

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
MAY 21, 2013 AGENDA

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

SYNOPSIS

An ordinance has been prepared to amend the Village's Liquor Code relative to the following items:

- Amend the Class E liquor license classification which allows on-site consumption of liquor at an entertainment/restaurant facility to include recreation activities
- Increase the number of Class E liquor licenses available

STRATEGIC PLAN ALIGNMENT

The Goals 2011-2018 identified *Strong, Diverse Local Economy*.

FISCAL IMPACT

N/A

RECOMMENDATION**UPDATE & RECOMMENDATION**

This item was discussed at the May 14, 2013 Village Council meeting. Staff recommends approval on the May 21, 2013 Active Agenda.

BACKGROUND

Staff received a request to amend the liquor control ordinance to create a new license classification which would allow consumption of alcoholic liquor at a restaurant/recreational facility. Rather than create a new license classification, the Liquor Commission, at its March 7, 2013 and April 4, 2013 meetings, recommended that the current entertainment/restaurant facility license be amended to include recreational activities.

Currently, the code allows consumption of alcohol at recreational facilities (Class REC) and entertainment/restaurant facilities (Class E), but it does not allow for a restaurant/recreational facility wherein recreational activities such as sand volleyball, bags, darts, bowling, dancing, live entertainment and other recreational activities are conducted on the premises. The proposed facility does not qualify for a Class REC license because the primary business is not a recreational facility. It also does not qualify for a Class E because recreational activities are not allowed under that classification.

Expanding the scope of an entertainment/restaurant license classification (Class E) would allow a restaurant to not only offer dancing and live entertainment, but also offer recreational activities on the premises. Rita's Roadhouse is currently the only holder of a Class E liquor license in the Village. The Liquor Commission also recommended that the Village Council increase the number of Class E liquor licenses available from one to two.

Should the Village Council adopt the amendments proposed by the Liquor Commission, staff is proposing adoption of an additional amendment as well. Staff is recommending amending the Class E license

classification to include a provision stating that this type of classification would be subject to any other additional conditions and restrictions placed upon it by the Local Liquor Commissioner. This would allow the Local Liquor Commissioner to impose additional conditions on a licensee on a case-by-case basis, in addition to those already specified in the ordinance. This would allow staff to exercise greater control and oversight of the licensed establishment and to address any unique concerns regarding any individual licensee.

At their meeting of April 4, 2013, the Liquor Commission voted 4:1 to amend the entertainment/restaurant facility definition to include recreation activities and 3:2 to increase the number of available Class E licenses to two (2) upon passage of the amendment to the definition of the entertainment/restaurant license.

Adopting these amendments will not result in the issuance of a liquor license to any specific establishment; rather it will allow an establishment to apply for the newly created license. Any applicant will still have to go through the entire application process.

ATTACHMENTS

Ordinance

Liquor Commission Minutes – March 7, 2013

Liquor Commission Recommendation & Minutes – April 4, 2013

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney **DATE:** May 21, 2013
(Name)

RECOMMENDATION FROM: Liquor Commission **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE AMENDING THE ENTERTAINMENT/RESTAURANT FACILITY LICENSE", as presented.

SUMMARY OF ITEM:

Adoption of the attached ordinance shall amend the entertainment/restaurant facility liquor license classifications.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ENTERTAINMENT/RESTAURANT FACILITY LICENSE

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

Section 1. That Section 3.3 is hereby amended to read as follows:

3.3 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Act. The Illinois Liquor Control Act of 1934, as now or hereafter amended.

Alcoholic liquor. Any spirits, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes. Beverages sold as beer, ale or other designation commonly applied to malt beverages containing more than one-half of one percent of alcohol by volume shall be presumed to be alcoholic liquor for purposes of this Chapter.

Billiard Hall. A place in which the public may participate in a game of skill commonly known as pool. Such facility shall have a guest seating capacity, excluding outdoor areas, of not less than one hundred (100). Such facility shall be limited to patrons 21 years of age and older.

Bowling Alley. Any public place kept, used, maintained, advertised or held out to the public as a place wherein the game of bowling is played with composition balls and ten wooden or plastic pins. Such facility shall have a guest seating capacity, excluding outdoor areas, of not less than one hundred twenty-five (125).

Brew Pub. Any public place kept, used, maintained, advertised or held out to the public as a place where meals are regularly served and where beer is produced upon the premises. The business shall operate as a restaurant and bar/lounge seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

Catering Business. A business which provides and serves alcoholic liquor at locations not owned or leased by the catering business for consumption at such location.

Catered event. A dinner, banquet, party or other similar event at which alcoholic liquor is provided for consumption on the premises by a Catering Business.

Club. A corporation organized under the laws of this State, not for pecuniary profit, solely for the promotion of some common objective other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable comfortable use and accommodation of its members and their bona fide guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of employees for cooking, preparing and serving food and meals for its members and their bona fide guests. Provided, the sale or offer of alcoholic liquor for sale to the public by the club, except as provided in Section 3-32 of this Chapter is not permitted, and further provided, that the affairs and management of the club shall be conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting, and that no member or any officer, agent or employee of the club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of

the club. The term club shall not include any "men's or women's club" as defined herein.

Contracted theater rental. A prearranged function in which an entity enters into a rental agreement or contract for the use of a theater for events, film viewing/critique, or theater production/box office events.

Convenience Store. A building in which the sale of food, non-alcoholic beverages, household products, cosmetic items and reading materials is provided. No more than twenty-five percent (25%) of the retail sale square footage area shall be devoted to the sale of beer/wine and tobacco products.

Drug Store. A retail store where medication and miscellaneous articles (food, cosmetics and film) are sold. No more than twenty-five percent (25%) of the retail sale square footage area shall be devoted to the sale of beer/wine and tobacco products.

Entertainment/Restaurant facility. Any public place kept, used, maintained, advertised or held out to the public as a restaurant and where dancing, ~~or live entertainment~~ or recreational activities such as those which are included in the definition of a recreational facility, ~~is~~ are available.

Fashion show. The modeling, showing or other presentation of lingerie or other garments for the purpose of entertaining or for sale of the garment, where the person so modeling the garment appears in a nude or semi-nude state.

Gaming Facility. A place in which the public may participate for a fee in organized, competitive video gaming, online and through the use of video gaming consoles, excluding video gaming that involves gambling of any type. Such facility shall have a retail game sales area. Such facility shall have a guest seating capacity, excluding outdoor areas, of not less than thirty-five (35).

Grocery Store. A building where the primary business consists of the direct retail sale of items such as meats, cereals, grains, produce, baked goods, dairy products, canned and frozen prepared food products, beverages, cleaning supplies, pet food and supplies, over the counter medicines, personal products, household goods and similar items are available to be purchased by the consumer. No more than twenty-five percent (25%) of the retail sale square footage area shall be devoted to the sale of beer/wine and tobacco products.

Hotel. A building or group of buildings used in conjunction with one another as a lodging facility providing sleeping accommodations for compensation to travelers and guests, whether transient, permanent or residential and in which one hundred or more rooms are provided for such purpose.

Liquor product identification sign. Any sign, including any placard, banner, poster, streamer, balloon or other attention getting device, which is designed or used to advertise, promote or identify a particular brand of liquor. This includes, but is not limited to, those signs commonly referred to as "beer signs" and may involve electronic or neon displays.

Men's or women's club. An establishment which offers entertainment where any person may appear in a nude or semi-nude state, or offers the customer a role playing interaction, including but not limited to servers, hosts, hostesses, dancers, singers, models or other performance artists, or an establishment which offers customers role playing interaction.

Nude or nudity or a state of nudity. The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or, a state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

Semi-nude. A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

Original package. Any bottle, flask, jug, can, barrel, keg, or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

Outdoor sales. The sale or consumption of alcoholic liquor in an area adjacent to an existing licensed business which is wholly or partially contained upon private or public property.

Private function. A prearranged private party, function, or event for a specific personal, social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in an area designated and used exclusively for the private party, function or event and where the licensee is not the host of said function.

Ent-Rec

Regularly scheduled motion pictures or films. Motion pictures or films scheduled to be shown at previously arranged and advertised times and open to the general public. Regularly scheduled motion pictures or films shall not include any motion pictures or films shown as a result of a contracted theater rental, as defined in this section.

Recreational facility. A place in which the public may participate in activities, including but not limited to bowling, gaming, billiards, and indoor simulated golf, as defined herein. Such facilities shall include an area where food is prepared on the premises and food service shall be available during operation.

Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment.

Restaurant. Any public place kept, used, maintained, advertised or held out to the public as a place with the service of food and drink, and where meals are regularly served, without sleeping accommodations, and where adequate provision is made for sanitary kitchen and dining room equipment and capacity and a sufficient number of employees to prepare, cook and serve a reasonable variety of meals for its customers. The mere availability and service at any premises of cold sandwiches, hobs d'oeuvres or other similar foods will not, standing alone, be deemed sufficient to constitute such premises a restaurant within the meaning of this paragraph, it being the intent of this paragraph that the primary business conducted on premises to be licensed as restaurants hereunder shall be the service of food and drink. A full menu, including entrees and appropriate side dishes, shall be available at all times liquor sales are being conducted until ten o'clock (10:00) p.m. Sunday through Thursday, and eleven o'clock (11:00) p.m. Friday and Saturday. After such times, in the event a full menu is not provided, a reduced menu, which must include appetizers, sandwiches, hors d'oeuvres or other similar foods shall be available. Such menu shall be on the table, presented to each patron as they are seated or be posted in such a manner to be easily readable by the patrons of the restaurant. Provided, the kitchen may not cease operating prior to one hour before closing. Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment.

Retail sale. The sale for use or consumption, and not for resale.

Retail sales square footage area. The area or space in a building devoted for the retail sale of goods or products offered for consumer purchase and shall not include storage freezers, storage coolers, warehouse, office areas or areas that are not open to the general public.

Role playing interaction. An arrangement, service or program where a server, host, hostess, dancer, singer, model or other performance artist, engages a customer in a meeting or conversation involving, depicting, participating in, or relating to any "specified sexual activities" as defined and set forth in Chapter 8 of the Municipal Code.

