

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
FEBRUARY 15, 2011 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Ordinance Amendments: Liquor Provisions	Resolution ✓ Ordinance Motion Discussion Only	Enza I. Petrarca Village Attorney

SYNOPSIS

Ordinances have been prepared amending the Liquor Code which would:

- Increase the allowable on-site consumption square footage limit from 550 square feet to 750 square feet for the Class P-O-2 liquor license classification (Lemon Tree Grocer).
- Amend Friday hours for the sale of liquor.

STRATEGIC PLAN ALIGNMENT

The strategic goals for 2011 to 2018 include *Strong, Diverse Local Economy*.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval on the March 1, 2011 active agenda.

BACKGROUND

Based upon a request from the Lemon Tree Grocer, the Liquor Commissioner considered amending the Class P-O-2 liquor license classification which would increase the square footage area for the on-site consumption of beer and wine. Lemon Tree has experienced a larger than anticipated need for on-site consumption of food, beer and wine. This amendment would increase the square footage for on-site consumption by 200 square feet. Food service will be available at all times, however the grocery store shall remain the primary business of the establishment. The dining area is roughly 13% of the total square footage of the entire establishment.

A draft ordinance is attached amending the square footage area from 550 square feet to 750 square feet for the Class P-O-2 license classification.

Based upon a request from the Downers Grove Chamber on behalf of several license holders, the Liquor Commission discussed amending liquor sales hours on Friday until 2 a.m. Currently, alcoholic liquor cannot be sold after 1 a.m. on Friday (into Saturday) at licensed establishments. A number of communities have 2 a.m. Friday liquor sales hours, including Glen Ellyn, Lisle, Lombard, Oak Brook (with an extra \$500 fee), Naperville and Westmont. Local licensees claim the need to remain competitive with these surrounding communities.

A draft ordinance is attached amending Friday hours to 2 a.m. Other liquor sale hours will remain unchanged. (Monday through Thursday 8:00 a.m. – 1:00 a.m. and Saturday 8:00 a.m. through 2:00 a.m., Sunday 9 a.m. - 1:00 a.m.) This would apply to both on-site and off-site consumption license holders.

The Liquor Commission discussed this matter at their meetings of September 9, 2010, October 7th and November 4, 2010. On November 4th the Commission unanimously recommended that Friday hours be amended to 2 a.m. with a 1 year sunset clause.

ATTACHMENTS

An Ordinance Amending Class P-O-2 License Provisions

Lemon Tree Letter of Request

An Ordinance Amending Liquor Sales Hours

Downers Grove Chamber Letter of Request

Surrounding Communities Sales Hours

Liquor Commission Minutes – September 9, 2010, October 7, 2010

Liquor Commission Minutes & Recommendation November 4, 2010

ORDINANCE NO. _____

AN ORDINANCE AMENDING CLASS P-O-2 LICENSE PROVISIONS

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by ██████████/underline; deletions by ~~strikeout~~):

Section 1. That Section 3.13 is hereby amended to read as follows:

3.13 Classification of licenses.

Such licenses shall be, and are hereby, divided into the following classes:

* * *

Class "P-O" On Premise and Off Premise Consumption Licenses

"P-O-2" Packaged liquor licenses shall authorize the retail sale of alcoholic liquor. Such licenses shall be only authorized in locations where a grocery store is the primary business.

(1) The sale of alcohol, in original packages, unopened only, shall be permitted subject to the following conditions:

- a. No more than ten percent (10%) of the retail sale square footage area shall be devoted to the sale of tobacco products.
- b. Free tastings, classes or seminars shall be permitted on such premises in accordance with State law.
- c. Alcohol sold in original packages and intended for off-premise consumption shall not be opened or consumed on the premises or in any designated seating/serving area.
- d. Hours for the sale of alcohol, in original packages, unopened only, shall be in accordance with Section 3-31(b).

(2) The sale of beer and wine only shall be permitted for consumption on the premises subject to the following conditions:

- a. The premises shall exceed five thousand five hundred (5,500) square feet and be located within the Downtown Business District.
- b. The seating/serving area for customers consuming beer and wine on the premises ~~shall be limited to ten percent (10%) of the gross retail square footage, but shall not exceed five~~seven hundred fifty (~~550~~750) square feet.
- c. Consumption of beer and wine on the premises shall be limited to the designated seating/serving area and signage shall be posted that patrons may not leave the area with open alcohol.
- d. Such facilities shall include an area where food is prepared and regularly served on the premises, including hot or cold sandwiches, appetizers, tapas, baked goods or other similar foods.
- e. It is intended that the service of alcoholic liquor is merely an adjunct to the operation of a grocery store and that the facility shall not be advertised or otherwise held out to be a drinking establishment.
- f. Hours for the sale of beer and wine only, for on-premise consumption, shall be in accordance with Section 3-31(a).

