



AGENDA
COMMUNITY DEVELOPMENT COMMITTEE
Monday, January 26, 2015

6:00 PM

**Public Safety Building
285 North Seven Hills Road**

I) Roll Call

II) Approval of Minutes – January 12, 2015

III) Items Requiring Council Action – February 2, 2015

A. Video Gaming (1st Reading)

IV) Other Business

A. General Project Updates

NEXT MEETING: Monday, February 9, 2015 – 6:00 P.M. – Public Safety Building

General Citizen Comments: The City of O'Fallon welcomes comments from our citizens. The Illinois Open Meetings Act provides an opportunity for citizens to speak at all committee and Board meetings. However, 5 ILCS 120/1 mandates that NO action shall be taken on matters not listed on the agenda. Please submit your name to the chairman and limit your comments so that anyone present has the opportunity to speak.



MINUTES
COMMUNITY DEVELOPMENT COMMITTEE
5:30 PM Monday, January 12, 2015

Minutes of a regular meeting of the Community Development Committee of the City of O'Fallon, held at the Public Safety Building, 285 N. Seven Hills Road, O'Fallon, Illinois.

CALL TO ORDER: 5:30 PM

- I) **Roll Call** – *Committee members:* Gene McCoskey, David Cozad, Ray Holden, Harlan Gerrish, and Jerry Mouser. *Other Elected Officials Present:* Ed True, Mike Bennett, Courtney Cardona, Herb Roach, Richie Meile, Kevin Haggarty, and John Drolet. *Staff:* Walter Denton, Pam Funk, Ted Shekell, Justin Randall, Sandy Evans, and Eric Van Hook. *Visitors:* Jim Cavins, Fred Boch, Charlie Pitts, Vern Malare, Nancy Chase, Pat McLeod, Dean Oelze, and Joseph Uram.
- II) **Approval of Minutes from Previous Meeting** – All ayes. Motion carried.
- III) **Items Requiring Council Action**
 - A. Public Hearing Dates for Route 50 / Scott-Troy Road Redevelopment Project Area (Resolution)
Justin Randall gave a brief overview of the TIF process that was beginning for the Four Points Center / McKendree Metro Rec Plex development at the intersection of Route 50 and Scott-Troy Road. Randall provided information on the action of approving a resolution to set a date for a public hearing on the TIF and outlined dates of other important dates. The committee discussed the resolution and recommended approval with a vote of 5-0.
 - B. Special Event Permit (Motion) – Justin Randall provided a brief explanation on the special event for St. Elizabeth and indicated it was consistent with previous approvals. The committee discussed the permit request and recommended approval with a vote of 5-0.
 - C. Text Amendments (2nd Reading)- Justin Randall indicated there were no additional changes to the ordinance approved on 1st Reading.
- IV) **Other Business**
 - A. Video Gaming – Justin Randall provided the committee with information on the status of the video gaming ordinance and that it would be ready for review at the January 26, Community Development Committee. Ted Shekell provided the committee with a number of the items being considered in the draft ordinance.
 - B. General Project Updates – Justin Randall brief the committee on the construction progress on Gander Mountain and the committee commended the Public Works Department on the State and Lincoln parking lot.

MEETING ADJOURNED: 6:05 PM

NEXT MEETING: January 26, 2015 – Public Safety Building

Prepared by: Justin Randall, Senior City Planner



MEMORANDUM

TO: Community Development Committee
FROM: Justin Randall, Senior City Planner
THROUGH: Ted Shekell, Director of Community Development
DATE: January 26, 2015
SUBJECT: Illinois Video Gaming Act and O'Fallon Liquor/Gambling Ordinance

Key Aspects of the Ordinance:

Annual fee structure:

- Licensed Retail Establishment & Licensed Truck Stop Establishment - \$1,000.00 per gaming terminal
- Licensed Fraternal Establishment & Licensed Veteran's Establishment - \$250.00 per gaming terminal

Location requirements:

The gaming terminals must be in an area whereby the terminals are at all times out of view and sound of the patrons and customers, except those using the terminals. All locations must still comply with the entrance being visible to an employee of the establishment to ensure all users are 21. Minimum state requirements must still be met as provided below in the following excerpt from the State's Administrative Rules on Video Gaming:

