

MINUTES OF THE CITY OF PEORIA
LIQUOR COMMISSION
November 3, 2008

A meeting of the City of Peoria Liquor Commission was held in Room 404, City Hall, Peoria, Illinois, on November 3, 2008, Chairman Frank McCabe presiding.

ROLL CALL:

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

Absent: 0

Others present: Deputy Liquor Commissioner Eric Turner; Police Chief Steve Settingsgaard; Assistant Corporation Counsel Sonni Williams; Liquor Investigator Scott Jordan; Jim Brownfield, Inspections; Kristin Cannaday-Stash, Secretary; and concerned citizens and media.

I. CALL TO ORDER

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

II. APPROVAL OF MINUTES

Commissioner Arndt moved to approve the Minutes of the October 6, 2008 Liquor Commission Meeting; seconded by Commissioner Irving.

Approved by roll call vote:

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

Nays: 0

III. LIQUOR SITE APPLICATIONS

08-20 Black Rabbit, Inc.
d/b/a Black Rabbit
456 Fulton, Suite 103
Requesting: Class A (tavern) Site Approval

Robert Frank, owner, presented a site application for a Class A (tavern) at 456 Fulton, Suite 102, which formerly housed Red Zin.

Mr. Frank indicated they planned to use just the bar section from the Red Zin and were going to wall off the two dining areas. He said they could seat about 50 patrons and would be open six days a week, Monday through Saturday, and closed on Sunday. He indicated he planned to be open from 4:00 p.m. until 1:00 a.m., with a happy hour from 4:00 p.m. until 6:00 p.m.

In response to Commissioner Cassidy's concern about Section 3-11 and the distance from the Class A application to the Church, Attorney Williams stated that the distance had been measured by the Public Works Department and it was not within 100 feet away from the Church.

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Hearing no additional questions or comments, Chairman McCabe called for the vote.

A motion was made by Commissioner Irving to recommend **APPROVAL** of the site application for a Class A (tavern) at 456 Fulton, Suite 103; 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 Monday, November 10, 2008.

08-21 F.A.S.T., Inc.
d/b/a Double A's
7301 N. Radnor Road
Requesting: Class B (restaurant, full-service bar) Site Approval
Class 3 (beer garden)

Aaron Smith, owner, presented a site application for Class B (restaurant, full-service bar) with a Subclass 3 (beer garden) at 7301 North Radnor Road.

In discussion with Chairman McCabe, Mr. Smith stated that they were planning on opening in mid-December. He stated they planned to operate the same as they were operating now at 7800 N. Sommer. He said they would continue to offer the buffet and would be able to seat about 125 patrons.

Mr. Smith indicated their new hours would be from 11:00 a.m. until 1:00 a.m. seven days a week.

Hearing no additional questions or comments, Chairman McCabe called for the vote.

A motion was made by Commissioner Arndt to recommend **APPROVAL** of the site application for a Class B (restaurant, full-service bar) with a Subclass 3 (beer garden) at 7301 North Radnor Road; seconded by Commissioner Cassidy.

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 Monday, November 10, 2008.

08-21 The New Peoria Puff, Inc.
d/b/a Judge's Chamber
514 Main Street
Requesting: Class A (tavern) Site Approval

Lori Loree, owner, presented a site application to change her current Class B-1 Liquor License to a Class A (tavern) License at 514 Main Street.

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In discussion with Chairman McCabe, Ms. Loree stated the reason she was changing was because she was not meeting the 25% requirement of food sales to remain a Class B-1 license.

In further discussion, Ms. Loree stated she knew that changing from a Class B-1 meant that no one under the age of 21 years was allowed in her establishment. She added that she did not have any problems with minors in her establishment and did not want to change to a tavern license because of the chess tournaments, basketball games and other functions that occurred in the downtown area, but admitted she could not meet the 25% food requirement.

Attorney Williams stated that the history of this establishment's HRA tax returns indicated an average of between 10 and 13% food sales.

