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

June 3, 2004

**I. CALL TO ORDER**

Chairman Kubes called the meeting to order at 6:38 p.m.

**II. ROLL CALL**

**PRESENT:** Mr. Barnett (6:40), Ms. Dietrich, Ms. Haider, Ms. King,  
Mr. McInerney, Chairman Kubes

**ABSENT:** Mr. Durkin

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

**OTHERS:** Phil Cullen, Robert Butterfield, Linda Ciosek-Court Reporter

**III. APPROVAL OF MINUTES**

**MS. KING MOVED TO APPROVE THE MINUTES OF THE MAY 6, 2004  
LIQUOR COMMISSION MEETING AS PRESENTED. MS. DIETRICH  
SECONDED.**

**VOTE:** **Aye:** Ms. King, Ms. Dietrich, Ms. Haider, Mr. Barnett, Mr. McInerney,  
Chairman Kubes

**Nay:** None

**Abstain:** None

**MOTION CARRIED:** 6:0:0

Chairman Kubes 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.

**IV. APPLICATION FOR LIQUOR LICENSE**

"A part of tonight's agenda is to conduct a public hearing on liquor license applications. 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."

**Ballydoyle, LLC d/b/a/ Ballydoyle Irish Pub & Restaurant, 5157 Main Street**

Chairman Kubes said the applicant is seeking a Class "O" license to authorize the sale and consumption of alcoholic liquor in an enclosed outdoor seating area. He asked that those present representing the applicant come forward and be sworn in.

Mr. Phil Cullen introduced himself as owner of Ballydoyle and Mr. Robert Butterfield introduced himself as the liquor manager. Mr. Cullen said that he plans to open an outdoor dining area that is located on the south side of the building. There will be 56 seats and 18 tables enclosed in a fenced-in area which is partly on both his property as well as Village property. He plans to serve food and liquor.

Ms. Haider asked if there would be an entrance/exit within the iron gate. Mr. Cullen replied that customers would have to go through the restaurant and be seated by a hostess. When patrons leave, they have to exit through the restaurant. There will be full-bar service; however, it will be located inside. Mr. Cullen noted that on weekends, a door person cards everyone. Ms. Haider asked if the neighbors might have a problem with the outdoor seating. Mr. Cullen replied that Coldwell Banker said they were concerned about the music outside and it affecting their ability to close sales, and noise resonating through their offices.

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Ms. King asked about the access to the parking garage. Mr. Cullen said there is a total of 24 feet from building to building and he is utilizing approximately 11 feet. He added that ½ of the space will remain a thoroughfare.

Ms. Dietrich asked if personnel would be outside at all times. Mr. Butterfield said that a supervisor would be present at all times. Ms. Dietrich noted her concern about patrons overdrinking. Mr. Cullen said that their crowds have been docile with a mix of patrons. Ms. Dietrich said that the music was addressed at a Council meeting where Mr. Cullen said he would lower the music. Mr. Butterfield said it is in the restaurant's best interest to be a good neighbor.

Chairman Kubes asked if the end of the patio would be stopped before the staircase. Mr. Cullen said yes. Chairman Kubes complimented the paperwork and procedures they were going through. Chairman Kubes asked for elaboration insofar as the fencing. Mr. Cullen said the Village is requiring that the fencing be moved to the edge of the planter because of drainage. Chairman Kubes asked if the tables would have to be tarped. Mr. Cullen replied that they do not. Chairman Kubes thanked Mr. Cullen for his proactive approach to this application.

Mr. Butterfield thanked Ms. Conforti for all her efforts and noted that her help has been instrumental during this process.

Ms. Dietrich asked when the outdoor area would be opened. Mr. Cullen said realistically, in a few weeks, preferably around Heritage Festival. Ms. Dietrich asked about the liability for using public property. Mr. Cullen said he has \$5,000,000 for liability and \$3,000,000 for dram shop coverage with the Village as an additional insured.

