

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

Thursday, May 5, 2005

**I. CALL TO ORDER**

Chairman Kubes called the May 5, 2005 Liquor Commission meeting to order.

**II. ROLL CALL**

**PRESENT:** Ms. Dietrich, Mr. McInerney, Ms. King, Chairman Kubes

**ABSENT:** Mr. Barnett, Mr. Durkin

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

**OTHERS:** Stewart Strickland, Jim Winters, Joe Mengel, Court Reporter

**III. APPROVAL OF MINUTES**

**MR. McINERNEY MOVED TO APPROVE THE APRIL 7, 2005 MINUTES OF THE LIQUOR COMMISSION MEETING AS PRESENTED. MS. DIETRICH SECONDED.**

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

**Nay:** None

**Abstain:** None

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

Chairman Kubes reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present to take the minutes verbatim.

**IV. DISCIPLINARY HEARING FOR ALLEGED VIOLATIONS**

Chairman Kubes made the following statements:

"Section 3-40 of the Downers Grove Municipal Code provides that the Local Liquor Commissioner may revoke or suspend any license issued if the Commissioner determines that the licensee has violated any of the provisions of this chapter or any State law pertaining to the sale of alcohol. Both under the Section cited above, and under Chapter 235, Section 5/7-5, Illinois Compiled Statutes, the Local Liquor Commissioner is required to hold a public hearing after notice to the licensee, in which the licensee is afforded an opportunity to appear and defend. Pursuant to Section 3-5 of the Downers Grove Municipal Code, this hearing is being conducted by the Local Liquor Commission at the request of the Local Liquor Commissioner."

"The Commissioner has the power to temporarily suspend a license without a hearing if there is reason to believe that continued operation of the licensed business would immediately threaten the welfare of this community. Such was not done in this case. The licensee may be represented by counsel, although he need not be for the purposes of this hearing."

Chairman Kubes asked if there was a signed stipulation in this case. Ms. Perez replied yes.

"In view of the stipulation, the order of this hearing will be substantially as follows:"

- A. Prosecution will read the signed stipulation into the record with the opportunity for the licensee to register its concurrence or non concurrence for the record.
- B. Prosecution may present any additional evidence in this case with the right of the licensee to cross-examine.
- C. Licensee may present any defense or mitigating evidence with right of prosecution to cross-examine.
- D. Summary of case by prosecution and defense."

"The prosecution should establish that timely notice of this hearing has been provided to the licensee."

"Witnesses shall be sworn."

"Strict rules of evidence will need not be adhered to although the Commission expects to exercise control over the hearing to ensure that irrelevant or repetitive testimony does not unduly prolong the hearing."

"A court reporter is present and will take the proceedings verbatim. Staff is also present for the purpose of summarizing the proceedings."

"The Commission will submit the findings and recommendations to the Local Liquor Commissioner regarding the existence and nature of any violation and the appropriate penalty, if any."

"Upon receipt of the recommendation of the Commission, the Commissioner will render a decision and the licensee will be notified in writing."

**GMRI, Inc. d/b/a Red Lobster Restaurant, 3001 Finley Road**

Chairman Kubes stated that the first order of business is to conduct a disciplinary hearing for GMRI, Inc. d/b/a Red Lobster located at 3001 Finley Road. The licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Kubes asked that any individuals representing the licensee step forward and be seated. He asked that any individual giving testimony state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the Court Reporter.

Mr. Stewart Strickland and Mr. Jim Winters were sworn in by the Court Reporter. Mr. Strickland introduced himself as the general manager of the establishment. Mr. Winters introduced himself as the Director of Operations for the restaurant.

Chairman Kubes asked the prosecuting attorney to present her case.

Ms. Perez stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. GMRI, Inc. d/b/a Red Lobster Restaurant #492, 3001 Finley Road, Downers Grove, Illinois, is

the holder of a Class D-1 Liquor License #68-04414, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since May 29, 1995.