Mr. Loree stated that her establishment is open from 6:00 a.m. until 4:00 a.m. seven days a week.

Hearing no additional questions or comments, Chairman McCabe called for the vote.

A motion was made by Commissioner Arndt to recommend **APPROVAL** of the site application for a Class A (tavern) at 514 Main; seconded by Commissioner Cassidy.

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 Monday, November 10, 2008.

**08-23 Pasquel's
 d/b/a Stadium Pizza
 1420 NE Adams
 Requesting: Class G (restaurant, beer & wine only) Site Approval**

Pete Pasquel, building owner, and Jim Johnson, owner of Stadium Pizza, presented a site application for a Class G (restaurant, beer & wine only) at 1420 NE Adams.

Mr. Pasquel stated the building had been a restaurant since it was Clark's Café back in the 1940's.

Mr. Johnson stated they opened for business last Monday, October 27, without being able to serve alcohol. He indicated they were looking to add beer and wine to their menu along with the pizza and sandwiches. He added they were doing a lot of marketing to get patrons in to taste their food because it was all homemade and they planned to do carry-out business with free delivery within 10 miles.

Mr. Johnson stated that their hours were from 11:00 a.m. until 10:00 p.m. Monday through Saturday, and closed on Sunday. He added that the inside was all remodeled and they could seat 30 patrons.

In discussion with Commissioner Jackson, Mr. Johnson stated he knew they could not deliver alcohol.

Hearing no additional questions or comments, Chairman McCabe called for the vote.

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A motion was made by Commissioner Cassidy to recommend **APPROVAL** of the site application for a Class G (restaurant, beer & wine only) at 1420 NE Adams; seconded by Commissioner Irving.

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 Monday, November 10, 2008.

08-24 Peoria Speakeasy, Inc.
d/b/a Big Al's
500 Main Street
Requesting: Class A (tavern)
Subclass 1 (4:00 a.m. closing)
Subclass 2 (live entertainment)

Al Zuccarini, owner of Big Al's, and Attorney Sam Zabek, representing Peoria Speakeasy, Inc., presented a site application for a Class A (tavern) with a Subclass 1 (4:00 a.m. closing) and a Subclass 2 (live entertainment) license at 500 Main Street.

The Commission's Secretary distributed letters of concern from Attorney Peter Jenetten, Attorney David Collins, Attorney Bradley Dunham, Attorney Matthew Smith, Attorney David Collins, and Attorney Murvel Pretorius, all from the Quinn, Johnston, Henderson & Pretorius law firm, as well as a letter from Mike Boyle representing the Fayette Companies. (Copies are attached to these Minutes.)

Commissioner Arndt stated he would be recusing himself from this discussion and vote.

Attorney Zabek stated that they were concurrently applying for a proposed temporary site application for a Class A at 500 Main Street while the proposed permanent site at 414 Hamilton Boulevard was being constructed. He added that they were applying for the parcel on Hamilton Boulevard to be determined appropriate for a liquor license.

Attorney Williams stated that this discussion should be limited to the 500 Main site application.

Commissioner Jackson expressed concern that if this application was contingent upon the approval of the Hamilton site application then the order should be reversed. He added that he understood from what had been said that if they did not receive site approval on the Hamilton site, the Main Street site would not be necessary.

In response to Chairman McCabe, Attorney Zabek stated that the current Class A license has hours from 6:00 a.m. until 4:00 a.m., but the actual hours vary throughout the year depending on business cycles.

Mr. Zuccarini stated if they move to the Euro Jack site, their square footage of operation will be smaller than at his current location.

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In response to Commissioner Jackson's question about whether the whole business was moving, including the strip business, Mr. Zabek and Mr. Zuccarini stated that was a hard question to answer and it could or could not be true. Mr. Zabek stated that at this moment, they were just trying to get site approval at this location.

Attorney Williams stated that the discussion should be limited to just the site application for the retail sale of alcohol that was before this Commission.