* * *

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____

Village Clerk

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Shaun Black
Lemon Tree Grocer
5101 Mochel Drive
Downers Grove, Illinois

Mayor Ron Sandack
1047 Curtis St.
Downers Grove, Illinois

Dear Mayor Sandack,

The Lemon Tree Grocer requests an increase in the allowable size of the café portion of the store. We have been struggling to meet minimum sales projections that will pay for expenses with our current layout. One facet of the store that has exceeded expectations is the cafe. It is for this reason that we are requesting an increase in the size of the square footage for the dine-in portion of the store. Our current plan is for 550 sq feet. The new floor plan needs 750 sq feet of space to meet our requirements. This in no way affects our ability to operate as a grocery store. We have not eliminated any of the departments that are part of the Lemon Tree LLC/ Village of Downers Grove tax rebate agreement. We still function as a full service grocery store and will continue to do so. The space that will be made available for the increase in café seating is from the removal of one of our registers, which has proven to not be needed.

It is through our first hand experience that a one dimensional grocery store is not fiscally viable in your downtown. In order to be a solvent and viable entity said store must have multiple revenue streams. We have accepted this challenge and have reworked our concept in order to become a profitable entity. One of these vital changes is the expansion and renovation of our current café (shown in the proposed floor plan). Our plan is to give the café its own identity by naming it. Similar to many other entities it does not change the way we plan on operating the store, it's simply a marketing technique meant to differentiate the dine-in and the grocery aspects of the store. This can be seen at The Whole Foods in Lincoln Park (among many others), where their bar is actually named Bar 1550. The liquor license is held by Whole Foods Inc, however they sell and advertise under a few different departments in the store. All aspects of our store will still operate under the Lemon Tree LLC.

Tim and I appreciate all of the consideration you have shown our project since its inception. We are working tirelessly to bring your community an exceptional and unique product that differentiates Downers Grove from its surrounding villages.

Thank you for your consideration in these important matters.

Sincerely,

Shaun Black
Lemon Tree LLC

Friday 2AM

ORDINANCE NO. _____

AN ORDINANCE AMENDING LIQUOR SALES HOURS

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by [REDACTED]/underline; deletions by ~~strikeout~~):

Section 1. That Section 3.31. is hereby amended to read as follows:

3.31. Hours of business.

(a) It shall be unlawful for any on-premise liquor license holder to deliver, sell or offer for sale, any alcoholic liquor in the Village between the hours of 1:00 A.M. and 8:00 A.M. ~~Monday through Friday~~ between the hours of 2:00 A.M. and 8:00 A.M. on Saturday or between the hours of 2:00 A.M. and 9:00 A.M. on any Sunday.

(b) It shall be unlawful for any off-premise liquor license holder to sell or offer for sale, at retail, any alcoholic liquor in the Village between the hours of 1:00 A.M. and 8:00 A.M. or between the hours of 2:00 A.M. and 9:00 A.M. on any Sunday.

(e) --Hours during which sale is lawful may be extended by written order of the Local Liquor Commissioner for periods not to exceed three hours upon written application by the licensee stating the reasons for the requested extension and the date or dates for which the extension is sought. The request shall be forwarded to the Village in writing no later than two (2) weeks prior to the date the extension is requested or the request shall automatically be denied. No licensee shall be granted such extension for more than eight dates in any one calendar year, provided a fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be submitted for each day of requested extension.

(d) It shall be unlawful to keep open for business or to admit prospective customers to any premises having a Class "P" packaged liquor license during the hours within which the sale of alcoholic liquor is prohibited; provided, that in the case of:

(1) A Class "P" packaged liquor license for premises from which less than half of the gross revenues are derived from the sale of alcoholic liquor not for consumption on the premises, such premises may be kept open during such hours, but no alcoholic liquor may be sold to any person in such premises during such hours.

(ed) It shall be unlawful for any licensee to suffer or permit any person to consume alcoholic liquor on premises licensed under this Chapter later than one hour after the applicable closing time determined under paragraph (a) of this Section 3-31.

(fe) It shall be unlawful for any licensee holding a license for on premise consumption, to sell or offer for sale any alcoholic liquor at any time when the regular food service in such licensed premises is not in actual operation, except that such sales may be made during a one-hour period immediately following the close of regular food service operations in such premises, subject to the provisions of paragraph (a) of this Section 3-31. (Ord. No. 2450, § 2; Ord. No. 2735, § 1; Ord. No. 3050, § 6; Ord. No. 3075, § 1.)

Section #2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section #3. That this ordinance shall be in full force and effect from and after its passage and

Friday 2AM

publication in the manner provided by law.