2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 5:15 p.m. on Wednesday, April 13, 2005, Downers Grove Police Officer DeVries and Downers Grove Police Officer Lichamer observed BW, a special employee of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is March 23, 1987 (making her 18 years old), enter Red Lobster Restaurant #492 located at 3001 Finley Road, Downers Grove.
4. The special employee was seated at the bar in the restaurant and bartender, Mark Buitacavoli, whose date of birth is March 1, 1982, asked her for her order.
5. The special employee ordered a bottle of Miller Genuine Draft beer while Officers DeVries and Lichamer observed her.
6. Mark Buitacavoli then served the special employee bottle of Miller Genuine Draft beer.
7. That Mark Buitacavoli took payment charging the special employee for the beer.
8. That Mark Buitacavoli at no time asked the special employee for identification.
9. Officers DeVries and Lichamer who witnessed the events in the foregoing paragraphs, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
10. Mark Buitacavoli was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
11. The Officers advised that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Attorney Perez asked that the signed stipulation be entered into the record as Village's Exhibit #1. Chairman Kubes accepted the signed stipulation as Village Exhibit #1.

Chairman Kubes asked the licensee to present its case.

Mr. Strickland stated that Red Lobster takes the violation seriously and agreed with the terms of the stipulation.

Mr. Strickland stated that since the incident, they have re-trained all crew members that serve alcohol. He presented signed training statements to the Commission. He stated that Ms. Conforti and Sgt. Nehls will be doing an on-site training at the restaurant on May 12<sup>th</sup>. He stated that he is in the process of becoming TIPS certified so he will be the on-site instructor and trainer for the establishment. He added that the bartender involved in the violation was terminated.

Ms. King asked if the restaurant was crowded at the time of the incident. Mr. Strickland replied no.

Ms. King asked how many crew members on staff at any given time serve alcohol. Mr. Strickland replied there are 10 servers and 1 bartender at lunch; 14 servers and 2 bartenders at dinner.

Ms. King asked if all servers are trained. Mr. Strickland replied yes. Ms. King asked if the servers have certified training. Mr. Strickland replied no, however, some may be certified on their own.

Ms. King asked about the history of the establishment. She stated that they have held the license for ten years and have had no violations in the past five years. Ms. Conforti added that GMRI, Inc., the license holder, also had two other establishments licensed in the Village. She added that there have been no violations in any of them in the past 10 years.

Ms. King stated that it was encouraging to hear that the employee was terminated as it sets an example for the rest of the crew.

Mr. McInerney stated that he was pleased with the steps they have taken since the incident. He asked about training prior to the incident. Mr. Strickland replied that all crew members through a 4 step process with a certified trainer upon hire. He stated that they cover responsible alcohol service, local liquor laws, carding procedures and understanding the effects of alcohol/proper procedures for handling an intoxicated guest. He added that training occurs before they go onto the floor. He stated that the training is book work along with a training video. He stated that every day they hold a 3-5 minute "lobster talk" before each shift and remind them to card patrons and give the birthdate that someone needs to be to be served alcohol.

Mr. McInerney asked about the experience level of the individual involved in the sale. Mr. Strickland replied that the individual had worked for Red Lobster for 7 years, with about 10 months being at the Downers Grove location.

Ms. Dietrich asked if the individual gave any reasoning for not requesting identification. Mr. Strickland stated that the employee was not terminated on the spot, but was asked to go home. The next day Mr. Strickland asked the bartender about the incident who replied that he was making another drink at the time, looked at her quickly and said she appeared to be of age.

Ms. Dietrich asked about corporate policy. Mr. Strickland stated it is corporate policy to immediately terminate an employee who violates the responsible alcohol service rules.

Ms. Dietrich stated that Red Lobster has been proactive since the incident and she was glad they have taken the incident seriously. She added that they have had a great record to this point.

Chairman Kubes asked when the employee started with Red Lobster. Mr. Strickland replied that the employee began with Red Lobster as a non-alcohol serving crew member when he was about 17. Chairman Kubes asked if the employee had any other violations in his 7 year history. Mr. Strickland replied there were no alcohol related or service related issue, only attendance issues documented.

Chairman Kubes asked how long the employee had been at the Downers Grove location and the positions he held. Mr. Strickland replied 10 months he was employed as a bartender and server. He stated that they require bartenders to serve for them before they "graduate" to the position of bartender.

Chairman Kubes asked if the employee was busy at the time of the violation. Mr. Strickland replied no. He believed there was only one other guest in the bar. Chairman Kubes asked Mr. Strickland if he was on duty at the time of the incident. Mr. Strickland replied yes. He added that he was conducting a meeting at the time of the incident, but there was a service manager on the floor who advised him of the incident.