In response to Commissioner Jackson's question about what would be required if they decided to move the whole operation from Big Al's current site to this new site, Attorney Williams stated that they would have to get permits and licenses for that type of use. She reminded everyone that the only issue before them today was for site approval for the retail sale of alcohol.

Commissioner Cassidy expressed concern stating that the Commission had been through this process with the site on North University and that it was not only for the retail sale of alcohol, but that the City ordinance clearly states that the Commission should consider the "use" that the applicant is going to put to the site being considered.

Attorney Williams stated that the North University site was different from this because the Commission was considering whether to add the retail sale of alcohol to an already existing adult use licensed business, while today the Commission was to decide about changing a Class B licensed establishment to a Class A.

Commissioner Cassidy clarified that there were two applications by this applicant. One was for a temporary site to move across the street to the Euro Jack's site by the Madison Theater and there was a totally separate application for a site on Hamilton Boulevard. For either of the applications, he reiterated that Section 3-92 of the Liquor Code ordinance stated that the "city council and liquor commission, in determining whether to approve or recommend for 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 . . . that the proposed site and use, when considered separately or in conjunction with other licensed 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."

Attorney Williams stated that the "use" they refer to in that section is the use that is before this Commission, which is a site application for a Class A. She clarified that this was not for a temporary site approval because the City did not grant temporary site approvals and a site approval remains as long as there is a continuous use of the Class A liquor establishment and the only way they would lose that site approval would be through revocation or lapse of 12 months or longer on the continuous use.

In further discussion, Mr. Zuccarini stated that Euro Jack's had closed on August 15, 2008 and is still site approved for a Class B license.

In discussion with Commissioner Irving, Mr. Zuccarini stated that the site of Euro Jack's had a Class A years ago when it did business as "Babe's".

Mike Kraft, attorney with Quinn, Johnston, Henderson & Pretorius located at 227 NE Jefferson, disagreed with the Corporation Counsel's interpretation of the ordinance and agreed with

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Commissioner Cassidy's interpretation that the Commission and Council must consider the intended use, especially since it was already a matter of public record.

Attorney Zabek clarified that no one had affirmed what use was going to be used at the site except for the retail sale of alcohol and no other required licenses had been applied for or received at that site.

Commissioner Jackson expressed concern that the tenants at 456 Fulton Street had not received Notice of this application when they were within 300 feet of that site.

Attorney Williams stated the ordinance requires taxpayers receive notices of public hearings which they get from the City Assessor's office for all property owners within 300 feet of a site, with the additional requirement of placing a large yellow Notice in a window or door which is seen from the public way to notify the public who are not mailed a notice of the liquor hearings.

Commissioner Cassidy stated he had no issue with the application to move to Euro Jack's, but he did have a problem with the procedure that was developing which was suggesting that "we aren't going to tell you what we are using this for." He indicated that was not what the ordinance stated they were to consider and that is not what he, as a Commissioner, had done for 15 years. He stated he did have a problem with a flawed procedure when the applicant was not forthcoming with the use of a site, the application was incomplete and he could not consider it in that form.

Attorney Zabek reiterated that they could not affirm or deny any other uses except for the retail sale of alcohol at that site at this time.

In response to Attorney Bob Jennetten, one of the owners of the Quinn building on Jefferson, Attorney Zabek stated they did not know if the new site would be called Big Al's. Attorney Zabek added that it was Peoria Speakeasy, Inc., applying for site approval for a liquor license.

Randy Africano, owner of the buildings at 234 Madison and 410 Fayette Street, questioned whether he could apply to the City for a liquor license and there be no consideration of the type of business, just that they were going to consume alcohol. He stated that the previous applicants had all spoken freely to the use of their property.

Commissioner Jackson stated the narrow issue that the City was asking them to consider was changing from a Class B to a Class A, but he was now considering the flaw in the City's argument that Commissioner Cassidy had pointed out.