Sale. (to Sell) Any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and not for resale, including all sales made by any person whether as principal, proprietor, agent, servant or employee, and including, but not limited to, all of the following acts when done for consideration:

- (1) The selling of liquor.
- (2) The delivery of liquor, without additional charge, with a meal or with entertainment or the providing of samples of liquor as part of a promotion or sales device of any kind.
- (3) The dispensing of liquor.
- (4) The providing of mix, ice, water or glasses for the purposes of mixing drinks containing alcoholic liquor for consumption on the same premises.
- (5) The pouring of liquor.
- (6) The providing of "set-ups" containing alcoholic liquor.
- (7) The giving away of liquor.

"Sale" shall not include:

- (1) a person acting in the privacy of his/her home
- (2) where liquor is provided as part of a religious ceremony; and
- (3) to private functions as defined herein that are held by the host and where the guests are not

charged for the liquor consumed.

Theater. A facility within the DB Downtown Business District allowed as a permitted use under the Downers Grove Zoning Ordinance, regularly used for showing motion pictures/films or conducting theatrical, musical or live performances or events with a seating capacity of 900 or more persons.

Theater production/box office events. Theatrical, musical, live performances or special events in which tickets are sold to the general public. These productions shall not include regularly scheduled motion pictures or films.

Wine Boutique. A facility where the retail sale of wine, wine tastings and wine education seminars/classes are conducted on a regular basis and on site consumption of wine and beer is allowed subject to provisions of the wine boutique license classification.

Wine Shop. A facility where the retail sale of wine or beer for off-premise consumption, wine tastings and wine education seminars/classes are conducted on a regular basis. (Ord. No. 244, § 1; Ord. No. 1741, § 1; Ord. No. 1749, § 1; Ord. No. 2388, § 1; Ord. No. 2450, § 1; Ord. No. 2541, § 1; Ord. No. 2735, § 1; Ord. No. 2847, § 1; Ord. No. 3164, § 1.) NOTE:

Section 2. 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 "B" Brew Pub Licenses

"B-1" Brew pub licenses shall authorize the retail sale of alcoholic liquor and beer produced on the premises for on-site consumption. The retail sale of beer in original packages, unopened only, produced on the licensed premises shall be allowed for off-premise consumption.

Class "BYO" Bring Your Own Licenses

"BYO" licenses shall authorize the consumption of beer and wine which has been brought onto the premises by a patron or patrons over the age of twenty-one (21) for on-site consumption where the premises is that of a restaurant as defined herein. The following provisions shall apply:

BYO shall be permitted in conjunction with the purchase and consumption of a meal while seated at a table and served by wait staff;

No more than one (1) 750ml bottle of wine per patron or no more than 36 ounces of beer per patron (unopened) shall be permitted to be brought into the premises;

BYO shall be allowed only during the restaurant hours of operation and only along with and during regular food service. Downers Grove allowable sales hours per Section 3.31(a) shall apply;

BYO shall be limited to indoor seating only. Under no circumstances shall BYO be allowed outside unless as otherwise provided by a separate license classification validly held by the licensee;

BYO licensees may provide glass ware and ice to patrons; may uncork, pour and control its consumption and may charge a corkage fee;

Employees who have successfully completed a certified training program may perform corkage/serving duties. Such employees must be at least nineteen (19) years of age and shall serve in accordance with all State and local laws;

BYO licensees shall provide a certificate of insurance reflecting coverage for dram shop or equivalent liability for BYO service;

At a patron's request, the licensee shall re-seal any unconsumed portion of wine in accordance with State law;

Licensees are prohibited from storing liquor on the premises, unless as otherwise provided by a separate license classification validly held by the licensee;

Packaged and on-site sales of liquor is prohibited, unless as otherwise provided by a separate license classification validly held by the licensee;

Licensees shall be liable for violations of this Chapter in the same manner as the holder of any other classification of liquor license, including but not limited to violations for service to minors and the over-serving of patrons.

Class "C" Club (Private) Licenses

"C-1"- Private club licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises where the business is that of a club as defined herein.

Class "E" Entertainment/Restaurant Facility Licenses

"E-" Entertainment/Restaurant Facility license shall authorize the sale of alcoholic liquor for consumption on the licensed premises where the primary business is an entertainment/restaurant facility as defined herein, of not less than twelve thousand (12,000) square feet. Such facility shall have dining on the premises with a guest seating capacity, excluding outdoor areas, of not less than one hundred twenty-five (125). Such facility shall have an area where food is prepared on the premises. An area or area(s) may be devoted to dancing and/or live entertainment or recreational activities. Physical bar seating shall be limited to twenty percent (20%) of the total amount of dining seats provided.

Such facility shall be limited to patrons 21 years of age and older.

A monthly report shall be submitted to the Village describing any planned events or scheduled entertainment scheduled by the Licensee.

The Licensee shall provide the Village with a detailed security plan for the facility, including, but not limited to, a policy, security procedures and security staffing provisions. Twenty-four hour emergency contact information shall be provided to the Village's Police and Fire Departments.

This license shall be subject to any other additional conditions and/or restrictions imposed by the Local Liquor Commissioner either at the time of initial issuance or renewal of the license.

Class "G" Golf Course.

"G" Golf course licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises operated by the Downers Grove Park District. Sales shall be authorized in the clubhouse, an outdoor area and upon the golf course. Sales of beer and wine from a motorized food and beverage cart operating on the public golf course are authorized provided not more than fifty percent (50%) of the designated storage/display capacity shall be devoted to the display and sale of beer and wine. No more than one (1) such motorized food and beverage cart shall be on the course and in operation at any one time. Non-alcoholic beverages and food shall at all times be stocked and available for sale in such cart.

Class "H" Hotel Licenses

"H-1" Hotel licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises of a hotel as defined herein, and the retail packaged sale of beer and wine in original packages to hotel patrons. This shall include sales occurring at facilities, or as part of activities, normally operated as an

integral part of the hotel, such as, but not necessarily limited to, restaurants, cocktail lounges, room service and banquets. Provided, the licensed premises shall have at least one restaurant with a seating capacity of not less than one hundred twenty-five (125) operated as an integral part of the hotel.

Class "K" Catering Licenses

"K-1" Catering licenses shall authorize the sale of alcoholic liquor in connection with the operation of an off-site catering business as defined herein that serves alcoholic liquor in connection with the catering of foods for private functions and for consumption only on the premises where the food is catered. The sale of alcoholic liquor shall be incidental to the food service and if the catered event does not qualify as a private function, a special event license shall also be required for the location of the catered event. No cash bar shall be permitted. No alcoholic liquor shall be served at a single location for more than eight (8) consecutive hours. A licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth the location of each event the licensee has catered within the Village and the number of hours for which liquor and food were served at such events during the six months prior. In addition, such report shall describe any planned events currently scheduled by the licensee.

"K-2" Catering licenses shall authorize the sale of beer and wine at the Downers Grove Park District Recreation Center located at 4500 Belmont Road. Provided, a catering license may be issued to a sub-contractor who solely provides beer and wine service on behalf of and in conjunction with an off-site food catering business under contract with the Downers Grove Park District. The sub-contractor may not utilize the Class K-2 catering liquor license in any other facility in the Village, operate independently at the Recreation Center or provide beer and wine without food service being available. Service of beer and wine shall be limited to service from a designated portable bar area. No table service of wine or beer shall be allowed. In all instances, the sale of alcoholic liquor shall be incidental to the food service. No cash bar shall be permitted. No alcoholic liquor shall be served at a facility rental for more than six (6) consecutive hours. The licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth the date, time and type of any planned events currently scheduled by the licensee in order for the Village to monitor compliance. In addition, the Village may request that the licensee include information on the dates, times and types of events at the Center during the six months prior.

Class "O" On Premise Consumption, Outdoor Licenses

"O" Outdoor licenses shall authorize the sale and consumption of alcoholic liquor in an enclosed outdoor seating area. This license may only be issued to establishments holding a valid Class B, C, E, P-O, R or W license and shall be limited to the conditions of the Class B, C, E, P-O, R or W license issued to the establishment. The main and principal operation of the outdoor area for Class B, E, P-O, R or W license holders shall be for dining purposes and food must be available in the outdoor dining area at all times and shall be subject to the provisions set forth in Section 3-30. Operation of the outdoor area for a Class C license is limited to private party rentals and shall be subject to the provisions set forth in Section 3.32.

Class "P" Off Premise Consumption Licenses

"P-1" Packaged liquor licenses shall authorize the retail sale on the premises specified, which shall not include premises of less than three thousand six hundred (3,600) square feet, of alcoholic liquor in packages with the seals unbroken, only, and not for consumption on the premises, except that tastings shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of packaged liquor is the primary business and/or in locations where the primary business is that of a drug store, grocery store or convenience store as defined herein.

"P-2" Packaged liquor licenses shall authorize the retail sale on the premises specified, of beer and wine in original packages, unopened only, and not for consumption on the premises, except that wine tastings shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the primary business is that of a drug store, grocery store, wine shop or convenience store as defined herein.

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

"P-O" 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 alcohol shall also 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 alcohol on the premises shall not exceed seven hundred fifty (750) square feet.
- c. Consumption of alcohol 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 alcohol, for on-premise consumption, shall be in accordance with Section 3-31(a).

Class "REC", Recreational Facility, On Premise Consumption Licenses

"REC-1" Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises, where the primary business is a recreational facility as defined herein.

"REC-2" Recreational Facility licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises, where the primary business is a recreational facility, as defined herein.

Class "R" Restaurant, On Premise Consumption, Indoor Licenses

"R-1" restaurant licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises, where the primary business is that of a restaurant, as defined herein.

"R-2" restaurant licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises, where the primary business is that of a restaurant, as defined herein.

Class "S" Special Event Licenses

"S" special event licenses shall be issued for the temporary sale of alcoholic liquor during special events.

(a) It shall be unlawful for any person who does not hold a valid liquor license pursuant to the provisions of this Chapter, to dispense or cause to be dispensed alcoholic beverages at a grand opening, wine tasting, open house or other special event open to the public, without first having obtained a special event license from the Local Liquor Commissioner. It shall be unlawful for any person holding a valid liquor license to conduct a special event which exceeds the limitations on liquor sales or otherwise fails to meet the requirements inherent in the applicable license classification without first having obtained a special event license from the Local Liquor Commissioner.

