

MINUTES OF THE CITY OF PEORIA
LIQUOR COMMISSION
February 1, 2010

A meeting of the City of Peoria Liquor Commission was held in Room 404, City Hall, Peoria, Illinois, on February 1, 2010, Chairman Frank McCabe presiding.

ROLL CALL:

Present: Chairman Frank McCabe; Commissioners Ted Arndt; Drew Cassidy; Don Jackson; Virginia White - 5

Absent: 0.

Others present: Assistant Corporation Counsel Sonni Williams; Liquor Investigator Scott Jordan; Fire Capt. Dan McGann; Building Inspector Jim Stevens; 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 December 7, 2009 Liquor Commission Meeting; seconded by Commissioner Jackson.

Approved by roll call vote:

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

Nays: 0

III. LIQUOR SITE APPLICATIONS

10-1 The Fox Pub and Café, Inc.
d/b/a Fox Pub and Cafe
7800 N. Sommer, Suite 302
Requesting: Class B (restaurant, full-service bar)
Subclass 2 (live entertainment)

Mike Cheeseman, owner of The Fox Pub and Café, presented an application for a Subclass 2 (live entertainment) to be added to his Class B (restaurant) Liquor License at 7800 N. Sommer, Suite 302.

In response to Chairman McCabe regarding the size of the establishment, Mr. Cheeseman stated that the restaurant had a capacity for 100 patrons.

Mr. Cheeseman indicated that the entertainment would be on Wednesday evenings when he would be playing and on the weekends with groups like Applegate & Co. Mr. Cheeseman stated he came from England as a musician playing an acoustic guitar for over 40 years. He

LIQUOR COMMISSION – February 1, 2010

indicated he wanted acoustic-type music that appeals to the older crowd, a place where you can have a decent meal and listen to some good music.

Hearing no more questions or discussion, Chairman McCabe called for the vote.

A motion was made by Commissioner Jackson to approve the addition of the Subclass 2 (live entertainment) License to the Class B Liquor License at 7800 N. Sommer, Suite 302; seconded by Commissioner Arndt.

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

10-2 Sonny's Club, Inc.
d/b/a Jill's Grill
633 Main Street
Requesting: Class A (tavern)
Subclass 1 (4:00 a.m. closing)
Subclass 2 (live entertainment)

Esther Wu, attorney, and Jill Dunniway, one of the applicants, presented a site application for a Class A (tavern) Liquor License with a Subclass 1 (4:00 a.m. closing) and a Subclass 2 (live entertainment) at 633 Main Street, formerly known as Anna's.

Chairman McCabe brought up the fact that a year ago there was a similar application for 617 Main Street that was a recommended denial from the Liquor Commission that was upheld by the City Council. He stated there were plenty of objections, including the recommendation of denial by the Police Department, and the proximity to the religious facilities across the street and the DOC.

Liquor Investigator Jordan stated that their denial for this site application was because of the calls that had occurred between 2004 and 2008 when it operated under different bar names, but always under the same corporation name of Sonny's Club, Inc. and it is Sonny's Club Inc. that is applying at this time. He said these calls included 17 battery calls, 2 shootings, and 3 mob action reports indicating that Sonny's Club, Inc. has a poor history of running a business at this location.

Ms. Dunniway stated that the manager who was involved at that time was no longer with them. She stated that this is a building, a business and it is there waiting for someone to take it over.

In discussion regarding what they could do differently, Attorney Williams stated that this was the same licensee who agreed after a hearing of these violations, that this corporation was supposed to sell the premises within sixty days of the Order being entered and that was never complied with. Mr. Danz has been asked to sell this establishment before after suspensions were ordered and he has never complied with those orders. She added that Mr. Danz is the sole corporate officer of Sonny's Club, Inc.

In discussion with Commissioner Jackson, Attorney Wu stated she believed he had asked his friends and she thought he put the property up for sale for \$325,000.

