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**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE**

March 6, 2003

I. CALL TO ORDER

In the absence of Chairman Mochel, Ms. Gerloff called the meeting to order at 6:32 p.m.

II. ROLL CALL

PRESENT: Ms. Gerloff, Mr. Kubes, Mr. Sandack, Ms. Summers

ABSENT: Chairman Mochel

STAFF: Staff Attorney Ann Marie Perez, Liaison to the Liquor Commission
Carol Conforti, Recording Secretary Karen Mudra

OTHERS: Joseph Carlucci, Charles Carlucci, Zakaria Dich, Court Reporter

In the absence of Chairman Mochel, Ms. Gerloff requested a motion from the Commission to appoint a Chairman Pro Tem for the meeting.

MR. SANDACK MOVED TO APPOINT MS. GERLOFF TO ACT AS CHAIRMAN PRO TEM FOR THE MARCH 6, 2003 MEETING OF THE LIQUOR COMMISSION. MR. KUBES SECONDED.

VOTE: **Aye:** Mr. Sandack, Mr. Kubes, Ms. Summers

Nay: None

Abstain: Ms. Gerloff

MOTION CARRIED: 3:0:1

III. APPROVAL OF MINUTES

MR. KUBES MOVED TO APPROVE THE MINUTES OF THE FEBRUARY 6, 2003 LIQUOR COMMISSION MEETING AS PRESENTED. MS. SUMMERS SECONDED.

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VOTE: **Aye:** Mr. Kubes, Ms. Summers, Mr. Sandack, Chairman Pro Tem Gerloff

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Chairman Pro Tem Gerloff introduced the members of the Commission and staff.

IV. APPLICATION FOR LIQUOR LICENSE

Chairman Pro Tem Gerloff stated:

“A part of tonight’s agenda is to conduct a public hearing for a Class “R” liquor license and for an Outdoor Liquor Sales License. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information.”

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner"

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available licenses within 60 days in order to consult the Plan Commission for its recommendations."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) comments from the public, 4) discussion by the Commission, and 5) motion and finding by the Commission."

"A court reporter is present to take the proceedings verbatim. A secretary is also present for purposes of summarizing the proceedings."

Esplanade/Carlucci, LLC, d/b/a Carlucci Restaurant, 1801 Butterfield Road

Chairman Pro Tem Gerloff said the applicant is seeking a Class “R” liquor license and approval of an Outdoor Liquor Sales application.

Chairman Pro Tem Gerloff asked that those present representing the applicant come forward and be sworn in. Mr. Joseph Carlucci, president and managing partner of Esplanade/Carlucci, LLC, was sworn in by the court reporter.

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Mr. Carlucci said he and his partners have been in the restaurant business in the Chicago area since 1984 and this will be their third restaurant in the area. Carlucci's in Rosemont has been open for 13 years and their restaurant in Lincolnshire has been open for a 1 ½ years. Mr. Carlucci said they are looking forward to opening a restaurant on Butterfield Road in Downers Grove.

Mr. Carlucci said Carlucci's is a rustic style restaurant offering regional Italian cuisine. It has an open kitchen with a large wood-burning oven. The restaurant overlooks a large outdoor fountain. He said Carlucci's tries to bring the authentic Italian experience to their customers. Mr. Carlucci introduced his brother and partner, Charlie Carlucci and his manager Zak Dich.

Ms. Summers asked about the legal relationship between Carlucci Hospitality Group Restaurants and Esplanade/Carlucci, LLC. Mr. Carlucci said they are separate entities. There is no connecting relationship.

Ms. Summers noted that Mr. Carlucci is listed as the liquor manager for the Downers Grove restaurant. She asked if this is the only restaurant in which he would be involved. Mr. Carlucci replied no.

Ms. Summers asked how Mr. Carlucci planned to train others to serve as liquor manager in his absence. Mr. Carlucci said they are aware that Downers Grove takes liquor sales and handling very seriously. He said there would be an operating partner involved in the restaurant and he assured the Commission that there would be someone on the premises at all times to oversee alcohol sales and service. Mr. Carlucci said he and his partners would also be actively involved in the restaurant, even though they might not be present at all times.