(b) Applications for a license under the provisions of this section shall be filed on forms provided by the Village. The general application procedures set forth in Sections 3-9 and 3-12 shall not apply to licenses issued under this section except for the requirement under Section 3-9(c)(9) concerning dram shop insurance coverage. Provided, the Commissioner may refer any application under this section to the Commission for review and comment. The application shall include such information as the Commissioner determines is necessary to process such application and may include, but is not limited to, the estimated number of persons attending the event, the location and layout of liquor sales at the event and at the premises, the persons responsible for dispensing of alcoholic liquor, steps to be taken by applicant to protect against any violations of the Village's ordinances and information regarding the manner in which and what type of liquor shall be dispensed and consumed. Additional information and material may be required during the processing of such application related to applicant's qualifications and information provided in the original submittal, including attachments. In the event the applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, the applicant shall immediately notify the Village and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial.

(c) A fee shall be paid along with the application submittal as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

(d) Where the applicant is a governmental unit and/or charitable organization, the Liquor Commissioner may waive the fee otherwise required by this section under his sole discretion.

(e) Upon submittal of a properly completed application and payment of fee, the Commissioner may issue a special events license subject to such reasonable restrictions as the Liquor Commissioner may require to protect the public health, safety and welfare, including, but not limited to the following:

(1) No more than six (6) such special event licenses shall be issued for the same location within any calendar year.

(2) The special event license holder shall take proper precautions and fully comply with the applicable provisions of this Chapter during the special event.

(3) The special event will last no longer than two (2) days, provided that three consecutive licenses can be utilized for an event which shall not exceed six (6) days.

(4) The provisions of Section 3-11(b) regarding proximity of the proposed special event shall not apply to licenses issued under this section.

(5) The following restrictions apply to community special events sponsored by a governmental entity:

(i) At least two persons over the age of twenty-one shall be present at all times in the

liquor consumption area to monitor compliance with applicable regulations and laws of the Village and State of Illinois regarding the consumption of liquor.

(ii) The licensee shall incorporate such other measures as the Liquor Commissioner may direct to protect the public health safety and welfare, including measures to protect against violations of the regulations and laws of the Village and State of Illinois regarding the consumption of liquor.

(6) The provisions of Section 3-30 regarding outdoor sales shall not apply to special event licenses issued under this section and a special event may include outdoor sales, service and consumption as approved by the Liquor Commissioner.

(7) Except as otherwise provided in this section, the applicant shall comply with all applicable provisions of the Downers Grove Municipal Code, including but not limited to, zoning, building, health and safety regulations.

(f) The Commissioner may issue a special events license as provided under this section to permit the sale and consumption of alcoholic liquor on public property. Provided, except for Village sponsored or co-sponsored community-wide celebrations, special events and other similar activities or functions, a temporary use license as provided in Chapter 4 of the Downers Grove Municipal Code shall be required for any special event conducted wholly or partially upon Village controlled property. An application shall be completed as provided in subsection (b) above and submitted to the Commissioner for decision. Provided, in addition to any other requirements which may be imposed, issuance of any special events license involving public property shall be contingent upon proof of dram shop insurance, up to the statutory limit, and such other liability insurance as the Village may from time to time direct, listing the Village, its officers and employees, as named insured.

(g) It is recommended that at least one (1) person on-site shall possess a certified training certificate pursuant to Section 3.33.3.

Class "T" Theater.

"T" Theater licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises where the primary business is that of a Theater as defined herein, subject to the following conditions:

1. Sales of alcoholic beverages shall be limited to contracted theater rentals and theater production/box office events.
2. Alcoholic beverage sales shall not be allowed during regularly scheduled motion pictures or films or during events that are primarily oriented for children.
3. Sales shall be made from portable bars containing alcoholic liquor, mixes and related preparation materials. Such portable bars shall not have seats or stools for patrons at which to sit.
4. Portable bars shall be removed and/or stored out of view during all regularly scheduled motion pictures.
5. No alcoholic liquor shall be served at a single contracted theater rental for more than six (6) consecutive hours.
6. Alcoholic liquor may be served during theater production/box office events during one (1) hour prior to the event, during intermission not exceeding two (2) consecutive hours and for no more than one (1) hour after an event. However, an extension of liquor serving hours may be granted in accordance with the provisions of Section 3.31(a).
7. Food service must be available during contracted theater rentals and theater production/box office events in which alcoholic liquor service exceeds two (2) consecutive hours. However, should there be a suspension of liquor service for a main event or attraction (at a minimum duration of one (1) hour), such food service shall not be required.
8. The licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth each contracted theater rental/theater production/box office event and the number of hours for which liquor was served during the six months prior. In addition, such report shall describe

any planned events currently scheduled by the licensee.

Class "W" Wine Boutique.

"W-1" Packaged liquor licenses shall authorize the retail sale of beer and wine in original packages and for consumption of wine or beer on the premises. Free wine tastings, classes or seminars shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of wine is the primary business, commonly referred to as "wine boutiques", as defined herein.

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

- a. The premises shall not exceed three thousand six hundred (3,600) square feet.
- b. The seating/serving area for customers ordering wine or beer within the premises shall be limited to forty percent (40%) of the gross retail square footage, but shall not exceed seven hundred fifty (750) square feet.
- c. Such facilities shall include an area in which preparation of food is provided and food is served on the premises, including hot or cold sandwiches, appetizers, tapas or other similar foods.
- d. It is intended that the service of wine or beer is merely an adjunct to the sale of beer and wine in original packages and that the wine shop shall not be advertised or otherwise held out to be a drinking establishment and/or a "wine bar". (Ord. No. 244, § 6; Ord. No. 279, § 1; Ord. No. 356, § 1; Ord. No. 634, § 1; Ord. No. 635, § 1; Ord. No. 1059, § 1; Ord. No. 1200, § 1; Ord. No. 1465, § 1; Ord. No. 1741, §§ 15 to 17; Ord. No. 2246, § 1; Ord. No. 2388, § 7; Ord. No. 2541, § 6; Ord. No. 2735, § 1; Ord. No. 2945, § 1; Ord. No. 2996, § 1; Ord. No. 3050, § 1; Ord. No. 3164, § 2.)

Section 3. That Section 3.15. is hereby amended to read as follows:

3.15. Limitation on number of licenses.

The number of licenses in each classification as defined in Section 3-13 which it shall be lawful to issue shall be limited so that the licenses in force and effect at any time shall not exceed the following numbers:

| License Classification | Amount of licenses not to Exceed |
|--|---|
| "B-1" (Brew Pub) | 1 |
| "BYO" (Bring Your Own - beer/wine) | 4 |
| "C-1" (Club, private) | 6 |
| "E" (Entertainment/Restaurant - full) | 4 |
| "G" (Golf Course) | 1 |
| "H-1" (Hotel) | Unlimited |
| "K-1" (Catering - full) | 4 |
| "K-2" (Catering - Park District - beer/wine) | 1 |
| "O" (Outdoor) | Unlimited |
| "P-1" (Packaged-full) | 17 |
| "P-2" (Packaged -beer/wine) | 15 |
| "P-O" (Packaged - full off premise and beer/wine on premise consumption - Grocery Store) | 1 |
| "REC-1" (Recreational Facility - full) | 3 |
| "REC-2" (Recreational Facility - beer/wine) | 1 |
| "R-1" (Restaurant - full) | Unlimited |
| "R-2" (Restaurant - beer/wine) | Unlimited |
| "S-1" (Special Event) | Unlimited |
| "S-2" (Special Event) | Unlimited |

| | |
|-----------------------|---|
| "T" (Theater) | 1 |
| "W-1" (Wine Boutique) | 2 |

(Ord. No. 244, § 4a; Ord. No. 284, § 1; Ord. No. 356, § 2; Ord. No. 1059, § 1; Ord. No. 1200, § 1; Ord. No. 1395, § 1; Ord. No. 1465, § 2; Ord. No. 1741, § 21; Ord. No. 2246, § 2; Ord. No. 2541, § 8; Ord. No. 2735, § 1; Ord. No. 2861, § 3; Ord. No. 3050, § 3.)

Section 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. 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

Upon hearing the evidence presented in this case, Chairman Strelau 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. KING MOVED TO FIND RGC, INC. D/B/A PRESTIGE LIQUORS LOCATED AT 739 OGDEN AVENUE, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. FREGEAU SECONDED.

VOTE:

Aye: Ms. King, Ms. Fregeau, Mr. Clary, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

The group took a 5 minute break.

V. NEW BUSINESS

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

Ms. Kuchynka included a request for liquor license from Gnarly's J's in their monthly packet. She advised that this was for the former North Beach location at 1211 B Butterfield Road. She reminded the group that in September of 2012, the Village removed a number of obsolete liquor license classifications from the Code. She stated that after review of the Code, the Village is at the maximum number of licenses allowed for a recreational facility and the license formerly held by North Beach was eliminated.

Ms. Kuchynka advised that a recreation facility is defined as “a place in which the public may participate in activities, including but not limited to bowling, gaming, billiards, and indoor simulated golf, as defined herein. Such facilities shall include an area where food is prepared on the premises and food service shall be available during operation. Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment.” She stated that there are three full alcohol REC-1 licenses held by Q Billiards, Game Pazzo and Tivoli Bowl. She stated that there is one beer and wine only REC-2 license which is issued to Bogies Indoor Golf.

Ms. Kuchynka stated that representatives from Gnarly J's are present.

Ms. Kuchynka stated that the Commission will need to discuss whether the ordinance should be amended in order to accommodate their request. She stated that the Village has the option to create a license classification to meet their needs or increase the number of recreational facility licenses available.

Ms. Petrarca stated that preliminary staff review had determined that Gnarly J's proposal does not fit into an existing license class. Mr. Clary asked if a new license class would need to be created. Ms. Petrarca stated that staff is requesting Commission discussion and a recommendation as to how staff should proceed. She stated that changes to the Code will need to be taken to the Village Council for approval.

Ms. Fregeau asked staff to summarize how their request does not fit the existing Code. Ms. Kuchynka replied that an application was submitted by Gnarly J's. She stated that they declared on the application a break down of sales as follows: 37.5% food; 32.5% alcohol; 5% non-alcoholic beverages and 25% leagues and activities. She stated that the recreational facility class requires that the "primary business" or 51% is devoted to recreational activities. She stated that the restaurant class requires that the "primary business", or 51%, is food service. She advised that Gnarly J's proposal did not meet the primary business requirement of either license class.

