

APPROVED 6/3/04

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

May 6, 2004

I. CALL TO ORDER

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

II. ROLL CALL

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

ABSENT: None

STAFF: Staff Attorney Beth Janicki-Clark, Liaison to the Liquor Commission Carol Conforti, Recording Secretary Arlene Balicki

OTHERS: Bharatkumar Desai, Sheh Upesh, Philip Mancione, Gordon Humbert, Court Reporter

III. APPROVAL OF MINUTES

MS. DIETRICH MOVED TO APPROVE THE MINUTES OF THE APRIL 8, 2004 LIQUOR COMMISSION MEETING AS PRESENTED. MS. HAIDER SECONDED.

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

Nay: None

Abstain: Mr. McInerney

MOTION CARRIED: 5:0:1

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."

Siaram, Inc. d/b/a/ Downers Grove Food Mart, 2027 Ogden Avenue

Chairman Kubes said the applicant is seeking a Class "B-2-C" license to authorize the retail sale 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. He asked that those present representing the applicant come forward and be sworn in.

Mr. Bharatkumar Desai and Sheh Upesh introduced themselves. Mr. Desai said that he is in the process of purchasing Mr. Upesh's business and is requesting a liquor license. He owns two other similar stores and has been in business for 12 years. He's owned and operated Sam's Pantry in Bellwood for 12 years. He's owned a store in Loves Park, Rockford for 2 years.

Mr. Barnett asked Mr. Desai's experience in terms of violations at the two locations. Mr. Desai replied that he had no violations. Mr. Barnett further asked if Mr. Desai plans to retain the same employees at the new store. He said that some will remain; however, mostly they are new employees. He will train the employees.

Ms. King asked if something will be posted regarding fines. Mr. Desai replied that he will.

Ms. Dietrich asked if employees sign a document indicating that they are trained and are aware of local ordinances. Mr. Desai said that he will. He added that most employees are relatives.

Chairman Kubes asked Mr. Desai how many people he plans to employ. Mr. Desai said there will be two, plus himself. He intends to work 6 to 8 hours a day. Chairman Kubes noted that the liquor application indicates Mr. Desai is not the beneficial owner. Mr. Desai replied that is an error and he is the beneficial owner. Chairman Kubes asked if kegs of beer will be sold at the new location. Mr. Desai said they will not. Chairman Kubes asked if a liquor log will be utilized. Mr. Desai that he can do that. Chairman Kubes asked if the liquor handling manual was the previous owner's. Mr. Desai replied that it is a combination of old and new information. Chairman Kubes asked if suspension guidelines would be listed. He added that fines have recently been raised and employees should be made aware of that fact. Chairman Kubes asked who would be in charge of restocking the shelves and the locked storage area for liquor. Mr. Desai replied that one of his employees will be in charge. Chairman Kubes asked if there were still swinging doors in the back. Mr. Desai said they are open, but to employees only. Chairman Kubes asked Mr. Desai why he chose Downers Grove as a location. Mr. Desai said he likes it and it's a good neighborhood. Upon further questioning, Mr. Desai said that he is aware of the controlled buy program, fines and hours of service.

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

MR. BARNETT MOVED TO FIND SAIRAM, INC. D/B/A DOWNERS GROVE FOOD MART QUALIFIED FOR A CLASS "B-2-C" LIQUOR LICENSE. MS. KING SECONDED.

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

Nay: None

Abstain: Mr. Durkin

MOTION CARRIED: 6:0:1

Moose Endeavors, Inc. d/b/a White Hen Pantry, 4240 Main Street

Chairman Kubes said the applicant is seeking a Class "B-2-C" license to authorize the retail sale 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. He asked that those present representing the applicant come forward and be sworn in.

Mr. Philip Mancione introduced himself as the President of Moose Endeavors, Inc. He said that he worked at the store for 24 years, since he was 16 years old. His uncle previously owned it.