Ms. Summers said she was pleased with Carlucci's employee manual and complimented Mr. Carlucci on the anti-harassment and discrimination section of the manual. She said she was glad the manual stated the disciplinary action for employees who violate the law. Ms. Summers noted that the manual states, "Committing a violation of the liquor policies will result in termination of employment." She suggested removing the word "will" and substituting the word "may" in the above statement. Mr. Carlucci agreed.

Ms. Summers reviewed the floor plan of the restaurant. She noted that there are three areas set aside for private facilities. She asked if the tower would be a private dining area. Mr. Carlucci's replied no. He explained that the tower is a Tuscan design feature used to increase the restaurant's visibility from the highway. He added that there would be seating for ten or twelve beneath the tower. Ms. Summers welcomed Mr. Carlucci to Downers Grove.

Mr. Kubes asked what attracted Mr. Carlucci to Downers Grove. Mr. Carlucci said they have wanted to have a restaurant in this area for ten years, but had not found the right location until now.

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Mr. Kubes asked what Mr. Carlucci hopes to bring to Downers Grove. Mr. Carlucci said he and his partners are good corporate citizens. He added that they have been very active in the communities in which their other restaurants are located, especially in the charity functions of the communities. Mr. Carlucci noted that he and his partners are partners with Hamilton Partners, who have been in the area for a long time. Mr. Carlucci said they also hope to be in the community for a long time.

Mr. Kubes asked if Mr. Carlucci is TIPS or BASSETT trained. Mr. Carlucci replied no. However, he said that someone who is TIPS trained is always on site. Mr. Kubes asked if Mr. Carlucci is planning to attend TIPS training. Mr. Carlucci replied no. However, he said he would attend the training if the Commission requested it. Mr. Kubes asked if Mr. Carlucci plans to have his employees trained. Mr. Carlucci said there would be more than one BASSETT/TIPS trained employee on staff.

Mr. Kubes said the Class "R" liquor license requires at 60/40 food versus alcohol revenue split. Mr. Kubes noted that the restaurant has many expensive wines on the menu and he asked Mr. Carlucci if he felt that it would be a problem to comply with the required 60/40 split. Mr. Carlucci replied no. He provided a recap of total food sales from their other restaurants, which indicated that their food sales revenue is consistently over 60%.

Agreeing with Ms. Summers, Mr. Kubes said Carlucci's employee manual was very satisfactory.

Mr. Kubes asked how Mr. Carlucci plans to train new employees to read ID's and recognize intoxicated individuals prior to sending them for BASSETT or TIPS training. Mr. Carlucci said there would be two weeks of intensive training in the beginning and Ms. Conforti has offered to speak to the staff as well.

Mr. Kubes asked if Mr. Carlucci plans to provide pictures of valid ID's for comparison when employees are carding guests. Mr. Carlucci agreed. He explained that most of their customers are over thirty years old and until he spoke with Ms. Conforti he was unaware that an under 21 Illinois driver's license had a red background.

Mr. Kubes noted that Mr. Carlucci's employee manual lists several grounds for termination. He suggested that "serving alcohol to underage individuals" be added to the list.

Mr. Kubes asked Mr. Carlucci how alcohol is stored and replenished on a daily basis. Mr. Carlucci said alcohol would be stored in a locked area in the back of the restaurant. The managers will have the keys. There are locked refrigerators for the white wine and beer. Alcohol and wine are kept in a separate dry storage area and only the manager on duty has the key. Mr. Carlucci added that the bartenders arrive early and stock the bar before the restaurant opens.

Mr. Kubes asked how outdoor liquor sales and service would be monitored to ensure that alcohol is not being shared with minors. Mr. Carlucci said the floor managers would

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monitor all of the tables, indoors and outdoors. Mr. Kubes asked if there would always be adequate waitstaff indoors and outdoors. Mr. Carlucci replied yes. He said Carlucci's is a high service restaurant.

Mr. Kubes asked Mr. Carlucci to review the seating and fencing planned for the outdoor dining area. Mr. Carlucci explained that the outdoor dining area is walled off. There will be one row of tables under the overhang and another 50 seats outside. They plan to have garden seats, umbrellas, iron furniture, etc. In addition, the area will be well landscaped and have a large fountain.

