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

February 6, 2003

## **I. CALL TO ORDER**

In the absence of Chairman Mochel, Ms. Gerloff called the meeting to order at 6:35 p.m.

## **II. ROLL CALL**

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

**ABSENT:** Chairman Mochel

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

**OTHERS:** Julia Herrera, 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 FEBRUARY 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 JANUARY 9, 2002 LIQUOR COMMISSION MEETING AS PRESENTED. MS. SUMMERS SECONDED.**

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

**Nay:** None

**Abstain:** None

**MOTION CARRIED:** 4:0:0

As the applicant for tonight's hearing was late in arriving, Chairman Pro Tem Gerloff asked Ms. Conforti to present the new business.

**IV. NEW BUSINESS**

Ms. Conforti briefly reviewed the items in the informational packet, which had been sent to the members of the Commission prior to the meeting. Ms. Conforti said due to illness the owners of Cuisine Courante closed the business and auctioned off the assets. Ms. Conforti explained that when auctioning alcohol, the State requires licensees to obtain an order from the local municipality allowing the auction of alcohol inventory because licensees are not permitted to resell liquor. Last week Cuisine Courante liquidated their business assets at auction. Ms. Conforti said she prepared an order of forfeiture and closed the liquor license for Cuisine Courante. The license will now be made available.

Ms. Conforti said she sent a written response to Mr. Lenski regarding his complaint about underage servers at Ruby Tuesday and she also sent a letter to Ruby Tuesday informing them that such a complaint had been received. Ms. Conforti said Ruby Tuesday's corporate office called her in response to her letter and asked if there was anything in particular that they needed to do at this time. Ms. Conforti advised them to be sure that they cover their liquor policies with their employees. The representative from Ruby Tuesday's assured her that they did and asked if Ms. Conforti needed documentation. Ms. Conforti said documentation would not be necessary unless Mr. Lenski files a formal complaint. Ms. Conforti informed Ruby Tuesday that a complaint was placed in their file and that a response was sent to Mr. Lenski.

Ms. Conforti said the liquor license for Blegr, Inc. d/b/a White Hen Pantry, 5105 Fairview, was issued. Callaway's Pint House was taken off probation and their current liquor license was reissued. The Police Department verified that the Genghis Khan restaurant was not serving alcohol during their license suspension and they passed their control buy retest. Ms. Conforti added that 17 other licensees passed the last round of control buys.

Ms. Conforti discussed a recent political campaign fund-raising request, which she received from Stan Urban. She said she responded to Mr. Urban's request and explained that selling and providing liquor at fund-raising events is permitted as it is considered a private party by invitation. Ms. Conforti said she informed the Liquor Commissioner of her response to Mr. Urban and as she has received no comment from Mayor Krajewski,

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she believed that her response was satisfactory and that Mr. Urban does not need to obtain a Special Event liquor license for his fund-raiser.

Ms. Conforti said two establishments would be submitting applications, which would be placed on the March agenda. Ballydoyle said they would submit their applications next week. She said they are applying for an indoor dining license and a license for a potential outdoor café. Ms. Conforti explained that the Village Council must approve the outdoor café license and the Liquor Commission needs to approve them for outdoor liquor service. Ms. Conforti said this request is somewhat similar to a previous request from Founders Hill for an outdoor café.

Chairman Pro Tem Gerloff recalled that the problem with the Founders Hill application was that there was approximately a one-year delay between the time the Commission found them qualified for outdoor liquor sales and the opening of the café, during which time the plans for the café were changed.

Ms. Conforti said Ballydoyle could have a similar delay. She explained that they plan to open their outdoor café at the same time that the parking deck is being constructed behind their restaurant and the potential café area is located in or close to the access road for the construction area. Mr. Kubes asked Ms. Conforti to include the Village's plans for that area in next month's packet along with Ballydoyle's indoor and outdoor floor plans for the Commission's review.

Ms. Conforti said there would also be an application for Carlucci's on the March agenda. The application would include an application for the business and an application for outdoor seating. Ms. Conforti said the date of the next meeting would be March 6, 2003.

