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

June 5, 2003

## **I. CALL TO ORDER**

Chairman Mochel called the meeting to order at 6:30 p.m.

## **II. ROLL CALL**

**PRESENT:** Ms. Gerloff, Mr. Kubes, Ms. Summers, Chairman Mochel

**ABSENT:** None

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

**OTHERS:** Dan Modena, Dave Anderson, Kathy DiCola, Court Reporter

## **III. APPROVAL OF MINUTES**

**MS. GERLOFF MOVED TO APPROVE THE MINUTES OF THE MAY 1, 2003 LIQUOR COMMISSION MEETING AS PRESENTED. MR. KUBES SECONDED.**

**VOTE:**      **Aye:** Ms. Gerloff, Mr. Kubes, Ms. Summers, Chairman Mochel

**Nay:** None

**Abstain:** None

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

Chairman Mochel reminded everyone that tonight's meeting is being recorded on Village owned equipment. Staff is present to keep minutes for the record and a court reporter is present to take minutes verbatim.

**DRAFT****IV. APPLICATION FOR LIQUOR LICENSE**

Chairman Mochel stated:

"A part of tonight's agenda is to conduct a public hearing for a Class "O" Outdoor Seating liquor license and for a Special Event 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"

"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. Staff is also present for purposes of summarizing the proceedings."

**GMRI, Inc. d/b/a The Olive Garden Restaurant, 1211 Butterfield Road**

Chairman Mochel said the applicant is seeking a Class "O" outdoor seating liquor license. He asked that those present representing the applicant come forward and be sworn in.

Mr. Dan Modena, General Manager of the Olive Garden Restaurant, and Mr. Dave Anderson were sworn in by the court reporter.

Mr. Modena explained that they would like to remodel and update the existing outdoor patio area at the Olive Garden restaurant on Butterfield Road. He said they plan to add latticework on top of the existing patio wall to prohibit anyone from passing alcoholic beverages out of the area. Mr. Modena said there would be one exit directly from the patio area for emergency purposes; otherwise all access and egress will be through the restaurant. He said there would be seating for 24 in the patio area. The patio's hours of operation will be the same as the restaurant's, except that it will close one hour earlier. The patio will close at 9:00 p.m. Sunday through Thursday and at 10:00 p.m. on Friday and Saturday. Mr. Modena said the same service will be provided indoors and outdoors and all servers are properly trained to check ID's and serve alcohol. He added that the

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same carding procedures would be in place as well. Mr. Modena said the full menu as well as alcoholic beverages would be available in the outdoor patio.

Mr. Anderson explained that the front portion of the existing patio is not fully enclosed. He said they intend to remove the bushes, which currently are across the front portion of the patio and replace them with new lower bushes. He added that the entire patio would be enclosed by latticework with an emergency exit door to be cut into the existing wall. The latticework will be high enough to prohibit anyone from passing drinks out of the patio area.

Chairman Mochel noted that the original application from the Olive Garden stated that alcoholic beverages and appetizers would be served in the outdoor seating area. However, the application has since been corrected to state that the full menu as well as alcoholic beverages will be available in the outdoor seating area as is required by the Downers Grove Liquor Control Ordinance.

Ms. Gerloff said she visited the Olive Garden and viewed the existing patio. Ms. Gerloff noted there is a shed on the patio that is to be removed. She asked what is kept in the shed. Mr. Anderson said the shed is used for storage of such items as garden hoses, etc. Ms. Gerloff said asked about a water condensation outlet, possibly from an air conditioner that is on the shed. Mr. Anderson said water outlet is a regular water spigot for a hose, which had been extended. He added that the extension will be removed and the water spigot will be put back in the wall. Ms. Gerloff asked if there is anything behind the shed other than the wall. Mr. Anderson replied no.

Ms. Gerloff asked if the exiting door from the restaurant would be used to access the patio. Mr. Anderson replied yes. Ms. Gerloff said it appears that the diagram, submitted with their application does not accurately depict the placement of the door and the proposed drink rail. Mr. Anderson agreed that the diagram is inaccurate. He said the drink rail would not block the doorway.

