

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

Thursday, June 2, 2005

I. CALL TO ORDER

Chairman Kubes called the June 2, 2005 Liquor Commission meeting to order at 6:40 p.m.

II. ROLL CALL

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

ABSENT: Mr. Durkin

STAFF: Attorney Ann Marie Perez, Liaison to the Liquor Commission Carol Conforti

OTHERS: Mr. Phil Cullen, Mr. Tony Abstita, Joe Mengel, Donnacha Geary

III. APPROVAL OF MINUTES

MS. KING MOVED TO APPROVE THE MINUTES OF THE MAY 5, 2005 LIQUOR COMMISSION MEETING. MS. DIETRICH SECONDED.

VOTE: Aye: Ms. King, Ms. Dietrich, Chairman Kubes

Nay: None

Abstain: Mr. Barnett

MOTION CARRIED: 3:0:1

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 and a court reporter is present to take the minutes verbatim.”

IV. APPLICATION FOR LIQUOR LICENSE

"Our first order of business 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 findings by the Commission."

"A court reporter is present to take the proceedings verbatim. Staff is also present for purposes of summarizing the proceedings."

White Hen Pantry, 5105 Fairview Avenue

Chairman Kubes stated that K-Meal, Inc. d/b/a White Hen Pantry located at 5105 Fairview Avenue is seeking a Class "B-2-C", beer and wine only, off-premise consumption license.

Chairman Kubes asked any individuals in the audience who will represent the applicant to step forward and be seated. He asked that any individual giving testimony be sworn in by the Court Reporter and to state and spell their name for the record and indicate their affiliation with the establishment.

Mr. Robert S. Rager was sworn in by the Court Reporter. He said that he is the franchisee. Catherine Rager introduced herself as the wife of Robert Rager and also a franchisee. Mr. Rager said that he is seeking a liquor license for the White Hen Pantry located at 5105 Fairview Avenue. Mr. Rager provided a letter which he read to the Commission. The letter stated that he was TAM certified on April 27, 2005. He plans to use the program to train all their current employees as well as new employees. A TAM manual will also be on hand in the store. Current and appropriate signage will be posted at the store including the sale hours of Monday through Friday from 8:00 a.m. to 1:00 a.m., Saturday from 8:00 a.m. to 2:00 a.m. and Sunday from noon to 1:00 a.m. The cooler doors will be locked during non-sale hours. Displayed wine will be located in line with the register so that it can be easily be monitored. His registers prompt for age identification when any liquor or tobacco sales are attempted. No traffic tickets nor red

ID's will be accepted. Out-of-State ID's will be cross-referenced and no invalid ID's will be taken. All employees will sign an agreement of understanding which will remain in their employee file. They will know that it is better to deny a sale than to be wrong. He will abide by and enforce all rules. He hopes that he has provided sufficient information and assurance that will help with the Commission's decision to grant his store a liquor license in the Village of Downers Grove.

He added that both he and his wife have been residents of Downers Grove for 22 years. They feel that they have an obligation to the community to make sure that their services are properly utilized. It is just as important to him as it is to the Commission that their products are properly sold to the right individuals that are able to buy them and to keep them out of the hands of people who shouldn't be buying them. He stated that his wife is also an employee of Downers Grove Township. They are both aware of the importance of their obligation to the community. Ms. Rager noted that they reside three blocks from the store and they do not want to do anything that would embarrass themselves or their community.

Ms. Dietrich asked when the Ragers plan to take over. Mr. Rager replied that he took over as of May 24th. Ms. Dietrich said that everything looks in line. She said that White Hen Pantry has a good track record and wished them luck.

Mr. McInerney asked Mr. Rager to expand on his liquor handling experience. Mr. Rager said that he can only reassure the Commission that he will properly enforce all the rules set by the guidelines of the Downers Grove community and the State of Illinois. Mr. McInerney asked if Mr. Rager will be on site. Mr. Rager replied that he currently is on site and plans to remain so.

Ms. King asked Mr. Rager about his experience. He replied that he has spent 25 years in the restaurant industry and also has an accounting background. He worked part-time for Carson's and has quite a bit of retail experience.

Mr. Barnett had no questions. He stated that previous experience with White Hen Corporate has been that they are a good support group.

Mr. Tony Abstita was sworn in by the Court Reporter. He said that he is the area manager for White Hen Pantry. He commented that White Hen Pantry strives to be a good neighbor in whatever community they're located in. He said the corporate office helps franchisees to identify potential problem areas with employees. They utilize a green card/red card program which uses a secret shopper.