Chairman Kubes asked Mr. Strickland if he is the liquor manager. Mr. Strickland replied yes.

Chairman Kubes asked how many employees serve alcohol. Mr. Strickland replied twenty-five to thirty at a time. He added on a busy night there would be 5 bartenders, 23 servers.

Chairman Kubes asked if they feel their training has been sufficient over the years. Mr. Strickland replied yes. Chairman Kubes stated that they have had a good record. He added that he was pleased they have made attempts to raise the awareness of the employees.

Chairman Kubes stated that they do not seem to have a lot of alcohol service at the establishment. Mr. Strickland stated that their primary business is a casual family dining establishment. He stated that alcohol service is secondary.

Chairman Kubes stated that they might wish to stress alcohol training on a regular basis.

Mr. McInerney asked Mr. Strickland about the percentage of alcohol sales. Mr. Strickland replied 9.5%.

Ms. King asked if the employee would be able to get a job at another location. Mr. Strickland stated that the violation would come up on the employees record. He added that if corporate puts in his social security number, the disciplinary action would come up in the system.

Ms. King asked how they check the history of new hires. Mr. Strickland stated that they do a general background/reference check. He stated that if the new hire came from within the company, they would have access to the corporate personnel database for information.

Chairman Kubes stated that may wish to stress carding customers. He added that small mistakes like this can be very costly.

Chairman Kubes asked if there were any additional questions from the Commission.

Mr. Strickland requested that the establishment receive a higher fine in lieu of suspension. Chairman Kubes stated that they can discuss the issue, once the establishment is found guilty of the violation.

Ms. Perez stated that GMRI, Inc. d/b/a Red Lobster Restaurant, located at 3001 Finley Road, stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. Ms. Perez added that this is the licensee's only violation in the past 5 years. She added that there were no aggravating circumstances in this case.

Ms. Perez recommended, based upon suspension guidelines, that the license be suspended for one day. In addition, she recommend that the licensee be required to pay administrative fees up to \$1,000 to cover the costs of conducting this hearing and a fine not to exceed \$1,000.

Upon hearing the evidence presented in this case, Chairman Kubes requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

**MS. DIETRICH MOVED TO FIND GMRI, INC. D/B/A RED LOBSTER RESTAURANT LOCATED AT 3001 FINLEY ROAD GUILTY OF A VIOLATION OF SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. KING SECONDED.**

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

**Nay:   None**

**Abstain: None**

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

The Motion carried.

Ms. King stated that she would have no problem fining the licensee.

Ms. Dietrich asked staff about the issuance of fines in lieu of suspension. She asked if staff has assessed how much more a licensee would pay per day in place of suspension. Ms. Conforti replied that a typical equation per day suspension would equal about \$1,000 fine. She added that when a licensee wants to serve an extra day in lieu of a fine, the \$1,000 is taken off the fine amount. She stated, for example, Bohemian Garden served an additional day in lieu of the \$1,000 fine recommended by staff. She stated that fines cannot exceed \$15,000 per license year.

Ms. Perez stated that the Commission could ask the licensee what the percentage of alcohol they serve. She added that fines typically are \$1,000 and the licensee is charged \$680.00 to cover administrative costs of the hearing.

Ms. Dietrich asked about the percentage of alcohol. Mr. Strickland replied 9.5%. Mr. Winters did some quick math which resulted in about \$800-\$1,000 per night in alcohol sales.

Chairman Kubes stated that the licensee would prefer no suspension or small suspension. He stated that the Commission may recommend 1 to 3 days, depending upon aggravating circumstances. He added they may consider the good record of the licensee. He stated in this case he would recommend no more than 1 day of suspension.

Ms. Dietrich commented that it seems that the licensee, as a national chain, would rather not lose alcohol service. Mr. Winters agreed. Ms. Dietrich added that they would like no days of suspension, but the Commission could seek an increase in the fine. Mr. Winters agreed.

Ms. Perez stated that the Commission has the option to consider sentencing parameters of 1 to 3 days and fines of up to \$15,000 at their disposal. She added that staff is recommending a 1 day, \$1,000 fine, based on their history and circumstances of the case. Chairman Kubes agreed with no more than 1 day of suspension. He stated that he was happy with the \$1,000 fine and administrative costs.