Commissioner Jackson stated the applicant should supplement the record to show there was a good faith effort to comply with the Order to sell. He indicated that there was no assurance that

LIQUOR COMMISSION – February 1, 2010

the problems that led to the order to sell the property had changed. He also stated that he was compelled to agree with the Police Department because of the lengthy record of problems with the liquor license and the Commission would be derelict in their duty if they just re-established them in the same spot so the problems could be repeated.

In further discussion with Attorney Wu on what kind of change needed to be made, Commissioner Jackson stated that Mr. Danz should sell it to a different owner who would not have such a bad history.

Commissioner Jackson also stated that they had answered the question on the application about any changes to be made at this bar with “not at this time”. He said he was concerned this was not an honest answer and they could change those plans after the license was approved.

In discussion with Commissioner Jackson regarding the fact that Mr. Danz had not carried out the Order to sell the property which he had agreed to, Ms. Dunniway stated he did put several ads in the paper but he was not getting offered anything for it.

Ms. Dunniway stated she had not put any changes on the application because she did not know what kind of changes she would make at this time, but thought they would be minor.

Inspector Stevens stated the changes they needed to make would not be minor. He indicated they had some issues with the Illinois Disability Act pertaining to the restrooms and there were also some cooking hood issues that needed to be rectified.

Attorney Wu indicated that Mr. Danz would be willing to make these changes.

Chairman McCabe raised the possibility of this applicant just withdrawing as the best course of action rather than proceeding with the possibility of a recommendation for denial of this application.

Attorney Williams explained that if the City Council would deny this site application, the applicant would have to wait six months before reapplying and if they withdrew, they would not have to wait six months.

Commissioner Jackson stated that they should talk to the City about the past agreement to sell the property and the suspension and then make the adjustments to the interior before applying, because since the last determination on this application, nothing had changed or been done about the agreement Mr. Danz had signed to sell the property.

Attorney Williams stated that the Order was entered in 2005 so he has had more than enough time to comply.

In discussion with Commissioner Arndt about whether to withdraw or have the Commission make a recommendation to the Council, Ms. Dunniway stated they should make a recommendation because neither she nor Attorney Wu had the authority to withdraw the application.

Commissioner Cassidy stated for the record that he would be abstaining from the vote because of his firm's prior representation of Mr. Danz.

LIQUOR COMMISSION – February 1, 2010

A motion was made by Commissioner Arndt to **deny** the application for a Class A (tavern) with a Subclass 1 (4:00 a.m. closing) and Subclass 2 (live entertainment) at 633 Main Street; seconded by Commissioner White.

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

Chairman McCabe stated that this recommendation to **deny** would be heard by the City Council at its meeting on February 23, 2010 and a representative for this application should be present at that meeting.

10-3 R&L Illinois Enterprises, Inc.
d/b/a Toasters Tap
7719 N. University
Requesting: Class A (tavern)

ReNae Lechner, owner, and Attorney Joseph Bembenek presented an application for a Class A (tavern) for 7719 N. University.

Ms. Lechner stated they currently had an establishment in Peoria Heights, behind Grayboys on Sciota. She indicated the new establishment in Peoria is located next to Steak 'n Shake on University, formerly known as the Surf Island Grill and before that, the Silver Bullet.

In discussion with Chairman McCabe, Ms. Lechner stated they planned to be open from 10:30 a.m. until 1:00 p.m. Sunday through Wednesday and Thursday through Saturday until 2:00 a.m. She added that they would start with serving food at lunchtime and if there was a need, they would add dinner. She said there was a kitchen in this establishment.

Ms. Lechner stated that by having a Class A license rather than the current Class B-1, minors would not be allowed in.

Attorney Sonni Williams informed the Commissioners that the conditions given for issuing this liquor license included the applicant completing the site application process for a Class A (tavern) for this location. She indicated that this location had been approved for a Class A Liquor License in prior years.

In discussion with Commissioner Cassidy, Attorney Williams stated that all of the subclasses were also approved previously.