Chairman Kubes reviewed the application to insure that it was in order. Ms. Rager said that she worked for Jewel Food Stores for 30 years and was a manager. Even though she personally doesn't handle liquor, she is very familiar with retail and problems associated with liquor handling. She, however, will be on-site very little.

Chairman Kubes said that he is very pleased with White Hen Pantry procedures. He added that college students will try to purchase alcohol from a new business, such as theirs. Chairman Kubes asked for the number of employees. Mr. Rager replied there will be between 8 and 10 employees. He said that two of his employees have been tested and they both have received green cards. Chairman Kubes asked if all of the alcoholic beverages would be on display. Mr. Rager replied that most of it will be on display because there is limited storage space. The remainder will be located in the cooler. Mr. Rager added that a 4-camera surveillance system will be installed. Chairman Kubes asked if Mr. Rager is aware of ramifications for a sale of an alcoholic beverage to a minor. Mr. Rager said he is aware of the consequences.

Ms. King commented that the White Hen Pantry on Main Street experience problems with kids hanging out in front of their store. Mr. Rager said that he has not seen any problems at his location. Ms. Rager said that she is a prevention specialist for substance abuse and violence prevention. Therefore, she is very aware of the dangers of selling to kids and problems associated with loitering in parking lots.

Ms. King referred to decals on the windows possibly blocking the view to the parking lot. Mr. Rager replied that their decals have been cut to 2 ft. high so that the parking lot is easily visible. He added that he may use see-through signage.

Chairman Kubes said that he is concerned about adults entering the store to purchase two six-packs; one for themselves and the other for a teenager outside. He said it would be beneficial to make employees aware of that type of situation.

Chairman Kubes asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant before us with regard to their Class "B-2-C" liquor license application.

MS. DIETRICH MOVE TO FIND K-MEAL, INC D/B/A WHITE HEN PANTRY, LOCATED AT 5105 FAIRVIEW AVENUE, QUALIFIED FOR A CLASS "B-2-C" LIQUOR LICENSE. MS. KING SECONDED.

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

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

Chairman Kubes concluded the application hearing for this evening's meeting.

V. OLD BUSINESS

Chairman Kubes said that he is very pleased with White Hen Pantry procedures. He added that college students will try to purchase alcohol from a new business, such as theirs. Chairman Kubes asked for the number of employees. Mr. Rager replied there will be between 8 and 10 employees. He said that two of his employees have been tested and they both have received green cards. Chairman Kubes asked if all of the alcoholic beverages would be on display. Mr. Rager replied that most of it will be on display because there is limited storage space. The remainder will be located in the cooler. Mr. Rager added that a 4-camera surveillance system will be installed. Chairman Kubes asked if Mr. Rager is aware of ramifications for a sale of an alcoholic beverage to a minor. Mr. Rager said he is aware of the consequences.

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Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

Chairman Kubes concluded the application hearing for this evening's meeting.

V. OLD BUSINESS

Chairman Kubes asked for an update from staff or comments from the Commission at this time regarding any old business.

Ms. Conforti referred to an ordinance amending the sale and promotion of alcoholic liquor and asked for any thoughts or concerns regarding this ordinance.

Mr. Barnett said that the problem he has with the ordinance change is that he believes there is a disconnect between the intent of the ordinance and use of table tappers. He said that it's not so much the table tapper itself nor is it Ballydoyle's ability to control the item, but a clear intention set by the ordinance that primary business is that of a restaurant. He added that there is not a clear intent from the Council that they want to alter the intent of the licensing structure. Therefore, he is not comfortable with it.

Ms. King said that she'd have more of a problem with table tappers if the alcoholic beverage is kept cool. She said that she agrees with the draft ordinance as written because it limits the amount to be served.

Mr. McInerney said that he agreed with Ms. King insofar as placing a limit on the ounces per service is appropriate. He said that the Commission members collectively agreed that the current ordinance doesn't address large quantity service. He said the intent is to place some type of limitation on it. He's not exactly comfortable with providing for containers greater than 64 ounces. His interpretation of a restaurant as defined in the ordinance is not aligned with the spirit of the ordinance change. He added that the ability of establishments to monitor a larger amount of alcohol would be hindered. He said that it's the responsibility of the Commission in terms of seeing that overconsumption is not a problem in a community. He said that he is not comfortable with the language as is, but he believes they are moving in the right direction by trying to put an ounce restriction in the current ordinance. He said that he would be comfortable with a limit of 64 ounces on beer service rather than 96 ounce.

