

**CITY OF BELLEVILLE, ILLINOIS
ORDINANCE AND LEGAL REVIEW COMMITTEE
CITY HALL COUNCIL CHAMBERS
MAY 22, 2023 5:30 PM (RESCHEDULED FROM MAY 9, 2023)**

Chairperson Stiehl called the meeting to order.

Members present on roll call: Alderperson Whitaker, Alderperson Duco, Alderperson Randle, Alderperson Anthony, Alderperson Elmore, Alderperson Osthoff, Chairperson Stiehl. Alderperson Schaefer arrived at 5:36 p.m.

Department Heads Present: City Clerk Gain Meyer, City Attorney Hoerner, HR Director, Bill Clay

PUBLIC PARTICIPATION

Michael Hagberg: I have mentioned this before, this is the one committee that maybe your following a lot when you have an agenda item that says we're going to change chapter 31 and not other real detail is given, it would be good, if of all the committees, this one could actually post the packet online so that the details of what is being added or deleted from the Ordinances and what is recommended so that the public what we are going to be affected for could come at this meeting rather than waiting before it appears at Council.

MINUTES

Alderperson Randle made a motion second by Alderperson Elmore to approve minutes of March 14, 2023.

All members voted aye.

UNFINISHED BUSINESS

None.

MISCELLANEOUS & NEW BUSINESS

Possible motion to amend Title III (Administration), Chapter 31 (Officials and Employees; General Administration) Section 31.009 (Appointment of Employees) and Section 31.031 (City Officers) regarding residency.

Director of HR Clay: This is a request by the administration to change this ordinance. I will explain what this is. As you know when I became HR Director before that - - so this is about residency. Before I became HR Director, you know I was the Chief of Police and made some changes to the Police contract and we got some very good results from that. Now, as HR Director, and I have been negotiating different various contracts all the Unions wanted the same kind of residency, but we had kept it to 25, I think you guys have seen several of the contracts that had been negotiated so we changed it to 25 mile radius from the city limits for most of the Unions. That has been for the nine International Operating Engineers, Local 50 for the Clerical, Local 50 for the Drivers, of course the FOP for Lodge 226 and Lodge 226.2 and then Local 116 for Service Employees. So those are the ones that I have negotiated when I became HR Director, there are still some out there that I have not negotiated but I kept the standard 25-mile radius from the corporate city limits, as you know the Police were 45 miles and we did that for the various reasons that we talked about and that was wonderful for us. With that, what happens is, now we have the at-will employees and the appointed employees, so let me just give you an idea about that, upon succession protocols. Right now, if I am the Director of Wastewater, I have to live either in the city limits depending on what Ordinance or Statute we are looking at, if it was the

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State Statute it was Garrett and it is an Engineer or one of the specialties, they can live in St. Clair County. But let's just say you are Wastewater you must live within the city limits, so we have employees in there that are in the Unions, they can live within the 25-mile radius and as they move up into positions and they finally become managers outside of the Union, then more restrictive residency kicks in. Now, I pick you as the best Wastewater person I have ever had to be the Assistant Director bringing you up into this position and you say, I can't take that position, because if I take that position, now I have to move my family, sell my home, uproot my kids if you have them in schools so forth to take the position. It puts us at a disadvantage for succession because for Union members to have that ability, but if you move into a management position you don't, you lose that. That is not a way we can operate and have a good succession line or good program in place where you lose very valuable people. We bring most of those people who take those positions they come up through the Union, they come up through the Union they see what to do, they have twenty plus years or so of experience we know they are good people, we sent them to all kinds of training and now, we can't use them. That is one of the reasons that I am looking at changing, I'm not looking at it by myself but the City is, looking at changing that so we can be sure that we can continue to have these good lines of succession for people that are coming up through a department, we don't always have to go outside and try to find somebody because you don't have the history, you don't know anything about them. We are also looking at that because of the job market itself. Any of you are out there working you know how things are going on in the job market right now, the environment you have all kinds of competition, you have people right now, I just cannot believe you have in the HR field what I am looking at is people, they don't even want to come in and have an interview. They want you to put it on the computer and if you say we cannot have a Zoom meeting, they are out of here. It is just that easy for them to turn it down. Or we will have people, bring them onboard, they will be here a week then they just go do something else. I have never seen this kind of environment, but it exists. This is just the way it is. This is the reality that we have, and we have to deal with that. And then we have competition from other municipalities and other cities that have more relaxed residency standards than the City of Belleville. A lot of this, I guess (inaudible) residents came back from when they used to hire people based on their loyalties and such but that has passed but we still have vestiges of it that still exists and are still in the city. What we propose talking with the Mayor and I had let Garrett see the proposal to make some changes. I think you guys should have that with you. 31.009 Appointed Employees you can see that, what I have done there is highlight, I don't know if you guys got that in color? You will see twenty-five out corporate city limits and then the language that we had to change was just a line through but I left it there so you could read it. So, you could see exactly what the language was and what we have done. Then in 31.031 City Officers the ones at the top are appointments the ones at the bottom are just Officers that will be people that we bring in.