Ms. Conforti said the Council has approved the agreement. A letter of credit, insurance documentation and the fee needs to be submitted. Chairman Kubes stated that the meeting went very well with the Council and everything that they requested was complied with.

Chairman Kubes asked for a motion regarding the applicant being qualified or not qualified.

**MR. McINERNEY MOVED TO FIND BALLYDOYLE, LLC D/B/A BALLYDOYLE IRISH PUB & RESTAURANT, LOCATED AT 5157 MAIN STREET, QUALIFIED FOR A CLASS "O" LIQUOR LICENSE. MS. HAIDER SECONDED.**

**VOTE:** Aye: Mr. McInerney, Ms. Haider, Ms. King, Mr. Barnett, Ms. Dietrich,  
Chairman Kubes

Nay: None

Abstain: None

**MOTION CARRIED: 6:0:0**

Chairman Kubes asked Mr. Cullen if he would remain in order to provide a licensee's viewpoint on a few issues. Mr. Cullen replied yes.

**V. OLD BUSINESS****Liquor Fines**

Ms. Conforti said that the Village Council adopted the proposed change in fines. This will eliminate the \$1,000 cap, raise the maximum fine to \$15,000 and require mandatory training. This will be more of an aid to licensees in requesting a higher fine in lieu of suspension. Ms. Conforti noted that it takes 10 days for the ordinance to go into effect after adoption, which was June 1. Chairman Kubes said he was very pleased with the presentation to the Village Council.

Mr. Barnett asked Ms. Conforti for clarification about the suspension guidelines insofar as it being a part of the ordinance. She replied that it is strictly a guideline. Mr. Barnett asked if licensees could obtain a copy. Ms. Conforti said it is primarily for the Attorneys and it is not passed out to licensees. Mr. Barnett said that he would forward comments regarding the guidelines to Ms. Conforti.

**Ordinance re: Extension of Liquor Serving Hours**

Ms. Conforti said that last month she approached the Commission about requests for the extension of liquor servicing hours. On occasions such as holidays, licensees have the opportunity to place a request for the extension of liquor serving hours. Currently, it can be up to three hours of an extension either before or after regular serving hours. For example, a licensee can request liquor service to begin at 9:00 a.m. for a champagne brunch on Mother's Day. After hours requests are typically granted for one hour. The guideline being that food will be served during any extra hours. Ms. Conforti added that typical requests have been for holidays or special occasions. The proposed ordinance will increase the amount of times that licensees can request an extension. Currently, licensees are allowed 2 dates for an extension. The amended ordinance would allow for four requests. A proposed fee of \$25 will cover administrative costs associated with processing these requests. Ms. Conforti stated that the granting of the extension would remain at the discretion of the Mayor. She noted that requests must be submitted one week prior to the date of extension.

Discussion ensued regarding a reasonable number of days for extensions. Ms. Conforti said that most often licensees request New Year's Eve. Most recently, St. Patrick's Day has been requested and Mother's Day Champagne Brunch is becoming a popular activity. Chairman Kubes said that allowing 4 days of extensions throughout the year does not seem like enough. Ms. Conforti said she discussed with the Mayor the possibility of an additional "brunch" license. She added that some licensees indicated that they offer brunches, but they offer a reduced rate for brunch served before noon. Ms. Conforti said

that the Mayor has been to various brunches in Lisle and other communities. He added that it would be good to bring that revenue into the Village. Chairman Kubes asked if this issue could be brought up under New Business and for Ms. Conforti to contact Ms. Wysocki to check with the business owners.

Mr. Cullen commented that there are 4 typical possibilities for extensions which are: New Year's Eve, St. Patrick's Day, Mother's Day and Easter. Chairman Kubes asked if it would be worth Mr. Cullen's while to be open every Sunday during the year for a brunch in anticipation of customers. Mr. Cullen replied that he would market it, if he planned to do it. Chairman Kubes said he appreciates Mr. Cullen's input as a business owner.