Ms. Kuchynka stated that staff was uncomfortable putting them into a license classification where they might have trouble meeting the requirements of. Staff also felt that they should not simply re-create the former North Beach license classification, as times have changed, the Village has different expectations of license holders and this applicant may have different needs than North Beach had when the license was created in 1996. She stated that most of the activities are taking place, however, they have made a few changes to the establishment.

Ms. Kuchynka stated that staff is looking for guidance from the Commission as to how they would like Gnarly J's to be licensed.

Mr. Krusenoski asked if the Commission needs to discuss creating a license or modify the existing recreational license. Ms. Kuchynka replied yes. Mr. Krusenoski asked if their declaration figures were projections. Ms. Kuchynka replied yes. She stated that the Commission has created other license classes and the licensee does not end up meeting their expectations. She stated that the operation presented to the Commission evolves and is skewed because of customer and market demands and then they tend not to operate how they had projected. Ms. Kuchynka stated that some licensees have changed their focus and strayed from what was originally presented to the Liquor Commission.

Ms. Kuchynka stated that she did not want people to apply for a license they are unable to comply with. She stated that projections should be easily attainable and there should be no question that they are able to meet the minimum requirements.

Chairman Strelau asked the representatives of Gnarly J's to step forward. Ms. Kuchynka asked that they state and spell their names for the record and indicate their affiliation with the establishment. Ms. Jennifer Telitz and Mr. Nick Telitz introduced themselves as owners/operators of Gnarly J's.

Mr. Krusenoski asked if they are currently open. Ms. Telitz advised that their current certificate of occupancy allows them to operate only for volleyball. She stated that they have a few hundred people playing. Ms. Petrarca stated that their Certificate of Occupancy does not allow food or beverage service. Ms. Telitz advised they are operating 100% as a recreational facility.

Mr. Krusenoski asked if BYOB is allowed. Ms. Kuchynka replied no. Mr. Telitz stated that players are allowed to bring in their own water or Gatorade.

Mr. Telitz advised that when they estimated the percentages as they were unsure of the license class they were seeking. Mr. Telitz advised that they have made changes to the facility since it was North Beach. He stated that they removed the center dance floor and replaced it with field turf for an area for bags games. He stated that there are two indoor sand volleyball courts. He stated that they would like to put in pool tables and dart boards.

Mr. Telitz stated that they have volleyball leagues and private rentals of the sand courts. He stated that they are hoping to have bag leagues and tournaments as well as pool and dart leagues. He stated that

there are four bowling lanes, which will be used for fun, as they cannot accommodate leagues with so few lanes. Ms. Telitz hoped that they would also hold private parties.

Mr. Telitz felt that they could fit into the recreational license and meet the 51% requirement.

Ms. Telitz stated that the outdoor patio has an enclosed roof and hoped to put pool table outside as well.

Ms. Telitz stated that most of their fall and winter month business is the volley leagues. She hoped to classify themselves as a recreation center and did not want to operate like the former North Beach.

Mr. Telitz advised that they are a family-owned business that is involved with charities and they hope to help the community. He stated that they are hoping to make a better future for their kids.

Ms. Telitz stated that they plan to have "Save a Vet" help by hiring former vets to work in the kitchen and receive food sales profits.

Ms. Telitz stated that they would like to hold fundraisers and help those in the community.

Mr. Clary asked how many special event licenses there are. Staff replied that any given location is limited to 6 Special Events per year. Mr. Clary asked if they had to have a liquor license to do fund-raising and asked if a special event license would be an option for them. Ms. Telitz advised that they need a liquor license in order to pay monthly bills.

Mr. Telitz noted that they have until July 1st to obtain a liquor license or they must vacate. He noted if they do meet that requirement, they will have a three year lease on the property. Chairman Strelau advised that time line may cause them trouble as the licensing process could take several months, especially since a license is not available. Ms. Petrarca stated that if the Liquor Commission chooses to amend the recreational license, that draft ordinance would need to be presented to the Village Council for consideration. She stated they would then have to come back to the Commission to actually apply for a license once it is made available. Chairman Strelau stated that may put them past their July deadline. She stated that the process may take a long time and wanted them to understand that time frame may cause them some trouble.

Chairman Strelau asked about their business plan and wondered what sales figures they need to meet with food, liquor and leagues that will make the business work.

Ms. Telitz stated that they are currently operating 100% as a recreational facility with the sand volleyball league use and rentals. She stated that they have 150-200 people playing volleyball there each night. She stated that if they had food and beverage sales it would bring in more revenue. She stated that they were unsure of sales figures and experimented with the numbers because they are operating as a recreation facility 100% now.

Mr. Clary asked if the league players all are over 21. Ms. Telitz replied yes.

Ms. Fregeau asked if that will be a requirement for people to come into the facility. Mr. Telitz replied they do not currently ask for identification. Chairman Strelau asked if it was their intention to only let in 21+ year olds into the facility if a liquor license is granted. Ms. Telitz replied yes.

Chairman Strelau asked if they have private parties where someone under 21 can attend. Ms. Telitz replied yes if it is during the day. She stated no one under the age of 21 will be allowed in after 7pm. She stated that she does not want to take any chances and understood the liability is higher.

Chairman Strelau advised that many of the problems encountered by North Beach stemmed from events that were attended by under 21 year olds during the day as they had difficulty clearing them out of the facility.

Chairman Strelau stated that a declaration is required at application submittal and an applicant must have an idea of what it is going to take to run the business at a profit.

Ms. Telitz stated that they reviewed the numbers and with the addition of other recreational aspects believed they could be classified a recreation facility. She felt that they could offer weekend specials on the recreational activities and meet the 51% requirement. She thought they would cut it close in the summer months, as leagues will likely play at outdoor leagues. She noted that St. Claire, their primary volleyball league, has expressed interest in a summer indoor league.

Chairman Strelau stated the Commission, along with staff does not want to force them into a classification and want them in a classification that they can successfully operate without having to do other things to generate revenue. She wanted them fairly certain that they will operate as a facility where recreation is 51% of the business. Mr. Telitz stated that he felt that they could do that. He stated that leagues will be in the facility Sunday through Friday nights, they plan to hold private rentals on the weekends and hope to add bags, dart and pool leagues.

Chairman Strelau asked if they have sources to fill those other leagues. Mr. Telitz replied that he has vendors for the equipment but does not have leagues set in stone. Ms. Telitz stated that they would move forward with the leagues once they determine where they stand with the Liquor Commission.

Mr. Clary stated that is where the disconnect lies. He stated that the Commission does not have accurate information to help them as they are not fairly certain of how Gnarly J's hopes to proceed. Mr. Clary was concerned that the business model is not set. He wants them to be successful but cannot make a decision on something when they have no idea what else for certain they will be doing besides the volleyball leagues.

Ms. King reviewed the layout. She stated that there are three bars. She asked if they would be using all three bars. She stated that one bar just like a bowling alley would be sufficient for a recreational facility.

Ms. King asked how bar service would be set up. Ms. Telitz replied that the large square front bar serves the front area of the facility, the bar area next to the courts will serve the volleyball players and a bar area in a closed off area near the back will serve the bowling area. She stated that it is a large space.

Ms. Fregeau noted that it was a very large space to monitor. Ms. Telitz stated that they have a security plan.

Chairman Strelau asked how many people they intend to hire. Mr. Telitz replied 25. He stated they anticipated having two bartenders per bar, a bar back for each, a security staffer in each bar area, two security at the front door, two employees in the kitchen and two cocktail servers that will serve tables too.

Mr. Clary noted that only two staff members will be serving food. He noted that non-existent staff was part of the problems issue in the past. Chairman Strelau stated that it is difficult to have the proper amount of staff to monitor the sheer magnitude of the establishment, especially when it comes time when under 21 year olds need to vacate the facility.

Chairman Strelau asked why they are not serving any food or non-alcoholic beverages. Mr. Telitz stated that they just received the permit from the DuPage Health Department and are working to get everything ready. Ms. Telitz stated that the players are now going to Hooters and having drinks with their food. She stated that people want to drink when they eat.

Ms. Fregeau asked if they were planning to have table service for alcohol. Ms. Telitz replied eventually. She noted that they are on a learning curve. Chairman Strelau stated that may be the Commission's problem in that this location is a bad place to learn. She stated that it is a big facility that can get out of hand.

Ms. Telitz stated that she does not want the same problem clientele. Ms. Fregeau stated that sometimes they do not have a choice. Ms. King noted that no facility wants to have a young crowd or one that causes a problem. She stated that for such a big space, a licensee would do anything for a profit and do things just to keep the doors open or hold events/activities not presented to the Liquor Commission in their application.

Ms. Telitz stated that they have eliminated standing room areas, took out the dance floor and replaced it with the bags area and removed some tables and replaced them with pool tables. Chairman Strelau asked if tables on the plans were still there.

Mr. Telitz stated that once they walk in they would approach the front bar and just beyond the bar is the field turf bags area. He stated that there are pool tables, a stage and tables throughout. He stated that there is table seating by the volleyball area and another bar area directly across from the courts. He stated that there is a back bar also.

Ms. King asked if they will have bands. Mr. Telitz stated that there is a stage.

Chairman Strelau stated that there is no clear line of sight. She stated that the facility is split up into rooms. Mr. Telitz agreed and stated that there will be bartenders and security in each area.

Mr. Clary stated that it is difficult to discern what they are to discuss. Ms. Kuchynka noted that was the problem staff had with the request. Ms. Kuchynka stated that the recreational license class states that bar/lounge seating is limited to 20% of the dining seating. She stated that the front bar has 32 seats, which should be reduced to 10, based on the dining seats in that area. She stated that there are 21 seats at the side bar, where only 12 would be allowed based on the 20% rule. She stated that is where she had difficulty seeing this as a recreational facility. She stated she does not want to pigeon hole them into a license class they cannot qualify for. She stated that she wanted them to be successful. She advised that if there comes a time when they cannot qualify for the license, it could be taken away. The Commission agreed.

Mr. Telitz stated that they were before the Commission for advice. Mr. Clary was unsure of what advice to offer. Ms. Telitz stated that they are involved with this financially and emotionally. She stated that they have 500 volleyball players and organizations that are looking to rent the facility and regularly gets questioned about a liquor license.

Ms. King asked how events would be handled on a monthly basis. Ms. Telitz stated that they can offer a party package with a cash bar and private court rentals.