Mayor

Passed:

Published:

Attest:

Village Clerk



August 27, 2010

The Honorable Mayor Ron Sandack
Liquor Commission
801 Burlington Street
Downers Grove, IL 60515

Dear Mayor Sandack,

I understand that at the September meeting of the Downers Grove Liquor Commission, the selling of food and liquor until 2:00 a.m. on Friday night/Saturday morning will be addressed.

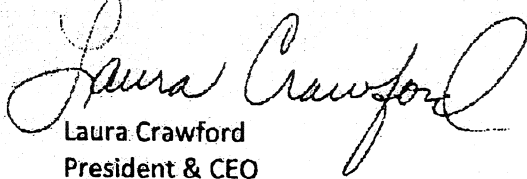
The Downers Grove Area Chamber of Commerce & Industry Board of Directors unanimously voted to support a 2:00 a.m. Friday night/Saturday morning liquor license with the following notations:

- The license should be made available to those establishments currently possessing a liquor license who are in good standing with the Village of Downers Grove.
- Any fees associated with said license should be competitive with fees charged by neighboring communities.
- Any fees associated with the license should be applied to those to whom the license is granted and that those who are not interested in said license should not have their fees increased.

The Board of Directors recognized the economic enhancements from existing and new businesses this license would provide. We heard specifically from the hotel industry that Friday night wedding business is leaving Downers Grove due to the lack of a 2:00 a.m. license. The Downers Grove Area Chamber of Commerce & Industry believes this allowance will provide an equitable solution as our Members compete with like-businesses in near surrounding communities.

Please consider supporting the allowance of 2:00 a.m. Saturday, food and liquor service. Do not hesitate to contact me if you have any questions.

Sincerely,



Laura Crawford
President & CEO

Cc: Board of Directors

Surrounding Communities

Friday Serving Hours

Sunday Serving Hours

Schaumburg

Fr. 3AM
7AM

Glen Ellyn

Fr. 2AM
Noon

Lombard

Fr. 2AM
10AM

Oak Brook

1AM* Fr.
10AM

Lisle

Fr. 2AM
10AM/Noon

Naperville

Fr. 2AM
10AM/Noon

Aurora

Fr. 2AM
10AM/Noon

Chicago

Fr. 2**
11AM/10AM

Westmont

Fr. 2AM
9AM

Downers Grove

Fr. 1AM
9AM/Noon

Woodridge

Fr. 2AM
6AM

* 2AM for \$500 fee
**4/5AM with late license; \$6,040/2 year term
w/ consent of 51% registered voters w/in 500 ft.

Friday 2 AM Night Serving Hours:

Ms. Kuchynka stated that she provided the Commission with a request from the Downers Grove Economic Development Corporation (EDC) for a change to Friday night liquor serving hours from 1:00 a.m. to 2:00 a.m. She stated that the EDC recommended making the extra hour of service available to only those businesses who request it by way of an additional license issued to the establishment. She stated that the license would be separate, like the Class "O" outdoor license and would require an additional yearly fee. She stated that the Commission can review them on a yearly basis if there are problems with a particular licensee.

Ms. Kuchynka provided a chart of surrounding communities with Friday night service hours. She stated that Downers Grove is one of the few communities that have service limited to 1:00 a.m. She advised that Oak Brook issues late night licenses at an additional fee, similar to what staff is proposing for Downers Grove. She stated that the City of Chicago also has a late night license for service until 4 or 5 a.m.

Ms. Kuchynka noted that staff always has concern about over service. She understood that an additional hour of drinking may cause an increase in the DUI rate, police activity calls, fights, etc. She provided minutes from past meetings where the late night hours were discussed. She asked for further discussion on the topic and a recommendation for the ordinance change.

Chairman McInerney asked if there were any comments from the public pertinent to Friday night 2 a.m. liquor service. There were none.

Chairman McInerney asked if there were any comments from the Commission.

Ms. King was shocked that Downers Grove was one of the only communities that still have a 1 a.m. Friday night license. Ms. Kuchynka replied that changing to 2 a.m. serving hours has been a recent change for many of the surrounding communities.

Ms. King understood the business perspective of the request, but wondered if Downers Grove should change hours to 2 a.m., just because surrounding communities have done so. She would feel more at ease if a separate license would be issued and can be taken away or service suspended if the establishment were to have infractions. She wondered if the extra fee would cover additional enforcement. Ms. Kuchynka replied that the fee would cover more DUI enforcement and monitoring. She stated that a Cost Center Analysis has not been completed yet, but she felt comfortable with the \$500-\$1,000 fee range per year for the late night license.

Ms. Strelau asked if staff received information from other communities about their fees. Ms. Kuchynka replied that Oak Brook charges \$500, but was unaware how they came up with that dollar figure. Ms. Strelau asked if the other communities charge extra for the 2 a.m. license. Ms. Kuchynka replied they do not have any extra fees for the 2 a.m. license and it is an across-the-board hour restriction for all licensees.

