in my head that a certain percentage of your gross income had to come from food. Councilmember Chris Moore said that was until State Legislature changed it. There is a line in there for entertainment. They used to

say for food and whatever, then they inserted in the word that it could be used for entertainment and that allows them to circumvent the requirement on food percentage. Ms. Duncan said she thinks the Directors still kind of followed that requirement a little bit on the food, but she said she doesn't think it is law. I don't think that you can expect that to be a requirement so I added a line. I figure there will be other changes potentially tonight, but I would like to throw that out before we pass anything. I want to add in a sign a part on the application that talks about what type of business they are engaged in there so we will know that before we have anything for approval. If those regulations do pass, I would anticipate changing this application to say application for new or transfer of business and change in type of business and just keep the same application. Just make it for all three because really what we are looking at is almost the same. Beyond that, it is up to you on what you want to include and what you consider.

Councilmember Moore said on the page that is entitled Application for Private Club Permit, I see the line item you are referring to. Is your establishment primarily engaged in the business of serving food for consumption on the premise? Ms. Duncan said that comes straight from the state application. Councilmember Moore asked what is the relevance of that statement for on premise consumption or off-premise consumption. Ms. Duncan said I don't think there is anything for off-premise consumption in a dry county. Councilmember Moore said he didn't know if that was a reference for state law that forbids business from having off-premise food consumption. Ms. Duncan said she doesn't think there is anything under a dry county. I don't think there is anything that allows for off-premise consumption of alcohol. For food, it doesn't matter I guess, but that came straight from the ABC application. We just modified it. That is where I added the next sentence. If the answer to the above question is no, then what type of business will you be engaged in on the premises. Please list all activities to be offered.

Councilmember Moore said he may be looking at the wrong page. My next question says does anyone now hold an alcohol beverage permit. Ms. Duncan said that is a new question that she propose be added after talking to them today. Councilmember Moore said ok. So, would your opinion be that if they add or modify the rules tonight at the ABC that we just simply amend the ordinance. Ms. Duncan said or amend the application. I think we may want to add that anyway. We may want to know what type of business. Now that I found out that food is a non-issue, and they haven't been considering that as much as I thought they had, you may want to know. I think we have had some issues with that so I think we do want them to list what type of business activities. So, I would suggest amending that whether or not they amend their rule. Councilmember Moore said he thought that would be important because we may eventually get to the point where discipline of an establishment is being considered. Ms. Duncan said we can rely on what they list there. Councilmember Moore said that is right. If they state that our primary form of business is A, B, & C, but they are doing D, E, & F, then it may give us grounds for discipline. Ms. Duncan said that was correct and it would give the state grounds for discipline as well.

Councilmember Moore said that during discussion tonight, I will ask you about that. Mayor Perrin said this is giving license, but then ABC will still be covering going in and doing the checks on all these establishments. They will also be enforcing the penalties and the fines on these. Back on the business license they buy from us, then we can pull that business license based on certain criteria that you all have already passed way back. I want to get in my mind what are the steps. If I come in and want to do that then I have to go to the Police Department. The Police Department will have this package that you see in front of you. Ms. Duncan said she anticipates that it will

be on the website as well. Mayor Perrin said that is correct. Then, the Police Department has 30 days. Ms. Duncan said the entire application has 30 days. Mayor Perrin said yes 30 days. Then after that is done then it comes to the Council. Ms. Duncan said the way it is written now the applicant would be notified that the Planning Department and Police Department had reviewed it and had found it to be sufficient. Then, it would have the next time line which I think we said would be 60 days to get with the City Clerk and make sure it got placed on the agenda. Councilman Moore asked if the burden would then fall on the applicant to have it placed on the agenda within 60 days. Ms. Duncan said if they don't, then they can't bring it back for six months is what we had proposed.

City Clerk Donna Jackson asked City Attorney Carol Duncan if the applicant would submit the completed application to the Clerk's Office to put on the agenda. Ms. Duncan said that we will probably create a sample ordinance that will be there to assist them similar to when you get a rezoning put on you have an ordinance that you prepare. We will create a sample probably to help them get it put on the agenda. But, yes, they would submit that as an attachment, the applications, and that I would anticipate that a letter will come from Planning and a letter will come from the Police Department saying that it has met the criteria. Ms. Jackson said I would put that in there. Mayor Perrin said that it says on the bottom left that it is received by the Police Chief and then it goes on to the Clerk. The Clerk would then put it on the agenda. Ms. Duncan said we will do a sample ordinance. Mayor Perrin said that if the applicant is deemed for lack of action by the applicant, meaning that obviously something has been left out or etc., then the applicant must wait 6 months before submitting another application. Ms. Jackson said that is why we need a letter for the Clerk's Office because we will have no way of knowing for sure. Mayor Perrin said that is why he is going through this step by step. It appears that the Chief of Police will sign off on it after making sure everything is done, the background check, etc.

Ms. Duncan said we can change under D, once the completed application has been verified by the City, the applicant will be notified in writing. Ms. Jackson said so long as my office has something to show that the Chiefs and Planning have signed off. Ms. Duncan said they will have something written then to say that it had been signed off on. I anticipated that it would be in writing, but I didn't say that so certainly that language can be added if we need to. Mayor Perrin said it is just communication within administration. If it goes to her then I need it to come to me as well. Ms. Duncan said it would be like any other. It would go to Legistar and then it would come to you for approval and then for me for approval. Ms. Jackson said it would be attached. Mayor Perrin said he would have no problem with that.