Mr. Barnett said he prefers 8 days as the possible number of times a year for extensions. He said the staff should be notified two weeks prior to the extension. He added that the extension should be either at no charge or \$250. He said it's hardly worth taking the time to charge \$25.00. He added that there's a point where it's silly to collect fees. However, if people are asking special permission under an existing license, there should be a cost. Ms. Conforti said that the Village should recoup at least the Administrative costs. She suggested that a fee similar to a Special Event Liquor License could be charged. Chairman Kubes noted that a Special Event License is for a full day, as opposed to a one-hour extension. Ms. Conforti stated she typically receives a total of 3 to 5 requests for extensions per year. Chairman Kubes said that the change in the ordinance is in anticipation of future usage. Ms. Conforti agreed that the number of requests would most likely increase.

Mr. Butterfield suggested the possibility of purchasing a block of time, specifically during sports events. Chairman Kubes said that could be considered.

Mr. Barnett said the two-week time period adds to the professionalism associated with requests.

Ms. Haider questioned whether a licensee should be allowed to use consecutive dates. Ms. Conforti said a guideline exists for a Special Event Liquor License and suggested a limit of two consecutive days. Chairman Kubes said that a problem doesn't exist for utilizing consecutive days, as long as they pay for each day. He is concerned, however, with a limit of 4 consecutive days.

Ms. Dietrich said there is not a lot of pressure for the increase and suggested choosing a number of days, which can be changed in the future, should licensees desire more.

Mr. McInerney said he supports increasing the number of days, but suggested a graduated scale for costs. Chairman Kubes said he also would favor a graduated scale.

Mr. Cullen stated that neither Naperville nor Lisle charge anything for a brunch license. He said that brunches are a family-oriented event. If the fee is graduated, then it discourages business owners from having brunches.

Mr. McInerney said the idea of an extension is for a special event and goes strictly to the Liquor Commissioner for consideration. He added that a brunch license should be available all year.

Ms. Conforti stated that there is a process to issue extensions. First, she has to notify the Mayor about the request and get his decision about the granting or denial of the request. In addition, she has to notify the licensee of approval and also the Police Department. She said that separate notifications have to be sent a few days prior to the actual event.

**MS. DIETRICH MOVED TO AMEND SECTION 3.31 TO READ AS FOLLOWS: THE REQUEST SHALL BE FORWARDED TO THE VILLAGE IN WRITING NO LATER THAN TWO (2) WEEKS PRIOR TO THE DATE THE EXTENSION IS REQUESTED OR THE REQUEST SHALL BE AUTOMATICALLY DENIED. NO LICENSEE SHALL BE GRANTED SUCH EXTENSION FOR MORE THAN EIGHT (8) DATES IN ANY ONE CALENDAR YEAR, PROVIDED A FEE IN THE AMOUNT OF \$25.00 SHALL BE SUBMITTED ALONG WITH THE EXTENSION REQUESTS. SECONDED BY MS. HAIDER.**

**VOTE:** Aye: Ms. Dietrich, Ms. Haider, Mr. McInerney, Ms. King, Mr. Barnett, Chairman Kubes

Nay: None

Abstain: None

**MOTION CARRIED: 6:0:0**

**MR. MCINERNEY MOVED FOR SECTION 3.31 TO BE AMENDED AS NOTED ABOVE, WITH THE EXCEPTION OF THE EXTENSION NOT TO BE ON CONSECUTIVE DATES.**

Motion failed for lack of a second.

Mr. Barnett asked about signage. Ms. Conforti said both the Village Attorney and Prosecuting Attorney are working with the Planning Department at staff level to draft changes to the sign ordinance. There is a sign moratorium throughout the Village, which was adopted a few weeks ago for a period of three months. No permits for signs are being issued, except for very special circumstances. Staff will present the draft ordinance to the Plan Commission.