Ms. Telitz stated that the special event license would not meet their needs as it would be cost prohibitive to stock the bar and obtain a special event license. Mr. Clary stated that could be a start in which to see how the events work out.

Mr. Krusenoski asked if they were seeking full alcohol or just beer and wine. Ms. Telitz replied full alcohol. Mr. Krusenoski asked that if they have a liquor license it would help them meet their needs. Ms. Telitz replied yes. Mr. Krusenoski asked if having a liquor license would keep the players around and would be a draw for the other leagues. Mr. Telitz replied yes.

Mr. Telitz stated that players will want to play outdoors in the summer. He stated most of the league draw will be when the weather turns. Ms. Telitz stated that they are the only indoor sand facility in Illinois. She advised that there was one other in Milwaukee.

Mr. Krusenoski asked when they opened. Ms. Telitz replied October, 2012. Mr. Clary asked when they decided to add liquor. Ms. Telitz stated that they knew all along they wanted liquor. She stated they had to do a lot of work to the facility and had some costly renovations. She stated that the building needed to be brought up to code and they knew there were food service requirements in order to sell liquor.

Mr. Krusenoski asked if they are now waiting for liquor service before they go ahead and start serving food. Mr. Telitz replied yes. He stated that they do not want to stock a lot of food at this time. Mr. Krusenoski asked if they already made an investment in the kitchen. Mr. Telitz replied yes. He stated that they were trying to take the proper steps. Mr. Krusenoski asked when they can start serving food. Ms. Telitz replied once the Village comes in and does a walk-through inspection.

Ms. King asked if they would be willing to scale down, not use parts of the facility or only utilize 1-2 bars in order to get started. She could not imagine the costs of stocking two bars. Ms. Telitz stated that they will need to use two bars. She stated that she did not want to have the volleyball players have to walk through to the front of the facility when all of their stuff is left unattended in the volleyball court area.

Ms. Telitz would be happy to obtain a temporary liquor license and only serve the volleyball leagues.

Mr. Telitz stated, based on the discussion, that it seemed that they would not meet the requirements of the recreation license in the way they submitted their application. He asked if there was a way to proceed and make something that they could qualify for. Ms. Kuchynka stated that there is the option of creating a license for them. Mr. Clary suggested that they present something at next month's meeting.

Chairman Strelau stated that they will need to show the Commission exactly what their plan is. Ms. Telitz stated they do not know what they are. Chairman Strelau part of the problem the Commission has is not being able to define something for them if they do not even know what they are. She stated that they need to come back to the Commission with an exact plan and how they are going to get there.

Chairman Strelau stated that part of the Commission's willingness to recommend the granting a license is being confident that the applicant will operate exactly as they propose. She stated that they must have a very practical look at the number of people they need in the facility to be successful. She stated that the reason this is a difficult endeavor is because it is a difficult facility to run. She stated that they need to present what the facility is going to be and how they are going to run it. She stated that if it does not fit a

license class, the Commission can figure out what a license class needs to be to suit their needs. She stated that some of the license classes are specific but they want a business and an ordinance that match. Ms. Kuchynka asked if the numbers they presented in the original declaration are accurate. Mr. Telitz replied yes. Chairman Strelau advised them not to change from what they really want to do because then they will not operate the right way.

Mr. Telitz asked if another applicant would be able to come in and take the license if it was created. Ms. Kuchynka replied no that Gnarly J's would be considered first for it. Ms. Kuchynka stated that they will be required to pay for the creation of a license and advised those costs will cover staff time, hearing requirements and time spent drafting and presenting the ordinance to the Council.

Ms. Fregeau stated that the Commission has had other classifications that were created that have started out one way, but now are operating as another.

Ms. King asked if they have investors. Mr. Telitz replied no.

Mr. Danny Scheurer from Save A Vet introduced himself. He stated that Gnarly's will be offering kitchen jobs for veterans and offer part of the profits to them. He asked if they have the option to open as a restaurant. Ms. Kuchynka stated that they will not qualify for a restaurant license as food service is not their primary business. She stated that they can open and serve food only at any time. Ms. Petrarca advised them that the current Certificate of Occupancy does not allow food service and that would need to be addressed by the Village if they wish to do so.

Chairman Strelau stated that she could understand that patrons of the facility would want both food and liquor amenities.

Ms. Telitz was concerned that they will not have enough time to obtain a license.

Ms. King asked how the parking is going to affect them being next to Rita's. Mr. Telitz did not believe it would be an issue.

Mr. Clary asked that the Commission discuss this matter at their next meeting.

Chairman Strelau asked that Gnarly J's present a business plan to the Commission at the April meeting. Ms. Petrarca stated that staff could draft something from what they propose. Ms. Telitz stated that she hoped to be able to get a license before the lease is up. Ms. Kuchynka stated that they may be able to get an extension. Ms. Telitz noted that the property is up for auction and the lease is held by the bank. Mr. Krusenoski stated that the bank may negotiate.

Chairman Strelau stated that they will be on the agenda and could present that information to the bank to show commitment and progress. Ms. Kuchynka stated that she would be happy to speak with the landlord or bank on their behalf and keep them up to date with the application progress. Ms. Telitz advised that Dwight is no longer managing the property. She stated that new ownership may be coming in. Ms. Kuchynka asked if the new owner is guaranteeing existing leases. Ms. Telitz replied yes.

Mr. Clary stated that the time line will be close.

Ms. King felt that it may not be in the best interest of the property owner to have vacant spaces.

Ms. King asked who would be the liquor manager. Ms. Telitz replied she would serve as liquor manager.

Ms. Telitz asked who she should forward documentation to. Chairman Strelau replied the material should be forwarded to staff who will provide the materials to the Commission the week before their meeting. Ms. Kuchynka stated that she has some notes and questions on the materials they already provided and she would give them more guidance based upon tonight's discussion. She reminded them that they will need to review the seating plans and bar/lounge seat overages.

Ms. Telitz welcomed the Commission to visit the facility.

The Telitz's thanked the Commission.

VI. OLD BUSINESS

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

Ms. Kuchynka advised that Fairview Mart has closed since their last meeting in December.

Ms. Kuchynka advised that the Mayor sent a notice for intent to issue a liquor license for Xtapa. She noted that they were still in the build out phase.

Chairman Strelau asked about Shop & Save. Ms. Kuchynka noted that they had a few issues with build out and expects to issue that license soon.

Ms. Kuchynka advised that she had floor plan change requests on file.

Ms. Kuchynka stated that she also had an application on file along with the Gnarly J's request and expected an April meeting.

VII. COMMENTS FROM THE PUBLIC

There were none.

VIII. ADJOURNMENT

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

Mr. Clary moved to adjourn the March 7, 2013 meeting. The meeting was adjourned by acclamation at 9:20 p.m.

Aye: Ms. King, Ms. Fregeau, Mr. Austin, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman Strelau asked what type of penalty they preferred. Ms. Salgado replied that they would prefer suspension in lieu of a fine.

The Commission took a five minute break.

V. OLD BUSINESS

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

Ms. Kuchynka included information concerning Gnarly J's and their proposed business plan in the monthly packet. She added that they have also prepared a power point presentation for tonight's meeting.

Ms. Kuchynka stated that tonight's discussion was a continuance from last month's meeting concerning Gnarly J's. She requested that the Commission discuss whether to create a new license classification or amend an existing license classification to accommodate their liquor license request.

Ms. Kuchynka stated that representatives were present to discuss their business proposal.

Mr. Nick Telitz introduced himself as the owner of Gnarly J's. Ms. Jennifer Telitz introduced herself as the manager of Gnarly J's, Mr. Elias Nehra introduced himself as head of security of Gnarly J's and Chris Peckat introduced himself as the consultant for Gnarly J's.

Mr. Telitz provided the Commission with a presentation outline and stated that he had prepared a power point presentation to share with the group.

Mr. Telitz advised the Commission of their Mission Statement and stated as follows:

“Gnarly J's, along with our employees will strive to give the highest level of service, to ensure our guests leave feeling good about their experience at Gnarly J's. This means having a fun, clean, and relaxing environment with delicious food for our guests, and a place to enjoy your favorite sports games either on tv or actually playing the games our facility has to offer.”

Mr. Telitz stated that Gnarly J's closest competitors were Four Lakes Lodge in Lisle, the Foundry in Aurora and Hooters in Downers Grove. He stated that Four Lakes Pub and The Foundry both offer outdoor sand volleyball and bags but only during the summer months. He noted Hooters offers a similar menu and a sports environment, but Gnarly J's goes above and beyond anything Hooters can provide with their sand volleyball courts, indoor bag toss, pool, darts and bowling.

Mr. Telitz advised that Gnarly J's is owned by he and his wife, Jennifer. He stated that the kitchen will be managed by Danny Scheurer and their chef is Dave Grey. He advised that their head of security is Elias Nehra. Mr. Telitz stated that he currently is a crew leader for a local municipality. He stated that Jennifer is an experienced manager and highly seasoned worker and has held almost every position in the industry; from hostess to corporate trainer. He advised that Danny has 9 years of experience working in kitchens and is the founder and CEO of Save-a-Vet. He advised Dave has owned his own restaurant and is currently the owner of "Git Boned" gourmet dog treats. He advised that Elias has 5 years of military training and has provided security at local area establishments and concert venues.

Mr. Telitz advised that their Facebook page calculates the age and demographics of their followers. He stated that they hope to attract customers from Downers Grove, Lisle, Naperville and Chicago area. He stated that they will target mostly young, urban professionals in the 30-45 year old range.

Mr. Telitz advised that they have leagues at the facility six nights per week through mid-May. He stated that there are 100-150 people per night in the facility playing volleyball.

Mr. Telitz advised that they have reached out to the United Bag Toss League (UBTL) to manage their bags leagues. He stated that they reached out to ADA (American Darters Association) to start leagues in the facility. He stated that they will be also starting a weekly sand dodge ball league.

Mr. Telitz advised that they have a contract with All Events Entertainment to host karaoke in the "Garage" on Friday nights.

Mr. Telitz stated that Gnarly J's will have a full slate of specials designed to get customers through the door every night.

Mr. Telitz advised that Gnarly J's will be advertising through radio on Q87.7, ESPN1000, US99 and 97.1 the Drive. He stated that they also have connections with WGN720am, through Save-a-Vet and certain local TV news outlets. He stated they will continue to use Facebook as a conduit to their core customers along with radio and newspaper media.

