

APPROVED 9/2/04
DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE

August 5, 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. McInerney, Ms. King,
Chairman Kubes

ABSENT: Mr. Durkin, Ms. Haider

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

OTHERS: Bob Eisenberger, American Legion

III. APPROVAL OF MINUTES

**MS. DIETRICH MOVED TO APPROVE THE MINUTES OF THE JULY 8,
2004 LIQUOR COMMISSION MEETING AS PRESENTED. MR. BARNETT
SECONDED.**

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

Nay: None

Abstain: None

MOTION CARRIED: 5:0:1

Chairman Kubes made the following statements:

“I would like to remind those present that this evening’s meeting is being recorded on Village-owned equipment. Staff is present to keep minutes for the record.”

“The only order of business for this evening’s meeting is discussion of a proposed ordinance concerning bingo/charitable gambling at liquor licensed establishments.”

“I would request that the Commission members give their thoughts on the proposed ordinance contained in their packet.”

IV. Ordinance Re: Gambling (Bingo/Charitable Games)

Mr. Barnett referred to page 1 of 4 of the draft ordinance which amends provisions for not-for profit clubs and gambling on liquor licensed premises. He specifically referred to the second section in the amendment area which states that “*an applicant (not-for-profit organization) and the co-applicant shall be required to submit documentation that they are licensed by the State to conduct the charitable games, etc.*” He asked Ms. Conforti to explain the process and added that it surprised him that the co-applicant is required to demonstrate the legality of providing games. Ms. Conforti replied that after reviewing Illinois Department of Revenue documents, it was discovered the site location has to obtain a license as well. A Special Event Liquor License Application notes that a Provider’s License Number is required from the licensee.

Ms. Dietrich asked if there is a fee for the process. Ms. Conforti said a not-for profit entity could get either a year’s license or a specific number of events. She believes that the Provider’s license is probably similar, but was unsure of the exact cost.

Mr. Barnett noted that on page 3 of the same document, it states that a “*Special event will last no longer than two days. Special events held pursuant to Section 3.33(a)(2) shall last no longer than one day.*” He queried as to whether the timeframe should refer to hours rather than days. He explained that a bingo night could go until 1:00 a.m. and therefore, should be spoken in terms of hours rather than days. Ms. Conforti said that typically, Special Event Licenses don’t go past midnight, however, if it did, the event could technically be counted as two days.

Chairman Kubes noted that it would have to coincide with the applicant’s Liquor License. Ms. Conforti said liquor service has to be stopped at the prescribed hours pursuant to the ordinance. Ms. Clark suggested clarification by revising language to refer to a 24 consecutive hour period. Ms. Conforti said that she will also include in the Special Event section, the referral back to the allowable Downers Grove’s liquor serving hours. Chairman Kubes noted the possibility of liquor service ending at 1:00 a.m., but the bingo or a casino night event lasting until 3:00 a.m. or 4:00 a.m.

Mr. McInerney asked if the proposed ordinance addresses the issue brought up by the Moose, VFW and American Legion at the previous Liquor Commission meeting. Ms. Conforti said yes, it will address their issue of allowing bingo upon their premises. She added that this draft ordinance also opens the door for other licensees to host casino nights, but not bingo.

Chairman Kubes asked if the proposed ordinance is legally sound. Ms. Clark replied yes. Ms. Conforti said that once the ordinance gets passed, she would forward a copy to the Illinois Department of Revenue.

Ms. King asked if the Village of Downers Grove would be the only community to allow casino nights. Ms. Clark said that neighboring municipalities mostly prohibit liquor sales and gambling, however, the activities have occurred anyway. By passing the ordinance now, the activities can be regulated. Mr. Barnett said that most ordinances prohibiting this were not directed towards not-for profit organizations.

Ms. King asked how the Village makes sure that all the monies go towards charities. Ms. Conforti replied that the State insures the money is properly disbursed. She added that the Illinois Department of Revenue performs audits and have very strict rules governing disbursements. She added that the Village receives some of the tax dollars from the activities.

Ms. King asked about event limitations. Ms. Conforti replied that 3 events will be allowed per year. Ms. King said her friend is an event planner. She asked what would happen if the event planner charged a large sum of money for planning the event, thereby receiving the bulk of the proceeds. Ms. Conforti replied that most charitable organizations plan the event themselves. Also, an event planner cannot utilize someone else's license from the State, unless authorized by the charitable organization. Ms. King asked if the rule still applied about a bet not exceeding \$10 and a maximum prize of \$250. Ms. Conforti said that the State regulates the betting range. She added that the State dictates everything that the not-for profit organizations have to comply with when conducting the activity. The Village will see no record of any documentation nor how the gambling activity is run.