Ms. Gerloff asked if the door from the restaurant would be the main entrance and exit to and from the patio. She confirmed that there would be no direct access to the patio from the outside; access will only be through the restaurant. Mr. Anderson agreed.

Mr. Kubes asked if there is a walkway around the landscaped area of the patio. Mr. Modena replied yes. Mr. Kubes said it appears that there is adequate landscaped area to prevent anyone from walking through. He asked if there is an emergency exit in the patio area. Mr. Anderson replied yes.

Mr. Kubes asked if all the servers would be properly trained to serve alcohol indoors and outdoors. Mr. Modena replied yes. Mr. Kubes asked if waitstaff would be on duty in the patio area to monitor activities in the area. Mr. Modena said there would always be a server or a server assistant busser in the outdoor area. In addition the two managers on duty would monitor the outdoor area as well as the indoor dining room.

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Mr. Kubes asked if servers would bring all the alcohol from the restaurant for service on the patio. Mr. Modena replied yes.

Mr. Kubes asked about the number of seats in the outdoor area. Mr. Modena said there would be six tables, each seating four guests. He added that there would not be any seating at the drink rail. The drink rail would be a stand up area, in which patrons could wait for their table.

Mr. Kubes noted that originally the Olive Garden intended to offer only appetizers and drinks in the outdoor seating area. He asked if that is the practice at other Olive Garden locations. Mr. Modena said three of the newer Olive Garden restaurants in the Chicago area have an outdoor patio and offer the full menu outdoors.

Mr. Kubes asked Mr. Modena if he knew if there had been problems with outdoor alcohol service at any of the other Olive Garden locations. Mr. Modena said the Olive Garden restaurant in Gurnee has had an outdoor patio for two years and as far as he knows they have not had any problems.

Mr. Kubes asked if Mr. Modena currently manages the waitstaff and if he feels confident that his staff is knowledgeable and well trained to handle the addition of outdoor alcohol service. Mr. Modena replied yes. He explained that he is the General Manager and he has three managers that work with him. Mr. Modena said he has been at the Olive Garden in Downers Grove for two years and they have never had a violation. He added that they have an extensive training program for servers and bartenders.

Ms. Summers asked the purpose of having patio seating. Mr. Modena said the seating area would be used for general admission and would add 24 seats to the restaurant. He added that the patio has been empty and unused for several years and many guests have asked for outdoor seating.

Ms. Summers asked if there would be a window on the other side of the drink rail so that drinks could be passed through. Mr. Modena replied no. He said there would be a wall behind the drink rail. The drink rail will be a narrow counter top attached to the wall and will provide a place for customers to wait before being seated.

Ms. Gerloff noted that the restaurant's roof covers half of the patio area. She asked if Mr. Modena planned to use umbrellas on the patio tables. He replied yes. Ms. Gerloff asked if there would be alcohol logos or advertising on the umbrellas. Mr. Modena said the umbrellas would be plain and they would not have logos of any kind.

Chairman Mochel called for a recommendation on the applicant's Class "O" outdoor seating liquor license application.

**MS. GERLOFF MOVED TO FIND GMRI, INC. D/B/A THE OLIVE GARDEN RESTAURANT, 1211 BUTTERFIELD ROAD, QUALIFIED FOR A CLASS "O" OUTDOOR SEATING LIQUOR LICENSE. MS. SUMMERS SECONDED.**

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**VOTE:**       **Aye:** Ms. Gerloff, Ms. Summers, Mr. Kubes, Chairman Mochel

**Nay:** None

**Abstain:** None

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

**Downers Grove Public Library, 1050 Curtiss**

Chairman Mochel said the Downers Grove Library was requesting a Special Event liquor license. He asked those present representing the Library to come forward and be sworn in.

Ms. Kathy DiCola, a member of the Library Board of Trustees, was sworn in by the court reporter. Ms. DiCola said the Library would like to serve beer and wine at the inaugural fundraiser of the Downers Grove Library Foundation. She said the Library received a generous bequest from a Downers Grove resident and library volunteer during the last year. Because of the bequest the Downers Grove Library Foundation was started to supplement programs and materials at the library. Ms. DiCola said the group would like to raise additional funds because the original bequest was designated for books only.

