

**MINUTES OF THE CITY OF PEORIA**  
**LIQUOR COMMISSION**  
**April 7, 2008**

A meeting of the City of Peoria Liquor Commission was held in Room 404, City Hall, Peoria, Illinois, on April 7, 2008, Chairman Frank McCabe presiding.

**ROLL CALL:**

Present: Chairman Frank McCabe; Commissioners Ted Arndt; Drew Cassidy; Dan Irving,  
Don Jackson - 5  
Absent: 0

Others present: Randy Ray, Corporation Counsel; Capt. Otis Leach, Fire Inspector; Scott Jordan, Police Investigator; Jim Brownfield, Inspections; Kristin Cannaday-Stash, Commission Secretary; and concerned citizens.

**I. CALL TO ORDER**

Chairman McCabe called the meeting to order at 3:30 p.m.

**II. APPROVAL OF MINUTES**

Commissioner Irving moved to approve the Minutes of the March 3, 2008 Liquor Commission Meeting; seconded by Commissioner Jackson.

Approved by roll call vote:

Yeas: Arndt, Cassidy, Irving, Jackson, McCabe – 5;

Nays: 0

**III. LIQUOR SITE APPLICATIONS**

**08-8 Club Reign, Inc.**

**d/b/a Club Reign**

**533 Main Street (Upper Level)**

**Requesting: Class A (tavern)**

**Has: Class B-1 (restaurant, 25% food)**

**Subclass 1 (4:00 a.m. closing)**

**Subclass 2 (live entertainment)**

**Subclass 3 (beer garden)**

Al Zuccarini, owner, and Attorney Sam Zabek presented an application for a Class A (tavern) Liquor License for 533 Main Street (upper level).

In response to Chairman McCabe for the reason he was changing his liquor license class, Mr. Zuccarini stated it was a nightclub and after the City had expressed concern about complying

## **LIQUOR COMMISSION – April 7, 2008**

with the City's ordinance for a Class B-1, he decided to change the license to a Class A (tavern) to come into compliance with the ordinance.

Mr. Zuccarini stated he would still serve food, but he would no longer have to track the food sales to comply with the 25% food sale regulation.

In discussion with Commissioner Jackson, Mr. Zuccarini stated he was now and had always been current with his HRA taxes and any fees owed to the City.

Hearing no further questions or comments from any neighbors or anyone in the audience, Chairman McCabe called for the vote.

A motion was made by Commissioner Irving to recommend the change from a Class B-1 to a Class A (tavern) Liquor License for 533 Main Street (upper level); seconded by Commissioner Arndt.

Yeas: Arndt, Cassidy, Irving, Jackson, McCabe – 5;  
Nays: 0

Chairman McCabe stated that the Commission was a recommending body and their recommendation would go to the City Council on Tuesday, April 22, 2008.

**08-9                      Big Bad Wolf, Inc.**  
**d/b/a Elliott's**  
**7807 North University**  
**Requesting: Class A (tavern)**  
**Subclass 1A (2:00 a.m. closing)**  
**Subclass 2 (live entertainment)**

Attorney Richard Steagall and Fred Jackson, owner, presented an application for a Class A (tavern) with a Subclass 1A (2:00 a.m. closing) and Subclass 2 (live entertainment) for 7807 North University.

Commissioner Don Jackson stated he was abstaining from the discussion and vote.

In response to Chairman McCabe, Mr. Fred Jackson stated he was current on his HRA taxes owed to the City.

In further response to Chairman McCabe regarding what had changed since the applicant had come before the Commission in October, 2003, Mr. Jackson stated he was not aware of that meeting and as far as the business is concerned, this would be to add liquor to the adult entertainment license.

Chairman McCabe stated that at that meeting everyone who spoke was concerned about the impact on the neighborhood and felt this was an inappropriate place to have this type of business. He added that after listening to many neighbors, the Commission had voted 5 to 0 to recommend denial of the liquor license application.

Chairman McCabe opened the floor to the audience.