Mr. Barnett said that he wished to express his concern about the challenge on Main Street insofar as congregation in parking lots. He said that he is somewhat nervous about the potential for juveniles to ask someone to purchase alcoholic beverages for them. Mr. Mancione said that he's heard of the other White Hen Pantry experiencing that problem, however, he has not. He said that he tries to be aware of the direction a customer is coming from. He added that he will alert his employees to do so also.

Mr. Durkin asked Mr. Barnett to clarify. Mr. Barnett said that since the store is adjacent to a residential area, it lends itself to a higher incidence of such occurrences.

Mr. Durkin asked the different roles Mr. Mancione took on at the store during his 24 years. Mr. Mancione replied that he has worked full-time since he was 18 years of age. He has been Store Manager since then. He added that he is TAM certified, as of March 29th.

Mr. McNerney asked for the controlled buy history of the store. Mr. Mancione said their record is excellent, including a recent controlled buy pass on April 14th. He added that the employees are the same, except for one new employee. Mr. Mancione said there is a total of 8 to 10 employees. The only underage employee is returning from college.

Ms. Dietrich asked the procedure of a customer who approaches the underage employee. Mr. Mancione said that the underage employee will most likely stock, whereas employees over 21 years of age will be up front at the register. She asked if a perpetual calendar is displayed. Mr. Mancione replied yes. He added that any liquor or tobacco sale, as it scans, will automatically prompt the age date which has to be approved.

Chairman Kubes asked if the store ever failed a controlled buy. Mr. Mancione said violations occurred in 1982 and 1994. He added that he was not present on either date. Chairman Kubes commented that in 24 years, the record is excellent. Mr. Mancione said that his uncle always congratulates employees who pass a controlled buy. Chairman Kubes stated his pleasure at White Hen's process of certification. For example, the videotape for employees. He asked Mr. Mancione if he plans to utilize the White Hen Liquor Handling Manual. Mr. Mancione replied that he will and added that any red IDs will be declined. Chairman Kubes asked how employees will be reprimanded. He also asked if suspension guidelines will be listed, along with fines, if they do serve to a minor. Mr. Mancione said the new fees have been posted for the last 6 to 8 weeks. He said that he will take everything personally insofar as affecting his business. He added that an employee will be fired for a violation. Chairman Kubes said he wants to ensure that employees know all the rules and regulations.

Chairman Kubes echoed Mr. Barnett's concern about teenagers congregating at his store since there is a baseball field nearby. He asked if Mr. Mancione has been overwhelmed by too many teenagers. Mr. Mancione said the baseball field is several blocks away and

the demographics have changed. Chairman Kubes asked if Mr. Mancione has ever had to put a sign on the door restricting more than 2 teenagers at a time. Mr. Mancione said he has never had that problem. He added that teenagers have more options of places to go, such as Walgreens. He said that he can see every corner of the store via 4 video cameras. Chairman Kubes commented that Mr. Mancione appears to be very proactive. Chairman Kubes asked about the storage of alcoholic beverages and whether it would be locked. Mr. Mancione said that the wine has been removed from the floor and may be relocated. Chairman Kubes asked for the percentage of alcohol sales. Mr. Mancione replied that it's at 7% and will probably not escalate.

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

MR. DURKIN MOVED TO FIND MOOSE ENDEAVORS, INC. D/B/A WHITE HEN PANTRY, 4240 MAIN STREET, QUALIFIED FOR A CLASS "B-2-C" LIQUOR LICENSE. MR. BARNETT SECONDED.

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

Nay: None

Abstain: None

MOTION CARRIED: 7:0:0

AG/HP Hotel Ltd. Partnership d/b/a Esplanade Lakes by Doubletree, 3500 Lacey Road

Chairman Kubes said the applicant is seeking a Class "R" restaurant license to authorize the sale of liquor for consumption on the licensed premises, where the major primary business is that of a restaurant. In addition, bar seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

Mr. Gordon Humbert introduced himself as the General Manager of Doubletree Guest Suites and was sworn in by the court reporter. Mr. Humbert said that he has assumed the responsibility of the operation of the deli restaurant and banquet room on the lower level of the Spiegel Building, located at 3500 Lacey Road. It's about a ¼ mile from the hotel. Attached to the cafeteria is a seating area approximately 10,000 sq. ft. which has a potential for banquets. The liquor service would be for private events only.