City Attorney Hoerner: Yes, there is a distinction drawn both in our Ordinances and by Statute with employees versus appointed officers and the Mayoral appointments are what you would consider Appointed Officers. They are treated differently, now the one thing that I would note is statutorily Appointed Officers on your section 3.1-10-6 under the municipal code it will require you to be a city resident unless you fall under one of the exemptions and the exemptions are what you pointed out before, Chief was City Attorney, Municipal Engineer that type of thing and if you remember any other officer that requires technical training or knowledge and that is a finding debate by the Council at the time of hiring, if you have done that with other technical appointed offices so as far as the change to 31.031 because of the Statute you are going to have to keep them as residents but you would, the bottom line would be the provided however if you are exempt you could determine whether or not you want to change to residence in St. Clair County similar to what you suggested the 25-miles. That is 31.031 but 31.09 is as far as general employees is your determination. There is no statute on that.

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Aldersperson Schaefer: So, I missed the beginning of this I am just asking a question, this wouldn't pertain to the Firemen because their contract is different, correct?

HR Director Clay: This is general employees. (Inaudible)

Aldersperson Anthony made a motion second by Aldersperson Elmore to amend Title III (Administration), Chapter 31 (Officials and Employees; General Administration) Section 31.009 (Appointment of Employees) and Section 31.031 (City Officers) regarding residency.

Aldersperson Randle: By removing the residency requirements St. Clair County they could reside out-of-state could they not?

HR Director Clay: They could, it is a 25-mile radius, it would be the same as for Unions.

Members voting aye on roll call: Whitaker, Duco, Randle, Anthony, Schaefer, Elmore, Osthoff, Stiehl.

Motion carries.

Discussion on Storage Unit Taxation

Aldersperson Elmore: I am going to give you a brief history just because some folks here tonight were not around for the first time that this came up. This is something that has been voted on before and not passed. It started about the winter of 2019 I brought an idea to the then Mayor and then Police Chief and they both were in favor of it but then over the next few months COVID hit, and COVID created a weird feeling on everybody, so much so that the Storage Tax Association did a fabulous job of lobbying for their Association members and pushed that it was because of COVID that we should not do this. That was pretty much the reason why it failed, and that is fine. If someone else remembers some other reasoning behind it failing by all means speak up but I think it was basically based around the weirdness of COVID and this was June of 2020 that we voted it down we were still meeting in here actually, then a few months after that we went on lockdown and then did not meet for another eight or nine months. So, what this is, and we are not inventing the wheel, I think it is important to understand this, we are not the first community in the State of Illinois to talk about a self-storage retail tax. There are several communities, many north of I-80 that put on a 5% or even more retail sales tax on a storage unit. These storage units many times are built from repurposing a large box store that probably generated a lot of tax dollars, and they also enjoy and should and whether this passes or not, they will always get Fire service and Police service, streets being cleaned so their customers can get to them so on and so forth. A 5% sales tax just seems logical to me and it is something that can keep our resources financially sound, that is providing those resources to those businesses. If there is a fire at a storage facility, our Firemen are going to report it, if there is a crime, our Police are going to report, economically I will read to you real quick Cliff's take on it:

Good evening, I am following up on a previous conversation concerning proposed self-storage tax proposal that is being presented to Ordinance and Legal tonight, unfortunately I will not be able to attend the meeting but wanted to write this follow up email verifying that I do not believe this would have a negative economic impact on the community and I have no concerns with or objections to the proposed amendment. Furthermore, I believe this would be a viable option to address the potential loss of typical retail sales service, traffic, commercial areas, corridors that storage units may be located.

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Alderson Elmore: This is not a tax that theoretically cost the storage facility owner, it is a pass-through tax, it does not cost someone that owns a hotel any money, they put that Hotel/Motel tax on the person that is renting the room it is based upon sales. So, whether they are parking their boat, RV, buying a blanket, duct tape, straps, or renting a storage unit as we all think of, there is a 5% sales tax at the bottom of their ticket. It would be really nice to be able to estimate how much money this could be representing, but their prices are so all over the place it is hard to guess, and I mean you talk about a guess in the dark. They range anywhere from \$22 to hundreds of dollars a month depending upon what they are storing and how long they have been there even whether or not they do it online or come in person, it is just impossible, but if you took an \$80 unit it is \$4, it is not a huge impact on the consumer but certainly when we have hundreds if not a thousand or so units being rented in the City of Belleville it could be a significant impact for our budget. We don't have a lot of Hotel/Motel tax, but we have a lot more storage then we have Hotel/Motel rooms and I think it is logical, understandable, and the only people who wouldn't like it, I'm sure, are the people who rent them, and their price just went up \$4. I don't think it will be long before other communities surrounding us do the same thing, that does remain to be seen of course. I am happy to answer any questions, Chief Eiskant and Fire Chief said they both would think it is very logical, but I will let them speak if you want to ask them.

Alderson Whitaker: To your point about the sales tax on merchandise, do we not already collect sales tax on packing materials and locks.

Alderson Elmore: I do not believe so. I can always stand to be corrected.

Alderson Schaefer: We do.

Alderson Randle: I believe when we discussed this before, there was a grand total of \$75 that came to the City because of that.

Alderson Whitaker: The only reason I am asking, not that I am opposed to it at all, I just don't know that we should be double taxing those items, I am in favor or considering the 5% sales tax for the rental. I am not in favor of adding an additional 5% on merchandise that we are already taxing at our City/State sales tax rates.

Alderson Randle: I believe Alderson Whitaker has hit the nail on the head there, it is not about double taxation here, it is about tax on the rental unit itself or the fee associated with the rental of storing something. When I had a watercraft, I would put it in storage, and I would pay a monthly fee for that purpose there, I think that some of the discussions that we have had in the past regarding this particular possibility here and Alderson Elmore eluded to okay is that the storage folks have a heck of a lobby and they come in and plead their case okay and the State Legislature has attempted something in the past only to not take action on it for that very purpose. I am of the belief okay in terms of the argument that it puts them at a disadvantage for competitive purposes, any business from a competitive purpose will find a price point that they can operate at and still be profitable. We have come before Zoning, other people requesting to build additional units or to modify what they are currently doing okay and allow them to have RV units parked there as well. If this was such a I don't know, what is the correct word here, encumbrance on the people who operate these storage facilities I don't know why they would be building additional storage facilities or making allowances to put in other facilities to store RV units etc. I think that the real issue, my personal belief, I believe that the real issue here is that they don't want to be burdened here with collecting this tax and passing it along to the City. I think that is the real issue here, they have been operating without having to do this for so long, they have never had to do it, why would they want to institute the means okay necessary in order to take this - - -

Alderson Schaefer: I am looking back at the notes on September 17th, their biggest thing was COVID, it was nothing else, but COVID if you read every comment, it was oh, we can't do that to our customers right now because things are hard with COVID. Every single one of them. This would be devastating to our current tenants because of COVID, they are going through a lot with COVID.