Chairman Pro Tem Gerloff reminded those present that the meeting is being recorded on Village-owned equipment, a secretary is present to keep minutes for the record and a court reporter is present to take the minutes verbatim.

**V. APPLICATION FOR LIQUOR LICENSE**

Chairman Pro Tem Gerloff stated:

"A part of tonight's agenda is to also conduct a public hearing for a liquor 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"

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"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."

**Lindo Cancun Mexican Restaurant, Inc., d/b/a Burrito Fiesta, 2249 Maple Avenue**

Chairman Pro Tem Gerloff said the applicant is seeking a Class "R-1" liquor license.

Ms. Julia Herrera, Corporate Officer and Manager of Burrito Fiesta, was sworn in by the court reporter. Ms. Herrera said they would like to obtain a Class "R-1" liquor license because since they opened last March, many of their customers have requested alcohol service. She said this would be their first liquor license and they understand that the Class "R-1" license is a beer and wine only license. She added that if it works well, they might apply for a full liquor license.

Chairman Pro Tem Gerloff informed Ms. Herrera that the Class "R-1" license requires a 60/40 split for food sales revenue versus alcohol sales revenue. Ms. Herrera said she understood the requirement.

Ms. Summers asked about Ms. Herrera's liquor training. Ms. Herrera said that she took the Bar Code liquor training class.

Ms. Summers asked how Ms. Herrera plans to train other employee who will be serving alcohol. Ms. Herrera said she intends to hold quarterly liquor meetings to discuss suggestions, issues, etc. She said she would provide employees with a liquor-handling manual and she would train them step by step. However, the present waiters are trained, experienced bartenders.

Ms. Summers complimented Ms. Herrera on her very good liquor-handling manual. However, Ms. Summers noted that the manual does not include any disciplinary measures for violations. She asked how Ms. Herrera would discipline an employee, who serves alcohol to a minor. Ms. Herrera said she would fine the employee and take further action, if necessary, based on the situation. Ms. Summers asked if Ms. Herrera planned to document the violation in the employee's file. Ms. Herrera replied yes. Ms. Summers urged Ms. Herrera to put her employee disciplinary plan in writing and include it in her liquor manual. Ms. Herrera agreed.

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Ms. Summers asked Ms. Herrera if she believes that the sale of beer and wine will increase the restaurant's revenue. Ms. Herrera replied yes. Ms. Summers welcomed Ms. Herrera to the Village.

Mr. Kubes commented that Ms. Herrera's liquor manual was in good order. He noted that Ms. Herrera's only liquor handling experience is the Bar Code class. She replied yes. Ms. Herrera added that the Lindo Cancun Corporation owns three other restaurants and she would be working 40 to 48 hours at Burrito Fiesta. Ms. Herrera said her husband would be covering the hours at Burrito Fiesta while she is not there. She added that he is an experienced bartender.

Mr. Kubes asked if Ms. Herrera would be the liquor manager at Burrito Fiesta. Ms. Herrera replied yes.

Referring to the liquor manual, Mr. Kubes commented Ms. Herrera's planned quarterly refresher meetings are a good idea.

Mr. Kubes noted there was no alcohol menu with the application. Ms. Herrera explained that she did not have alcohol menus printed since she did not know if she would be granted a liquor license.

Mr. Kubes asked how the beer would be sold. Ms. Herrera said beer would be sold in bottles or cans. There will be no draft beer and there will be no wine.

Mr. Kubes reviewed the floor plan with Ms. Herrera. As the establishment does not have a bar, he asked where servers would fill alcohol orders. Ms. Herrera said servers would obtain beer that is ready to be served from a locked beer cooler at the waitress station (marked number three on the floor plan). Ms. Herrera said the remainder of the beer would be stored in the locked storage area (marked number 19 on the floor plan). Mr. Kubes asked if all alcohol would be ordered at the table, rather than at a counter. Ms. Herrera replied yes.

Mr. Kubes asked who would bring the beer from the storage room to the waitress station, when the supply needed to be replenished. Ms. Herrera said only managers and waiters would have access to both the locked storage room and the beer cooler at the waitress station.

Mr. Kubes asked if Ms. Herrera planned to train someone to act as manager in her absence. Ms. Herrera said she and her husband would be the only managers.