## **LIQUOR COMMISSION – April 7, 2008**

Sandra Fritz, 2449 W. Imperial Drive, stated she was representing the citizens and in 2003, when the applicant first came before the Liquor Commission, she indicated there were many letters entered into the record and over 100 people attended the meeting, all of whom requested the denial of this application. She asked that the Commission, within the legal limits, not encourage the growing of this negative business.

Mike O'Bryan, 7214 Gilles Road, Edwards, Illinois, stated he owns 7802 N. University, which is across the street. He indicated they were having difficulty developing a nice project because of what the surrounding businesses are planning to do. He stated that his project, which was adjacent to McDonald's, had been turned down for a package liquor store and that if alcohol is going to impede the future development of that area, then it should not be granted.

Mike Landwirth, 121 NE Jefferson, stated he is the property owner of 7625 N. University, which is an office building currently occupied by OSF St. Francis. He indicated this building had been empty for three years and a number of possible renters had decided not to rent because of what is going on at the corner. He added that the addition of alcohol and a 2:00 a.m. closing, along with the talk of the teen dance club, is creating a reputation on this block that continues to depreciate the value of the property, making it very difficult to find good, responsible tenants.

Commissioner Jackson clarified that the five Commissioner votes against this application in 2003 did not include his because he was not on the Commission at that time.

In response to Commissioner Cassidy, Mr. Landwirth stated this whole area sold alcohol at one time and Chantilly Lace was a bar for 20 years. He indicated that with a good blend of uses anything could be tolerated, but when the median was put in which cut down on the traffic, it destroyed the businesses in this area who are now trying to hold on and adding more alcohol would "put the cherry on the sundae."

Commissioner Cassidy stated he was on the Commission five years ago and, at that time, he gave a long dissertation in the those Minutes of why he had voted against this application based upon the factors contained in the Liquor ordinance and what they could consider. He asked the applicant what had changed about the circumstances or the character of the neighborhood that would change his mind.

Attorney Steagall stated he lived in the area and it is a ghost town. He stated that the median did contribute to this, adding that alcohol had been there forever. He indicated that a good development run properly should not be a problem. He stated that since this adult business had been open, they have had no problems with the Police, with litter or with this facility. He added that it had helped redevelopment in this area by bringing in more people to the area. He stated that the rationale being used was unconstitutional because the latest ordinance states he can apply and receive a license.

Chairman McCabe stated they could apply, but it did not mean that they would automatically receive a license.

Commissioner Cassidy cautioned Attorney Steagall about confusing the liquor code with whatever ordinance he was referring to. He stated that this application was denied five years ago based on the Liquor Ordinance, nothing else.

Attorney Steagall said it was the City of Peoria, that he and his client were in Federal Court against the City of Peoria, and the Commission could slice up any agency they wanted. He

## **LIQUOR COMMISSION – April 7, 2008**

stated that the ordinance was amended in response to the objection to secondary effects in another city where you had an existing one.

Commissioner Cassidy stated that the City of Peoria Liquor Code was not amended and there seemed to be confusion about that. He stated that the Liquor Commission had voted 5-0 to deny this site application based upon the factors set forth in Section 3-92 of the Peoria Code, not any other ordinance that may have been passed subsequent to that application.

In further discussion with Attorney Steagall, who stated that the Constitution applies to the Liquor Code, Commissioner Cassidy reiterated his question about whether the character of the neighborhood had changed within the past five years so that he should change his mind that this is not a suitable use for this site.

Attorney Steagall stated he was not here five years ago, but that the neighborhood was not the same because there are totally empty buildings with no businesses there.

Chairman McCabe stated that the area as it exists now would not be any better for having what he considers “smut” close to restaurants where they have kids, close to daycare facilities, and in close proximity to a high school. He added that the people have spoken against the moral issue of this business at this location.

In further discussion with Attorney Steagall, Chairman McCabe stated that as far as the Commission was concerned at this meeting, the four Commissioners have the obligation to make a recommendation to the City Council about what they think is right.

Attorney Steagall stated he did not understand the distinction between an incorporation by reference in the adult use code and the liquor code. He stated the amendment clearly incorporates the requirements for a liquor license, which they need.