Attorney Matthew Smith, one of the owners of the Quinn building, expressed concern and stated that this logic is disingenuous and carries the applicant all the way to the end when they would move Big Al's to Hamilton.

Sandra Fritz referred to the article in the *Journal Star* and indicated that people need to be aware of what is actually going on which is to move Big Al's to one site temporarily until the other site is ready.

Chairman McCabe stressed that the only issue the Commission was being asked to consider was the change from a Class B to a Class A.

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Craig Ruffalo, representing the Hanson Financial Group at 411 Hamilton, expressed concern about the order of the sites and suggested deferring the first site until the second site is considered since the purpose of the use was not clear.

Attorney Zabek indicated that if the Commissioners were not comfortable, they should vote to deny but stressed that the vote should be taken at this meeting.

In response to Commissioner Jackson regarding recusing himself because he owned property within 300 feet, Attorney Williams stated that as long as he did not have direct financial interest in the outcome of the vote or it did not taint his ability to vote freely, he would not have to recuse himself.

In response to the question by Everett Fritz regarding deferring this vote until more information is gathered, Commissioner Cassidy stated that the applicant had requested that the recommendation be made today.

Commissioner Cassidy stated that if he knew what the use was at either site he could recommend approval, but he felt that the application was incomplete. He stressed that for even routine applications the Commission required complete information. He stated there was no way he could support such a controversial application without the information that was needed to make a decision the way the ordinance stated it should be made.

Commissioner Jackson agreed with Commissioner Cassidy and stated he felt like he was being maneuvered into something he did not understand. He indicated that even on the narrow question of whether to change this from a Class B to an A, the Commission required more information to know exactly what was going to be done with property and who the tenant would be. Because of this, he indicated he could not support this application. He said he did not understand why they were not given the whole picture.

In response to Attorney Zabek that they were trying to be honest and they could not comment if they were moving or not because they did not know, Commissioner Cassidy stated that the Commission had always required that the proposed business plan be revealed to the Commissioners so they could consider the recommendation. He stressed that three of the six enumerators in the liquor code require the Commissioners to consider the proposed use before a recommendation is made and they did not have that information. He stated that for that reason, he would be recommending denial of this site application.

A motion was made by Commissioner Cassidy to recommend **DENIAL** of the site application for a Class A (tavern) with a Subclass 1 (4:00 a.m. closing) and Subclass 2 (live entertainment) at 500 Main Street; seconded by Commissioner Jackson.

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

Chairman McCabe stated that the Commission was a recommending body because of the 2-2 vote, there would not be a recommendation made to the City Council on Monday, November 10, 2008.

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**08-25 Peoria Speakeasy, Inc.
 d/b/a Big Al's
 414 Hamilton Boulevard
 Requesting: Class A (tavern)
 Subclass 1 (4:00 a.m. closing)
 Subclass 2 (live entertainment)**

Al Zuccarini, owner of Big Al's, and Attorney Sam Zabek, representing Peoria Speakeasy, Inc., presented a site application for a Class A (tavern) with a Subclass 1 (4:00 a.m. closing) and a Subclass 2 (live entertainment) license to 414 Hamilton Boulevard.

Attorney Zabek clarified that this application was not just for 414 Hamilton, but for the entire corner parcel. He stated that parking lot that divides the two lots from the Quinn, Johnson building is not part of the site.

Commissioner Arndt stated he would be recusing himself from this discussion and vote.

In response to Chairman McCabe, Mr. Zuccarini stated he was in the process of buying the two parcels on the corner.

In response to Les Kenyon, Mr. Zabek stated that the two parcels would include the old Standard Oil building.

Commissioner Cassidy clarified that this site was from the rental car office towards Hamilton and the parcel back to the alley, which includes the red brick building.

Commissioner Jackson questioned how the Commission could consider this application since they did not know the use when the Code clearly stated that the use was one of the considering factors.

Attorney Zabek reiterated that they were applying for Class A site approval on the two corner parcels and if the Commissioners did not feel they had enough information, it was at their discretion to recommend denial.