Mr. Kubes asked the number of waiters at Burrito Fiesta. Ms. Herrera replied they have one full-time waiter and one part-time waiter. Mr. Kubes asked if the waiters are ever in the restaurant when a manager is not present. Ms. Herrera replied no. Mr. Kubes asked about other employees at Burrito Fiesta. Ms. Herrera said there are two cooks and one dishwasher.

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Mr. Kubes asked how many different types of beer Ms. Herrera plans to serve. She replied five types. Mr. Kubes asked if Ms. Herrera anticipates having to store beer anywhere other than at the waitress station or in the locked storage room. Ms. Herrera replied no.

Mr. Kubes asked about several dotted lines shown on the floor plan. Ms. Herrera said the lines might represent pipes in the ceiling; however, she was not sure.

Mr. Kubes said he hoped Ms. Herrera would follow Ms. Summers' suggestion and include her disciplinary plan in the liquor manual. Mr. Kubes added that he thought it was a good idea to have employees sign to indicate that they have received the manual and that they understood it.

Mr. Sandack also said that he feels Ms. Herrera has a comprehensive liquor manual and that she is off to a good start. Mr. Sandack asked about the other restaurants owned by the corporation. Ms. Herrera said they own four restaurants including Burrito Fiesta; however, she is only the manager for this one restaurant. Ms. Herrera said that although she spends time at all of the restaurants, she would spend most of her time at Burrito Fiesta.

Mr. Sandack advised Ms. Herrera that as liquor manager for Burrito Fiesta, she would be responsible for seeing that liquor is dispensed in accordance with the Village ordinance.

Mr. Sandack asked the location of the other restaurants, which she and her husband own. Ms. Herrera said they are located in Berwyn, Westchester, and Chicago. Mr. Sandack asked if there have been any failed control buys at any of the other restaurants. She replied no.

Mr. Sandack commented that Ms. Herrera's liquor manual is comprehensive and he hoped that she would train employees who would be dispensing liquor in accordance with those guidelines.

Chairman Pro Tem Gerloff asked about the other stockholders in the corporation. Ms. Herrera said the other stockholders are her husband and her uncle.

Chairman Pro Tem Gerloff asked if any alcohol would be kept in the storage room near the door at the back of the restaurant (labeled "G" on the floor plan). Ms. Herrera replied no.

There being no further questions, Chairman Pro Tem Gerloff called for a recommendation on the application.

**MR. SANDACK MOVED TO FIND LINDO CANCUN MEXICAN RESTAURANT, INC. D/B/A BURRITO FIESTA, 2249 MAPLE AVENUE, QUALIFIED FOR A CLASS "R-1" LIQUOR LICENSE. MR. KUBES SECONDED.**

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

**Nay:** None

**Abstain:** None

**MOTION CARRIED: 4:0:0**

**VI. OLD BUSINESS**

Chairman Pro Tem Gerloff thanked Ms. Conforti for her work in compiling minutes from past meetings regarding the Class "B-2" beer and wine liquor license. Chairman Pro Tem Gerloff asked the Commissioners for their comments.

After reviewing the materials provided by Ms. Conforti, Ms. Summers said she did not find any stated reason for denying a liquor license to a video store or a cigarette store. She added that after researching the subject on the Internet, she was unable to find any evidence, which stated that video and/or cigarette stores were notorious for failing control buys. Ms. Summers said she did not find any legal reason for denying these establishments a Class "B-2" liquor license.

Ms. Summers noted that during the Commission's discussion of the Class "B-2" license at their September 14, 2000 meeting, the Chairman also suggested that deli's be excluded from the Class "B-2" license.

Ms. Summers asked if there is any study, which substantiated that owners of video stores or cigarette stores sold alcohol to minors and, if so, she wondered why other municipalities were not addressing the issue.

Ms. Perez reminded the Commissioners that she has only been employed by the Village for three months and that she was not present for previous discussions of this ordinance. Ms. Perez explained that a new ordinance has not been drafted in part because she has been trying to find the rational basis for denying a cigarette store or video store a liquor license. Ms. Perez said she was unable to find a rational basis in the minutes from past Liquor Commission meeting discussions. She asked the Commissioners if they could clarify why they do not want cigarette and video stores to have a liquor license.