Ms. DiCola said many of the downtown businesses have decorative wheelbarrow planters in front of their establishments and they have offered them to the Library for a fund raising auction. On July 19<sup>th</sup>, the Library will be auctioning off 41 wheelbarrows and they plan to provide food and entertainment at the event. Ms. DiCola said caterers from Joyful Café would provide a substantial full buffet for the event.

Ms. DiCola said TIPS trained servers from Joyful would serve all alcohol. She explained that Library staff would sell drink tickets and check ID's. They would use a hand stamp to identify guests that had been approved for alcohol service. Drinks will be \$3.00 each. She said professional servers serve the alcohol; although Library personnel would check ID's and sell drink tickets. Ms. DiCola said they did not anticipate having any minors in attendance. However, the Library staff and the catering staff will be located throughout the building all evening to oversee the event.

Ms. DiCola said when asked for a maximum number of guests, they said 500; however, she said she would anticipate about 200 guests actually attending the event.

Ms. Summers asked if there is a fee for this event. Ms. DiCola said admission would be by ticket and the tickets are \$20 per person. The tickets will be sold in advance, rather than at the door.

Ms. Summers remarked that although Ms. DiCola did not anticipate minors at the event, there would probably be some minors in attendance.

**DRAFT**

Chairman Mochel asked if the ticket price is the same for minors and adults. Ms. DiCola replied yes.

Ms. Summers asked how the books and materials in the Library would be protected from spills, etc. Ms. DiCola said beverages have been available and allowed in the Library for about a year without problems. She added that the Library furnishings are generally designed for hard use.

Ms. Summers asked if the caterer's waitstaff would clear away partially consumed food and beverages that might be left around the Library. Ms. DiCola replied yes. She added that the Library staff would also pick up discarded food and beverages.

Ms. Summers advised Ms. DiCola to remind the Library staff to watch for drink sharing with minors in the event that some minors do attend. Ms. DiCola agreed.

Mr. Kubes asked how long the event would last. Ms. DiCola anticipated that the event would be over by 11:00 p.m. depending on the auction.

Mr. Kubes asked if the Library would be closed to the general public during the event. Ms. DiCola replied yes. She added that the Curtiss Street entrance will be closed and access to the event would be through the north doors facing the Forest Street parking lot.

Mr. Kubes asked if guest would be able to move freely around the Library. Ms. DiCola replied yes.

Mr. Kubes asked if there would be more than one bar. Ms. DiCola said they were planning to have only one bar located in front of the Curtiss Street entrance. However, the caterer suggested that they have a second bar upstairs. Ms. DiCola said she believes that the number of bars will depend on the number of tickets that are sold. Ms. DiCola said punch and coffee will be served and soft drinks and water would also be sold.

Ms. Gerloff asked about the Curtiss Street entrance and the proposed location of the bar. Ms. DiCola said they had planned to curtain off the Curtiss Street entrance and post a sign stating that entry would be through the north doors off the parking lot.

Although the application packet did not explain how guests would be identified once their ID's had been checked, Ms. Gerloff encouraged the use a hand stamp to identify those that are eligible for alcohol service.

Ms. Gerloff asked if the Library plans to advertise the event. Ms. DiCola replied yes. In addition, she said they plan to send out 400 invitations to Friends of the Library and past donors, etc.

Chairman Mochel suggested that Ms. DiCola meet with Ms. Conforti to discuss things to watch for when checking ID's. He said traffic tickets are not an acceptable form of identification. He also warned her that red lettering on the face of a driver's license

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indicates that the individual is under 21 and alcohol should not be served. Ms. Conforti said she would give Ms. DiCola color brochures depicting the legitimate forms of identification. She suggested that Ms. DiCola place the brochures on the tables where ID's are being checked so they can be used for reference if needed.

Chairman Mochel asked Ms. DiCola to remind the catering staff to check guests for the hand stamp before serving alcohol and if in doubt to ask guests for their ID's again.