Mr. Kubes welcomed Carlucci's to Downers Grove and wished them well.

Mr. Sandack suggested that Mr. Carlucci accept Ms. Conforti's offer to address the waitstaff concerning liquor handling. Mr. Carlucci agreed.

Mr. Sandack said Downers Grove periodically conducts control buys and the Liquor Commission is very sensitive to control buy failures. Mr. Sandack advised Mr. Carlucci to warn his staff to be cautious when serving alcohol and card patrons when in doubt about their age. Mr. Carlucci assured the Commission that he did not want to be called for a disciplinary hearing for a violation.

Mr. Sandack asked Mr. Carlucci if his restaurants in Rosemont or Lincolnshire have had any control buy failures. Mr. Carlucci replied no.

Chairman Pro Tem Gerloff noted that Section 3-30 of the Ordinance concerning Outdoor Sales requires "access to the outdoor area through the licensed premises and no direct entrance or exit from such area is available other than emergency." She asked Mr. Carlucci if that was true for the outdoor dining area at the Downers Grove restaurant. Mr. Carlucci replied yes. He said patrons couldn't enter the outdoor facility without checking in with the hostess and walking through the restaurant. Ms. Gerloff confirmed that the only access to the outdoor area is through the restaurant. Mr. Carlucci replied yes.

Ms. Conforti said a few more tables might be added to the outdoor seating area; however, the layout will not be changed. She explained that Mr. Carlucci is working with staff regarding parking for the facility. Ms. Conforti said she would forward the final plans to the Commission for their review.

Chairman Pro Tem Gerloff confirmed that any changes to the seating would be made before the restaurant opens. Mr. Carlucci replied yes. Chairman Pro Tem Gerloff asked when the restaurant would open. Mr. Carlucci said he hoped it would be open by mid-to late June 2003.

Chairman Pro Tem Gerloff referred to a promotion for penny wine included in Mr. Carlucci's application packet. She said she understood that Ms. Conforti explained that Downers Grove does not allow liquor promotions. Mr. Carlucci said he understood the

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regulation and said that such promotions would not be offered at the Downers Grove restaurant. For the record, he clarified that patrons were required to order dinner with penny wine promotion.

Mr. Kubes advised Mr. Carlucci that Downers Grove and the Liquor Commission take liquor violations very seriously and they would not want see Carlucci's return for a disciplinary hearing. Mr. Carlucci said they intend to be very judicious concerning alcohol sales and service because he would be very embarrassed to have a violation occur at his restaurant.

Chairman Pro Tem Gerloff called for a recommendation on the applicant's Class "R" liquor license application.

MR. SANDACK MOVED TO FIND ESPLANADE/CARLUCCI, LLC, D/B/A CARLUCCI RESTAURANT, 1801 BUTTERFIELD ROAD QUALIFIED FOR A CLASS "R" LIQUOR LICENSE. MR. KUBES SECONDED.

VOTE: **Aye:** Mr. Sandack, Mr. Kubes, Ms. Summers, Chairman Pro Tem Gerloff

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Chairman Pro Tem Gerloff called for a recommendation on the applicant's outdoor liquor sales application.

MR. KUBES MOVED TO FIND ESPLANADE/CARLUCCI, LLC, D/B/A CARLUCCI RESTAURANT, 1801 BUTTERFIELD ROAD QUALIFIED FOR OUTDOOR LIQUOR SERVICE. MS. SUMMERS SECONDED.

VOTE: **Aye:** Mr. Kubes, Ms. Summers, Mr. Sandack, Chairman Pro Tem Gerloff

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Chairman Gerloff wished Mr. Carlucci well and said the Commission looks forward to the opening of his restaurant.

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Chairman Pro Tem Gerloff said she would like to continue discussion of the beer and wine packaged alcohol license. She asked for an update from the staff and/or comments from the Commission.

Ms. Conforti said she has not received a response from the Village Council to her memo regarding the beer and wine packaged alcohol license. She explained that the Village Council is involved in budget discussions at this time and she would inform the Commission when she receives comments from the Council.

Ms. Summers noted that all 18 establishments tested, passed the last round control buys. She said she believes that this reflects the fine work of the Commission and staff, especially Ms. Conforti.

