

MINUTES OF THE CITY OF PEORIA
LIQUOR COMMISSION
July 6, 2010

A meeting of the City of Peoria Liquor Commission was held in Room 404, City Hall, Peoria, Illinois, on July 6, 2010, Acting Chairman Drew Cassidy presiding.

ROLL CALL:

Present: Acting Chairman Drew Cassidy; Commissioners Ted Arndt; Don Jackson (arrived at 3:37 p.m.); Virginia White - 4
Absent: Frank McCabe - 1.

Others present: Deputy Liquor Commissioner Eric Turner; Assistant Corporation Counsel Sonni Williams; City Clerk Mary Haynes; Police Investigator Scott Jordan; Fire Inspector Brad Pierson; Building Inspector Jim Stevens; Debbie Pinkney, City Clerk's office; Kristin Cannaday-Stash, Secretary, and concerned citizens and media.

I. CALL TO ORDER

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

II. APPROVAL OF MINUTES

Commissioner Arndt moved to approve the Minutes of the June 7, 2010 Liquor Commission Meeting; seconded by Commissioner White.

Approved by roll call vote:

Yeas: Arndt, Cassidy, White - 3;

Nays: 0

III. LIQUOR SITE APPLICATIONS

10-16 Cali Co. LLC
d/b/a Joe's Peoria
1301 W. Pioneer Parkway, Suite 125
Requesting: Class B (restaurant, full-service bar)
Subclass 3A (sidewalk café)

Matt George, owner of Joe's Peoria, presented an application for a Class B (restaurant, full-service bar) liquor license with a Subclass 3A (sidewalk café) for 1301 W. Pioneer Parkway, Suite 125.

Mr. George stated he was opening up a sports grill which would have 65-70% food to liquor. He indicated his restaurant would be taking about 4,000 s.f. from the current Alley Cats and the two businesses would be separated by a wall. He indicated that the construction would be completed at the beginning of August.

Mr. George indicated the restaurant would serve burgers, cheese sticks, fries, wings, typical sports grill food, along with restaurant hours from 11:00 a.m. to 1:00 a.m.

In discussion with Acting Chairman Cassidy, Mr. George stated there would be three tables on the sidewalk in front of his restaurant, which area is visible through a glass wall. He also indicated that he owned the neighboring business, which offers sports memorabilia.

In discussion with Liquor Investigator Jordan, Mr. George stated they planned to have a pass-through window from his restaurant into Alley Cats so they could prepare food for Alley Cats. He indicated that those food sales would be a separate business and not apply to Joe's Peoria food sales totals. He also stated he was aware there would be no alcohol passed through the window.

(Commissioner Jackson arrived.)

In addition, Liquor Investigator Jordan stated that the sidewalk café area in front was for Joe's Peoria customers and not for Alley Cats customers.

In further discussion with Acting Chairman Cassidy, Mr. George stated that his staff would be trained to monitor the sidewalk café area.

Hearing no more questions, Acting Chairman Cassidy 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 3A (sidewalk café) Liquor License at 1301 W. Pioneer Parkway, Suite 125; seconded by Commissioner White.

Yeas: Arndt, Cassidy, Jackson, White – 4;
Nays: 0.

Acting Chairman Cassidy stated that this site application would be heard at the City Council Meeting on Tuesday, July 27, 2010.

10-17 The Back Doerr, LLC
d/b/a Alley Cats/Tom Cats
1301 W. Pioneer Parkway, Suite 133
Requesting change to: Class A (tavern)
Subclass 1A (2:00 a.m. closing)
Subclass 2 (live entertainment)
Has: Class B-1 (restaurant, 25% food)
Subclass 1A (2:00 a.m. closing)
Subclass 2 (live entertainment)
Subclass 3A (sidewalk café)

Mr. Dan Doerr, owner of Alley Cats/Tom Cats, presented a site application for a Class A (tavern) with a Subclass 1A (2:00 a.m. closing) and Subclass 2 (live entertainment) Liquor License at 1301 W. Pioneer Parkway, Suite 133.

Mr. Doerr stated he was planning on "downsizing" from a Class B-1 (restaurant, 25% food) to a Class A (tavern), and losing the kitchen. He also indicated he was aware that by changing, he would be losing the sidewalk café.