"All video gaming terminals must be located in an area restricted to persons over 21 years of age. For all licensed video gaming locations that restrict admittance to patrons 21 years of age or older, a separate restricted area is not required. Any licensed video gaming location that allows minors to enter where video gaming terminals are located shall separate any video gaming terminals from the area accessible by minors. In those licensed video gaming locations where separation from minors under 21 is required, a physical barrier to the gaming area is required, which may consist of a short partition, gate or rope or other means of separation. No barrier shall visually obscure the entrance to the gaming area from an employee of the licensed video gaming location who is over the age of 21."

Key Aspects of the "H-1" Liquor License:

The city is proposing to create the "H-1" liquor license. This license would include the ability to operate video gaming terminals. Such establishment would not need any other liquor license.

- Hours:
 - Sunday – Thursday: 1:00 AM
 - Friday – Saturday: 2:00 AM
- Would allow live entertainment
- Would not allow package liquor sales
- Fees:
 - \$400.00 – Not-For-Profit Corporations
 - \$700.00 – For-Profit Corporations

Attachments:

Draft Video Gaming Terminals Ordinance
Draft Video Gaming Liquor License

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY OF O’FALLON MUNICIPAL CODE, TO PERMIT VIDEO GAMING TERMINALS AT LICENSED ESTABLISHMENTS IN THE CITY OF O’FALLON IN ACCORDANCE WITH THE ILLINOIS VIDEO GAMING ACT, REGULATIONS ESTABLISHED BY THE ILLINOIS GAMING BOARD AND RULES AND REGULATIONS CONTAINED IN THIS ORDINANCE

WHEREAS, the City of O’Fallon, an Illinois municipal corporation is a home rule unit of government that has authority to adopt an ordinances and to promulgate rules and regulations that pertain to its government and affairs and to protect the public’s health, safety and welfare of its citizens; and

WHEREAS, the State of Illinois has enacted the Illinois Video Gaming Act, 230 ILCS 40/1et seq., which authorized video gaming at video gaming terminals licensed by the Illinois Gaming Board at certain locations in the state, including licensed retail establishments where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on the premises and licensed fraternal establishments, veterans establishments and truck stops; and

WHEREAS, the Illinois Liquor Control Act of 1934, 235 ILCS 5/1-1 et. seq., grants the Liquor Control Commissioner of a municipality, the power to grant liquor licenses to serve alcoholic liquor on premises within its jurisdiction, and to revoke or suspend such liquor licenses and levy fines on liquor licenses for violation of said act and/or its Ordinances related to liquor control; and

WHEREAS, the Illinois Gaming Act, does not expressly preempt municipalities from regulating video gaming, and grants the City of O’Fallon limited power to regulate video gaming terminals within the City’s corporate limits; and

WHEREAS, the citizens of the City of O’Fallon, pursuant to a referendum, have chosen not to ban video gaming within the City; and

WHEREAS, as a result of the referendum, the O’Fallon City Council has determined that it is in the best interest of the City, its residents and local business owners to permit video gaming terminals in the City of O’Fallon, in accordance with the Illinois Video Gaming Act, regulations adopted by the Illinois Gaming Board and rules and regulations contained in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE O’FALLON CITY COUNCIL THAT THE CITY OF O’FALLON MUNICIPAL CODE IS AMENDED BY ADDING TITLE 135-A VIDEO GAMING TO READ AS FOLLOWS:

Chapter 135-A of the Code of O’Fallon, shall constitute and be known and may be cited as Video Gaming.

Section 1. Definitions:

- (A) The phrases “Video Gaming Terminal”, “Licensed Retail Establishment”, “Licensed Fraternal Establishment”, “Licensed Veteran’s Establishment” and “Licensed Truck Stop Establishment” shall have the meanings set forth in the Illinois Video Gaming Act (230 ILCS 40/5) and each of the aforementioned establishments shall be referred to herein as a licensed establishment whether it be a retail licensed establishment, licensed fraternal establishment, licensed veterans establishment or licensed truck establishment as defined by the Illinois Video Gaming Act.
- (B) “Permit Holder” shall mean and include all the establishments defined in paragraph “A” above.