Mr. Barnett asked if the banquet room would be closed most of the time. Mr. Humbert replied that the room is opened during the week for the building tenants to have breakfast and lunch. Mr. Barnett asked if the bartenders would be contracted for banquets. Mr. Humbert said the bartenders will be Doubletree employees.

Ms. Conforti said that pursuant to discussions at previous meetings, the Commission recommended that the Village Council authorize an increase in fines to licensees of up to \$15,000. This would allow the Liquor Commissioner flexibility to issue a fine in lieu of suspension. In addition, the draft ordinance would give the Liquor Commissioner the ability to require mandatory certified training as another form of punishment for a violation.

Ms. Conforti said that originally, she planned to place the ordinance on the May 11th Village Council agenda. However, she received a phone call from the Chamber a few weeks after the previous Liquor Commission meeting. Ms. Wysocki asked for clarification and discussion about the ordinance. Ms. Conforti explained that it would be used as a tool to allow the Liquor Commissioner more flexibility to issue fines in lieu of a suspension, should it be requested. She attended the Chamber Legislative Committee meeting on Tuesday morning and there was some concern with regard to the Liquor Commissioner's ability to potentially fine a licensee up to \$15,000. Ms. Conforti noted that would probably not be the case, unless circumstances warranted it. The Chamber indicated that they would like to review this issue further, perhaps with licensees. Ms. Conforti told the Chamber that she would again present this issue to the Liquor Commission before approaching the Village Council.

Ms. Conforti commented that fines typically are \$1,000. She said the intention may be to allow a licensee the ability to "buy back a suspension day" at the cost of perhaps \$1,000 each. Per Ordinance, a license can be suspended up to 30 days. A first violation is typically one to three days. Ms. Conforti said that Mr. Durkin also attended the Chamber meeting.

Ms. Haider asked where \$15,000 originated. Ms. Conforti replied that it is a State Statute.

Chairman Kubes said that the Commission decided to update the Ordinance in accordance with State Statute. Ms. Janicki-Clark said the Village's ordinance was most likely a form of self-regulation. She added that many communities follow the State Statute and have a \$15,000 cap. She also said it is not unreasonable to give the Liquor Commissioner this kind of authority.

Mr. Durkin said that the Legislative Committee of the Chamber discusses issues that pertain to its business members. Liquor changes were part of the agenda. Mr. Moore, the owner of Shanahan's Pint House, attended the meeting and presented the same case that the Liquor Commission heard the previous month. Mr. Durkin said the discussion was wrapped around the penalties and violations of Mr. Moore. Unfortunately, some of the information that led up to the penalty was not known by the Legislative Committee. Mr. Moore was asked by the Chamber to head another sub-committee consisting of other liquor license holders to come up with ideas. Mr. Moore told the Chamber that the Liquor Commission, in his opinion, is too eager to issue penalties. Mr. Durkin stated that he believes it's a privilege to hold a liquor license in the Village. He added that it should be taken seriously. He said that he is willing to wait for feedback from the Chamber.

However, the Commission worked for three months on the proposed ordinance and they shouldn't waiver because of one individual's penalty. He added that there should be a deadline for licensees' comment insofar as placing the ordinance on a Council agenda.

Mr. Durkin asked Ms. Conforti to inform the Mayor as to the discussion at the Chamber's Legislative Meeting. Ms. Conforti said that she believes the Mayor would welcome the flexibility. She added that Mr. Moore, for example, would probably have preferred to buy back the days of suspension.

Chairman Kubes said that a day's suspension costs more than just one day of liquor sales because it causes bad publicity. He added that fines and penalties are only for violators. He said that he could understand all the liquor licensees getting together because of increased fees. However, the proposed ordinance only affects violators. Chairman Kubes noted that many of the 70 liquor license holders have never failed a controlled buy. He agreed with Mr. Durkin insofar as setting a deadline to present the ordinance to the Village Council.