Mr. Barnett asked if there were any reaction to his e-mail regarding the existing ordinance change to not comment on signs. Ms. Conforti said that the Liquor Commission has nothing to do insofar as sign requirements or physical aspects of signs. She said the Commission is technically concerned with liquor product identification signs. She stated that a non-licensee has no restriction from placing a Miller Draft or

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neon beer sign umbrella at their establishment. She wondered if the restriction should be contained in Chapter 3 at all. She questioned the constitutionality of the restriction and said it should encompass the Village as a whole as opposed to being limited to licensees.

Mr. Barnett recommended that Section 3.32 should be removed from the ordinance. He added that he is not convinced of its appropriateness. Chairman Kubes said previous discussion against changes was due to the negative aspect it may bring to the community. He noted that having, Corona, for example on an umbrella may create a negative aspect.

Mr. Barnett asked why the ordinance can't be removed and input given to the Plan Commission. He added that there is difficulty in proving a direct correlation between advertising and abuse. Ms. Perez said the Village is in the preliminary stages of creating a comprehensive sign ordinance. At some point, she believes that Section 3.32 will be removed. She added that the entirety of the sign ordinance is being considered.

Mr. McInerney deferred to staff insofar as proposing an ordinance to remove this section from the Liquor Ordinance or to wait until the comprehensive review is complete. Ms. Conforti said the Village Attorney is aware of the issue and believes the sign ordinance will address Section 3.32. She suggested waiting to see the draft from staff.

Mr. Cullen asked if umbrellas are considered signs. He also noted that this is the time of year they are utilized. Ms. Conforti said the ordinance specifically refers to patio umbrellas. Mr. Cullen said that he doesn't consider an umbrella to be a sign. Ms. Conforti replied that the umbrella is used as an advertisement.

Mr. Barnett said that he doesn't understand the deferment. Ms. Conforti said that staff could ask the Plan Commission to review Section 3.32. She added that when working with codes, if two different sections deal with the same issue, there's a chance of conflict. Mr. Barnett said that is one more reason to delete it. He added that this has been a tabled item for many months.

Mr. McInerney said he is comfortable with the current controls on liquor advertising. He added that liquor advertising does not add value to the community. Mr. Barnett agreed, however, he feels it may be challenged. Ms. Conforti said that licensees are told about restrictions when they come to the Village and no licensee so far has challenged it. She said the only challenge was when Lone Star Steakhouse and Saloon came into the Village. At the time, Mayor Cheever was concerned about the word "Saloon" in the name. Ms. Conforti said that the term saloon was not prohibited by the Liquor Ordinance nor contained in the signage provisions. Lonestar challenged the fact that there was nothing prohibiting the word "saloon" in their advertising. Licensees have questioned her as to why patio umbrellas are not allowed. She said the Liquor Commission has been conservative and did not want brand name advertising in the Village. They perceived a negative bar-type atmosphere would exist. Chairman Kubes said he believes it was added because more outdoor licenses were being issued. Ms. Conforti agreed that there are more cafés now.

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Chairman Kubes asked if the Liquor Commission should provide the Plan Commission with information. Ms. Conforti said they are gathering information from other communities. She suggested looking at the product from the staff and to leave in Section 3.32 at this point. It was agreed to wait until the Plan Commission completed their review and review of staff's recommendations.

Ms. Dietrich asked to be excused at this point. (8:00 p.m.)

**VI. NEW BUSINESS****Policing Activity**

Ms. Conforti said that she contacted the Chief of Police in regard to increasing police presence at licensed establishments. The Chief advised her that doing regular checks would be a burden on the Police Department. Scheduling a walkthrough a particular number of times per year would detract from other Police Department activities. They are always on call and therefore do not know when they will be busy. If there is a pattern with a particular licensee, the Police Department would be vigilant and conduct spot checks. He added, however, that scheduling checks on a regular basis may not be feasible.