Mr. McInerney stated that he was comfortable with a 1-2 day suspension, and fines not to exceed \$2,000.

Ms. Conforti stated that the licensee is seeking a fine in lieu of suspension as recommended by the prosecuting attorney. She stated that she has spoken with Mr. Strickland prior to the hearing who advised her that they do not wish to inconvenience their customers. Ms. Conforti stated that they are seeking to serve no suspension and receive a fine.

Ms. Dietrich stated that she can agree with no suspension, but with a fine of \$2,000, plus administrative fees.

Chairman Kubes stated that this is a precedent that he is not 100% comfortable with. He stated that suspension seems to be a more stern message. He stated that if there were no suspension served, he would ask for a higher fine amount. He stated that they have the authority to fine up to \$15,000, which is way too much in this instance. He stated it seems that they do not want to lose their customer base, which may be why they do not want to have that bad mark and may behoove them to spend more on a fine for the benefit of not serving the suspension. He added that he would agree with no suspension if

the fine would be in excess of \$2,000, to send out a stern message.

Mr. McInerney agreed with Chairman Kubes in that the Commission should clearly consider the precedent set in this matter. He stated that weighing the higher fine amount is a good suggestion. He added that he was comfortable going with 0 days of suspension, given the fact that the licensee took very aggressive measures since the incident, termination of the associate and corrective actions taken.

Chairman Kubes stated that if the Commission considers a higher fine in lieu of suspension that if the licensee appears before them again within the next five years, that would be the last time the Commission would issue no suspension. He felt that a \$5,000 fine was too much, but \$2,000 was not enough.

Chairman Kubes requested a recommendation be made as to the fine and/or suspension for the violation.

**MR. McINERNEY MOVED TO RECOMMEND THAT THE LICENSE OF GMRI, INC. D/B/A RED LOBSTER RESTAURANT LOCATED AT 3001 FINLEY ROAD, BE SUSPENDED NOT LESS THAN ZERO (0) NOR MORE THAN ONE (1) DAY, THAT THE LICENSEE BE FINED IN THE AMOUNT OF (\$3,000.00) AND THAT THE LICENSEE PAY UP TO \$1,000.00 TO COVER THE ADMINISTRATIVE COSTS TO CONDUCT THIS HEARING. MS. DIETRICH SECONDED.**

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

**Nay:**            None

**Abstain:**        None

**MOTION CARRIED:**        4:0:0

The Motion carried.

Ms. Conforti noted to the licensee that this is a recommendation only which goes to the Mayor/Liquor Commissioner, who is the final authority on the terms of the penalty. She added that the Mayor/Liquor Commissioner will take into consideration both the recommendation of the prosecuting attorney as well as the Liquor Commission in this matter.

Ms. Dietrich stated that the recommendation was a little confusing as this was the first time the Commission considered a higher fine in lieu of suspension.

Chairman Kubes stated that the Commissioner will see the higher fine amount with less suspension in the recommendation, compared to what the prosecuting attorney originally recommended. He added that based upon their recommendation, hopefully, the Mayor would not suspend the license, but give them a higher fine, plus administrative costs of about \$680. He added that in the past, the Commissioner has given a licensee more suspension in lieu of a fine. He stated that he was comfortable with the \$3,000 fine based upon what the licensee stated their alcohol revenue per day was.

Chairman Kubes asked if there were any final comments from the licensee. There were none.

Chairman Kubes asked for any additional comments. There being none, Chairman Kubes concluded the disciplinary hearing portion of the evening's meeting.

## V. OLD BUSINESS

Chairman Kubes asked for discussion, update from staff or comments from the Commission regarding any old business.

Ms. Conforti stated that she included another re-draft of the ordinance proposing to regulate the size of containers. She stated that Mr. Barnett brought up a point that Emmett's sells a "keggie" which is a 3.3 gallon container. She stated that she amended the ordinance to allow the sale of this to-go container, which was a further amendment to the ordinance that was contained in the packet. She added that based upon last month's discussion, the draft was amended to allow for the service of beer in containers not to exceed 96 ounces, which may be delivered to 4 or more people over the age of 21.