Mr. Sandack pointed out that liquor and cigarettes are currently sold by many of the licensed establishments in the Village, i.e. Jewel, Walgreens, Osco, etc. Mr. Sandack said he agrees with Chairman Pro Tem Gerloff that the present Class "B-2" liquor license is awkward because there are two components within the license classification: one concerning convenience stores, which Mr. Sandack said he does not understand and one concerning packaged alcohol stores. Mr. Sandack noted that Class "B-2" licenses are granted to qualified applicants, some of whom sell other items and some of whom sell

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only packaged beer and wine. Mr. Sandack said there is nothing in the State statutes or Village ordinances to prohibit the sale of tobacco products at an establishment that also sells beer and wine.

Mr. Sandack noted that "convenience stores" were removed from the Class "B-2" liquor license ordinance at one time, and now they have been returned. Mr. Sandack said he believes that current ordinance is awkward and that it should be amended. He said he feels the section concerning convenience stores should be removed.

Although Mr. Sandack recalled that Chairman Pro Tem Gerloff has stated that she does not want an establishment, whose principal business is the sale of cigarettes to be able to obtain a liquor license, he said he did not know if such a restriction would stand up to a legal challenge.

Ms. Perez said very likely such a restriction would not be upheld by the Court. She cited a case from the 7<sup>th</sup> Circuit Court of Appeals, dated January 17, 2003, Ben's Bar Inc. v. Village of Summerset, WI. Ms. Perez said the Village of Summerset had enacted an ordinance denying the sale, use or consumption of alcohol on the premises of a sexually oriented business. The Court upheld the ordinance because it found documented evidence of the detrimental effects of combining a sexually oriented business and the service of alcohol. However, Ms. Perez said she doubted that she would be able find similar documentation to defend the Village's denial of a liquor license to a store that sells cigarettes or videos.

Ms. Perez said she thinks the Class "B-2" license should be divided into two separate classifications; however, before she did so, she wanted to know the reasons behind the Commission's past comments on this license classification. She said the packaged liquor component of the ordinance did not seem to be an issue. The Commission agreed. Ms. Perez verified that the section on convenience stores and what is included in them was the Commission's main point of concern.

Chairman Pro Tem Gerloff said there was a great deal of discussion at past meetings concerning the language for the convenience store section of the ordinance. Although she was not present for every discussion, she recalled that two attorneys assured the Liquor Commission that the present language was adequate. Chairman Pro Tem Gerloff quoted from the October 5, 2000 Liquor Commission meeting minutes, "Ms. Petrarca pointed out that the cigarette stores main business is selling cigarettes not selling food, drugs and sundries, as required for a Class "B-2" liquor license." When questioned about denying a cigarette store a Class "B-2" liquor license, "Ms. Petrarca said she felt the definition in the ordinance would exclude cigarette stores from qualifying for a license."

Chairman Pro Tem Gerloff said when this draft ordinance was taken before the Village Council, they expressed concern about the use of the words "drugs and sundries". The language was revised and the ordinance was returned to the Liquor Commission on November 2, 2000 for their review and comment.

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Referring to the November 2, 2000 minutes, Chairman Pro Tem Gerloff said Mr. Mochel asked the Village Attorney Blondin, if he felt this ordinance would hold up in court, if challenged. "Mr. Blondin said he felt the ordinance was clear and that there would be no problem sustaining it with any challenge providing there is reasonable interpretation. Mr. Mochel said he is concerned that the first establishment that is denied a packaged liquor license would challenge it. Mr. Blondin, Village Attorney, said he did not believe that a cigarette store would have any basis to challenge the decision and if they did he did not feel it would be successful." Chairman Pro Tem Gerloff said there was more discussion regarding the main business of an establishment. According to the minutes Mr. Blondin said, "if the cigarette store applied for any license they would be required to demonstrate that their main or principal business is that of the sale of food, health and beauty aids, and cleaning products. He said he did not feel they would be able to do so."