Ms. Duncan said that beyond this, the other thing that the committee needs to consider and the Council needs to consider is if you want the applications to be submitted to a committee prior to coming to Council or to go directly to Council and if so which committee. I think it would be good to make that clear from the beginning. Ms. Jackson agreed. Councilmember Moore said he thought it would be a full Council decision on most of that. I would think it would just appear on the agenda. Mayor Perrin said if you go to committee, you are just doubling up. Chairman Johnson said he thinks so. It is redundant of what you are going to be doing anyway. Councilmember Moore said there is a chance you could have a committee hold up all of the applications. Chairman Johnson said that is true.

Councilmember Moore said he is not as near concerned about granting people to have the license as he is about being able to revoke them. I didn't see a line in here that stated if you mislead or misrepresented any of the information on these permits that

your permit could be revoked. Does the City have that authority? In other words, if I lie on this application about who I am does the City have the right to revoke? Mayor Perrin and Ms. Duncan said they think that ABC does. Councilmember Moore asked about the business license and if the City has the right to revoke the business license. Ms. Duncan said absolutely. Mayor Perrin said that goes back by separate ordinance. Ms. Duncan said under the other alcohol, I think we can revoke it. Mayor Perrin said there are two issues here. We passed ABC line item that they have to pay a fee to do that. In that ordinance, it states on certain things that they don't do those. We can pull that which basically means you are shutting them down. Over here is the applicant to open a business to get started and I think that is controlled by ABC. I think the legislature shifted all of the approval process to local municipalities rather than on the state level or ABC. Councilmember Gene Vance asked if ABC still had to approve it no matter what we do. Ms. Duncan and Councilmember Moore said yes. Mayor Perrin said this is just another step. Councilmember Vance said what they are trying to do is put the political pressure back on elected officials. Mayor Perrin said that is correct.

Ms. Duncan said there was something in their regulations that made her a little anxious because it said they would consider any application a valid application once it has been approved by a local governing body. That made me nervous because according to what is proposed here, we are not reviewing whether the 501-3C has been in existence for a year. We are not reviewing the applicant's membership. None of that is being reviewed. Councilmember Moore said that is why he asked if they mislead us on the application, what is our recourse? Ms. Duncan said the ABC will still be reviewing all of those items. I double-checked with them that when they consider it valid, they said that is how their regulations have always read, but they still will be vetting it the exact same way they have always vetted it. The only difference is they aren't going to look at it unless there is an ordinance approving them looking at it from the local governing body. Councilmember Moore said that is good. I assumed what the process was going to be and that the vetting process would be passed onto us and once we approved it they just made a decision of yes or no without any other information. Ms. Duncan said they said they would vet it just like normal. Councilmember Moore said that was the only question he had.

Ms. Duncan asked if we could recommend on the ordinance with that change to D that states there will be notification in writing. Councilmember Moore said he would change his motion to reflect that. Councilmember Gibson said he would still second that motion. Ms. Duncan asked if they wanted a motion and a second on changes to the application. I have the application attached. Councilmember Vance asked if this was one that we could have the application by reference so that we wouldn't have to change the ordinance if we ever change the application. Ms. Duncan said we could just list the application as an attachment so that we could edit requirements in the application instead of part of the ordinance. Councilmember Vance said that is what he thinks rather than us having to change the whole thing for fees or anything else.

Ms. Duncan said you may notice in the first one I sent out to you as a draft, we actually included the fee but I've changed what is in Legistar to say that the application will be submitted with a one-time non-refundable application fee in the amount to be established by Council. We need to establish that by resolution. That way it only takes a resolution to change it. So, this doesn't set a fee yet. Councilmember Moore said he thinks they should just have that discussion at the Council meeting and will ask that we pass the ordinance separate from the application.

Chairman Johnson asked if this was something that we wanted to walk on tonight. Councilmember Moore asked Ms. Duncan if there was some discussion of time. Ms.

Duncan said that was on the marijuana. Chairman Johnson asked if we were in a crunch to do anything. Ms. Duncan said she has been contacted by developers that say this is holding up their development because we don't have any procedure in place for them to even begin the application process. The state did this and we really didn't see this coming. I have advised that it may be mid to late October at the earliest before we have something in place. Chairman Johnson said he doesn't see anything wrong with that personally. Councilmember Moore said if you haven't already started your development, 45 days isn't going to make any difference. Mayor Perrin said that he would go slow on this. Ms. Duncan said that is her only comment on that. Nothing is new. Chairman Johnson said he would like to see it go through the normal process. Ms. Duncan said there is nothing in the state like the marijuana had a deadline that we are worried about here other than nobody can apply right now until we get this figured out. The fees are going to be by resolution later.

A motion was made by Councilman Chris Moore, seconded by Councilman Chris Gibson, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 4 - Gene Vance;Chris Gibson;Chris Moore and David McClain

4. Adjournment

A motion was made by Councilman Chris Moore, seconded by Councilman David McClain, that this meeting be Adjourned . The motion PASSED with the following vote.

Aye: 4 - Gene Vance;Chris Gibson;Chris Moore and David McClain