Chairman Pro Tem Gerloff asked Ms. Conforti if she knew why the Genghis Khan restaurant closed. Ms. Conforti replied no. She said she was surprised when the restaurant closed as they have only had their license since July 2002. She noted that Genghis Khan paid their control buy fines and penalties and passed their control buy retest from their most recent violation. Ms. Conforti said she did not think the closing was related to liquor sales; rather she thought there might have been a problem with the location.

VI. NEW BUSINESS

Ms. Conforti said due to a change in landlords, Burrito Fiesta did not pick up their liquor license. However, she said they would be in tomorrow to get it.

Ms. Conforti said the State Liquor Commission notified the Village that RipRocks was promoting V.I.P. parties consisted of an open bar for two hours on a Friday night. Ms. Conforti said RipRocks believed that because they sent out invitations, the event would be considered a private party. However, the Village informed them that these parties did not fit the Village's definition of a private party as the owners of the establishment were hosting the party and were sending out unsolicited invitations. She added that the Village had received some of the unsolicited invitations.

Mr. Kubes asked if the restaurant was open to the general public while the parties were being held. Ms. Conforti replied yes. She added that the V.I.P. party was held in a separate area of the restaurant.

As a result of this issue with RipRocks, Ms. Conforti said the Village has changed the Ordinance regarding private parties. The Ordinance now states that to be considered a private party, the event must be hosted by someone other than the establishment, i.e. a wedding party, etc.

Ms. Conforti said the Illinois Liquor Control Commission, which issues State liquor licenses investigated the V.I.P. parties and informed RipRocks that the parties were not

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allowed. Although the State Liquor Commission charged RipRocks with a violation, Ms. Conforti said RipRocks' attorney petitioned to have the charge handled as an Administrative Review Complaint.

Ms. Perez said the complaint was dismissed by the State and RipRocks is now on probation. She explained that in most cases the Village would receive a copy of the charging documents. However, in the case of an Administrative Review Complaint, only the licensee is informed. Ms. Perez said in that way RipRocks could conceal the violation from the Village, as the Village would not be notified of the Administrative Review.

Chairman Pro Tem Gerloff asked if there was some way for the Village to get a copy of the charges. Ms. Perez said staff is awaiting a copy of the amended complaint.

Mr. Sandack asked if the Village could charge RipRocks for the same violation. Ms. Perez said she would research the possibility of charging RipRocks with a violation of the Downers Grove Liquor Control Ordinance based on the State's witnesses and information. Ms. Perez said she would contact the State to find out the terms of RipRocks' probation and then compare State rules versus case law. She said it would take about a week for her to find out if the Village can charge RipRocks in this matter.

Ms. Conforti noted that the Village adopted the Illinois Liquor Commission's regulations concerning private parties and happy hours. Thus, if the State charged RipRocks with a violation, the Village should be able to charge them locally as well.

Ms. Perez said when the Village received the initial charges, the attorney for the State said the Village could charge along with the State. However, staff decided that they would wait until the State convicted RipRocks and then take the conviction to the Downers Grove Liquor Commission. Now, however, the charge has been reduced and handled as an Administrative Review Complaint and the Village is not privy to the information.

Mr. Sandack said RipRocks has had problems with the Village in the past. He asked if there was a way to look at an establishment's overall behavior, or habit and practice of violations.

Chairman Pro Tem Gerloff asked if RipRocks has changed the information on their website. Ms. Conforti said she has not checked it recently.

Ms. Summers asked if the Commission could refuse to automatically renew RipRocks' liquor license.

Mr. Kubes asked who contacted Ms. Conforti. Ms. Conforti said Alex Gatzolis called her after the ordinance concerning advertising had passed and said RipRocks would stop their past advertising practices because of the Ordinance change. Ms. Conforti advised Mr. Gatzolis that the Village would not allow improper advertising post marked after

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the date that the ordinance was adopted. She said that since that time she has not seen any other flyers or promotions from RipRocks. Ms. Conforti said Mr. Gatzolis is well aware of the Village's advertising regulations regarding alcohol.