In further discussion regarding if patrons could sit outside without alcohol just to smoke, Attorney Williams explained that they could as long as there was no liquor.

Hearing no more questions, Acting Chairman Cassidy called for the vote.

A motion was made by Commissioner Arndt to recommend approval of the site application for the change to a Class A (tavern) and keeping his Subclass 1A (2:00 a.m. closing) and Subclass 2 (live entertainment) Liquor License at 1301 W. Pioneer Parkway, Suite 133; seconded by Commissioner Jackson.

Yeas: Arndt, Cassidy, Jackson, White – 4;

Nays: 0.

Acting Chairman Cassidy stated that this site application would be heard at the City Council Meeting on Tuesday, July 27, 2010.

10-18 **PV II, Inc.**
 d/b/a PV II
 8305 N. Allen Road, Suite 2
 Requesting: Subclass 3A (sidewalk café)
 Has: Class B (restaurant, full-service bar)

Amy Wand and Josh Utech, owners of PV II, presented a site application to add a Subclass 3A (sidewalk café) to their Class B Liquor License at 8305 N. Allen Road, Suite 2.

In discussion with Acting Chairman Cassidy regarding the sidewalk café, Ms. Wand stated that the sidewalk café goes in front of the restaurant and wraps around the corner of the building. She indicated their food sales are a lot higher than the alcohol sales and there would be no one just drinking out there. She explained that there would be reserved signs on the outside tables and the patrons had to go through the restaurant to be seated by staff out there. She also stated there would be one staff person out there at all times.

In further discussion, Ms. Wand stated the hours for the sidewalk café would be the same as the restaurant, from 5:00 p.m. until 9:00 p.m.

Commissioner Jackson stated he would be abstaining from this vote because of a conflict.

Hearing no more questions, Acting Chairman Cassidy called for the vote.

A motion was made by Commissioner White to approve the application to add the Subclass 3A (sidewalk café) Liquor License to the liquor license at 8305 N. Allen Road, Suite 2; seconded by Commissioner Arndt.

Yeas: Arndt, Cassidy, White – 3;

Nays: 0

Abstention: Jackson – 1.

10-19 **Maverick Holdings of Peoria**
 d/b/a Blue Bar
 619 West Main Street
 Requesting: Subclass 1A (2:00 a.m. closing)
 Has: Class B-1 (restaurant, 25% food)

James McGhee and Jessica Benassi, owners of Blue Bar, presented an application for a Subclass 1A (2:00 a.m. closing) to add to their Class B-1 (restaurant, 25% food) Liquor License at 619 West Main Street.

Deputy Liquor Commissioner Turner stated he had been contacted about concerns regarding the lack of parking and trash, and there were concerns that if the establishment was allowed to stay open another hour until 2:00 a.m., these problems could get worse. He indicated that the restaurant next door had contacted him, as well as a gentleman in the audience who wished to speak.

Mr. McGhee stated he was not aware of the restaurant next door, stating they had a good relationship with them. He indicated they did have an issue with parking with a business on the other side.

Ms. Benassi added that they had told the businesses that if trash did become an issue they would come over and clean their parking lots; however, she believes that a very small percentage of the trash comes from their customers. She indicated that they sweep the sidewalk in front and the parking lot in the back every day and a lot of the bottles they clean up do not come from their establishment.

In discussion with Acting Chairman Cassidy, Mr. McGhee stated that the reason they were requesting the later hours was to keep the customers they have because the Basket Case and the Elbo Room on both sides of them have a 2:00 a.m. closing. He added that their busiest times were on Friday and Saturday nights right before they close and they do not want to push those customers out to other bars.

Liquor Investigator Jordan stated there were two other surrounding bars that had 2:00 a.m. closings and he had checked all the reports and this establishment had no violations. He did receive some concern that they were not serving food, so he visited and was presented a menu and shown a food prep area.

In discussion with Commissioner Arndt, Attorney Williams stated that the Liquor Commission had previously recommended a denial of the site application at that time because of the parking problem, but the City Council had approved a Class B-1 (restaurant, 25% food) license after the Class A (tavern) application was withdrawn.