Mr. Barnett said that he is interested in the Chamber's input beyond fines. However, he is not interested in revisiting the \$15,000 cap. He suggested sending letters to licensees when changes occur. Mr. Durkin said that the newsletter sent by Ms. Conforti is specifically for liquor. Ms. Conforti said the newsletter is addressed directly to the Liquor Manager regarding ordinance changes, etc.

Mr. McInerney said that although he could not attend the previous meeting, he supports the motion to amend the ordinance. He agreed that he welcomed feedback from the business community. He said, however, that it is important to change the ordinance because of repeat offenders. He feels the issue should be discussed at a Workshop of a Village Council meeting in order to air opinions at a public forum.

Ms. Conforti noted that part of the Findings and Order process allows the violator to appeal the decision to the Illinois Liquor Control Commission.

Ms. King commented that one of the Village's licensees was selling the business when they appeared before the Liquor Commission for a violation. The Commission had no way to discipline them, except for fines.

Ms. Dietrich agreed, however, for the sake of good public relations, suggested that it may be prudent to wait to speak to the Chamber. Chairman Kubes said businesses are choosing Downers Grove because it's a thriving community. He noted that the Liquor Commission strives to be pro-business, for example, they granted a known violator a license because he promised to take his license seriously. Also, the Liquor Commission decided to withdraw the mandatory training option because it might be detrimental to business owners. Ms. Conforti said the Liquor Commission has demonstrated it is pro-business. For example, Mr. Moore suggested eliminating the 60/40 food/alcohol split. The Liquor Commission did eliminate it, based in part by Mr. Moore's request. Chairman Kubes welcomed Mr. Kopis and Ms. Wysocki to appear before the Liquor

Commission in order to get their thoughts. He asked if they were aware of the Commission's viewpoint. He added that the Liquor Commission's goal is to stop violators.

Mr. McInerney recommended not waiting for the Chamber to come before the Liquor Commission, but suggested their attendance at a Village Council Workshop. He said there is no reason to delay. He added that all Commission members are supportive of the motion and the intent of the ordinance change.

Chairman Kubes said that he would like to know the Council's opinion. He added that the ordinance follows State Statutes. Mr. Barnett said the Liquor Commission spent the last three months discussing the ordinance and agree on its substance. He is inclined to present the ordinance to Council and not delay.

Mr. Durkin said that he is a member of the Chamber's Legislative Committee. He said there was no official motion or direction from the Chamber to do what Mr. Moore suggests. He said he agrees with the Commission members. They have done their job and made a recommendation and feels that it should proceed to Village Council. After further discussion, the Commission members agreed that the revised ordinance offers opportunities for an element of negotiations for licensees.

Ms. King asked what procedure Ms. Conforti will utilize. Ms. Conforti said that she plans to call Ms. Wysocki and explain what occurred at this evening's meeting. She will then forward Ms. Wysocki the completed minutes. She will place the ordinance on the Council agenda for May 25th. She will invite Ms. Wysocki to that meeting.

Ms. Dietrich suggested tabling the issue for another month in order to provide the Chamber with some time. Ms. Conforti said that if the Village Council has any doubts about the ordinance, they would most likely send it back to the Liquor Commission. Mr. McInerney said that the Liquor Commission has a responsibility to the citizens to make decisions and recommendations. The process is there to continue the discussion in a public forum, such as the Village Council Workshop. Chairman Kubes added that the Commission is not preventing businesses from moving into town. The Commission is trying to prevent current businesses from committing violations.

Mr. Barnett said there might be value for setting a tone and precedent for interaction with the Chamber. Ms. Conforti said that one of the goals of the Liquor Commission was to reconsider fines. She said there has been ample opportunity for licensees to discuss this issue. She stated that any opposition could still occur at the Council level.

MR. McINERNEY MOVED TO PRESENT THE AMENDED ORDINANCE WITH PENALTIES, AS DISCUSSED AT THE APRIL 8TH LIQUOR COMMISSION MEETING, TO COUNCIL FOR CONSIDERATION. MR. DURKIN SECONDED.