Section 2. Video Gaming Establishment Permit:

In order for a licensed establishment to operate a video gaming terminal in the City of O’Fallon, the licensed establishment is required to obtain an annual video gaming terminal permit for each video gaming terminal from the City by submitting a written application to the City Clerk, on a form provided by the City Clerk. The burden is upon each applying licensed establishment to demonstrate its eligibility and suitability for the permit. All video gaming terminal permits issued by the City shall expire April 30, next,

after date of issue, ~~with an annual nonrefundable permit fee of _____ dollars (\$ _____) per terminal, up to a maximum of five (5) terminals, payable in full at the time the application is filed with the City.~~ Annual nonrefundable permit fees for each video gaming terminal shall be as follows;

<u>Licensed Retail Establishment.....</u>	<u>\$ 1,000.00;</u>
<u>Licensed Fraternal Establishment</u>	<u>\$ 250.00;</u>
<u>Licensed Veteran's Establishment</u>	<u>\$ 250.00;</u>
<u>Licensed Truck Stop Establishment</u>	<u>\$1,000.00.</u>

The permit fee shall be paid in full at the time the initial or renewal application is filed with the City. The fee for the initial application shall be prorated on a monthly basis if paid after April 30. A permit shall be purely a personal privilege, good until April 30 following the date of its issuance, unless sooner revoked as provided by law, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered.

Section 3. Regulations for Operating Video Gaming Terminals:

The following regulations apply to all licensed establishments operating a video gaming terminal on the licensed premises.

- (1) A valid state Gaming Board video gaming license must be clearly displayed at all times in a conspicuous place.
- (2) A valid City video gaming terminal permit shall be clearly displayed at all times on each video gaming terminal whether operational or not.
- (3) No more than 5 video gaming terminals may be located on the premises of the licensed establishment.
- (4) Other than having up to 5 video gaming terminals with a valid video gaming terminal permit, a licensed establishment is prohibited from having, anywhere on its premises, an electronic video gaming machine which may be available to play or simulate the play of poker, line up, blackjack, roulette, craps, slots, or any other card or dice game or other game of chance, or that is otherwise similar to the gambling or gaming device under this code, even if solely for amusement purposes.

- (5) All video gaming terminals must be located in an area restricted to persons 21 years of age or older and in an area on the premises of the licensed establishment whereby the terminals are at all times out of view and sound of the patrons and customers of the licensed establishment except those patrons and customers then using the terminals. The entrance to such area must, at all times, be within the view of at least 1 employee of the ~~licensee~~ licensed establishment who is at least 21 years of age.
- (6) No licensed establishment may cause, suffer or permit any person under the age of 21 years to use, play or operate a video gaming terminal.
- (7) No video gaming terminal may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages at the licensed establishment pursuant to the City of O'Fallon Liquor Control Ordinance.
- (8) The licensed establishment must fully comply with the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., as amended, and all rules, regulation and restrictions imposed by the Illinois Gaming Board.
- (9) The licensed establishment must fully comply with all applicable City of O'Fallon Ordinances, including, the City of O'Fallon Liquor Control Ordinance, as well as any applicable federal and Illinois laws or regulations.
- (10) Licensed establishments must immediately notify the City Liquor Control Commissioner in the event the Illinois Gaming Board revokes or suspends the licensed establishment's video gaming license.

Section 5. Inspection of Premises:

Every licensed establishment where a video gaming terminal is kept shall be subject to inspection by the City of O'Fallon Director of Public Safety or his authorized agents, at any time, to ensure compliance with the Video Gaming Ordinance. This includes establishments applying for a video gaming terminal permit. It shall be unlawful for any person to hinder, resist, oppose or attempt to hinder, resist or oppose the City of O'Fallon Director of Public Safety or his respective agents in the course of an inspection.