At the request of Mr. Barnett, who could not attend tonight's meeting, Ms. Conforti entered Mr. Barnett's following statements into the record:

"I'm (Mr. Barnett) opposed to the changes proposed for ordinance 3.33.1 as shown in attachment to your email dated April 28th. As I cannot attend the meeting this evening, please make sure the following comments make it into the record for the evening."

### PURPOSE OF ORDINANCE

"Our ordinance, in several sections including the one in question (3.33.1.c) makes clear the intent of the Village of Downers Grove permitting the sale of alcohol at any establishment for on premises consumption is to be adjunct to the meals offered by the primary business - that of a restaurant. Testimony at the April liquor commission meeting by Ballydoyle staff indicates at least one element of the table tappers (Ballytapper) is that of a gimmick by which they wish to establish reputation. Clearly, this does not reconcile with the intent of Liquor Laws within the Village. We have discussed at great length our desire as a commission to act in ways which discourage operations similar to that of a "tavern" or "bar" in the common vernacular - table tappers or any other large containers certainly run afoul of those intentions and begin to place emphasis on the delivery, sale and consumption of alcohol thereby removing the "adjunct-ness" of liquor sales to food sales. To my knowledge, neither this commission, the liquor commissioner nor the village council has expressed any intention to change this overriding principle within our ordinance. In my opinion, for this reason alone large containers of alcohol should be prohibited. Section 3.33.1.d.5.b should limit the container size to that of a standard pitcher (60 - ish ounces).

### CONTROL

"The idea of control is also a significant element within our ordinance and allowing large containers of alcohol to be distributed by customers voids much of the elements of control which exist within our current ordinance. Over the last year or so we have placed increased emphasis on training and increased the penalties for those that violate good service techniques ... it would seem to me that at least to some extent, allowing the equivalent of 8-10 beers to be served at one time sets up conditions which can work against the training we have focused on and remove an element of review (as it relates to potential DUI) during service that is important to the safety of the community - any consumption beyond the delivery of the first beer can now occur without review by the server - similar to pitchers to be sure but accelerated by the quantity of the container cutting the interaction by the server with the customers in half ... which was also presented by Ballydoyle staff in testimony at the April meeting when they indicated the table tappers allowed their servers to be more efficient, having to go between bar and customer less often (read: less likely to spot over service)."

### OPINION

"One could make the argument that table tappers are just like pitchers only a little larger. That argument can only be made by isolating ones self from common practice. Clearly, pitchers do allow for one person

to consume the entire pitcher however, who among us is qualified to make the judgment that 1.75 pitchers is acceptable whereas 2.5 pitchers is not. Should we allow the Emmetts "keggies" to be served at the table? What about "pony kegs"? Pitchers are a common and established element of liquor service across the nation - table tappers, pitchers of Long Island Ice Tea, pony kegs and keggies clearly are not. While the Ballydoyle staff may indeed continue to provide conscientious service increasing their watchfulness over Ballytapper served tables, we cannot guarantee every establishment or staff set would do so and this law must apply to all - not just to the Ballydoyle.

"I am disappointed that I will not be present and I apologize for my absence. If I were present, I would argue strongly against this ordinance change as presented due to section 3.33.1.d.5.b. If the size limit in this section were changed to 60 ounces, I would be in favor of the ordinance changes."

Ms. Conforti asked for additional feedback from the Commission.

Ms. Dietrich stated that Mr. Barnett made strong points against the ordinance, however, she feels that the changes made to the ordinance are acceptable. She added that she respects Mr. Barnett's point, but felt that the Commission is placing adequate controls on the service of the table tappers.

Mr. McNerney stated that he is troubled that a large quantity of alcohol is being served with minimal interaction with the staff. He added that it is a licensee role to be a restaurant. He stated that the opportunity for over service is clearly present. He stated that a 64 ounce pitcher is more than adequate in terms of providing convenient service for customers as well as an opportunity for businesses to be efficient. He stated that he would oppose the draft ordinance as written and replace the 96 ounce quantity limit with 64 ounces.

Ms. Dietrich stated if pitchers are 60-64 ounces and are delivered to two people, if there were four people at the table and two pitchers were served, they could receive 128 ounces of beer which is more of a ratio than if a 96 ounce table tapper was served. She did not think 96 ounces was an excessive amount to be delivered to four people. She added that Ballydoyle has indicated that this is a novelty and that people are not drawn to the establishment due to the table tappers. She felt that the use of table tappers does not portray Ballydoyle more of a pub atmosphere, it is their "fun" thing.