Mr. Zuccarini stated that the newspaper story was based on pure speculation and they truthfully did not know what was going to happen.

Attorney Zabek stated they were anticipating the Hospitality Improvement Zone and a TIF being created in this area and in order to encourage investment opportunities in the downtown district and to help better the downtown area, there had been a proposed possible relocation of Big Al's. He stated they could not make any other affirmations at this time of what was going to happen.

In response to Attorney Matt Smith who questioned the live entertainment application, Attorney Williams stated that live entertainment does not directly imply adult use and any license holder who wants to have live bands, singers, DJ's or anything that is amplified would need a live entertainment subclass license.

Attorney Matt Smith stated that the live entertainment application stated "adult use" by the applicant and if the city's intent is to improve the downtown area, relocating a strip club in the

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middle of a business district across from the courthouse where all summer school children perform was not the way to improve it or the image Peoria would want.

Attorney Zabek stated that the adult use was a completely different application and was not before this Commission nor did this Commission have the authority to grant an adult use license. He clarified that the live entertainment application was for the purpose of DJ's, bands and karaoke.

Attorney Murvel Pretorius, one of the owners of Quinn, Johnson which is next door to this proposed liquor establishment, stated that a liquor establishment would be totally out of character in that area. He stated there are no neon signs, just beautiful buildings that have been recently renovated with the idea that this would stay a business area. He stressed that they were violently opposed to a tavern with or without an adult use with a 4:00 a.m. license and a parking lot that comes right up to their front door, which would definitely affect their business with all the problems and litter that go along with it.

Ron Hamm, representing River Financial Associated Bank, stated he "has trouble dancing until he knows the type of music that is being played" and he did not understand what was happening here. He indicated he had heard rumors that the present Big Al's was being torn down for a new hotel, that the Pere Marquette would be torn down for a more modern facility and he expressed concern that everyone was dancing around all these issues. He stated that if the City was taking Big Al's building and going to assist Big Al's in relocating, why not just address the real facts.

Lawrence Clark, representing the University of Illinois College of Medicine, stated they lease space at 414 Hamilton where they serve clients with immunodeficiency virus. He stated they have that lease until April of 2011 and believe it is incompatible to maintain this space and serve those clients while next to a Class A liquor license establishment. He also expressed concern that they had received no notification that this property was for sale.

Les Kenyon, President of the Central Illinois Landmark Foundation, stated that the GAR Hall was a great architectural building, paid for by the Veterans of the Civil War. He expressed concern that this building was rented out to people for family value activities and that a bar and strip club would be next door.

Attorney Mike Kraft stressed that there were serious legal issues with this application besides the issues that had already been raised. He stated it was very disappointing that if the City is behind this development, for the City to treat all the people who have invested in that neighborhood, without tax dollars, to be given notice only two weeks before a hearing. He indicated they were trying to respond to this application and had some outstanding FOIA requests. He added that one of the applications stated that they sought an application 20 years ago at this site and one of the outstanding FOIA's requests information about that application, if it was denied or why it was never used.

Attorney Kraft added that there is a prohibition against a liquor license with an adult use being within 750 feet of any residential use area. He stated that the New Hope Apartments are a residential use and they are within 750 feet of this site and, according to Commissioner Cassidy, that issue must be considered with this application. He indicated that the Commission deny the application based upon all the reasons that had been expressed today as well as all the legal issues that had not been answered.

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Chairman McCabe stated this Commission was a recommending body to the Council and that the objectors should be at the City Council Meeting on November 10, 2008 to express their concerns.

Attorney Zabek reiterated that an adult use license application was not before the Commission, that the site application for the retail sale of alcohol was before the Commission. He agreed that there is a 750 foot restriction on an adult use application.

Sandra Fritz expressed concern about the experience with Elliott's stating that first there was an application for the adult use and then the application for the liquor license and, in that case, by law the liquor license could not be denied. She stated the problem with this application is that if you grant the liquor license, you cannot deny them the adult use and, by law, the City would have to work to locate them or there could be a lawsuit if the denial was based on what the neighbors wanted.