Chairperson Stiehl: I think we had a (inaudible) say it that (inaudible) before we had to go on lockdown.

Alderson Elmore: The Association President, I don't recall her name, but she lived in Belleville.

Alderson Schaefer: Joanie Schaefer.

Chairperson Stiehl: This is just for discussion; we don't really have any motion tonight.

Alderson Elmore: I will yield to Garrett on his advice for whether or not we can vote on something to send to City Council or not.

City Attorney Hoerner: It has to be an action item but if there is consensus based upon your discussion to consider an Ordinance to this effect, you can bring back an Ordinance to the next committee meeting and that would be very similar if not identical to what you previously had. We had one drafted that was discussed in 2020 prior to COVID.

Alderson Randle: I think that I would be in favor of doing such, but I recall one meeting that we had that there was a contentious discussion around should a gym locker be included under this definition and should a shoe locker at the bowling alley be included. I think that from a reasonable perspective no they would not, I don't see how they would qualify under a definition of a storage unit.

City Attorney Hoerner: Just for purposes of what we bring back an Ordinance for consideration, I am operating under the belief that you are talking about the storage unit businesses and not the lockers.

Alderson Elmore: Absolutely, indoor, or outdoor, not the retail products that they sell, I stand corrected, not the retail products that they sell inside their store, packing materials, but their storage locker charges or parking lot storage charges.

City Attorney Hoerner: And a self-storage unit.

Alderson Elmore: Self-storage unit in Belleville.

Alderson Schaefer: And we are saying 5% because I was looking back and we said 6 ½ %-8%, I think 5% is agreeable.

Alderson Elmore: And that is what other cities in the state are charging the 5%. I probably said that because that is what our retail sales tax was but 5%.

Chairperson Stiehl: What we will do is bring this back as a motion for the next Ordinance and Legal meeting, then we can take it to Council. Next, I would like to ask the Attorney to the Possible motion to

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amend Title XI (Business Regulations), Chapter 117 (Lodging Businesses) by Adding Sections 117.50 through 117.55 (Short-Term Rentals)

City Attorney Hoerner: So, if you recall it was at a committee meeting in August 2022, we had brought forth a proposed short-term rental Ordinance that would include both provisions to taxation and provisions to not provisions but new Ordinance provisions that would provide for the licensing and regulation of a short-term rental. Of course, short-term rental is an example of the Air BNB platform and there are apparently some other platforms as well. I went back and we have had some discussions since that time about enacting taxation and of course the City Council went ahead after the August meeting when it was tabled in favor of having an ad hoc committee address it, we did bring back taxation piece and it was approved. It has been enacted. There have been some issues with our ability to identify where these places are operating because we do not license them. You can look up as a user and find locations on these platforms but not the addresses. While we await the recommendations from the committee, we are trying to get something enacted that would allow the minimum licensing of that would help us to be able to identify and ensure that the corporate taxes are being collected. I went back and reviewed the minutes from August 2022 and identified the provisions that were at issue that (inaudible) by the public participants and I simply deleted those. I don't think they are necessary for now to get to this part where you start licensing and of course, everything that you do in this committee is approved by the City Council is subject to amendment so whatever this ad hoc committee has in recommendations they can come back and provide those but what was distributed by Jenny was the bare bones Ordinance that would begin this licensing process and more specifically I can walk you through it. We pair down the definitions we no longer draw the distinction between owner occupied and non-owner occupied, resident, non-resident so this just identifies what is a short-term rental and what is the hosting platform use the example of Air BNB, what is an owner 117.50, 117.51, simply requires the April license 117.52 talks about renewal and 117.53 sets a single license fee of \$75 annually which is what you currently charge a Bed and Breakfast. The standards I limited, there was a dispute or some contention over the amount of insurance so I just put that it needs to be insured, this committee can determine the recommended and we can change the amount later. Then it has the penalties, we eliminated the guest registry, because that was brought up, we will be able to get information from the platform that will identify the renter that can suffice for now, but what this would do is if you would approve it tonight and forward it on to City Council if it is approved it will allow us to go ahead and begin licensing them and do these basic measures in order to help, notification with the Treasurer but also with the tax issue but also if the Police Chief allows the enforcement of any issues that they would encounter. Then if and when you get any feedback from this ad hoc committee you could revise the Ordinance, amend it, augment it however you want.