In further discussion, Attorney Williams stated that they were just barely meeting the 25% food requirement for the Class B-1 license.

Mr. Gerry Gerber, adjacent property owner, stated they have stopped serving lunches at this restaurant and questioned their food service. He expressed concern that they were not meeting the requirements of this license and that they should not be allowed to get the 2:00 a.m. closing license.

In discussion with Commissioner Arndt regarding parking, Mr. Gerber stated they have parking behind their place and he owns the lot behind their building and when there isn't anyone there, they are free to park there. He added that he had not heard about any complaints about any mess with trash.

In discussion with Acting Chairman Cassidy, Mr. Gerber stated that he was not aware of any noise issues.

In response to Deputy Liquor Commissioner Turner's concern about food sales, Mr. McGhee stated that they sell more food at night than any other time. He added there is never a time when one of the owners is not there and that they have expanded their menu to include hot hors d'oeuvres. They stated they serve food from 4:00 p.m. until 1:00 a.m., that they have had two write-ups in the *Journal Star* and *Bradley Scout* because of their healthier type of menu.

Hearing no more questions, Acting Chairman Cassidy called for the vote.

A motion was made by Commissioner Jackson to recommend approval of the addition of a Subclass 1A (2:00 a.m. closing) to the Class B-1 (restaurant, 25% food) Liquor License at 619 West Main Street; seconded by Commissioner White.

Yeas: Arndt, Cassidy, Jackson, White – 4;

Nays: 0.

Acting Chairman Cassidy stated that this site application would be heard at the City Council Meeting on Tuesday, July 27, 2010.

10-20 The Fresh Market, Inc.
d/b/a The Fresh Market of Illinois
2601 West Lake Street, Suite A1-B
Requesting: Class C (package liquor)

Mr. Shawn McCracken, Regional Operations Manager for The Fresh Market, Inc., presented a site application for a Class C (package liquor) Liquor License for the grocery store being opened at 2601 West Lake Street, Suite A1-B, which was formerly Circuit City.

Mr. McCracken stated they planned on opening the store on August 25, 2010. He indicated the store was approximately 23,000 s.f., with 500 to 800 s.f. for the liquor area. He said that the liquor would be 4-foot section, in-kept display that can be locked with 12 feet of cold beer, 18 feet of cold wine, and the rest just wood shelving with wine and liquors.

In discussion with Acting Chairman Cassidy regarding any conditions being put on a license so it stays as a grocery store, Attorney Williams stated that each decision is made on a case by case basis. She indicated there are no limitations on a Class C, and if there are concerns about changing to just all alcohol, then a condition can be added to the license.

Liquor Investigator Jordan stated that there has been conditions placed on licenses where a maximum square footage for alcohol has been placed, such as 10 or 15% of the total space.

Mr. McCracken stated that their food sales range from 92% to 94% of total sales. He indicated there was a center deli which takes up most of the square footage. He explained that you enter the store and there is a floral center, seafood and meat counter, produce and bakery around the deli with very limited grocery space, maybe only five aisles of grocery with mostly perishable fresh food.

In discussion with Commissioner White, Mr. McCracken stated this would be very similar to the store in Normal except it would be larger.

In further discussion, Mr. McCracken stated they were starting to put the full liquor component in some of their stores, including Peoria, because of customer requests, but they already have alcohol, beer and wine, in all of their stores.

In response to Commissioner Jackson regarding Police Officers being required for security purposes, Liquor Investigator Jordan stated that was because of neighborhood group requests and there had been no such requests with this application.

Hearing no more questions, Acting Chairman Cassidy called for the vote.

A motion was made by Commissioner Arndt to recommend approval of site application for a Class C (package liquor) Liquor License at 2601 West Lake Street, Suite A1-B; seconded by Commissioner White.

Yeas: Arndt, Cassidy, Jackson, White – 4;

Nays: 0.

Acting Chairman Cassidy stated that this site application would be heard at the City Council Meeting on Tuesday, July 27, 2010.

IV. UNFINISHED BUSINESS

Report back on proposal to allow restaurants to cater off-site for the service of alcoholic liquors in conjunction with the service of meals.