Hearing no further comments or questions, Chairman McCabe called for the motion.

A motion was made by Commissioner Jackson to recommend **DENIAL** of the site application for a Class A (tavern) with a Subclass 1 (4:00 a.m. closing) and Subclass 2 (live entertainment) at 414 Hamilton Boulevard; seconded by Commissioner Cassidy.

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

Chairman McCabe stated that the Commission was a recommending body because of the 2-2 vote, there would not be a recommendation made to the City Council on Monday, November 10, 2008.

IV. UNFINISHED BUSINESS

There was no unfinished business discussed at this meeting.

V. NEW BUSINESS

Review Extension of Subclass 1 (4:00 a.m. closing) Licenses to Excalibur and Club Apollo

Chairman McCabe thanked Chief Settingsgaard for the extensive report he had presented (a copy is attached) and stated he would like to see this extension continue for another year because he did not think the Excalibur had sufficient time to contribute to what might be learned to determine if the problems would diminish if both of the places had 4:00 a.m. licenses.

Chief Settingsgaard agreed and indicated he did not include the Excalibur in the report because it had only been in place for a short period of time.

Commissioner Cassidy disagreed previously on the expansion and disagrees now with selective expansion. He stated that he would agree with expanding the 4:00 a.m. zone if it included an entire area, not just only the Excalibur and Club Apollo. If the extension only applies to Excalibur and Club Apollo, he said he would abstain due to previous representation with one of the owners.

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L. A. Randle, owner of Club Apollo, stated he had already been on a temporary 4:00 a.m. license for a year on October 23 and he would like it to be made permanent so he does not have a temporary extension hanging over his head and he can be off of probation. He indicated if it was permanent he would know what direction his establishment would be going.

In discussion with Commissioner Jackson regarding Club Apollo and the Excalibur being used to solve a problem in the downtown area, Mr. Randle stated it had been a roller coaster ride. He said it had impacted his Club tremendously and more patrons are coming to his Club, especially after 2:00 a.m. when the Elk's Club closes. He indicated he did not know what kind of impact the 4 a.m. had on the Excalibur, but he was hoping Excalibur would alleviate some of the over-crowding Club Apollo experiences.

Mr. Randle stated he did not know how the downtown area was being impacted, but if it was any indication from the crowds he was getting, it should be alleviating the downtown area.

He indicated he was trying to address any problems at his Club with added security cameras, more security and working very closely with the Police. He stated that if he has problems with crowds, he shuts down Club Apollo no matter what time. He stated that opening more 4 a.m. establishments would give some relief to the crowds who hang outside his Club when his Club is at capacity.

Don Doss, owner of Excalibur, stated he believed that he did relieve Club Apollo because he has had a nice crowd on the weekends. He indicated he had zero tolerance for trouble. He agreed that it would be a good idea to grant a whole area along Jefferson and Washington Street from downtown Main Street to be a 4:00 zone so some of the old warehouses would be refurbished and money would be invested in that area.

Commissioner Arndt agreed with Commissioner Jackson about the City using Club Apollo to solve a downtown problem. However, he said that now since Club Apollo did take care of patrons from a different area by offering them a very nice Club, they choose to go to that Club and do not automatically go to Main Street.

Mr. Randle stated he had been in this business for 36 years, he worked diligently with the Police and tried to ward off problems with one or two walk-throughs a night. He said that the new smoking law had caused a problem because of the patrons coming in and out, so he had them smoking in the beer garden but their friends had been jumping the fence to get in, so in order to deal with that problem he had closed the beer garden. Now, he said, if the patrons want to smoke they have to leave and cannot come back into the Club because of the capacity crowds.