Mr. Telitz advised that Gnarly J's can offer year round sand volleyball and bag toss. He stated that the facility features two full size indoor sand courts. He added that they also have a 15 by 37 foot indoor field turf area for bag toss.

Mr. Telitz stated that there is ample space at the facility to host charity events. He added that they support Save-a-Vet, St. Baldricks, Marine Corps Toys for Tots, Autism speaks, Illinois Veteran Food Drive and advised that he and Jennifer are active with the Downers Grove Moose Lodge.

Mr. Telitz showed the Commission pictures of the facility.

Mr. Telitz stated that they do not plan to operate as a night club.

Mr. Telitz stated that upon entry, patrons enter the main bar and "Front Yard" area. He stated there is seating area and pool tables next to the main bar. He stated that the room will have a jukebox and dartboards. He noted that tv's will be scattered throughout to keep patrons entertained.

Mr. Telitz stated that beyond the "Front Yard" area is the "Back Yard" with the artificial turf and bag game area. He stated that there is seating on the stage area where people can watch the bags games. He stated they have put in turf to represent grass and noted the decor with windows to the sand courts that

makes it feel as if you are next to the garage in your back yard. He stated that the DJ booth will be vinyl wrapped to look like a stainless steel grill.

Mr. Telitz stated that the rear "Garage" area houses the two lane bowling alleys, seating and bar area. He stated that this area will only be open on Thursday, Friday and Saturday or for private functions and will be closed off during the week. He stated that area is decorated to look like a man cave.

Mr. Telitz stated that the "Side Yard" area houses the sand courts, bar and seating area.

Mr. Telitz stated that they are fully cash funded.

Mr. Telitz stated that the volleyball leagues will terminate at the end of May. He stated that leagues have nowhere to go in the winter to play indoor sand volleyball besides Gnarly J's .

Mr. Telitz stated that Sunday through Wednesday, they will have three less security people as the "Garage" area will be closed off. He stated that they will have a dedicated chef on staff at all times. He stated that they will have a line cook and dishwasher as well.

Mr. Telitz advised that security staff will monitor the door. He stated that they will have a scanner at the door. He stated that they plan to have spot sweeps of the parking lot areas. He stated that all employees will be BASSETT certified. He stated that Thursday through Saturday they will have seven security personnel that will rotate throughout. He stated that they will be equally trained in all security aspects of the facility.

Mr. Telitz stated that their hours of operation will be Monday through Thursday 3pm to 1am, Friday 3 pm to 2 am, Saturday 12 noon to 2 am and Sunday 12 noon to 1 am. He stated that during football season they will open at 11 am.

Mr. Telitz stated that they anticipate 40% food sales, 35% liquor sales and 25% in leagues and activity sales such as volleyball, pool, darts and bags leagues and bowling rentals. He stated that the full menu will be available up until one hour prior to close. He stated that they included a menu in their paperwork.

Mr. Telitz advised that they will have live music.

Mr. Telitz stated that the facility will be 21 and over. He stated that they will be available for special events, private parties, corporate outings, birthday parties and fund raisers. He stated that there will be no kids allowed in the facility. He felt it would be easier to run and safer limiting it to a 21 and over crowd at all times.

Mr. Telitz stated that they revamped the original menu. He stated that the quantity of items on the menu was reduced. He stated that they would rather have higher quality items rather than quantity. He stated that they will have appetizers, a few soups, burgers, paninis, salads and pizza.

Mr. Telitz stated that their security plan is important to them. He stated that they hope to open a business in town and continue raising their kids in Downers Grove.

Mr. Telitz stated that they will not accept vertical identification. Mr. Nehra stated that traffic tickets will not be accepted.

Mr. Telitz stated that they will not advertise or encourage a night club atmosphere. He stated that they will reserve the right to refuse service. He stated that they will not allow in patrons with baggy pants or those who violate their dress code or code of conduct. Ms. Telitz noted that they do not have a strict dress code for the volleyball leagues as it would be difficult to enforce the casual clothing they wear.

Mr. Krusenoski stated that Lucky Strike has a very restrictive dress code and suggested that they review their dress code. He stated that they do not allow ball caps. Ms. King asked how they enforce the dress code. Mr. Krusenoski stated that it is posted at the front.

Mr. Telitz stated that supporting the military is important to them. He stated that they have done work with Save-A-Vet and their head of security is a veteran. He stated that they hope to hire vets to help in the facility.

Mr. Telitz stated that they will have pool tables, a bag area and dart boards.

Ms. Fregeau asked if the floor plan was to scale. Mr. Telitz replied yes.

Ms. Kuchynka stated that Village staff conducted a walk through inspection of the facility on Tuesday. She distributed photos of the facility for the Commission to review. She stated that the original floor plan had changed from what was presented to the Commission at last month's meeting. She stated that it was determined that some of the tables were actually cocktail size and could not accommodate four seats and or room for dining.

Ms. Kuchynka advised that occupancy totals for each room are being calculated by Community Development. She noted that each room will have a placard with occupancy loads and the floor plan layout.

Mr. Telitz stated that the outside deck may be the only area not to scale.

Mr. Telitz hoped to make a better life for themselves and establish a future for their sons.

Ms. Kuchynka stated that the current Certificate of Occupancy allows volleyball only. She stated that they have to obtain an amendment to allow food and potential liquor service. She stated that the facility needed a re-inspection by Community Development and Fire Prevention. She stated that there has been clean up work done at the facility along with painting and cosmetic work. She stated that based upon changes to the floor plan, occupancy loads will need to be re-calculated.

Ms. Kuchynka advised that they may need to obtain a few permits which is being handled by Alex Pellicano of the Community Development Department and they will advise Legal if there are any other issues that they need to address before the revised Certificate of Occupancy is issued.

Ms. Kuchynka asked the Commission to determine how they want to proceed with their request. She stated that the Village may amend the existing code or create a license classification for this facility.

Ms. Fregeau asked if there was a staff recommendation. Ms. Petrarca stated that staff was open to discussion and was hoping to receive direction from the Commission. Ms. Kuchynka advised that North Beach had a license created for them specifically in the past. She stated that they did not have a 21 and over requirement. She recalled that the facility was in excess of 16,000 square feet and they had a 125 dining seat requirement.

Ms. Kuchynka advised that Rita's has a 21 and over age requirement along with Q, the billiard hall facility. Ms. Kuchynka stated that Gnarly J's has indicated a willingness to operate 21 and over.

Chairman Strelau asked the Commission for questions.

Ms. King stated that she liked the concept and felt that they came back to the Commission with a comprehensive plan. She stated that the Village has had issues with licensees in the past that say they will operate in a certain way and inevitably attract a different crowd from what the applicant intended. She stated the licensees seem to market toward a younger crowd because their income requirements are not being met by older clientele they anticipated.

Ms. King wanted to protect the Village from a licensee that amends an establishment that drastically changes operation from what was presented to the Commission. She stated that other than floor plan changes, the Commission has no other way to further regulate these licensees.

Mr. Telitz stated that the bags area will remain. He stated that the turf is set down and the boards bolted in the ground. He stated that they have no desire to turn Gnarly J's into a club. He stated that the facility will be 21 and over. He stated that it is not their intention to change what they are proposing to the Commission.

Ms. King stated that Mr. Telitz works full time and noted that they have children. She asked how much time the two of them will realistically be at the facility to oversee it. Ms. Telitz stated that their family helps with the children. She stated that she will be at the facility during the day and Nick will be at the facility at night. She stated there will be someone at the facility at all times. She stated that they both run the 72 hour a week volleyball league between the two of them week and that they have a few employees to help them out. Mr. Telitz stated that he is at the facility 25-30 hours a week. He stated that going to work does not seem as much of a burden when you own the place.

Ms. King mentioned Another Round. She noted that the facility can expand and contract in size, depending on the size of the crowd and is manageable. She stated that their facility is quite large. Mr. Telitz noted that the Garage area will only be open 3 nights per week. He stated that the area is capable of being fully closed off, which would be their way of downsizing the facility. Ms. King asked if there was only the bowling alley. Mr. Telitz replied the area has two lanes of bowling, there is a bar, karaoke stage, dining seats and lounge area. Mr. Telitz stated that it would be very difficult to close off the front or side volleyball rooms.

Ms. King stated that another concern is the combination of physical sports and alcohol. She asked if their liability is high. Mr. Telitz replied yes. Mr. Telitz stated that the leagues requires players sign waivers and play at their own risk. Ms. Fregeau asked if the Village would be held liable in any manner. Ms. Petrarca stated that the Village would not be involved in that liability.

Mr. Telitz noted that most of the players are very serious about playing volleyball. He stated that they play on tours and are incredibly intense.

Mr. Austin asked staff about the capacity and seating in relation to the 20% maximum bar seating. Ms. Kuchynka replied that it might be beneficial to mirror the 125 dining seat requirement of other licenses, which has been a standard figure for this type and size of facility. She stated that staff is concerned if they can meet that requirement when the "Garage" area that contains seating is closed. Mr. Austin asked how many seats they have. Ms. Kuchynka stated that she did not recalculate the number as she wanted to discuss whether the Commission would be willing to include the cocktail dining tables into the

calculation. She quickly counted the number of seats in the side yard volley ball area which totals 62. She noted that the outdoor dining seats would not apply and could not be included in the calculation as their use is limited to the summer months. She stated that the front dining area totaled roughly 12 seats, with three tables at the stage totaling 6. She stated that the dart board/front stage area totals 21, but excluded the high top cocktail tables on the DJ stage area. She calculated the "Garage" area seating at 40.

Ms. Fregeau counted 70 seats in the "Side Yard". She stated that there were 13 tables of four, two three-seat high tops and the seats at the bar. Ms. Kuchynka stated that staff does not count physical bar seats and was counting those similar to Rita's which may not exceed 20% of the number of dining seats. Ms. Kuchynka noted the correct total seating in the side yard would be 68.

Ms. Kuchynka stated that the occupant load in the sand cannot be calculated toward dining space as the use is not conducive for dining.

Mr. Telitz stated that the front area has room for more tables if they need to meet the 125 dining requirement with the Garage closed. Ms. Kuchynka stated that this is the preliminary floor plan and not being considered as part of an application. She stated at this time they could request something else. Ms. Kuchynka stated that if the Commission crafts a license, they do not necessarily have to meet a requirement of 125 dining seats. Mr. Austin stated that they would not be able to qualify for the seating requirement that Rita's currently has. Ms. Kuchynka agreed. She believed that they have a little less seating and based on a rough calculation, with the Garage area being closed, they will be short of the 125 seat requirement by approximately 16.