Mr. McNerney stated regardless of the quantity provided the concern is who is consuming from it. He stated that issue could arise with a pitcher or table tapper. He stated that one person could dominate the consumption and the server is removed from monitoring the situation. He stated that he does not believe it fits the conventional role of a restaurant.

Ms. King stated that she was divided on the issue. She stated that the table tappers may expedite service and is a fun thing. She stated that it does seem to create more of a pub atmosphere. She agreed that the volume is less than the delivery of two pitchers. She stated that as a customer she likes the table tappers but as a commission member she feels the table tappers may lend themselves more to a tavern atmosphere.

Chairman Kubes appreciated that comments of Mr. Barnett were provided to the Commission. He stated that he agreed with the fact that they could not guarantee that every establishment would do the service the same as Ballydoyle. He stated that he was comfortable with the ordinance. He stated that with the ordinance the table tappers would be allowed with limitations. He added that he was comfortable with the 96 ounce size. He agreed that two pitchers were more in quantity than the table tappers. He again thanked Mr. Barnett for providing his comments to the Commission. He added that other establishments may request these in the future and the Commission must be careful as to what to put in the ordinance. He wanted to be sure that beer only was allowed in the containers. He stated he was comfortable with the ordinance as written.

Mr. McInerney expressed his concern that if there is a table tapper delivered to a table where there are people under 21 present. He stated that with little interaction with the server, there must be control of the alcohol service at the table. Ms. Conforti stated that adults sharing drinks with minors in any way, whether with the Ballytapper or handing a bottle of beer over is not tolerated. She stated that if the minor is caught with the alcohol, an officer would assume that the licensee served them. She stated that licensees are taught to monitor their tables.

Chairman Kubes stated that a vast majority of liquor manuals do state their policy for adults sharing drinks. He stated that adults sharing drinks will not change whether there is a table tapper or just one beer on a table. He stated that servers need to monitor what is happening. He stated that a good server would frequent that table a little more seeing under 21 people at the table.

Mr. McInerney's concern was with a larger quantity of beer being served with less frequent interaction from the server.

Ms. King asked if Ballydoyle serves pitchers. Ms. Conforti replied no.

Chairman Kubes stated that the Commission has addressed the situation with the ordinance governing the table tappers. He added that more establishments in the future may be willing to try the table tappers. He was willing to forward the ordinance to the Council.

Joe Mengel, affiliate of Ballydoyle, stated that there was great discussion about the size of the containers. He stated that the pitcher situation came up tonight and the ounce difference between the tapper is more. He stated that he was glad that the Commission brought up the issue.

Ms. Conforti stated that the Commission was originally looking at table tappers that were 168 ounces. She stated at the time, we were not aware of what Ballydoyle had. She stated that if the Ballytapper was 168 ounces, she would not recommend that the container be served to a table of four. She stated that there are no restrictions in place currently with regard to the ounce limits.

Joe Mengel stated that he had witnessed a table tapper being denied to two people at Ballydoyle. He added that there are some bigger parties that come in and they must be monitoring activity.

Chairman Kubes stated that the more frequent a server visits a table, the better the tip. He stated a part of their job is to service the customer and to be there and monitor. He stated that he was comfortable with the 96 ounce limits and the Commission should decide on the ordinance establishing restrictions.

Ms. Perez stated that the ordinance may be somewhat conflicting in the two pitchers totaling 128 ounces can be served, however only 96 ounces can be served to four or more people. Ms. Dietrich asked if it could be worded different to allow two pitchers to four people and reword it to say an individual container. Ms. Conforti stated that perhaps the ordinance can be further amended to say that a *single* container of beer cannot exceed 96 ounces. Four people will still be able to get two pitchers not exceeding 128 ounces.

Chairman Kubes stated that the way the ordinance is written is that a pitcher cannot exceed 60 ounces and must be delivered to two people.