Commissioner Cassidy then read from the City of Peoria Liquor Ordinance, “. . . the liquor commission, in determining whether to approve or recommend approval, respectively, of the suitability of a site for the retail sale of alcoholic liquors, shall consider all relevant facts relative to the specified class of license and proposed site, including, but not limited to, the following: (1) the establishment, maintenance, location or operation of the proposed site will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the city; . . . (3) the proposed site and use, when considered separately or in conjunction with other license liquor establishments, will not be injurious to the use and enjoyment of other property in the vicinity, including residences, schools, hospitals, places of worship and other businesses.” He stated that these were factors that had been in the City of Peoria Liquor Code for years and that is what the Commission is to consider.

Attorney Steagall asked for the distinction between a liquor establishment that sells liquor and another one that allows nude dancing, which is protected. He stated there was a liquor license at this address for 20 years.

Commissioner Cassidy reiterated that the Commission was to consider the proposed site and the proposed use in determining the factors that he had just read.

Attorney Steagall agreed and said the use is selling liquor. He added there was nothing in the liquor code that addressed nude dancing. He added that the adult use code says that you apply

## LIQUOR COMMISSION – April 7, 2008

to the liquor code and if you discriminate against lawful business and suppress freedom of speech, you ignore the Constitution.

After further discussion, Commissioner Cassidy stated that the ordinance states that the proposed site that would be selling the liquor, as well as the use or whatever the operator is planning on doing at that location, can be considered when making a recommendation.

To clarify the record, Attorney Steagall stated that there had been some improvement changes to the building since 2003.

Mr. Jackson stated that a year after they opened, there were six gas stations that applied for liquor approval and the only one that was granted was located next to Elliott's. He stated their site had a "B" license for 20 years in prior years. He indicated that adult use was not part of the liquor code and he stressed that they were applying for what they had there before. He indicated that the only residences were the apartments 1,200 feet away.

Chairman McCabe stated the Commission had the right to consider what use was going to be applied to this site.

In discussion with Mr. Landwirth regarding the church that had located in the old Walgreen's in Candletree Shopping Center, Corporation Counsel Ray stated that the church was over 100 feet away from this business, as required by the Code.

Commissioner Cassidy wished to preface his motion by stating that in August, 2003, he had set forth his reasons under the Liquor Code as to why he did not think this was a suitable site, including two daycare centers, a music store that teaches kids, family restaurants, and the applicant cannot say how the area has changed. He added that he knew one of the daycare centers had closed, but now a church had opened so, basically, everything remains status quo and he does not see any change in circumstances in the neighborhood that would change his mind.

A motion was made by Commissioner Cassidy to recommend **DENIAL** of the Class A (tavern) Liquor License site application, with a Subclass 1A (2:00 a.m. closing) and Subclass 2 (live entertainment).

Yeas: Arndt, Cassidy, Irving, McCabe – 4;  
Nays: 0;  
Abstention: Jackson – 1.

Chairman McCabe stated that the Commission was a recommending body and their recommendation would go to the City Council on Tuesday, April 22, 2008.

### **08-10 JJ Ryan's Inc.**

d/b/a JJ Ryan's

7719 N. University

Requesting: Class A (tavern)  
Subclass 1A (2:00 a.m. closing)  
Subclass 2 (live entertainment)  
Subclass 3 (beer garden)

## **LIQUOR COMMISSION – April 7, 2008**

Lorrie Newman, owner, and her father, Bob Buchanan, presented an application for a Class A (tavern) with a Subclass 1A (2:00 a.m. closing), Subclass 2 (live entertainment) and Subclass 3 (beer garden) Liquor License for 7719 N. University.

In discussion with Chairman McCabe regarding the yellow Notice sign, Ms. Newman stated that it kept falling down and she would make sure it was securely taped to the front of the building until after the City Council heard this application.

Ms. Newman stated she planned to open at the end of this month. She indicated that occupancy would be set by the Fire Department, but she estimated she could sit about 20 in the bar area and 50 in the seating area in front of the fireplace. She also indicated that the beer garden was an existing fenced area.

Ms. Newman stated that she planned on being open seven days a week, like she was now at her establishment in the Metro Center. She also indicated she had a full menu, even though she was applying for a Class A (tavern).