Ms. Petrarca stated that Gnarly J's also does not qualify for the existing Rita's license classification because they are not operating as an entertainment facility providing live entertainment and dancing. Mr. Austin stated that the license can be amended by changing the definition of entertainment. Ms. Petrarca stated that the Village has a definition of a recreation license which more closely matches what they are looking to do. Ms. Petrarca stated either way an ordinance will need to be created or amended. Ms. Fregeau noted that a license class could be crafted for them.

Ms. Telitz stated that they have space for dancing and live entertainment. Ms. Petrarca stated that, however, is not their primary business. She stated that they have stated that recreation is their primary business which is defined as a place where the public may participate in activities including, but not limited, to bowling, gaming, billiards, indoor simulated golf. She added that such facility shall include an area where food is prepared on the premises.

Ms. Fregeau asked how they are going to market themselves. She stated that the slide presentation stated Eat. Drink. Compete. She stated that their first introduction to the Commission was for them to operate as a recreational facility. Ms. Telitz stated that they want to have that label but they do not meet the requirements of that classification as that is not their primary business. Chairman Strelau stated that they do not meet that class, by definition, because by their own declaration, only 25% of their revenues are dedicated to the recreation aspect.

Mr. Austin asked staff if the Village defines primary business as 51% and if it was viewed from a monetary perspective. Ms. Petrarca replied more than 51% of revenue.

Ms. Telitz stated that they do not want to be portrayed as a bar or a restaurant. She stated that they are a recreation facility. Ms. Kuchynka noted that staff was having difficulty with this operation as it is difficult where we can categorize them into an existing class.

Mr. Austin stated that the Rita's classification does not include sports. Ms. Petrarca agreed. She stated that their primary focus was the dancing, music and entertainment, which is what Gnarly J's has indicated they do not want to be. Ms. Petrarca stated that a license can be crafted where it could say that recreation is the primary focus in lieu of primary business. She stated based on their declaration, most of their revenue will be generated from food sales.

Chairman Strelau stated her concern was that they do not want to be a bar, however, 75% of the revenue will come from eating and drinking. She asked what they mean when they do not want to be considered North Beach and asked what the negative connotation was. Mr. Telitz replied that it operated as a night club one night and then had high school night battle of the bands.

Chairman Strelau stated that they have 427 people on their Facebook and they can see the demographics of those who are on their site. She asked what the demographic of the 427 was on their site. Mr. Telitz stated that the median age was 35-44, followed by the 25-30 age range for demographics.

Chairman Strelau stated that her concern was there is a business with 40% food, 35% liquor and 25% sports entertainment and cannot see the composition of how they are going to run the business to operate as a sports business. She was not sure how they were not a bar. She stated that the high tables are a problem. She stated that people are not going to go there for dinner. She stated that food will be a supplement to the other activities at the establishment, where hopefully, recreation will be the primary. She stated that she sees liquor sales as being a huge driver of the business and that is what the Commission may be concerned with.

Ms. Fregeau stated that Gnarly's mentioned at last month's meeting that they wanted liquor service as the draw for the pool, darts and bags leagues. Mr. Telitz replied that the pool tables, darts and bags are what will draw people into the facility. He felt that the food and liquor will keep patrons in there. He stated that he cannot get 51% of his revenue from \$1 pool and dart games. He stated he will get people in that come every week because they will be playing in the leagues. Mr. Telitz stated that alcohol will be a driver, but he noted that the facility will be 21 and over. He stated that they want to be responsible.

Ms. Fregeau asked if they plan to have dancing. Mr. Telitz replied no. Ms. Telitz stated that in the Garage area they will have karaoke on a stage and there is a dancing area. Ms. Telitz added that if they book events they can also have live entertainment. She stated that there will be dancing and entertainment, but not in the main part of the facility.

Ms. Fregeau stated that she visited the facility in the afternoon. She stated that the Commission will work with them collaboratively, but she personally felt that the establishment feels like a bar. She stated as soon as you walk in, there is a very large bar in the front, a second bar in the Side Yard and a bar in the Garage. She stated that it felt like a bar. She stated that tables and chairs and food are all elements of the facility. She noted that there was a DJ area near the bags area and turf. She stated that there was a volleyball area.

Ms. Fregeau stated there are potentially 24 people allowed on the court at one time and 16 people bowling with the remainder of people waiting for a recreational activity, eating or drinking. She stated that they still have 20,000 feet to patrol and was a concern. Ms. Telitz stated that under Downers Grove Codes they are not allowed to promote themselves as a bar, nor does she want to focus on that to get people through the door. She stated although it looks like a bar, it is a comfortable hangout and stated it is a bar. Ms. Fregeau stated that others have presented themselves a certain way and there are reasons that operations change, however, licenses are very specific. She stated that there is a spirit and intent of the Downers Grove Liquor Code.

Ms. Fregeau stated that the Commission looks at the ratio of security to people. She stated that 20,000 square feet is a lot to monitor. She stated that when alcohol is involved it complicates activities and is a challenge. Mr. Telitz noted that 2,000 square feet of the 20,000 square foot facility is volleyball courts. Ms. Fregeau stated that accommodates 24 people and they could fill the remaining 16,000 square feet with a lot of people which presents challenges.

Mr. Austin asked Ms. Petrarca if the Commission was concerned with Rita's and their 125 seat requirement, and Gnarly's closes the doors to a certain area, the classification only says it should have dining on the premises with a seating capacity of not less than 125 and just because a door is closed does not mean they do not have the capacity. Ms. Petrarca stated that is not how the Village enforces the minimum requirements. She also noted the Code reads the seating must be available. Ms. Kuchynka stated that based on a preliminary count, they have 102 seats. Chairman Strelau noted that the dining requirement is only one aspect of the E class license that they do not meet. She stated they are not an entertainment facility. Ms. Petrarca stated that the entertainment definition states a facility where a facility is maintained, advertised and held out to the public as a restaurant where dancing and/or live entertainment is available. Ms. King asked if volleyball is entertainment. Ms. Petrarca stated that the recreation definition is more akin to what they are trying to establish themselves as.

Ms. Petrarca stated that they are clearly wanting to operate as a recreational facility as opposed to an entertainment facility. Mr. Austin asked if the problem with the recreational facility is the problem with the revenue. Ms. Petrarca agreed.

Mr. Austin stated that the best move may be to adjust the definition of entertainment. Chairman Strelau asked why. Mr. Austin replied that he went to a baseball game and felt that was "entertainment". Chairman Strelau stated that the ordinance has been written specifically to accommodate what Rita's is and not designed to be amended and slotted for another facility. She stated that they are trying to determine what the right mix needs to be to accommodate Gnarly's request. Chairman Strelau stated that nobody is saying this cannot be done, what is being said is that the current classifications do not match their proposal. She stated that the Commission is trying to figure out what the mix should be. She stated in the past the Council has preferred that ordinances be specific to certain venues.

Ms. Austin stated that the recreational facility definition does not mention primary business. Ms. Petrarca stated that the Class R license states the "primary business" is that of a recreational facility. She stated that they have to read the definition, then go to the class specifics. Mr. Austin asked if the Village removed the E-3-B license. Ms. Petrarca replied yes.

Ms. Petrarca stated the best way to address Gnarly's request was to create a specific class for this potential licensee. She stated it would be helpful to hear some specific requests and requirements from the Commission. She stated that staff could draft specific activities that will take place on the site that the Village can hold them accountable for. She stated that if they deviate from what is presented, the Village will be able to hold them accountable for non-compliance.

Chairman Strelau stated that the draft classification should start with the things they want. Ms. Petrarca asked if they want to promote their activities as a recreational facility. Mr. Telitz stated that they want volleyball, bags, pool and darts. Ms. Fregeau asked that they will not be advertising as a bar. Mr. Telitz stated that they will not advertise as a bar or night club.

Ms. Telitz stated that they fit all the requirements of the entertainment class with the exception of the entertainment definition. She stated that they have 125 seating, are in excess of 12,000 square feet, will be 21 and over. She asked if they could tweak that license in the Code. She stated that they need their

license by July 1st or they are out. She stated that they have put a lot of money in the facility. She stated that if the creation of the license was going to take awhile, they would not be able to meet their deadline. She asked if there was a way to allow them to get the Class E license and get them functional. Ms. Telitz stated that she has \$6,500 a month that she needs to pay in rent and has the funds to get the facility up and running. She stated that she may be able to extend the agreement with the new property owner, but they will be expecting rent payments. She stated they do not have 3-4 months to wait for the creation of a license.

Ms. Petrarca advised whether a license class is created or the existing class amended, the Village Council needs to amend the Code. She stated that there are no Class E licenses available. She stated that the time line would be approximately the same. Chairman Strelau stated that they might not make the July deadline. Ms. Fregeau noted that the Council has to place their item on a meeting agenda then on an active agenda for vote.

Ms. Petrarca stated that if the Code is amended or approved by the Village Council, they will still have to come back to the Liquor Commission to actually apply for the license. Mr. Telitz asked about the Council time line. Ms. Petrarca stated that assuming the Commission recommends approval of any draft ordinances, they are looking at going before the Council in May or June.

Ms. Kuchynka asked if they have had an opportunity to speak with the landlord about extending the terms of their lease. Mr. Telitz replied no. Ms. Kuchynka stated that staff would contact them on Gnarly's behalf to keep them apprised of their situation. Ms. Telitz understood that anyone that comes into the building will need to go through the same obstacles as they do. Chairman Strelau stated that it is not Gnarly's issue, it is the process of the Commission and Council that takes time to change ordinances.

Ms. Petrarca asked again if there will be dancing or not as she heard each of them say yes and no. Chairman Strelau stated that when they have a band, DJ or karaoke, will there be dancing. Ms. Telitz stated that there will be dancing. Mr. Telitz stated that if the license is being held up by the dancing, then they will not. He stated that most will be special events, if anything.

Chairman Strelau asked how many special events they might have. Mr. Telitz replied Save-A-Vet, a few from St. Baldrick's and a few other. Ms. Telitz anticipated 1-2 special events per month. Ms. Fregeau asked for clarification about special events. Ms. Petrarca stated that if they plan a large charity event, they will be asked to disclose them to the Village in order to alert the Police Department, etc. She stated any out of the ordinary event or events that would draw a large crowd and go beyond the scope of normal day to day operation must be disclosed in advance.