Ms. Conforti added that margaritas and the like can be delivered in a pitcher. Ms. Dietrich stated that they would not be able to get them put into the table tapper. Ms. Conforti agreed. She stated that we could go along with Naperville ordinance which limits margaritas and beer in containers not to exceed 60 ounces. She stated that way, long island iced tea would be excluded. Chairman Kubes stated that they could go on and on with a list of drinks such as bloody marys, rum and coke, daiquiri, etc. Ms. Conforti

stated that the only one she was most worried about is long islands or if someone were to pour straight alcohol in a pitcher. She suggested that the ordinance be worded to exclude long island iced teas. Ms. Dietrich stated that the Commission should get feedback from restaurants as to what they currently serve in pitchers before they consider the ordinance. She suggested that the Commission table the ordinance or amend it in the future.

Ms. Conforti stated that one person could get a carafe or bottle of wine and there are no ounce restrictions on it.

Mr. McInerney asked if wine and beer is included in the definition of spirits. Ms. Conforti replied no. She stated that the State defines them separately. Mr. McInerney the reiterated that there essentially would be no limits on the size of a carafe.

Chairman Kubes stated that they also would have to allow that multiple pitchers be served to a large group. Ms. Conforti stated that now a table of twenty adults would be able to obtain 10 pitchers. Chairman Kubes stated that the ordinance must be worded to allow more than 96 ounces of alcohol served.

Ms. King stated that both (a) and (b) in the ordinance should read "a single container". She asked if it could be redrafted. Ms. Perez replied that (a) of the ordinance could technically remain as is because exponentially it would allow the 96 ounce table tapper. Ms. Conforti stated that the basis of (b) is to limit a licensee from putting beer only in the table tapper. Mr. McInerney stated that when the Commission first discussed the ordinance it was for quantity control. Ms. Conforti stated that if the ordinance remains, a 168 ounce container can be delivered to two people and it could contain any type of alcohol. She added that the key items are restricting hard alcohol in a large container and it being delivered to two people.

Chairman Kubes stated that we are trying to limit the container size and what could be in the container. He suggested that they add a definition of a table tapper.

Chairman Kubes asked if Emmett's was using "keggies" on the tables. Ms. Conforti replied no. She added that nothing in the ordinance would stop them from doing it, however it is addressed in (c) which states that they may sell the 3.3 gallon "keggie" for off-premise consumption.

Chairman Kubes suggested "containers of spirits for on-premise consumption should not exceed 60 ounces and can be provided to parties of two or more consecutively. He stated that they do need to limit the ounce quantity for pitchers because someone could always come up with bigger pitchers. He stated who is to say that the standard sized pitcher (60-64 ounces) will stay the same.

Ms. Conforti replied perhaps we need to define a pitcher. Ms. Dietrich suggested defining the size of a pitcher that can be used for spirits, beer and the minimum amount of people that they need to be served to.

Ms. Perez stated that it must be determined how many ounces are they comfortable with being served per individual. She stated that perhaps we could draft that each person at the table over 21 is limited to 30 ounces each, at any one time. She stated that it does not matter if it is in one solid unit or split up amongst many. Ms. Dietrich stated that might be a good way to address the issue with spirits and perhaps limit a person to 30 ounces of beer but 20 ounces of spirits.

Mr. McInerney stated that he thinks that a specific quantity given per person may be a good approach to take. Ms. Conforti noted although a certain number of ounces may be give to the table based upon the number of persons at the table, they must be concerned with how many ounces each particular person is actually consuming.

Chairman Kubes stated that when they first started the ordinance it was drafted to determine an appropriate size container to allow and now we need to do apply that logically for all. He stated that if they do not put something in the ordinance, it may get out of hand, especially if others start purchasing the table tappers. He added that other establishments may use this and abuse this to their benefit.

Ms. Conforti replied that Naperville "authorizes the sale of beer or margaritas by the pitcher not exceeding 60 ounces". She added that if someone wanted a pitcher of bloody mary's or long islands, they would not be able to get them. Ms. King asked if she could pull other ordinances. Ms. Conforti stated that in her research, this was the only one regulating the size of containers that she could find. She added that in speaking with other communities, no other has experienced the use of the table tappers. She added that the State does not have regulations on container size. She stated that in speaking with the State, they could not say what was to stop a licensee from placing a pony keg on a table. She added there was no regulation on the size of containers.

Ms. Dietrich stated that the 30 ounce rule per person might be a good way to go, but should it exclude any particular spirit. She stated that issue has to be discussed with the business owners. Ms. Conforti advised that she will be attending a Chamber sponsored forum with licensees. She stated that she would ask what they serve from pitchers, etc. and ask of the sizes so she can get an idea of average size. She stated that she would ask for input from them.