Ms. Dietrich said a concern was discussed at the last meeting regarding the Esplanade holding numerous gambling/casino nights. This concern is addressed by placing a limit of 3 special events per year. Chairman Kubes asked if they could hold a non-alcoholic function on their own site. Ms. Conforti replied that they could and the Village would not regulate them if no alcohol was involved.

Mr. Barnett asked if a non-licensee could apply for a Special Event liquor license and then conduct a casino night. Ms. Clark replied no. She added that further language will be added in that licensees holding an "annual" license would qualify.

Ms. Conforti said the intent is to allow licensees the ability to hold casino nights; but regulate the activity so as not to receive an influx of them. This will also allow a tighter reign upon the activities. Mr. McInerney said he agrees with the addition of applicants holding an *annual license*. He said this way, the license will be processed through a public forum. Ms. Conforti added that it may be in the Village's best interest to allow gambling activities and drinking to occur with experienced licensees as opposed to allowing them for non-licensed entities.

After further discussion, Chairman Kubes summarized the change to the draft ordinance by including that *valid annual license holders be allowed to apply for a special event and that the event be limited to a single consecutive 24 hour period.*

Chairman Kubes questioned the event application fee structure and asked why there is not one flat fee. Ms. Conforti said the fee was probably structured to accommodate smaller activities and has been on the books for a number of years. Mr. Barnett agreed that since the purpose of fees is cost coverage, he echoes Chairman Kubes' desire a one flat fee. Ms. Conforti said most Special Event Applications require minimal paperwork, and are approved by the Mayor and are not brought before the Liquor Commission. However, if an event requires a hearing, it is more costly. She suggested having an application fee for an event that requires a hearing and a fee if it is approved administratively. Chairman Kubes agreed, but added that a \$25 fee seems inadequate. Ms. Conforti said that she would be comfortable with a revised fee for a non-referred application. Chairman Kubes said that a \$200 non-refundable fee seemed appropriate. Ms. Conforti said that she would work on a cost analysis for a fee for applicants with or without a hearing referral to the Liquor Commission.

Ms. King asked if the Liquor Commission would review future casino night requests. Ms. Conforti said that it will depend on the organization involved and also upon the Mayor's comfort level with the applicant. Chairman Kubes stated that applications would have to be considered on a case-by-case basis.

Ms. Dietrich suggested a letter of explanation upon application saying that the fee is at the discretion of the Mayor. Chairman Kubes agreed with charging an initial fee upon application with an increase if a referral to the Commission is required. Ms. Dietrich added that an explanation with possible reasons for referral should also be included. Ms. Conforti said that she would add that information to a cover letter.

Mr. Barnett suggested an application fee of \$100. However, if the Liquor Commissioner requires a review by the Liquor Commission, there will be an additional \$100 fee. Mr. McInerney agreed.

Chairman Kubes asked for a timeframe for this to be presented to Council. Ms. Conforti replied that August 24th Council Workshop is the target date. She said that she would send a cost center analysis to the Liquor Commission members. Chairman Kubes reiterated that he would like the fee based on attendance eliminated and a structured fee be created, based upon referral and non-referral to the Liquor Commission. Ms. Dietrich recommended that the cover letter indicate that the fee is to cover administrative costs.

Chairman Kubes asked if anyone in the audience would like to comment. Bob Eisenberger of the American Legion said that he was concerned about the ordinance concerning gambling. Chairman Kubes summarized that the Liquor Commission agreed to allow gambling in licensed establishments, such as bingo nights for not-for profit organizations, as long as State Statutes and bylaws are adhered to.

Chairman Kubes asked for a motion regarding the aforementioned changes.

MR. BARNETT MOVED TO RECOMMEND THAT THE ORDINANCE AMENDING PROVISIONS FOR NOT-FOR-PROFIT CLUBS AND GAMBLING ON LIQUOR LICENSED PREMISES BE FORWARDED TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. McINERNEY SECONDED.