VOTE: Aye: Mr. McInerney, Mr. Durkin, Mr. Barnett, Ms. Haider, Ms. King,

Chairman Kubes

Nay: Ms. Dietrich

Abstain: None

MOTION CARRIED: 6:1:0

Mr. Durkin asked Ms. Conforti to contact Ms. Wysocki in order for their subcommittee to present information at the May 25th Village Council Workshop meeting. He also suggested asking the Chamber to provide a letter to the Liquor Commission addressing their concerns. Chairman Kubes also suggested the Chamber attend the next Liquor Commission meeting with any information.

Ms. Haider asked how the license holders would be notified if the ordinance passes Council's approval. Ms. Conforti replied that they would receive a newsletter. Ms. Haider said the proposed ordinance affords licensees an opportunity to negotiate time or money. She added that it's a positive proposal.

Advertising Provisions

Ms. Janicki-Clark said that the Village's sign ordinance is in the process of being reviewed. Mr. Durkin suggested looking into the sign ordinances of Darien, Burr Ridge and Oak Brook. Ms. Janicki-Clark said it would be a way to regulate the types of signs they have discussed. She said that she has done more research and is still concerned about proving a correlation between advertising and alcohol consumption. She said the Village will have to produce significant, factual foundations in order for the regulation to be upheld.

Mr. Barnett commented that the existing ordinance exhibits a disconnect logically. For example, you can't advertise a Miller beer, but it's permissible to advertise beer, in general.

Ms. Janicki-Clark said that the Plan Commission is currently working on the sign ordinance. She suggested waiting until the Plan Commission has a completed product. She added that she will discuss the Liquor Commission's concerns with them.

VI. NEW BUSINESS

Ms. Conforti said that Big Dogs was issued a liquor license. Sam's Wine & Spirits will receive their license on June 1st. Qdoba is in the process of opening and was issued a license on May 1st. Emmett's will receive their license on May 17th and plans to open on the Memorial Day weekend.

Ms. Conforti said that licensees can request extensions of liquor servicing hours. They are typically issued on holidays, etc. On occasion she receives requests for before-service hours. For example, some licensees would like to have champagne brunches.

Licensees can request an extension twice a year. One of the licensees has already used their limit and asked if the Commission would consider increasing the limit.

Chairman Kubes said he feels this is a good idea and is pro-business. He said that it's not abused by anyone. He said that he is fully in favor of increasing the limit to 4 or 5. Ms. Conforti suggested 2 late night extensions and 2 early extensions. Chairman Kubes asked if it is currently free. Ms. Conforti replied yes. However, a fee for the additional extensions could be added. She said that extensions are granted at the discretion of the Liquor Commissioner. Ms. Conforti said licensees can serve 3 hours prior to or 1 hour after regular serving hours.

Mr. McNerney said that he welcomes additional opportunities for liquor licensees, but at a fee. Mr. Barnett said that he would prefer not to segregate the morning and evening hours. Chairman Kubes stated that the first 2 extensions should be free, but additional extensions should be at a fee. Ms. Conforti said that she will present a recommendation to the Commission at the next meeting.

Mr. Durkin asked if any problems were experienced at Balleydoyle's on St. Patrick's Day. Ms. Conforti said that she spoke to the Police Department and the Fire Prevention Department and there were no problems, except for one DUI.

Mr. McNerney proposed that Ms. Conforti check into the enforcement of kitchen service prior to one hour before closing, since the elimination of the 60/40 ordinance. He said the recommendation is pro-business, but he's concerned about coming up with a system to determine if licensees are consistent with the change in the ordinance. He said that he's been at establishments where the kitchen is closed.

VII. COMMENTS FROM THE PUBLIC

There was none.

VIII. ADJOURNMENT

MR. DURKIN MOVED TO ADJOURN THE MEETING. MR. McINERNEY SECONDED.

The meeting was adjourned by acclamation at 8:26 p.m.