Mr. Mengel suggested that 5(a) which allows containers of spirits should be stricken. He stated that a pitcher could contain pure vodka.

Ms. Dietrich moved to table the ordinance until Ms. Conforti meets with licensees and gets some feedback. She asked that we consider the percentage of alcohol or type of drink to be in the ordinance.

Ms. Perez asked if there are calculations for alcohol. Chairman Kubes stated that 5 ounces of wine equals 1.5 ounces of hard liquor and equals one 12 ounce beer. Mr. Mengel stated that an average liquor is about 80 proof.

**MS. DIETRICH MOVED TO TABLE THE DRAFT ORDINANCE AMENDING THE SALE AND PROMOTION OF ALCOHOLIC LIQUOR UNTIL THE NEXT LIQUOR COMMISSION MEETING. MS. KING SECONDED.**

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

**Nay:**            None

**Abstain:**        None

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

The Motion carried.

Chairman Kubes stated that he is confident that no establishment is currently violating the ordinance and can continue operating as normal. He suggested that they contact the manufacturer of the table tapper to see if they have been sold in other communities.

Ms. Conforti stated that the Chamber arranged a meeting with licensees to discuss liquor issues. She stated that she will be discussing this ordinance and a few items that the Commission has spoken about over the last few months. She stated that she could not guarantee if any or all of the licensees will show

up. She stated that she attempts on a regular basis to get licensees involved with ordinance changes by posting articles in the Liquor Newsletter as well as sending out correspondence. She will get their input and provide it to the Commission at the next months meeting.

Mr. Mengel asked if the Commission has a mandatory meeting once a year for licensees. Ms. Conforti replied no. He suggested they put some thought into that, basing the meetings on the type of license held.

Chairman Kubes asked if the Commission meetings are posted in the newsletter. Ms. Conforti replied pursuant to the Open Meetings Act the meeting is placed in the newspaper. She added that it is also on the internet and posted on the bulletin board at Village Hall.

## VI. NEW BUSINESS

Chairman Kubes asked for discussion, update from staff or comments from the Commission regarding any new business.

Ms. Conforti stated that she provided a copy of the Liquor Newsletter to the Commission.

Ms. Conforti stated that next month she will be working on liquor license renewals. She added that the Commission did not further discuss the issue of renewal posting, so that will not take place this year. She added that she will be discussing this issue at the Chamber/licensee forum.

Ms. Conforti stated that the Village donated monies to Downers Grove North and South for activities in a drug free environment and provide students with a safe and fun alternative to post graduation parties involving alcohol. She stated that a portion of each license fees goes toward this program.

Ms. Conforti stated that Esplanade and Isabella requested an extension of serving hours for Mother's Day.

Ms. Conforti stated that the Commissioner issued a findings and order for Bohemian Garden. She stated that they were given a two day suspension and charged a \$680.00 fee to cover the administrative costs of the hearing.

Ms. Conforti stated that the Commissioner indicated his intent to issue a license to the Cellar Door.

Ms. Conforti advised the Commission that Pizza Hut on 75<sup>th</sup> Street is doing a minor remodel, but it will not reflect any changes involving their liquor license.

Ms. Perez stated that the Alliance Against Intoxicated Motorists does a survey every year. Downers Grove ranked 8<sup>th</sup> in the state for DUI arrests. She stated that there were 436 DUIs in Downers Grove.

Ms. Dietrich noted that Ballydoyle had three DUI Notification Letters this month.

Mr. McInerney stated that there is a credibility issue when a motorist says where they have been drinking. He stated that the notification program is great. Ms. Perez stated that it is difficult for the Village to go much further than beyond the notification. Ms. Conforti added that the benefit is being able to recognize those establishments that have a problem with over service.

## **VII. COMMENTS FROM THE PUBLIC**

Chairman Kubes asked if there were any comments from the public.

There were none.

## **VIII. ADJOURNMENT**

Concluding business for the evening, Chairman Kubes called for a motion to adjourn.

Mr. McInerney moved to adjourn the May 5, 2005 meeting. The meeting was adjourned by acclamation at 9:10 p.m.