Ms. Kuchynka advised that a majority of local licensees do not stay open past 10 or 11 p.m. and most would not be interested in the 2 a.m. license. She felt it would be unfair to make all licensees pay for something they are not utilizing or have no benefit to them. She stated that the Police Department can then concentrate on a lesser number of establishments that hold the late night license, conduct more

enforcement on that core group, in lieu of spreading resources throughout the whole community. She stated that each licensee will be held more accountable.

Mr. Clary asked if there has been a DUI comparison between the hours of 1 and 2 a.m.. Ms. Kuchynka replied that Friday vs. Saturday 1-2 a.m. DUI data has not been compared. She stated that common sense dictates that DUIs will increase exponentially if an extra hour of drinking is allowed.

Mr. Clary asked how many licensees might want the one hour extension. Ms. Kuchynka replied 10-15. She stated that six licensees were in particular support of this amendment.

Chairman McInerney stated that a Chamber of Commerce letter indicated that the hotels were losing business due to this lack of serving hours. Ms. Kuchynka replied that may have been due to a Friday night wedding. She stated that there is a provision whereby licensees can request an additional hour of liquor service up to eight times per year.

Chairman McInerney asked if any of the hotels applied for that extension. Ms. Kuchynka replied yes. She stated that the Doubletree had three separate requests for Friday night extensions, two for weddings and one for a banquet.

Ms. Fregeau wondered if the Village was losing wedding business because they could not serve until 2 a.m. Ms. Kuchynka did not receive information from hotels claiming booking losses.

Ms. Strelau wondered if staff had received eight collective requests for extensions from the hotels. Ms. Kuchynka replied no.

Ms. Fregeau reviewed previous discussion minutes. She does not want business to leave the Village, but does not want to be the place where customers come for their last call. She looked at past DUIs and noticed they happen within that last hour of closing which was of concern to her.

Ms. Fregeau felt that it is important for the Village to remain competitive. She felt that there was value into licensing them separately. She felt that it should be determined if a licensee is qualified to hold such a late night license if they are in good standing with the Village.

Ms. Kuchynka noted that five of the six establishments requesting the late night license have received DUI Notifications.

Ms. Fregeau recalled that staff polled licensees and there was not great interest in the 2 a.m. license as they have now. She thought that might be because the neighboring communities have changed recently and the need for business to remain competitive. She would feel comfortable if the Police Chief would confirm that it is something that they can manage and suggested it be done on a trial basis. She wondered if they could do it without a formal ordinance change and/or have a sunset clause to see if it is working.

Ms. Strelau asked staff if they asked the Police Department for their input. Ms. Kuchynka replied yes. Ms. Strelau asked for their response. Ms. Kuchynka replied that the Chief has expressed concerns. She noted that any time there is a longer period of drinking and noted the adage that "nothing good happens after midnight". She stated that the Chief does not want to overburden the department, especially since there have been staffing cuts. She noted he felt more comfortable that there would be more control by

not allowing an across the board change. She stated that licensees performance can be reviewed and these licenses given out under certain conditions.

Ms. Kuchynka was aware that the Commission realizes that the DUI Notification Program is subjective. She stated that violators at the time of the arrest have not been proven guilty in a court of law. She stated that the driver is prosecuted by the Court and the Liquor Commission has no authority to prosecute such violations against the licensee. She stated that data can be reviewed and statistics provided as to the dates and times of the arrest. She stated that they can review the late night license and statistics for each licensee granted such extension, but determine if renewal would threaten the welfare of the community. Se stated there would then be a restriction to the privilege.

Ms. Strelau stated that she would not endorse 2 a.m. serving hours if the Police Department does not support it until their concerns are alleviated. She stated that the extra fees could cover policing costs. She wanted the Police Chief to have specific input in the Cost Center Analysis when determining fees. She stated that the Police Department will be the only ones burdened with these calls. She wanted to be sure that the Police have the financial support to be able to do their jobs. She did not want to support it unless the Police feel they can recover reasonable fees to cover staffing costs. She liked the idea of a sunset clause and the ability to review the program after one year.

Ms. Strelau asked if the DUI Notification spreadsheet can include the day and time of the incident. She noted while they are only notifications, they are a clear indicator of over service. She realized that nothing legally could be done with the data but it is reflective of how the business is operated. Ms. Kuchynka replied yes and noted it is a clear indicator of over service.

Ms. Strelau suggested that in the event late night license issues come before the Commission and there are aggravating circumstances against the licensee that fines be doubled.

Ms. Strelau asked if the Commission will be considering Sunday AM serving hours. Ms. Kuchynka replied yes. She stated that would be the next order of business.