Ms. Conforti also spoke to the Chief about licensees that request help. The Chief advised that he would speak to the Sergeants about this issue. As an example, she mentioned the incident when Mr. Moore complained about juveniles drinking that were not ticketed. She said that was at the discretion of the officers. Ms. Conforti said that in this particular incident, the juveniles were helpful. They were released to their parents. Chairman Kubes said the officers let them go because they were very cooperative and gave testimony.

Mr. Barnett said that North Beach had the same complaint insofar as not getting a good response from the Police. He added that if people see enforcement of their peers, it sends a good message. He said that he is sympathetic to the licensees in their efforts.

Mr. McInerney said that he agrees with the officer's discretion at the scene. He wouldn't want to second-guess the officer. However, the Liquor Commission has to view the bigger picture and insure that there is not a trend of non-enforcement.

Ms. Conforti asked the Chief to check licensees on a regular basis at their request. She said that with random checks, the licensee may perceive that they are being singled out. Or, for instance, if an underage customer arrives just as an officer is leaving, the Police could be accused of missing them. She commented that the Police are not a security company.

Mr. McInerney stated that the Police Chief is most likely concerned with manpower and cost in terms of enforcement activity. He suggested the possibility of adjustments to the license fee structure to accommodate the costs. Chairman Kubes suggested inquiring as to the cost of a part-time Police officer. He suggested dividing the cost into the number

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of Liquor Licensees and increase their fees accordingly. Ms. Perez said there are no part-time officers. Their salary is between \$60,000 and \$80,000 a year. Ms. Conforti commented that this cost would be a burden on some licensees.

Chairman Kubes asked if the Police Department has any documentation of incidents. She said at one time there were approximately 368 calls during the year ranging from petty theft to fights at Oliver's.

Chairman Kubes noted a rash of break-ins in the downtown area over the last year. He asked Ms. Conforti to find out what measures the Police Department took to address this.

Ms. Conforti relayed the fact that the Police Chief suggested creating a threshold to justify an officer's presence. Mr. McInerney said that Police presence is a visible deterrent to crime. Their presence also makes a statement that the area is being monitored. He added that it would be helpful to the Commission to see the big picture insofar as developing trends.

Chairman Kubes commented that his daughter was recently on a Police ride-along with Sgt. Scalzetti. There were 4 DUI's in 3 hours. Also, there were 2 other DUI's at other locations.

Ms. Haider asked for the number of Police officers employed by the Village and how many are on duty at one particular time. Ms. Conforti said she believes there are approximately 76 officers with 10 on the road at one time.

Mr. Barnett asked if the structure of licenses, both in definition and concept could be on the future agenda. He asked if Ms. Conforti could check the fees received in 2003 that were none-penalty related. Ms. Conforti said that information is provided in every annual report. She said that the violation/fine revenue is included under the penalty section. Mr. Barnett also inquired as to the number of controlled buys conducted per year. Ms. Conforti replied that information is also provided in the annual report. She added that increases in fines are based on the fluctuation of controlled buy failures. She added that a correlation could be seen between an increase in license fines and noted that controlled buy violations dropped. Mr. Barnett asked if license classes and structures could be included on the next agenda.

Ms. Haider asked who schedules the controlled buys. Ms. Conforti replied that the Police Department picks the dates, establishments, etc. She added that the controlled buys are conducted within zones. Chairman Kubes said that summer is a good time to conduct controlled buys. Ms. Conforti said she would contact the Police Department and try to arrange hiring a high school student for controlled buys this summer and during vacation months. Ms. Conforti said there have been numerous requests recently from students who would like to do controlled buys. They receive \$50 per buy and another \$50 for attending the hearing.

Ms. Conforti said the next meeting is scheduled for July 8<sup>th</sup>.

**VII. COMMENTS FROM THE PUBLIC**

There were none.

**VIII. ADJOURNMENT**

**MS. HAIDER MOVED TO ADJOURN THE MEETING.**

The meeting was adjourned by acclamation by 8:28 p.m.