Mr. Williams, 909 W. Hurlburt, stated that it was unfair to just give Mr. Randle's establishment a 4 a.m. license just because of the overcrowding and the Excalibur would experience the same problem. He indicated he would agree with a corridor of 4 a.m. licenses from Main Street down to the river and out Jefferson, Madison and Adams to be available to people who want to apply for 4 a.m. licenses in the future. He indicated this could promote growth and dilute the overcrowding problems and would also address the segregation issue.

Deputy Liquor Commissioner Turner agreed with Commissioner Jackson that you cannot discriminate on the basis of race in getting a license in the City of Peoria. He stated, however, that he had made the motion to the Council to allow the extension of the 4:00 a.m. to Club Apollo, and stressed that the issue was about the dress code.

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Attorney Williams stated there had been hearings addressing the issue of unequal enforcement of the dress code and the establishments had been fined. She stressed that if there was sufficient factual evidence, the City would prosecute.

Commissioner Jackson referred to the sting that was done a couple of years ago and shown on television regarding the dress code and showing that the dress code did prohibit African-Americans from going into the Downtown clubs.

Commissioner Arndt suggested making the Subclass 1 (4:00 a.m. closing) a permanent license for these two Clubs so they would not have the temporary situation hanging over their heads, especially with the expense and their plans for their Clubs.

Mrs. Randle stated they had done everything they were asked to do as far as heightening their security to keep the problems down. Mrs. Randle stated they have a capacity crowd who choose to come to Club Apollo and others will stand outside until they can get into the Club even when they are asked to leave. She indicated they have closed the beer garden to alleviate any problems there and they set a dress code allowing only patrons with collars on their shirts to enter. She said they were doing everything in their power to alleviate the problems and she and her husband have a lot of money invested in the Club and they did not want people who caused trouble there either.

In discussion with Commissioner Jackson, Mr. Randle stated he did want the 4:00 a.m. license on a permanent basis so they can make plans for the Club.

Mr. Doss stated he would also like the 4:00 a.m. to be on a permanent basis.

In further discussion regarding a recommendation of taking the 4:00 a.m. zone all the way down a corridor to Club Apollo and the Excalibur with the possibility of adding some other clubs or the recommendation for extending the 4:00 a.m. license to the two Clubs only for one year to gather more data, Chief Settingsgaard said that extending the 4:00 a.m. to just these two Clubs did not do enough to resolve the problem of having twice the customers they can let in and ending up with a couple of hundred people standing outside who do not want to go home. He said that when you cannot get into a Club and are standing around outside, you become frustrated and that is when the fights break out and problems occur.

In discussion with Commissioner Cassidy, Chief Settingsgaard stated that he would recommend contiguous expansion of the 4:00 a.m. so additional owners could come in. He stated this would be a defined zone open to the free market and those who want to establish a nightclub could do it. He recommended, however, that there be a limit to the number of licenses so they would be able to police the area.

Commissioner Arndt cautioned that if you put a limit on the number of licenses, the value of those locations doubles.

In discussion with Commissioner Cassidy regarding his recusing himself from voting because he had represented one of the applicants, Attorney Williams stated that he would not have a conflict if there was a vote on an entire zone and not on a specific site location.

Commissioner Cassidy stated that the area should not skip streets, but be squared off and become an area.

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In discussion with the Commissioners, Chief Settingsgaard clarified the zone as including the Warehouse District. He stated it would extend from William Kumpf down Jefferson to South Street, by the Excalibur, to the River.

Hearing no further comments or questions, Chairman McCabe called for the motion.

Commissioner Jackson made the motion to accept Chief Settingsgaard's recommendation of expanding the 4:00 a.m. zone from William Kumpf Boulevard to South Street and Jefferson to the River; seconded by Commissioner Arndt.

Yeas: 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, November 25, 2008.

VI. NEXT SCHEDULED MEETING

The next scheduled regular meeting of the Liquor Commission is Monday, December 1, 2008.

VII. ADJOURNMENT

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

Approved by viva voce vote.

The Liquor Commission Meeting adjourned at 5:27 p.m.

Kristin Cannaday-Stash, Secretary

Attachments