Section 6. Revocation/Suspension of License and Permit Sticker:

The Local Liquor Control Commissioner may revoke or suspend any video gaming terminal permit issued hereunder if he determines that the permit holder has violated any of the provisions of the Video Gaming Act, 230 ILCS 40/1 et seq., and/or Title 11 of the Illinois Administrative Code Subtitle D: Video Gaming, Chapter 1: Illinois Gaming Board, Part 1800 Video Gaming (General), as amended, incorporated by reference in this Chapter. No such permit shall be revoked or suspended for more than thirty (30) days and no ~~licensee~~ permit holder shall be fined except after a public hearing by the Local Liquor Control Commissioner with a three (3) day written notice to the permit holder affording the permit holder opportunity to appear and defend. The Local Liquor Control Commissioner may also levy a fine only or a fine in addition to a suspension or revocation of a permit not to exceed \$1,000.00 for a first violation within a 12 month period; \$1,500.00 for second violation within a 12 month period; \$2,500 for a third or subsequent violation within a 12 month period. Each day on which a violation continues shall constitute a separate violation. Not more than \$15,000.00 in fines under this Section may be imposed against a permit holder during the permit period. Proceeds of such fines shall be paid into a general corporate fund of the City.

If the Local Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed establishment will in any way threaten the welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the licensed establishment closed for not more than seven (7) days, giving the permit holder opportunity to be heard during that period; except that if such permit holder shall also be engaged in the conduct of another business or businesses on the premises, such order shall not be applicable to such other business or businesses.

The Local Liquor Control Commissioner shall, within five (5) days after such hearing, if he determines after such hearing that the permit should be revoked or suspended or that the permit holder should be fined, state the reason or reasons for such determination in a written order and shall serve a copy of such order within the five (5) days upon the ~~licensee~~ permit holder. The ~~licensee~~ permit holder shall have the privilege, within a period of twenty (20) days after the receipt of such order of fine, suspension or revocation, of appealing the order as allowed by State law.

Notwithstanding the foregoing, any licensed establishment that has its liquor license suspended by the City under the Code of O’Fallon or by the Illinois State Liquor Commission, or has its video gaming license revoked or suspended by the Illinois Gaming Board, shall automatically, without a hearing before the Local Liquor Control Commissioner, have all of its video gaming terminal permits revoked or suspended for the same time frame as its liquor and/or Illinois Gaming Board gaming license is suspended, whichever the case maybe.

Section 7. Seizure or Unlawful Video Gaming Terminals:

Every video gaming terminal which does not have a valid video gaming terminal permit or is otherwise unlawful shall be considered a gambling device subject to seizure the City Director of Public Safety or his respective agents and shall be turned over to the Illinois Gaming Board, in accordance with Board regulations and applicable law, unless otherwise ordered by a court of competent jurisdiction.

Section 8.

This Ordinance shall be in full force affect, from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED this ____ day of _____, 2015, pursuant to a roll call vote as follows:

ROLL CALL:	McCoskey	Meile	True	Albrecht	Mouser	Hagarty	Drolet	SUB TOTALS
Aye								
Nay								
Absent								

ROLL CALL:	Roach	Bennett	Cardona	Hursey	Holden	Cozad	Gerrish	SUB TOTALS	SUM OF TOTALS
Aye									
Nay									
Absent									

APPROVED by me this ____ day of _____ 2015.

Gary L. Graham, Mayor

ATTESTED

DRAFT

(J) Class “H-1” Licenses shall be required of each Licensee having a video gaming permit issued to the Licensee pursuant to City Ordinance _____ and shall authorize the Licensee to sell at retail, alcoholic liquor for consumption, on the premises, specified in the license, at all hours chosen by the Licensee except between the hours of 1:00 a.m. and 5:00 a.m. Monday through Friday, inclusive, and between the hours of 2:00 a.m. and 5:00 a.m. on Saturday and Sunday when no sales of alcoholic liquor may be made; provided that, a live band, or such other live entertainment as the Liquor Commissioner deems comparable, performs at such premises at least five days each week. No person may consume and no person other than the Licensee shall possess or have, any alcoholic liquor upon the licensed premises, more than one half hour after close of business for the retail sale of alcoholic liquor and before such business reopens as allowed by the preceding, and the premises shall be vacated within one half hour of the close of such business by all such persons other than employees of the Licensee then engaged in customary after hour duties which relate to cleaning and closing such business.

The holder of a Class H-1 license shall not be required to have any other City liquor license.