Ms. Dietrich said she is comfortable with the re-write. She said that she understands Mr. Barnett's point as far as it is a sales gimmick for Ballydoyle. Mr. Barnett replied that two meetings ago, Ballydoyle said that it is a draw and that it was going to assist their wait staff in managing people. He stated that seems to be in contrast to the intentions of the ordinance. Ms. Dietrich said that use of the table tappers does not take away from the restaurant atmosphere. She said that she doesn't see a problem, especially with the ratio of beer per person.

Mr. McInerney commented that 96 ounce unit of beer becomes the center of attraction at the table and queried if that is within the parameters of the definition of a restaurant. Ms. Dietrich noted that there are other attractions, such as entertainment.

Mr. Barnett said that Ballydoyle has numerous draws beyond alcohol, however, not every facility does. He noted that Ballydoyle has a self-imposed limit of 2 pitchers per table. Ms. Dietrich stated that restaurants are responsible for proper liquor service. She added that the table tapper concept is a novelty now, but may be commonplace in the future.

She said the ordinance might be able to control some of the future issues which may arise.

Chairman Kubes agreed and said that nothing in the previous ordinance referred to table tappers. He asked if there would be problems with using a 64 oz. tapper. He said the ordinance would allow fewer ounces for more people which will promote more waiting at the tables. He asked Ms. Conforti if she contacted the manufacturer of tappers. She replied that she did not. Chairman Kubes said he believes the Commission's task is to make sure that the ordinance is feasible for everyone in the community. He said this ordinance provides for safety and fulfills all the requirements. It allows patrons to purchase the table tapper and use it at their premise without overabuse or overserving. He said the ordinance sets guidelines which can be adjusted in the future, if needed.

Mr. Barnett said the only time the Commission sees disciplinary action is if someone fails a control buy. He's said it's unrelated to their ability to enforce or try to cause enforcement of responsible behavior. He added that a single licensee is asking to utilize tappers which generally are not reconcilable with the intent of the ordinance. The intent is that liquor sales are incidental to food service. This ordinance chips away at that intent. He said that he would like confirmation from the Liquor Commissioner that he wishes to move in that direction.

Ms. King noted that this is important to Ballydoyle because a representative has attended every meeting. Mr. McInerney said that Ballydoyle has a good reputation, however, they are looking at licensees as a whole and how issues can be applied.

Mr. Barnett asked Ms. Perez and Ms. Conforti if the Village could place a limit on tappers which may discourage overindulgence. Mr. Mengel, a representative of Ballydoyle, noted that tappers are more cumbersome to fill. He added that their number of staff members has increased. He said that they have self-imposed limits and noted that they refused to serve tappers recently because only 2 people sat at a table.

Mr. Cullen said that Ballydoyle's is still 60% food sales and 40% liquor. He cited an example of a table of 12 adults who ordered tappers and said it's just a fun thing to do. He said it's a novelty and not cheap at nearly (\$100) per tapper. He said the average grill won't offer tappers.

Mr. Cullen said it is important to their business. Ballydoyle's is the only establishment that has bands and Ballytappers and various things. He asked that an ordinance not be written for the worst person. However, if the ordinance is abused, then present the issue before the Liquor Commission again. Mr. Mengel said in essence, it becomes a more responsible drinking atmosphere. He agreed that tappers are a novelty and a marketing tool.

Chairman Kubes said that he had a problem at first with tappers because any licensee is allowed to have them. He doesn't feel that every establishment deserves to have them, especially if it isn't regulated. Also, it was never stated as to what can go inside the

tappers. He said he wouldn't like to see Long Island Ice Teas or Bloody Mary mixes, for example, being served from a table tapper. He wants to insure that the wording is in the ordinance that states only beer can be served to four people or more.

Mr. McInerney said that he feels that pitchers are more accepted as a conventional form of distributing beverages at restaurants. He said that as the quantity of a container is increased, it's less than incidental and more of a centerpiece of an activity. That disconnect is not aligned with the mission of the Commission.

Mr. Barnett asked staff about the registration issue. Ms. Perez said that a keg of beer can be traced when purchased for a party, however, that won't happen at a restaurant. Mr. Barnett said that registration of table tappers at a restaurant may provide a hurdle that some don't want to be involved in.