Chairman Pro Tem Gerloff said she was confused at the application hearing at the December 5, 2002 Liquor Commission meeting because in previous discussions there was no mention of a cigarette store applying for a license and stating that the sale of packaged alcohol was their main business. Chairman Pro Tem Gerloff said the Commission was under the impression that the attorneys created the ordinance so that an establishment, whose main business was the sale of cigarettes, or videos, or trading cards could not obtain a liquor license.

Ms. Summers asked why the Commission wanted to deny a liquor license to those establishments. Chairman Pro Tem Gerloff said she believed that at the time the Commission felt that this was not something that they wanted to promote in Downers Grove. Chairman Pro Tem Gerloff said the Commission did not want to bring alcohol into places of business which sold mainly to individuals 18 years and older. Chairman Pro Tem Gerloff said that is why the Commission expressed their concern and she noted that they received support from both Village Attorneys. When the Commission questioned the legality of the ordinance requirements, they were assured that they were legal.

Chairman Pro Tem Gerloff said she did not know why the attorneys decided on the language that was finally selected. However, she recalled that Mr. Mochel was concerned about whether or not the ordinance would hold up in court.

Ms. Summers asked if Mr. Mochel ever said why he was against cigarette stores selling alcohol. Chairman Pro Tem Gerloff said not to her knowledge. Ms. Summers said the Village has a history of control buys. She asked if stores which sell cigarettes and packaged alcohol are notorious for failing control buys. Chairman Pro Tem Gerloff said she has seen some failures.

Ms. Conforti said she maintain histories on all licensees. Ms. Conforti noted that the tobacco regulations were not always as strict as they are now. She said many communities are just beginning to license tobacco retailers and are just starting to set up control buy programs for tobacco stores. Many municipalities, including Downers Grove, rely on the State to monitor tobacco sales. Chairman Pro Tem Gerloff

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commented that over 50% of the tobacco retailers failed the first control buy for tobacco. Ms. Conforti agreed; however, because the Village does not license tobacco retailers, it does not have any control over them.

Chairman Pro Tem Gerloff said she would like to know why was this license changed and why the Liquor Commission was told that the Class "B-2" license would not be granted to cigarette stores and video stores.

Ms. Conforti said she felt that the problem was that everyone had a different definition of convenience stores. Chairman Pro Tem Gerloff disagreed. She said the issue at the December 2<sup>nd</sup> meeting, was not whether or not Maple Cigarettes and Foods was a convenience store. The Commission was told that the establishment was going to be primarily a packaged alcohol store. Although, she noted that packaged alcohol was not the main business of the establishment when the applicant came to the meeting on December 2, 2002. Chairman Pro Tem Gerloff said she had a hard time understanding that the owner decided that packaged alcohol was his main business and that the Village attorneys agreed and said he would be qualified for the license.

Chairman Pro Tem Gerloff said, speaking as someone who is not an attorney, but as someone who was present when the license classification was changed and created, she recalled hearing that an establishment would have to be a food mart or convenience store to qualify for the Class "B-2" license. Chairman Pro Tem Gerloff said she was "floored" by the interpretation made at the December 2<sup>nd</sup> meeting because for over a year she was under the impression that the ordinance had a different interpretation. She added that she had documentation that the Liquor Commissioner shared her interpretation of the ordinance.

Ms. Perez said that during the December 2<sup>nd</sup> meeting there was discussion concerning whether or not the applicant was a packaged liquor only store, as Mr. Patel stated, or whether the applicant was a convenience store. Chairman Pro Tem Gerloff recalled that the applicant said he was not a convenience store. Ms. Perez said the applicant was found qualified for the license because each Commission member voted based upon what they heard, some may have found the applicant qualified because they felt the establishment was a convenience store; some may have thought it was a packaged alcohol store. Ms. Perez said the reasoning behind each person's vote does not matter. In the end all of the Commissioners agreed that the applicant was qualified for the Class "B-2" license because packaged alcohol stores and convenience stores are both covered in that license classification. Ms. Perez said perhaps, it would clarify the issue if the Class "B-2" license were separated into two categories. Applicants would then have to state whether they were applying as a convenience store or as a packaged alcohol store.