Chairman McNerney stated that his thoughts paralleled comments made by other Commission members. He stated that their goal as the Liquor Commission was to think about what environment they want to create for the Village, what activities are allowed and consider safety issue that may arise on the streets after 2 a.m. He felt that not burdening other licensees with late night fees was a good idea. He would like to have annual review hearings. He stated that DUI Notifications, police reports, control buys and police activity at the location also be considered in the renewal of the late night license. He understood that there may be a burden on the Police Department and that burden should be weighed during the renewal decision. He felt that disciplinary guidelines should also be revisited to include late night service violations. He did not think that existing guidelines would apply well to this new license class. He felt that certain factors should be determined in issuing the license. He felt that the risk to the Village should also be factored into the cost of administering and policing the license.

Chairman McNerney was in favor of pursuing the late night license, but more in total. He wanted to look at guidelines for issuance, staffing costs and disciplinary factors. He requested a motion from the Commission for staff review of the concerns noted herein.

MS. STRELAU MOVED TO HAVE STAFF TO CONTINUE REVIEW AND PROVIDE A COMPREHENSIVE PLAN CONCERNING THE ISSUANCE OF LATE NIGHT LICENSES. MS. KING SECONDED.

VOTE: **Aye:** Ms. Strelau, Ms. King, Ms. Fregeau, Mr. Clary, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The motion carried.

Sunday On-Premise Serving Hours:

Ms. Kuchynka stated that Mayor requested the Commission to discuss Sunday on-premise consumption serving hours. She provide the Commission with information on Sunday hours of service for surrounding communities. She noted that Sunday serving hours for surrounding communities have changed recently. She reminded the Commission that off-premise selling hours were changed from 12:00 noon to 9:00 a.m. a few years back. She asked the Commission for input on changing the on-premise consumption hours to accommodate brunch service. She stated that staff supports an across the board change with no increase in fee. She stated that it would eliminate most of extension requests received for Sunday service on holidays such as Easter, Mothers Day, Fathers Day and football Sundays. She stated that most licensees wish to provide a champagne brunch or bloody mary bar.

Ms. Fregeau asked what time licensees have requested for extensions. Ms. Kuchynka replied that the ordinance allows up to a three hour extension. She stated that she typically gets requests for service at 10 a.m. She did not anticipate many licensees serving this early on a regular basis and noted they may be limited to pancake houses and hotels. She stated that the licensees who are requesting the late night licenses probably will not be in this service category as they stay open late on Saturday.

Chairman McInerney asked staff if they were proposing to change Sunday serving hours from 12 noon to 9:00 a.m. or 10:00 a.m.. Ms. Kuchynka replied either. She noted that surrounding communities vary from 9:00 a.m. or 10:00 a.m.. Ms. Fregeau noted that Naperville, Lisle and Glen Ellyn remain at noon. She noted there were two that have 6:00 a.m. and 7:00 a.m. service, which she was not in favor of. Ms. Kuchynka thought Naperville was in the process of offering early hours. Ms. Kuchynka noted that Sunday hours is coming around, just as is the 2:00 a.m. change. She stated that communities are competing for sales tax revenue and establishments are competing for business in this tough economy.

Chairman McInerney did not feel that the DUI rate will increase exponentially on Sunday mornings. He asked for comments from the Commission.

Ms. Strelau was not concerned with allowing service at 9:00 a.m. or 10:00 a.m., but felt it should match off-premise consumption hours. She thought when they changed off-premise consumption hours they should have considered changing on-premise hours as well. She stated that this is a category of service that restaurants can not offer with brunches. She did not believe that the DUI situation would be a

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The motion carried.

VI. OLD BUSINESS

~~Chairman McInerney asked if there was any discussion, update from staff or comments from the Commission regarding any old business.~~

Ms. Kuchynka stated that the monthly packet contained information about late night hours proposed for Fridays. She requested that the matter be tabled to a future meeting. She stated that staff presented the Sunday 9 AM serving hours to the Village Council at their October 5th workshop meeting. She noted that there were some issues and concerns with the proposal. She stated that staff wanted to wait until the Council voted on the matter so as not to devote staff time if the Village Council is not in support of changing hours. Ms. Kuchynka advised that the Legal Department needed additional time to gather information on the issue and to determine if it is worth pursuing the change.

Ms. Petrarca stated that there seemed to be an issue with serving liquor at 9 a.m. on Sundays, even though patrons can get served any day of the week beginning at 8:00 a.m.

Ms. Kuchynka stated that she contacted Oak Brook as to how they determined the \$500 fee for the late night license. She advised that it was an arbitrary fee and they simply issue a license to those who pay for it. She noted that there are no applications, guidelines for issuance or guidelines for terminating the license. She wanted to check if there are any other communities that offer such a license and review how it is administered.

Ms. Kuchynka asked the group to review the draft materials she provided and consider any standards of issuance and/or guidelines for revocation.