Chairman Kubes asked if something could be added to the ordinance that if tappers are utilized at a business, that they have to notify the Village and update liquor handling manuals to reflect policies governing the service of table tappers. Ms. Conforti said that there is nothing in the ordinance requiring establishments to provide that type of information. She added that type of information should be requested at the time of application and included in the manual. Chairman Kubes said that Liquor Handling Manuals should be updated to address information regarding table tappers, etc.

Ms. Perez suggested the following: If any alcoholic beverage is being served in a single container larger than 64 ounces, licensees submit an addendum to your liquor training manual along with your renewal.

Mr. Barnett asked if the alcoholic beverage could be distinguished in the ordinance. Ms. Perez said that Naperville does so. Mr. McInerney said that Naperville only allows pitchers of Margaritas or beer. Mr. Barnett said that he prefers to indicate the distinction in the revised ordinance.

Mr. Barnett asked the representative of Ballydoyle's about his opinion. Mr. Mengel suggested referring to not more than two types of spirits per pitcher.

Chairman Kubes suggested revising one portion, 5.a: A single container not exceeding 96 ounces of beer

MS. KING MOVED TO AMEND THE ORDINANCE AS PRESENTED AND ADD THAT THE SPIRITS CONTAINED IN A PITCHER SHALL NOT EXCEED 2 SPIRITS. SECONDED BY MS. DIETRICH.

VOTE: Aye: Ms. King, Ms. Dietrich, Chairman Kubes

Nay: Mr. McInerney, Mr. Barnett

Abstain: None

MOTION CARRIED: 3:2:0

Chairman Kubes noted that this would be presented to the Council along with the Liquor Commission Members thought, concerns and comments. Ms. Conforti said that it may be presented to Council on June 28th. She also asked for a motion to forward this ordinance to Council.

MS. KING MOVED TO FORWARD THE AMENDMENT TO THE COUNCIL FOR FURTHER REVIEW. MS. DIETRICH SECONDED.

VOTE: Aye: Ms. King, Ms. Dietrich, Chairman Kubes

Nay: Mr. McNerney, Mr. Barnett

Abstain: None

MOTION CARRIED: 3:2:0

Mr. Barnett asked if the *Newsletter* contains a specific column to share good ideas with licensees. Ms. Conforti replied that she has done so. Ms. Conforti advised the Commission that she attended a Chamber forum with invited licensees to discuss liquor issues. She stated that she discussed the container size and table tapper issue. Mr. Barnett suggested having the Liquor Commissioner and Chairman of the Liquor Commission present at these meetings in order to have a non-dialogue with licensees.

VI. NEW BUSINESS

Ms. Conforti said the Grove Fresh Market was issued a liquor license on May 20th. She said that the Liquor Commissioner imposed a fine of zero days suspension and a \$2,000 fine on the Red Lobster and \$680 administrative costs. Ms. Perez said the Liquor Commission recommended a \$3,000 fine. Chairman Kubes said that he wanted to give the opportunity to fine up to \$3,000; however, he was fine with \$2,000. He said that he was concerned about setting a precedent for other individuals.

VII. COMMENTS FROM THE PUBLIC

Mr. Cullen said that he has worked with Ms. Conforti to do a poster saying "don't drink and drive". He said that he ran into problems with the parking deck. His establishment is trying to encourage people not to drink and drive, however, he is concerned that cars will either be towed or ticketed if left on the deck overnight. He asked if the Commission could present something to Council asking them not to tow or ticket vehicles which are left in the deck because their owner went home in a taxi, for instance. Ms. Conforti said that she talked to the Supervisor at the Police Department regarding this issue. She has been advised that if a call is placed to VOC, a ticket will not be issued if someone parks overnight. Chairman Kubes said that he believes the Village Council is

aware of this issue. Ms. Conforti said there is an ordinance regulating the hours that cars can be parked in the garage.

Mr. Cullen said that he has observed younger crowds who come to Ballydoyle's that usually have a designated driver.

VIII. ADJOURNMENT

Chairman Kubes said that concluded the business for the evening, and called for a motion to adjourn.

MS. DIETRICH MOVED TO ADJOURN THE JUNE 2, 2005 MEETING OF THE DOWNERS GROVE LIQUOR COMMISSION.

The meeting adjourned at 8:20 p.m. by acclimation.