**MS. GERLOFF MOVED TO FIND THE DOWNERS GROVE PUBLIC LIBRARY, 1050 CURTISS, QUALIFIED FOR A SPECIAL EVENT LIQUOR LICENSE FOR A GARDEN PARTY BENEFIT ON JULY 19, 2003. MR. KUBES SECONDED THE MOTION.**

**VOTE:**       **Aye:** Ms. Gerloff, Mr. Kubes, Ms. Summers, Chairman Mochel

**Nay:** None

**Abstain:** None

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

Ms. Conforti advised Ms. DiCola that the individuals who card the guests must be over 21 years of age. Ms. DiCola agreed.

Mr. Kubes introduced his class from Drive One Driving School.

## **VI. OLD BUSINESS**

Ms. Conforti said the Village donated money to the North and South High Schools for their Exit With Pride non-alcoholic graduation celebrations. She said money for the donation comes from a portion of annual liquor license fees. Chairman Mochel asked if the licensees are aware of the use of the funds for the donation. Ms. Conforti replied yes.

Ms. Conforti said Downers Grove Food Mart has forfeited their liquor license and a new license was issued, effective June 1, 2003 to the new owner.

Ms. Conforti said RipRocks has served their license suspension and paid their violation fee.

Ms. Conforti said included in the Commissioners' informational packets were copies of ordinances concerning outdoor liquor sales and packaged beer and wine sales, recently passed by the Village Council, and an updated liquor license classification chart.

Ms. Conforti distributed a copy of suggested revised Liquor License Suspension Guidelines for the Commission's review and recommendation. Ms. Conforti recalled that at the last disciplinary hearing the Commission addressed the issue of minors serving alcohol to minors. The current suspension guidelines, which have been in place since

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1996, did not specifically list minors serving minors as an aggravating circumstance in conjunction with the sale of alcohol to a minor. Currently the Ordinance lists three aggravating circumstances and states that "aggravating circumstances include, but are not limited to" these circumstances. After discussion with Staff Attorney Ann Marie Perez, she and Ms. Conforti felt that the sale of alcohol to a minor by a minor was another violation of the Ordinance. They also discussed issuing an Ordinance violation ticket, which would go through the court system, in addition to the citation for serving alcohol to a minor. Ms. Gerloff agreed with the idea of issuing two tickets.

Ms. Conforti and the Commission agreed that the licensees have been informed that underage servers are not to take the initial drink order or card individuals for alcohol service. Mr. Kubes said he believes that licensees have become complaisant and because it is difficult to hire enough servers, who are over 21, they have allowed underage servers to take initial drink orders and card patrons. Ms. Conforti agreed. In order to motivate licensees to be less complaisant, she recommended adding the following to the License Suspension Guidelines as an aggravating circumstance: "An under 21 employee that cards the minor or takes the initial order of the minor without getting authorization from another employee over 21 to serve the minor." In addition, she suggested increasing the penalty for the violation, and issuing an Ordinance violation ticket to the offender. If licensees still persist in allowing underage employees to check ID's and take initial drink orders, Ms. Conforti said the guidelines for restaurants could be changed to require that all servers must be 21 years of age or older to serve alcohol, however, she admitted that this might present a hardship for restaurant owners.

Chairman Mochel asked about the authority to issue an Ordinance violation ticket. Ms. Conforti said the officers currently have the authority to issue two tickets. She added that this violation has only occurred once to her knowledge in the last ten years. However, once the suspension policy is changed, the officers will check the age of the server involved in the violation and issue a ticket if the server is underage. Ms. Conforti said the involvement of an underage server could also be included in the stipulation until it is officially added to the License Suspension Guidelines as an aggravating circumstance.