Ms. Summers asked if there are any set procedures for license renewals. She wondered if the Commission could review the history of an establishment and if the history and past practices could preclude them from having their liquor license renewed. Ms. Conforti said liquor licenses are renewed on an annual basis. However, the Mayor can request the Liquor Commission to conduct a renewal hearing based on a threat to the health, welfare and safety of the public, as was done a few years ago with establishments, which had a problem with DUI's. However, Ms. Conforti said if an establishment is meeting the qualifications of their liquor license, their liquor license is renewed. Ms. Conforti said in order to deny a license renewal the Village would have to conduct a hearing with witnesses to prove the violations with which the establishment has been charged.

Mr. Kubes asked if the Commission could ask the Mayor to request a license renewal hearing in order to let the licensee know that the Commission is concerned about the establishment. Chairman Pro Tem Gerloff said she believes that RipRocks knows that the Commission is concerned; however, it does not seem to have done any good.

Ms. Conforti said the Mayor is aware of the State's case against RipRocks as he was served with the notice. Ms. Conforti said the notice was for activities at RipRocks, which took place in April and October of 2002.

Ms. Conforti said she believes that a recommendation for a renewal hearing would have to come from the Liquor Commissioner.

Ms. Perez noted that RipRocks' liquor license expires at the end of June 2003. She said she would research whether the Village might have the option to automatically renew RipRocks' license on probation, rather than conducting a hearing, based on the fact that they are already on Administrative Review with the State.

Chairman Pro Tem Gerloff asked if the State did not have to tell the Village the details of RipRocks Administrative Review. Ms. Conforti said it is her understanding that an Administrative Review is conducted internally, a fine or suspension is issued, and only the licensee is informed. However, if the State brings a licensee up on charges, the ILCC would hold a hearing and any other body, which would be affected by the loss of their State license would be notified. Ms. Conforti explained that the State and the local municipality license establishments. If either license is revoked, the other license is automatically revoked and the establishment loses their distributorship. In addition, Ms. Conforti said if an establishment's liquor license is revoked for selling alcohol to minors, the State does not allow anyone to go into that establishment for a period of one year. This is a State law and it is monitored by the State. During that time the State tries to clean up the establishment and keep the minors from returning to the same location to buy liquor.

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Ms. Summers said there might be a way to break the Administrative Review. She said in a Federal Administrative Review, if another party has a bona fide interest they could make a FOIA request. Ms. Perez agreed.

Ms. Conforti said she advised the State that the Village has an ordinance prohibiting licensees from advertising an open bar. However, the incidents at RipRocks took place before the ordinance was passed.

Ms. Summers asked if the Commission could ask the Village Council to revise the Liquor Control Ordinance giving the Commission the authority to review licensees with a history of violations or DUI's, rather than automatically renewing their liquor license.

Chairman Pro Tem Gerloff said she believes that would be the responsibility of the Liquor Commissioner, rather than the Liquor Commission. Ms. Conforti agreed that the Liquor Commissioner would have to authorize a renewal hearing. Chairman Pro Tem Gerloff clarified that the role of the Liquor Commission is to conduct hearings for the Liquor Commissioner to ascertain whether or not establishments are qualified to sell alcohol. The Commission also conducts disciplinary hearings for the Liquor Commissioner in the event of a violation and recommends disciplinary action. However, thus far the Liquor Commissioner has always been the one to make decisions concerning license renewals.

The Commission asked Ms. Perez and Ms. Conforti to keep them informed on the status of the Rip Rock case.

Ms. Conforti said the construction of Ballydoyle is running behind schedule and they have not yet submitted their liquor license application.

Ms. Conforti said she has two potential applicants for the April Liquor Commission meeting. She asked the Commissioners about their availability for the April meeting. Mr. Sandack said he would not be available for a meeting the first Thursday in April. Chairman Pro Tem Gerloff advised that Chairman Mochel would not return until after April 15th. Ms. Conforti said if she could not get a quorum for the first Thursday in April, she would reschedule the meeting for later in the month.

VII. COMMENTS FROM THE PUBLIC

There were none.

VIII. ADJOURNMENT

MR. SANDACK MOVED TO ADJOURN THE MEETING. MR. KUBES SECONDED.

The meeting was adjourned by acclamation at 7:25 p.m.