Ms. Strelau asked if the other communities had the same difference in Friday to Saturday night hours. She wondered why Saturday and Friday hours were differentiated as they are both considered part of the weekend. She wondered what was special about Saturday night being open an additional hour. She felt it should be the same for both nights and wondered why the Village would charge more for one night than the other. She felt hours should be consistent for both nights.

Ms. Fregeau had suggested changes to the application. She asked if the manager designated would be the manager on duty during the extra hour of service or the Liquor Manager. Ms. Kuchynka replied the Liquor Manager.

Ms. Fregeau asked how the Village verifies what is disclosed on the application for such things as license revocation. Ms. Kuchynka replied that if they sign the application they are attesting to the truthfulness of the information contained therein. She added that the Village contacts communities that they list. She added that the Village conducts State, federal and local background checks on the applicant, owners and liquor manager. Ms. Petrarca stated that falsifying information an application is just cause for suspension or revocation of the license.

Ms. Strelau wondered if the late night hours application should read extended hours into Saturday morning.

The group agreed to table the matter to a future meeting.

VI. NEW BUSINESS

Chairman McInerney asked if there was any discussion, update from staff or comments from the Commission regarding old business.

Ms. Kuchynka mentioned that a Party Trailer was recently placed in the café area at Ballydoyle. She distributed a picture of the unit and correspondence from Mr. Cullen regarding the unit. She stated that they are not using it as a portable bar, but a means for which their patrons to enjoy football games on Sunday via the built in television in the unit.

Ms. Kuchynka stated that the unit has stools, a television and built in grill. She believed that it was inconsistent with the terms of their Sidewalk Café License Agreement which prohibits portable bars and noted that they did not request a floor plan change disclosing the placement of the unit.

Ms. Kuchynka felt that the unit resembled a portable bar. She stated that a portable television would be allowed so that patrons can watch the game, but she felt the unit went beyond the scope of what they are allowed in their café which is on public property. She wanted to get the Commission's thoughts on how the party trailer unit presents itself.

Chairman McInerney stated that he has seen the party trailer demonstrated and promoted at the Downers Grove Farmers Market. He stated that people can rent the unit for an event. He felt that it resembled a portable bar, regardless if alcohol is served from it. He stated that it has taps on it and it can be set up as a bar.

Ms. Strelau asked if portable beer tubs are allowed in a café. Ms. Kuchynka replied no.

Ms. Petrarca believed that the awning on the unit may also violate the sign ordinance violation.

Ms. Kuchynka believed that the unit obstructed the emergency exit.

Ms. Kuchynka stated she did not believe there would be objection to them rolling out a television on occasion for football games, so long as it does not reduce the number of seats and was not placed where it obstruct emergency exits or interfere with ingress/egress.

Ms. Strelau asked if tables were taken out to make room for the unit. Ms. Kuchynka replied that she believed that it did.

Mr. Adank liked the ingenuity. He wondered if there was something they could do to make the unit work. He wondered if they removed the bar apparatus and signage. Mr. Adank believed that the unit clearly resembles a bar.

~~Ms. Strelau stated that although they are not using it as a bar she felt that it did have bar characteristics.~~



www.downers.us

November 19, 2010

**COMMUNITY RESPONSE
CENTER**

630.434.CALL (2255)

CIVIC CENTER

801 Burlington Avenue

Downers Grove

Illinois 60515-4782

630.434.5500

TDD 630.434.5511

FAX 630.434.5571

FIRE DEPARTMENT

ADMINISTRATION

5420 Main Street

Downers Grove

Illinois 60515-4834

630.434.5980

FAX 630.434.5998

POLICE DEPARTMENT

825 Burlington Avenue

Downers Grove

Illinois 60515-4783

630.434.5600

FAX 630.434.5690

PUBLIC WORKS

DEPARTMENT

5101 Walnut Avenue

Downers Grove

Illinois 60515-4046

630.434.5460

FAX 630.434.5495

The Honorable Ronald L. Sandack
Mayor and Liquor Commissioner

Re: *Friday Sales Hours*

Dear Mayor Sandack:

On Thursday, November 4, 2010, at a regular meeting of the Downers Grove Liquor Commission, the members made a recommendation concerning an amendment to sales hours. The following finding was made:

MR. KRUSENOSKI MOVED TO AMEND FRIDAY NIGHT SERVICE HOURS TO BE CONSISTENT WITH THAT OF SATURDAY SERVICE HOURS OF 2AM WITH A ONE (1) YEAR SUNSET CLAUSE. MS. KING SECONDED.

VOTE: **Aye:** Mr. Krusenoski, Ms. King, Mr. Clary, Mr. Adank, Ms. Fregeau,
Chairman Pro Tem Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The motion carried.