Attorney Sonni Williams indicated that the report back that was requested from the Liquor Commission regarding off-site catering of liquor by comparable municipalities was attached to their Commission packets (attached hereto). She stated the cities that do allow off-site liquor catering include Bloomington, Champaign, Normal, Rockford, Springfield and all of them vary on what they allow. She added that the majority do not allow a cash bar. Rock Island and Decatur do not allow any off-site catering of liquor, she said.

Attorney Williams indicated that Aurora had the most similar catering license to Peoria's Class K license, but they do not have a separate subclass allowing restaurants to cater alcohol off-site. She indicated that the ordinances from the various municipalities are attached to the report back memorandum. Based upon those ordinances, she stated that she had drafted an amendment to Chapter 3 of the Peoria Liquor Code that would allow off-site liquor catering. She indicated that after discussing some issues with City Clerk Mary Haynes, she revised her original amendment and it is attached as "Draft 2".

Attorney Williams explained that "Draft 2" amended the ordinance by adding a proposed Subclass 10 that could be obtained by only licensees holding a Class B (restaurant) license and it would cover any alcohol served in conjunction with the service of meals for a package price agreed upon for the event. By putting this condition in, it discourages the idea of a traveling bar. She further explained that the application had to be turned into the City Clerk at least 10 days prior to the private event with a description of the location so it can be determined if the location is suitable with regards to residential areas and noise levels. She added that the gross revenue generated from the event cannot be more than 40% from alcohol, with the service and consumption at the same location that is described in the application. No agent or employee of the licensee can consume alcohol while catering at the event and the service of alcohol has to be by someone 21 years of age or older.

Attorney Williams stated she also added hours when alcohol could be served to the amendment, which were from 11:00 a.m. until 12:00 a.m. to cover events which are in a

residential area. She said that the fee for this license was drafted at \$750.00 per year, but this could be changed by the Liquor Commissioners.

Regarding the question from the Liquor Commissioners about transporting open alcohol back to the restaurant after the catered event, Attorney Williams stated she spoke with State Liquor Control Investigator Gary Doyle and he indicated there is an unwritten practice to allow caterers to transport alcohol with the seal open as long as it is transported in the back of the caterer's vehicle and the driver is 21 years of age.

In discussion with Commissioner Jackson, Attorney Williams stated the three-day limitation is similar to our temporary events such as a fundraiser event, but the length of time could be changed by the Commissioners.

In further discussion with Liquor Investigator Jordan regarding written and unwritten policies of the Illinois Liquor Control Commission, Commissioner Jackson stated that it made a lot of sense to be able to transport open bottles of liquor back to the restaurant rather than pouring out the rest of the liquor.

Regarding where the request for off-site liquor catering initiated, Attorney Williams stated that City Clerk Haynes had asked this to be brought up because of requests from restaurants wanting to cater outside their places of business. Attorney Williams stated she had received calls over the years also asking if restaurants could cater events outside their businesses and she had always told them no it was not allowed unless they had a Class K (caterer) Liquor License, which requires renting your business out to an event.

Attorney Williams stated that Steve Shaw, from Famous Dave's, had discussed that customers wanted full-service catering instead of having to contract for the food and a separate contract for the alcohol from a Class K licensee.

In regards to the Dram Shop coverage question by Acting Chairman Cassidy, Attorney Williams stated the insurance carriers do cover off-site locations. She explained that Class K (caterer) Licensees are required by the State to carry Dram Shop coverage for off-site events and it is the Licensee's responsibility for underage and other issues that might occur; however, she explained that the property owner could be named in a lawsuit also.

In further discussion, Attorney Williams clarified that it would be the restaurant is taking charge to not serve minors and for dram shop coverage, but that did not mean that the private owner may not be named in a liability suit. She stated that it could be added in the contract that the caterer would indemnify the property owner if he was named in a lawsuit because something happened.

Commissioner Arndt clarified that there would be no cash bar and stated that he could not support bringing open product back after an event.

In further discussion, Commissioners Arndt and Cassidy agreed that this is a contract issue between the parties for a certain amount of food and a certain amount of liquor. They stated that if you are charged by the bottle or a certain amount of liquor and you pay for it, the caterer leaves it.