Ms. Kuchynka stated that staff can pull a number of requirements from various existing categories, such as the 21 and over, monthly reporting events from the E class, the recreation definition and craft something for them.

Mr. Austin stated his primary concern about the sale of alcohol is that the Commission has seen problems with specific establishments in particular. Chairman Strelau stated that is why the Commission may need to design a license to eliminate problems. Mr. Austin suggested an alternative. He stated that they should not pick on one particular licensee but make blanket amendments to the Code. Chairman Strelau stated then the Commission should be taking care of any open issues with existing licensees now, which they cannot seem to do.

Mr. Austin stated in looking at the definition of the entertainment/restaurant facility's only issue in being restrictive to the Gnarly's operation is that it is a public place advertised as a restaurant and where dancing and live entertainment is available. He suggested "or sporting activities" be added.

Ms. Fregeau stated that the spirit and intent of the ordinance goes beyond that.

Mr. Austin stated that he did not want to jeopardize their investment. He stated that sometimes there are bad apples and the Commission needs to deal with it.

Ms. Fregeau stated that she would like to prohibit marketing to college age kids, dollar beer specials, college nights, pajama parties and special things that could develop into problems. Mr. Peckat stated that would severely limit their advertising. Ms. Fregeau stated that she would be concerned if they have a college night with \$1 beers or shots or bombs. Mr. Peckat stated he thought that was a statewide ban, not to a particular license. Ms. Fregeau stated that would be her preference. She stated that she was aware that the State also has rules on promotions as well. Mr. Peckat stated that those would fall under the Happy Hour regulations.

Chairman Strelau advised the Gnarly's representatives that this is the same process that every other requestor for a liquor license has gone through. She stated there is a standard process in creating a license and/or amending a limited license. She stated that it is not the Village's intent to be punitive toward a particular licensee. She stated that they focus on the process and how long it can take to get a license. She stated that their proposal keeps changing and the license is not clear cut, which is why the discussion needs to take place. She stated that they are being taken through the same process as everyone before them has gone. She stated that they are interested in tailoring a license to how they want to operate.

Chairman Strelau stated that there are concerns that they are going to hear because the Commission has seen licensees go awry. Ms. King stated that once they go awry, the Commission has no recourse.

Mr. Austin stated that if the Village is concerned about promotions and advertising to certain age groups, they should fashion an ordinance that no provider of alcohol shall do it. He stated that they are picking on individual applicants. He stated that he agrees that certain promotions need to be addressed, but should be addressed across the board.

Mr. Austin stated that he would like to get this licensee moving so that Downers Grove does not lose their investment and at next month's meeting, address promotion issues across the board. He stated that he would like to amend the Class E definition and make available a second license in the category.

Chairman Strelau noted that typically there are not problems with licensees holders other than with the E license class.

Mr. Austin stated that the Commission should not be holding them back. Chairman Strelau stated that the Commission is not holding them back, but are following the license request process. Mr. Austin stated that the process is broken.

Chairman Strelau stated that the Commission will only be making a recommendation and there is nothing that says it will pass when it goes before Council. She stated that they have had discussions on the license classes they have seen in the past. She stated the Commission thought those were discussed thoroughly, however, were sent back to them by the Council for even further discussion. Chairman

Strelau stated this action could make the process take even longer. Mr. Austin agreed that there is no guarantee and that any proposal can be rejected by the Council.

Chairman Strelau asked if the Commission would prefer a motion. Ms. Petrarca stated that staff is present to solicit the Commission's recommendations.

MR. AUSTIN MOVED TO AMEND THE ENTERTAINMENT/RESTAURANT FACILITY DEFINITION TO INCLUDE SPORTING ACTIVITIES.

Mr. Krusenoski asked if the second amendment would be to increase the amount of licenses available to two. Mr. Austin agreed.

Mr. Krusenoski asked if there were any percentage restrictions or primary business requirements for this class. Mr. Austin replied no. Ms. Petrarca stated that the primary business would be entertainment, restaurant and sporting activities. Ms. Petrarca stated that she would recommend using recreation activities as opposed to sporting activities in the definition. Mr. Austin moved to amend his motion.

Chairman Strelau stated that the recreation aspect of the license would be 25 percent. Ms. Petrarca stated this license differs from the recreation in that the primary business is not recreation. She added this is amending the definition of the entertainment/restaurant class.

Mr. Austin amended his motion as follows:

MR. AUSTIN MOVED TO AMEND THE ENTERTAINMENT/RESTAURANT FACILITY DEFINITION TO INCLUDE RECREATION ACTIVITIES. MS. KING SECONDED.

Mr. Krusenoski asked what the Village Council considered a bar. Ms. Petrarca stated that bars are not allowed in Downers Grove. Mr. Krusenoski asked how are bars defined. Ms. Petrarca stated that bars are not defined. She added that primary business has been restaurant or 51% in food. Ms. Petrarca stated that is how the Village has enforced the primary business. Mr. Krusenoski asked how the Village enforces it if they do not audit the books. Ms. Petrarca stated that the Village has not audited the books and added that establishments submit a declaration page listing out the percentages of their business.

Mr. Krusenoski understood Mr. Austin's point that the Commission tinkers with and creates custom licenses, it goes to the Village Council, then gets referred back. He stated that they will decide whether they will expedite this application or send it for further discussion.

VOTE:

Aye: Mr. Austin, Ms. King, Ms. Fregeau, Mr. Krusenoski

Nay: Chairman Strelau

Abstain: None

MOTION CARRIED: 4:1:0

The Motion carried.

MR. AUSTIN MOVED TO INCREASE THE NUMBER OF AVAILABLE E CLASS LICENSES TO TWO UPON PASSAGE OF THE AMENDMENT TO THE DEFINITION OF THE ENTERTAINMENT/RESTAURANT LICENSE. MR. KRUSENOSKI SECONDED.

VOTE:

Aye: Mr. Austin, Mr. Krusenoski, Ms. King

Nay: Ms. Fregeau, Chairman Strelau

Abstain: None

MOTION CARRIED: 3:2:0

The Motion carried.

Ms. Fregeau stated that she sees a difference between the two facilities (Rita's/Gnarly's) and their experience with the E Class license.

Mr. Austin stated that for purposes of new business, the Commission needs to address the problem not with the license class, but with the licensee's activities. He stated that the Commission should consider prohibiting things that should not take place across the board.

Ms. Fregeau stated that she does not believe that increasing the number of licenses will expedite the process. Mr. Austin stated that this ordinance may get a different reception.

Ms. Petrarca stated that with adoption of this amendment, it will allow the other Class E license holder to expand their scope as well. Mr. Austin stated that Rita's could now do recreation activities.

Ms. Petrarca stated that they have a floor plan change request on file. She stated that would be right into play with what Rita's is proposing. Ms. Fregeau stated that she was extremely concerned about Rita's. Mr. Austin was concerned about that license as well. Ms. Petrarca stated that the Village will be limited on what they can do if this ordinance passes. Mr. Austin stated that the Commission can make blanket changes to address problems and promotion/activities across the board.

Chairman Strelau stated that the Commission will find out if the Council has interest in a broad-based license or if they are interested in handling them on a case by case basis.

Mr. Austin stated that the outcome will be determined on the Council's reception of the Commission's recommendation.

Chairman Strelau advised that Mr. Austin has recommended what Gnarly's had requested and that was to have the Class E definition amended to include recreation activities and to get an additional license available. She advised that the recommendation will go to staff to draft, the draft ordinance will be forwarded to the Village Council to be placed on a workshop meeting, then on a meeting for adoption. She stated that it could also be sent back to the Commission for specificity. She stated that there is no certainty to the license amendment or time line. Ms. Petrarca stated that there is no control over the time frame.

Mr. Krusenoski stated that expediency was not the reason he voted in favor of the change. Mr. Austin agreed. He stated that they are taking a different approach to licenses and in the future may recommend changes across the board that would affect all licensee promotions.

Chairman Strelau stated that both motions passed. Mr. Peckat asked if the license is now reserved for them. Mr. Krusenoski replied no. Ms. Fregeau stated that there is only a recommendation for it and it is not official yet. Ms. Petrarca stated that once it is created, technically anyone can apply for it.

Mr. Telitz thanked the Commission for their time and consideration. Ms. Fregeau stated that they put a lot into their presentation and answered a lot of questions for them. She stated that the Commission is a recommending body and that they are respecting the licensing process.

Mr. Telitz stated that this is a scary process as he has put everything he has into this business. Mr. Austin stated that this matter will be before the Village Council and encouraged them to attend that hearing on their behalf.

Ms. Fregeau asked Ms. Telitz asked if they check to make sure nobody is bringing alcohol into the facility. Ms. Telitz stated that if they are caught with alcohol, they will be barred from the facility. Ms. Fregeau asked if they watch behaviors. Ms. Telitz replied yes. She stated that they have had to kick a few people out. Mr. Telitz stated that the leagues are informed at the beginning of the season that bringing any alcohol into the facility will not be tolerated. Ms. Telitz stated that is also printed on the volleyball contracts.

Ms. Fregeau asked staff if Jason of Lao Sze Chuan received his certification. Ms. Kuchynka replied that she was unsure and would contact the licensee to confirm.

Ms. Fregeau stated that at renewal, existing staff should provide copies of their certification. Ms. Kuchynka stated that all licensees are requested to provide copies of employee certifications or a list of employees with their certification type. She stated that she does not have the resources to check if every one of their employees turn them in. Ms. Kuchynka stated that the application states that the licensee attests to the completeness of the application and required submittals. She trusts that the information that they provide to her is true and correct.

VI. NEW BUSINESS

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

Ms. Petrarca advised the Commission that staff met with the Park District about special events on Park District property. She stated that they are also interested in creating a liquor license to hold weddings and events at some of their facilities. She stated that the museum has received rental interest. Chairman Strelau asked if the Recreation Center has a license. Ms. Petrarca stated that the license is on the books, however, no license is issued currently. Ms. Petrarca stated that some events they are planning may be covered by a Special Event license issued by the Mayor.

Ms. Fregeau stated that the Commission may want to consider how Aurora denied events for certain reasons. She stated that they might want to look at or consider special events and require food or certain specific factors for each event.