This motion can be found in the November 4, 2010 minutes of the Liquor Commission (attached).

Very truly yours,

Alice Strelau, Chairman Pro Tem
Liquor Commission

VILLAGE OF DOWNERS GROVE

cc: April Holden, Village Clerk

alrecommend.1-e\Friday-hours

~~Ms. Fregeau noted that their manual advises employees not to serve anyone under 21. She recommended that they add a provision in the manual instructing employees should ask for identification from anyone appearing under the age of 35.~~

Chairman Pro Tem Strelau noted that sometimes it is helpful to have the liquor manager present at the application hearing to help them understand the significance of proper liquor service.

Chairman Pro Tem Strelau asked Mr. Holden was familiar with the Village's Control Buy Program. Mr. Holden noted that he worked in DeKalb where the Village conducted similar tests and was generally aware of the process.

Chairman Pro Tem Strelau was pleased that their record has been free of violations over the past seven years.

Chairman Pro Tem Strelau hoped that they continue to take liquor serving seriously.

Hearing the testimony given in this case, Chairman Pro Tem Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to the Class "R-2", beer and wine only, on-premise consumption liquor license.

MS. FREGEAU MOVED TO FIND FRANCHISE MANAGEMENT INVESTORS US, LLC D/B/A PIZZA HUT LOCATED AT 1560 75TH STREET, QUALIFIED FOR A CLASS "R-2", BEER AND WINE ONLY, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MS. KING SECONDED.

VOTE: **Aye:** Ms. Fregeau, Ms. King, Mr. Clary, Mr. Adank, Mr. Krusenoski, Chairman Pro Tem Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

~~The motion carried.~~

VI. OLD BUSINESS

Chairman Pro Tem Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka noted that the group tabled discussion of Friday 2 AM serving hours at last month's meeting for the benefit of further information.

Ms. Kuchynka stated that the group discussed creating a new late night license class. Mr. Clary asked that if a licensee wants to serve until 2 AM, they would have to pay for it. Ms. Kuchynka replied yes.

Ms. Kuchynka stated that the late night licenses would be unlimited in number, but did not believe that all licensees would apply for this extra hour of service. She stated that an application hearing would be held and a one time application fee would apply. She distributed a copy of the draft ordinance.

Ms. Kuchynka noted that Another Round, Brick House, Ballydoyle, Emmett's, Rita's and Shanahan's, requested the 2 AM service and involved the Chamber of Commerce.

Ms. Fregeau asked what was the annual fee. Ms. Kuchynka replied \$700. She stated that she and Lt. Budds discussed the fee and determined that \$700 would cover monitoring.

Ms. Fregeau stated that this license allow establishments to serve alcohol an extra 52 hours per year. She wondered how the \$700 figure was determined. Ms. Kuchynka replied that staff added the cost for special monitoring. She believed there would be about 6 hours of staff overtime costs to cover. She stated that staff did not know what to expect by way of monitoring requirements at this time as it is a new issue, however, the fees can be changed administratively by the Village Manager. She expected to review the program after a year to determine if fees are accurate to cover costs.

Ms. Fregeau stated that the Oak Brook license fee was \$500. Ms. Kuchynka contacted Oak Brook and questions how they came up with the \$500 figure, but was told it was an arbitrary fee. She also noted that there was no application and believed they simply issue the 1 hour license to anyone who pays the fee.

Mr. Clary asked if licensees would appear before the Commission. Ms. Kuchynka replied yes. She stated that a licensee would apply once, just as they do for an outdoor license. She stated that they would explain why they need the 2 AM license, address security issues, monitoring and how they plan to increase staff for the late night service. Ms. Fregeau liked having licensees ppear before the Commission to profess the need for the license.

Ms. Fregeau stated that the 9 AM Sunday license was discussed by the Council. She was surprised to see the Downers Grove Reporter article where Another Round was talking of early service and tailgating. Ms. Kuchynka noted that support for the 9 AM license was intended for the Village to keep competitive with surrounding communities and bring in additional tax revenue, not to encourage early morning drinking.

Ms. Kuchynka provided the Commission with minutes of the Village Council discussion about the Sunday sales hours in their monthly packet. She noted that the ordinance passed slightly by a 4-3 vote. She understood their concerns and was comfortable with tabling discussion of the 2 AM license issue last month. She worried that the Council may not be on board with changing late night hours.

Mr. Clary wondered if there was some concern brining the 2 AM license issue to Council right away.

Ms. Kuchynka felt that it would be beneficial to consult with the Village Manager and ask that he poll the Council about the issue, prior to doing more work on the project.

Ms. Fregeau felt that it was beneficial showing the Council the competitive environment by showing what surrounding communities offer.

Mr. Adank wondered what were the main objections. Ms. Kuchynka replied Sunday church services and the old 12-noon Blue Laws that were established for Sunday service and the need to start serving at such an early hour.