Deputy Liquor Commissioner Turner stated that, for the record, he had met with the Police Chief, the Liquor Investigator and the Mayor/Liquor Commissioner after a hearing was held on the license application. He said there were concerns about the number of incidents that had occurred at their current establishment in Peoria Heights. He added that one of the Peoria Heights Police Officers had testified at that meeting also. He indicated that with the help of Counsel, they had come up with an agreement that the applicant would change from a Class B-1 (restaurant, 25% food) to a Class A (tavern).

In discussion with Chairman McCabe, Attorney Bembenek stated that Attorney O'Day represented the applicant at the hearing.

LIQUOR COMMISSION – February 1, 2010

Attorney Williams added that a hearing had been held regarding the application for the liquor license. The liquor license application was initially denied, so the licensee requested a hearing on some of the factual allegations contained in the denial letter. The City held a full hearing. The outcome of that hearing was the meeting that Deputy Liquor Commissioner Turner reported. The recommendation from the Liquor Commissioner after that meeting was that the liquor license be issued if the site was changed to a Class A.

In discussion with Commissioner Jackson, Liquor Investigator Jordan stated that the Police Department had recommended denial of the liquor license, there was a hearing with a meeting afterwards, and after the meeting there was a recommendation that the Police Department was in favor of changing the site approval to a Class A. He added that a Class A makes it easier for the Police to enforce the underage drinking issues.

In further discussion, Ms. Lechner stated they were planning on having small live bands and DJ's. She indicated they had removed the booths in a corner of the bar so they would have room to set up the small bands. She also stated they had no noise issues at their Heights location and they had live entertainment there.

In discussion regarding the Subclass 3 (beer garden) License, Attorney Williams stated there is no amplified sound outside and the applicant would be able to use the current beer garden area.

Hearing no more questions or discussion, Chairman McCabe called for the vote.

A motion was made by Commissioner Cassidy to recommend approval of the Class A (tavern) Liquor License at 7719 North University; seconded by Commissioner Jackson. [Note: The site approval for the subclasses is not affected by the change in the full class approval and there has been no lapse or revocation, therefore no vote is needed for the subclasses.]

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

Nays: 0.

Chairman McCabe stated this site application would be heard at the next regular City Council meeting to be held on Tuesday, February 9, 2010 and a representative of this application should attend that meeting.

After the vote, Ms. Dunniway asked why the establishment Carbon was not shut down after the shooting that had occurred there. Liquor Investigator Jordan stated that Carbon was shut down, their license revoked and the new establishment was now was under new management and owners.

IV. UNFINISHED BUSINESS

Chairman McCabe recognized Mr. Roger Heim of 709 Main Street.

Mr. Heim stated that, for the record, he and his partner owned the other buildings in that block and they had negotiated and come to an agreement, which Mr. Danz had signed, to purchase the property for \$182,000. He indicated that Mr. Danz backed out of that agreement.

LIQUOR COMMISSION – February 1, 2010

V. NEW BUSINESS

Attorney Williams reminded the Commissioners that the Annual Liquor Meeting would be under a new format on Tuesday, February 23. She stated that during the hours of 9:30 a.m. and 11:30 a.m., a licensee could pick up their license, ask a quick question if they needed to because staff would be available and then leave. They are not required to stay for the two-hour lecture meeting as in the past. She explained that this new format is more business friendly. It is a win-win for the City and licensees as it reduces their time away from their establishments and also helps reduce the cost of mailing out all the license packets.

Deputy Liquor Commissioner Turner also stated that attendance would be taken because attendance could become a mitigating factor at the violation hearings.

VI. NEXT SCHEDULED MEETING

The next scheduled regular meeting of the Liquor Commission is Monday, March 1, 2010.

VII. ADJOURNMENT

Commissioner White moved to adjourn the meeting; seconded by Commissioner Cassidy.

Approved by viva voce vote.

The Liquor Commission Meeting adjourned at 4:07 p.m.

Kristin Cannaday-Stash, Secretary