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

Nay: None

MOTION CARRIED: 5:0:0

V. OLD BUSINESS

Ms. Conforti presented the following information regarding a North Beach update to the members of the Liquor Commission. North Beach has established the following:

- A designated Thursday “spotter”
- *Victim Impact Panel* videotape viewing as part of training.
- Designated Driver Program in place.
- All outside advertising of the Thursday drink specials have been discontinued.

In addition, North Beach has implemented the following:

- Announcement of last call on Thursday night has been stopped.
- Buffet is available to patrons on Thursday’s close.
- Managers are now subject to fines based on DUI notifications.
- A bonus has been provided based on a significant reduction of DUI’s.

Ms. Conforti said that a DUI recently occurred from North Beach. They are still being monitored and she now e-mails North Beach within 2 weeks of the incident as opposed to them waiting to hear from the Police Department.

Mr. Barnett said he believes the police have increased DUI enforcement. He noted that percentage wise, North Beach has had the same percentage of arrests as last year.

Ms. Conforti said there are 208 DUI’s to date this year, whereas last year there was a total of 282. Ms. King said that Manager Ginex commented at a recent meeting that the Police force is young and aggressive. Ms. Clark added that DUI cases are running at a guilty plea of 93%.

Mr. Barnett said that he wouldn’t want a public perception that licensees are not serving responsibly because of the increased number of DUIs. Ms. King asked where the DUI funds go. Ms. Clark said that the Police Department receives a \$100 tech fee for a first time offender, \$200 is received for a second offender. This goes directly to the Police

Department and must be used for DUI enforcement for either squad cars or breathalyzers, etc. However, fines go into the general fund.

Mr. Barnett asked if there was any way to promote the sharing of ideas between licensees. For example, cash rewards for finding fake identifications. He added that it would be helpful to the community if those ideas were proactively shared amongst licensees. Ms. Conforti said that she could include this information in the *Liquor News*. Mr. McInerney suggested asking licensees to contribute their best practices. Mr. Barnett said a portion of the newsletter could be designated to an idea of the month.

VI. NEW BUSINESS

Ms. Conforti said a copy of the Open Meetings Act was recently distributed to board and commission members as a reminder that conversations amongst a majority of a quorum is prohibited. Ms. Conforti clarified that staff disbursing information such as a cost center or forwarding an ordinance is not a violation of the Act. Discussion amongst members about the information either verbal or via e-mail might be however.

Ms. Conforti said she recently distributed a copy of the 2003/04 Annual Report. This report provides the Village Council with information regarding liquor license activities. It also includes changes to ordinances, revenue generated and standard programs. She asked if there were any questions regarding the report. Mr. Barnett commented that there seems to be a cycle insofar as controlled buy statistics. Ms. Conforti replied that the cycles reflect changes in the ordinance and increases in fees and suspensions. Mr. Barnett said that a routine adjustment upwards in fees might be warranted.

Ms. Conforti stated that there are currently 71 licensees, which is the highest number of licensees the Village has had to date.

Ms. Conforti stated that Sam's is scheduled to open around August 17th.

Mr. Barnett asked if classifications could be discussed at the next Liquor Commission meeting. He said that an "E" license hasn't been issued for 10 years and asked if there is a need for one. Also, he asked if "D" licenses are old licenses and newly issued are classified as "R". Ms. Conforti replied that "D" licenses have been grandfathered because their requirements were based on seating. However, the new "R" classification reflected the 60/40 split. It was agreed that "D" licenses would not have to meet the new "R" requirements. Since the elimination of the 60/40 split, there is a potential that bar/lounge seating for some of the existing licensees may be over 20%. Mr. Barnett suggested having less classes, more consistent grouping and minimizing distinctions.

Mr. Barnett added that creation of a probationary license might offer opportunity. If a licensee had 2 ordinance violations, it could move them into a probationary status. This would last one year, but carry a higher fee that pays for additional monitoring or testing. He said that very few establishments would be subject to this. He stated that having a

system, which demonstrates how a licensee gets to the probationary point, would be useful. Mr. McInerney agreed that a probationary license is a good idea.

Ms. Conforti said the next meeting is scheduled for September 2, 2004.

VII. COMMENTS FROM THE PUBLIC

There were none.

VIII. ADJOURNMENT

Chairman Kubes called for a motion to adjourn.

MR. McINERNEY MOVED TO ADJOURN THE AUGUST 5, 2004 MEETING.

The meeting was adjourned by acclamation at 7:45 p.m.