Chairman Pro Tem Strelau stated that contrary to her original statement of wanting a late night license category, she wondered what made a Friday night different from a Saturday night in regards to liquor service. She preferred consistency as it allows for better enforcement. She preferred an across the board change in lieu of a separate license. She wondered if the Commission should postpone the issue.

She did not have issue with changing hours, but felt that timing is everything. She rescinded her thoughts on the special license because she could not determine why issuing a Friday late night license is special.

She felt that there would be less confusion and would rather make the hours consistent for Friday and Saturday.

Mr. Adank agreed to keep the ordinance simple. He felt the AM hours should be consistent for Saturday morning and Sunday 9 AM as well.

Chairman Pro Tem Strelau asked if there are any licensees that are anxious to be open at 8AM. Ms. Kuchynka replied perhaps the hotels. Chairman Pro Tem Strelau 6 AM licenses in the City of Chicago made sense in that area as they cater to third shift workers. She did not believe it could apply the same way in Downers Grove.

Ms. Kuchynka stated that the only early request she ever had was from Ballydolye when they held a fundraiser with a local radio station that started at 6 AM. She noted that they were able to use an extension request to accommodate the special event.

Chairman Pro Tem Strelau read the memo provided by Lt. Budds about late night monitoring in which the Police Department would provide timely reports indicating the number and types of calls to the businesses that want the special late night license. She felt if the Commission receives good reports the Commission can evaluate the program.

Chairman Pro Tem Strelau wondered if the change of hours should have a sunset clause. She recommended trying the change of hours across the board for a year, see what the police reports divulge and re-visit the issue. She felt the sunset clause might make Council more comfortable.

Mr. Adank felt that if the across the board change does not work after it is evaluated, it would give more credence to issuing a late night license and having licensees come before the Commission to plead their case as to why they need and deserve an extra hour of service on Friday night.

Ms. Kuchynka stated that she would ask the Village Manager to poll the Council to see if they are in support of the 2 AM change.

Ms. Fregeau stated that the Commission spent a lot of time discussing the Sunday hour change and felt that most questions and concerns brought up by the Council were addressed in the minutes and in the Liquor Commission discussion.

Mr. Adank asked if it was safe to assume that it is in the Commission's interest to keep the ordinance simple. The Commission agreed. Chairman Pro Tem Strelau stated that keeping hours consistent was their goal. Ms. Fregeau added the notion of the change having a sunset clause.

Ms. Kuchynka requested a motion.

MR. KRUSENOSKI MOVED TO AMEND FRIDAY NIGHT SERVICE HOURS TO BE CONSISTENT WITH THAT OF SATURDAY SERVICE HOURS OF 2AM WITH A ONE (1) YEAR SUNSET CLAUSE. MS. KING SECONDED.

VOTE: **Aye:** Mr. Krusenoski, Ms. King, Mr. Clary, Mr. Adank, Ms. Fregeau, Chairman Pro Tem Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The motion carried.

Ms. Kuchynka stated that she will forward the Commission's recommendation to the Village Manager and ask that he poll the Council for their thoughts on the 2 AM service issue and await further direction from the Village Manager.

Mr. Clary wondered if the Council might object to not charging for the additional hours of liquor service. Ms. Kuchynka stated she was unsure if the across the board service hours change would necessitate an increase in fees. She was unsure if Council would want staff to address additional monitoring and policing costs. Chairman Pro Tem Strelau felt that more of the entertainment class license holders would benefit from the additional serving. She noted that fees can be increased by class rather than across the board. Ms. Kuchynka noted that the amount of alcohol sales a licensee declares can also be a determining factor in justifying an increase in fees.

Ms. Kuchynka advised that she had two applications on file and notified the Commission that there will be a December 2nd hearing.

Ms. Kuchynka provided the members with a clean, updated version of the Liquor Code.

Chairman Pro Tem Strelau asked about the closing of North Beach. Ms. Kuchynka advised that they were struggling and did not have adequate revenue to justify daily operation. She stated that Mr. Horstman closed the business voluntarily. She believed that the landlord was attempting to rent the facility for volleyball leagues without liquor service. The Commission agreed that the premises should be checked to ensure that liquor is not being brought into the establishment.

Ms. Kuchynka advised that there were no DUI Notification Letters in September.

VII. NEW BUSINESS

Chairman Pro Tem Strelau asked if there was any discussion, update from staff or comments from the Commission regarding new business.

There was none.

VIII. COMMENTS FROM THE PUBLIC

There were none.

IX. ADJOURNMENT

Concluding business for the evening, Chairman Pro Tem Strelau called for a motion to adjourn.

Ms. King moved to adjourn the November 4, 2010 meeting. The meeting was adjourned by acclamation at 7:10 p.m.