In discussion with Chairman McCabe, Ms. Newman indicated that she was leaving Metro Center because they had planned to bring a franchise into her spot, but that has now fallen through and they have asked if she would like to stay. However, she indicated she had already purchased the business at 7719 N. University, which was the old Silver Bullet.

Liquor Investigator Jordan stated that JJ Ryan's had only one violation in the past three years and there had been no recent problems or reports filed on this establishment.

In further discussion, Ms. Newman discussed the wide variety in her menu and stated there was a large kitchen at this establishment. She indicated that in 1976, it had been a Pizza Hut.

Mr. Landwirth reiterated his comments that this area did not need any more alcohol. He expressed concern about the 2:00 a.m. closing and the litter that usually occurred the later an establishment stayed open. He indicated that the block was undergoing a renaissance. He stated he had five tenants who turned down his building before OSF decided to rent; however, he indicated it was because of the moral reasons with Elliott's rather than the liquor.

Mr. O'Bryan agreed with Mr. Landwirth, but stated that his issue was more about an investment in the block and making exteriors look aesthetically pleasing so that people want to be around this area. He added that Ms. Newman had bought this building so she did have a high stake in this business.

Commissioner Arndt stated that he was a patron of JJ Ryans and she ran a good establishment with good food.

Mr. Buchanan stated he runs the Irish Villa on North Adams and he had taken care of that building for 22 years and this would be taken care of also.

Commissioner Cassidy expressed concern about this neighborhood and stated that it would remain the same and would not evolve if more Class A establishments were allowed in. He stated that his concern with Elliott's was not solely their use.

## **LIQUOR COMMISSION – April 7, 2008**

Commissioner Arndt indicated he owned Chantilly Lace in the '90s so he is very familiar with this area and the median was the single sole demise of the whole area. He added that, at one time, the City had proposed that they could work with the State on removing the median.

Mr. Landwirth stated that proposal is still on the table and he has been trying to get the median removed for five years.

Mr. O'Bryan stated that all the franchises that had come into that area, like Monical's, had to cut down on their profits solely because of that median. He indicated that if the City wanted to increase their tax dollars and help the businesses along this area be successful, they needed to get the median removed from that area.

Commissioner Irving stated that he agreed with Commissioner Cassidy's concerns about more Class A licenses in this neighborhood when they were trying to build up the businesses, so he would be opposing this application.

Ms. Newman stated that part of the reason she had applied for a Class A was because that was what this building was site approved as before and that site approval had just run out on February 28, 2008. She stressed that she would be selling a significant amount of food.

Mr. Buchanan stated that in this type of operation, it is a better environment to have a Class A even when you have food and alcohol because it is stricter on the people who can come in your business. He indicated it is significantly harder to monitor a Class B or B-1 even if you card hard. He also added that the beer garden was completely enclosed by a tall fence so litter would not be a problem to the neighborhood as much as the Steak 'n Shake next door.

A motion was made by Commissioner Arndt to recommend the Class A (tavern) Liquor License site application, with a Subclass 1A (2:00 a.m. closing), Subclass 2 (live entertainment), and Subclass 3 (beer garden) at 7719 N. University; seconded by Commissioner Jackson.

Yeas:	Arndt, Jackson, McCabe – 3;
Nays:	Cassidy, Irving - 2.

Chairman McCabe stated that the Commission was a recommending body and their recommendation would go to the City Council on Tuesday, April 22, 2008.

### **IV. UNFINISHED BUSINESS**

There was no unfinished business discussed at this meeting.

### **V. NEW BUSINESS**

There was no new business discussed at this meeting.

### **VI. NEXT SCHEDULED MEETING**

The next scheduled regular meeting of the Liquor Commission is Monday, May 5, 2008.

**LIQUOR COMMISSION – April 7, 2008**

**VII. ADJOURNMENT**

Commissioner Arndt moved to adjourn the meeting; seconded by Commissioner Irving.

Approved by viva voce vote.

The Liquor Commission Meeting adjourned at 4:23 p.m.

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Kristin Cannaday-Stash, Secretary