**MR. KUBES MOVED TO RECOMMEND THAT THE DOWNERS GROVE LIQUOR LICENSE SUSPENSION GUIDELINES BE REVISED TO INCLUDE "AN UNDER 21 EMPLOYEE THAT CARDS THE MINOR OR TAKES THE INITIAL ORDER OF THE MINOR WITHOUT GETTING AUTHORIZATION FROM ANOTHER EMPLOYEE OVER 21 TO SERVE THE MINOR" AS AN AGGRAVATING CIRCUMSTANCE. MS. SUMMERS SECONDED THE MOTION.**

**VOTE:**       **Aye:** Mr. Kubes, Ms. Summers, Ms. Gerloff, Chairman Mochel

**Nay:** None

**Abstain:** None

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

Ms. Summers asked if the Village has the authority to issue double tickets for any other violations. Ms. Perez said technically double tickets could be issued for any ordinance violation, i.e. failure to display a liquor license.

Ms. Summers suggested reviewing the ordinance and looking for other aggravating circumstances that should be added to the Suspension Guidelines. Ms. Conforti pointed out that the minutes of each disciplinary hearing contain discussion of all activities that the Commission members feel should be considered as grounds for an added day of suspension. Ms. Conforti added that the current Suspension Guidelines have a certain amount of flexibility.

Ms. Gerloff pointed out that Ms. Conforti also discusses the Commission's concerns with the Liquor Commissioner when she gives him their recommendations. Ms. Perez said the Mayor recently noted that license suspension recommendations seemed to be getting longer. After comparing recent recommendations to recommendations made a few years ago, Ms. Perez agreed that the suspensions are getting longer. Chairman Mochel said he believes the Commission is trying to send a message to licensees.

Chairman Mochel and Ms. Gerloff agreed that some licensees appear to be complaisant and do not seem to care when charged with a violation. Ms. Summers said perhaps a larger monetary penalty would be more effective. Ms. Conforti said the State limits the amount that can be assessed for a violation; however, the amounts are progressive. Ms. Conforti said when the penalty for a violation was changed to include a fine, a suspension and the costs to cover the hearing; she noticed a steep drop in the number of violations. However, the number of violations is beginning to increase again.

**VII. NEW BUSINESS**

Ms. Conforti thanked Ms. Gerloff for the article she sent her on parent involvement in teen drinking. Ms. Conforti said it seems as though more and more parents are supplying alcohol for teen parties, especially around graduation-time. She said an individual from Peoria contacted her about Downers Grove's keg tag tracking program and she expects to be contacted by other municipalities as they attempt to deal with problems of alcohol at teen parties.

Ms. Conforti said Downers Grove's keg tag program requires licensees to keep a log of kegs purchases and requires customers to sign for the keg when they buy it. However, some licensees have complained that the program has caused them to lose business because occasionally customers chose to purchase alcohol in another town rather than sign the log. Ms. Conforti said the keg tag program could be used to identify those who purchase alcohol for minors. She added that the licensee who sells the keg is not held responsible. Ms. Conforti said she anticipates that more communities will begin using a keg tag-tracking program.

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Ms. Summers asked if there was anything that the Commission could do to discourage minors from drinking. Ms. Gerloff pointed out that the schools and the Police Department have various programs including D.A.R.E. for that purpose. However, Ms. Gerloff said she believes it is the Village's responsibility to try to control the availability of alcohol to minors because parents do not always do so.

Ms. Gerloff asked for an update on Liquor Commission term expirations. Ms. Perez said the Village is in the process of expanding all boards and commissions to at least seven members with staggered three-year terms. She did not anticipate that recommendations for current term expirations would be considered until these changes are in place. Ms. Conforti said the Village Council plans to workshop an ordinance on June 10, 2003 amending boards and commissions.

Ms. Conforti said the Liquor Commission meeting for July may be scheduled for the second or third week of the month due to the 4<sup>th</sup> of July holiday.

**VIII. COMMENTS FROM THE PUBLIC**

A student in the audience asked how members are selected to serve on the Liquor Commission. Ms. Conforti explained that interested residents fill out a personal profile form indicating on which boards and commissions they would like to serve. When vacancies occur, the Mayor and the Council review the profile forms and make the recommendations and appointments.

**IX. ADJOURNMENT**

**MR. KUBES MOVED TO ADJOURN THE MEETING. MS. SUMMERS SECONDED.**

The meeting was adjourned by acclamation at 7:35 p.m.