Chairman Pro Tem Gerloff said she found the Maple Cigarettes and Foods qualified for a Class "B-2" license because of Ms. Perez's interpretation that the main business of the establishment was that of a packaged liquor store. However, Chairman Pro Tem Gerloff added that she did not understand why the Liquor Commission was conducting a hearing on their application because according to her interpretation of the ordinance they were

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not even qualified to apply for a Class "B-2" license because they did not meet the qualifications for a food, drug, and sundries store.

Mr. Kubes pointed out that the owner of Maple Cigarettes and Foods could have closed his cigarette store the day before he applied for his license and he could have re-open the next day as a liquor store and applied for a license as a liquor store. Ms. Perez agreed.

Chairman Pro Tem Gerloff said many hours were spent drafting and reviewing the language for the Class "B-2" liquor license both by the Liquor Commission and by the Village Council with the intention of preventing cigarette stores and video stores from obtaining a packaged alcohol license.

Mr. Kubes said many cigarette stores are one-third the size of Maple Cigarettes and Foods and the Village will not issue a liquor license to those stores because they are too small. Chairman Pro Tem Gerloff pointed out that there is no square footage requirement for a Class "B-2" license. Ms. Conforti clarified that at one time the Class "B-2" license had a square footage requirement; however, it was removed because it seemed unfair to some of the smaller "mom and pop" establishments, which could not meet the requirement.

Mr. Sandack said he believes it will take some time before the Commission can reach a consensus on this issue. Mr. Sandack said he appreciates the time and effort that has been put into drafting the current ordinance. However, regardless of the intent, according to the language in the ordinance there was no basis for the Commission to deny Maple Cigarettes and Foods the Class "B-2" license for which they applied. Mr. Sandack said if the Council wishes to prohibit applicants from obtaining a Class "B-2" liquor license because their principal business is the sale of cigarettes or tobacco related products, the ordinance must be revised to state that.

Ms. Conforti wondered if the Village wanted to be in the position of dictating what an applicant can or cannot sell. She said she felt applicants would appeal to the State if the Village denied their request for a liquor license based on the products sold.

Mr. Sandack said if the Village wants to prohibit tobacco shops from selling alcohol there would have to be a clear, rational basis for it. If that is what the Council wants, he did not feel it would be difficult to draft such an ordinance; however, our current ordinance does not do it.

Ms. Conforti asked how the Village could make the ordinance fair to all applicants. Mr. Sandack said the ordinance could require establishments to provide documentation of their principal business, similar to the documentation required from restaurants to prove that they are meeting the 60/40 food versus alcohol split required by the Class "R-1" license.

After discussing the issue with Ms. Perez, Ms. Conforti said they agreed tobacco stores sell much more than tobacco products. Ms. Conforti said if the ordinance does not

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contain a specific requirement for the percentage of revenue derived from tobacco sales, it would be difficult to identify those stores, which are strictly tobacco stores. Ms. Conforti was unsure how such revenue percentages would even be determined. There are taxes on cigarettes, which make it difficult to set a percentage for tobacco sales revenue. Ms. Conforti said there are many problems involved in drafting a new ordinance and she and Ms. Perez wanted to get some direction from the Commission, and a clearer picture of what the Commission would like to accomplish, before beginning the process.

Chairman Pro Tem Gerloff said she received a communication from Mayor Krajewski, in which he said he called the Village Attorney and told her that he was in agreement with Marilyn Gerloff and thought that the Village had changed the Class "B-2" ordinance to prohibit cigarette and video stores from obtaining this type of license. "I told her I wanted the Liquor Commission and staff to address this issue at the upcoming meeting." In a second message to Chairman Pro Tem Gerloff, Mayor Krajewski said that he told the Village Attorney that he wanted the Liquor Commission to discuss this issue and "maybe we can become a trend setter." Chairman Pro Tem Gerloff said the Liquor Commission knows the Liquor Commissioner's opinion on the matter; however, they do not know the opinion of the rest of the Village Council. Chairman Pro Tem Gerloff added that she did not know if everyone on the Council was aware of the issues being discussed tonight.

Mr. Sandack said the Council will receive a copy of the minutes of tonight's meeting and the Commission can use this as an opportunity to speak to them and to get some direction from them on this matter. Chairman Pro Tem Gerloff agreed that the Liquor Commission needs some direction and guidance from the Village Council.