Aldersperson Schaefer: That is one thing I have talked to many owners who have Air BNBs and they said we were supposed to have a committee and I do like it that it is bare bones, because here is the thing, if we vote this in we can always amend, make changes but we have not met with them and we need to meet with the stakeholders before we make something that is a grand change for them. I think this is fair.

Chairperson Stiehl: I will say that we did have a meeting with Cliff.

Aldersperson Schaefer: But, did you have it with any of these stakeholders as far as Air BNB and rental? That was the deal we were supposed to do that.

Chairperson Stiehl: Yes, I think Geri Boyer was there.

Aldersperson Schaefer: No, she was not.

Chairperson Stiehl: I know Chris Rothweiler was there.

Aldersperson Schaefer: Which makes sense, but it was not with any of the stakeholders. I think we need – I am fine with this, but I think if we are going to make any more stringent changes, I think we need to meet with the stakeholders.

Chairperson Stiehl: Then I would need a motion to table this.

Aldersperson Schaefer: No, no, no I'm saying do it, but if we are going to make it, he's saying we can make some amendments.

City Attorney Hoerner: I was just trying to get something in place, however minimal - -

Multiple people talking.

Aldersperson Schaefer: Because it is bare bones, but if we make any more big changes or add things to it, I would like them to have a voice in it.

Aldersperson Whitaker: Does this go retroactive to anybody that is currently operating and is there a timeframe for them to become into compliance?

City Attorney Hoerner: It is a legal license so they would have to become licensed, and you would simply prorate it for this year.

Aldersperson Osthoff: So, anyone operating right now as an Air BNB would have to get licensed, so we have a comprehensive list of who is operating and then hopefully they are just compliant, so we don't have to go look on the VRBO and Air BNB platform. I think definitely yes, we need something in place.

Aldersperson Whitaker: With that being said, we would have to do all the inspections on them in order to issue the license?

City Attorney Hoerner: Correct, they would have to come in and apply for a license and then there would be an inspection made and then the Clerk's office would issue the license. It would be annual. What normally would happen when something is enacted during the term of the fiscal year the fee is prorated. Those are all things we would be able to accomplish, and I think based on the feedback we had in August 2022 I don't think any of the provisions are points of contention or (inaudible) so I would anticipate, I don't think they were ever objecting to the licensing of it, it was just certain provisions of it.

Aldersperson Whitaker: The only other question I have is I thought there was a group or two that was requesting fee waivers based on non-profit organizations operating.

City Attorney Hoerner: I don't recall, I would have to go back and look at the minutes, I didn't think it was a waiver, I think they wanted a lesser fee amount. The fees that we had in the original was compensatory with what other communities were charging, all we did was mimic the Bed & Breakfast which is essentially strikingly similar to a short-term rental.

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Alderson Schaefer: I don't think \$75 a year is asking too much.

Alderson Whitaker made a motion second by Alderson Duco to amend Title XI (Business Regulations), Chapter 117 (Lodging Businesses) by Adding Sections 117.50 through 117.55 (Short-Term Rentals)

Members voting aye on roll call: Whitaker, Duco, Randle, Anthony, Schaefer, Elmore, Osthoff, Stiehl.

Motion carries.

Alderson Randle made a motion second by Alderson Schaefer to adjourn at 6:08.

All members present voted aye.

Motion carries.


Alderson Mary Stiehl, Chairperson