Mr. Sandack said in his opinion, the convenience store section should be removed in its entirety from the Class "B-2" ordinance and if the Council wishes to prohibit establishments whose principal business is the sale of tobacco products from obtaining a Class "B-2" license, it should be done separately.

Ms. Summers said if the Council is serious about limiting tobacco sales in the Village, perhaps they should consider control buys for tobacco sales similar to those conducted for alcohol sales.

Ms. Conforti said that at one time the Village was considering instituting business licenses in the Village, one of which would have been tobacco licensing. Realistically, other than ticketing the clerk involved in the sale of tobacco to a minor, the Village has no recourse against the establishment because it is not licensed by the Village and there is no ordinance or program in place governing the situation. Ms. Conforti said if Council is interested in doing something about tobacco sales, in addition to disallowing the sales of liquor and tobacco together, or portions thereof, the Council must decide if they wish to license tobacco retailers. However, Ms. Conforti advised that if the Village licenses tobacco retailers and prohibits the sale of alcohol by tobacco retailers, it would also eliminate all other liquor licensees that sell alcohol and tobacco, i.e. Jewel, Osco, Walgreen's, etc.

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Mr. Sandack asked how many establishments within the Village are principally tobacco retailers. Ms. Conforti said, as the businesses are not licensed, she did not know. However, Chairman Pro Tem Gerloff recalled a previous discussion and she said she thought there were at least five.

Ms. Summers asked if any other cities restrict liquor and tobacco sales. Ms. Conforti replied no. Ms. Summers said if the Council wants to restrict any type of retail establishment, it must be done across the board, it could not be done by just one commission. Ms. Summers said she defers to the Village Council.

Chairman Pro Tem Gerloff said before the last revision, the Class "B-2" ordinance was a very simple ordinance with no exceptions listed. It simply authorized "the retail sale, on the premises specified, of beer and wine in original packages unopened only, and not for consumption on the premises except that wine tasting shall be permitted on such premises." Chairman Pro Tem Gerloff said that perhaps the Village should return to that version of the ordinance because it seems that the expanded language has opened up many questions with regard to interpretation.

Chairman Pro Tem Gerloff observed that this Commission has very definite ideas and opinions and she said they now await direction from the Village Council. Ms. Conforti said she would forward the minutes of this meeting along with a cover memo explaining the issue and requesting guidance from the Village Council.

Mr. Kubes asked how many Class "B-2" licenses the Village has. Ms. Conforti said the Village has ten Class "B-2" licenses, nine of which have been issued and one, of which is currently available. Mr. Kubes asked if any of the other Class "B-2" licenses were issued to establishments similar to Maple Cigarettes and Foods. Ms. Conforti said the Curtiss Food Mart is similar. Chairman Pro Tem Gerloff added that she contacted the Curtiss Food Mart and they sell milk, eggs, butter, etc.

Ms. Conforti said she recently visited Maple Cigarettes and Foods and noted that the store has been rearranged. She added that she spoke with the owner who said he is in the process of contacting distributors, who would be willing to stock his store with more convenience items.

Mr. Sandack said he would like to hear the Council's thoughts on the issue of the Class "B-2" license and get some direction from them as to how they wish to proceed with the ordinance.

Ms. Conforti said she believes that the Class "B-2" license classification is too broad and should be split into separate license classifications for convenience stores and for packaged alcohol stores. She noted that the other liquor license classifications are very specific.

Mr. Kubes asked how many different liquor license classifications does the Village have? Ms. Conforti said there are 19 different classifications. Mr. Kubes asked how other

communities compare. Ms. Conforti said many communities and the State have only two types of licenses, one for packaged alcohol stores and one for establishments with on-site consumption. However, Ms. Conforti noted that the Village has created licenses based upon the characteristics of specific applicants, i.e. the brew pub license.

Ms. Conforti said she would prepare a packet for the Village Council and ask them for direction and guidance on this issue. Mr. Kubes asked her to let the Village Council know that the Liquor Commission feels that the issue needs to be re-addressed.

**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 7:40 p.m.