In response to the question from Steve Shaw, representing Famous Dave's, regarding a customer asking the caterer to provide a variety of different liquors just in case some of the guests request them as part of the price of the catered event, Acting Chairman Cassidy stated that this

ordinance does not authorize what the State does not authorize and that is the transportation of open alcohol to caterers.

Liquor Investigator Jordan stated that Attorney Williams had put as much as possible on the licensee so they are responsible for any violations and their license can be revoked if they don't follow what is allowed.

After further discussion regarding contracts, the limitations for the licenses and the transportation of open alcohol, Acting Chairman Cassidy stated that the transportation is not our issue, as the State prohibits the transportation of open alcohol.

City Clerk Haynes stated that the difference between the Class K License and this proposed license is that a Class K does not have to have an employee serve, liquor can be served until 1:00 a.m., the event can be five days and there is no restriction on percentage of food.

Acting Chairman Cassidy stated that adding a percentage is important or else there could be traveling bars. He indicated the high percentage would limit it to bona fide restaurants and he also stated he preferred the ordinance from Champaign which stated that an event could not be for more than eight consecutive hours. He suggested having the event until 1:00 a.m., but not to exceed eight hours.

In further discussion regarding this being a one-time only application or a per event application fee, City Clerk Haynes stated she strongly suggests having this be a one-time only application for a subclass license because of the staff time. She added that it would be important to have a description of the event and the location.

Commissioner Jackson stated that he agreed that a one-year license with a fee of \$750 per year, as suggested by Attorney Williams, would eliminate the non-players.

Acting Chairman Cassidy agreed and stated that if the owner had a caterer's license and wanted to have an event multiple days, that as long as they were meeting the 60/40 ratio of food to alcohol, they could do that.

In discussion with Commissioner White, Mr. Shaw stated he had never had a catering job more than one day.

Liquor Investigator Jordan stated that the Police notify the traffic division so they are aware of where the different events are being held.

Fire Investigator Pierson stated that the Fire Department would get involved if there was going to be a tent involved. He stated they had to get a permit depending upon the size of the event.

Mr. Shaw stated that the conditions of this subclass license do not seem unreasonable. He indicated that it was reasonable to have the licensee's employees dispense the alcohol as opposed to a son or daughter of the event giver who would end up serving their friends. He stated that he also thought that the 60/40 ratio was reasonable and indicated he could not imagine his restaurants doing an event that would be more than 40% alcohol. We stressed that they were in the food business, but today the patrons want full service. He added that the professionals know what the Dram Shop regulations are.

In discussion with Commissioner Jackson regarding recommending this ordinance amendment to the City Council after tweaking by the staff, Attorney Williams stated that she had been

informed that the restaurants would like this amendment to become effective during this summer season.

A motion was made by Commissioner Jackson to recommend this ordinance amendment regarding the amendment which would allow restaurants to cater off-site for the service of alcoholic liquors in conjunction with the service of meals.

Attorney Williams stated she would revise her proposed amendment (attached) and take out the three-day limitation and that an event could be no more than 8 hours, from 10: a.m. until 12:00 a.m.

City Clerk Haynes stated that the caterer's and Class B's had been informed of the possibility of an amendment and her office had received no complaints from the Class K (caterers) license holders.

In discussion with Acting Chairman Cassidy, Attorney Williams stated that any licensee holding this type of subclass would just have to notify the City Clerk's office in writing with a description of the event, a map of where the event was being held, the estimated number of people attending, the hours, whether a tent was going to be used along with a contact person. She said she would add a provision that they had to comply with all of the current ordinance regulations for such an event.

Liquor Investigator Jordan stated that if a contact person is required, he can call that person and go through a checklist with that person to determine how many, where, if there is going to be a band, tent, etc., to determine what kind of event.

Acting Chairman Cassidy said he did not want to hold this up until August so he would second Commissioner Jackson's recommendation subject to a maximum of eight hours per day of service.

A vote was taken on Commissioner Jackson's motion; which was seconded by Acting Chairman Cassidy.

Yeas:	Arndt, Acting Chairman Cassidy, Jackson, White – 4
Nays:	0

V. NEW BUSINESS

There was no new business presented at this meeting.

VI. NEXT SCHEDULED MEETING

The next scheduled regular meeting of the Liquor Commission is Monday, August 2, 2010.

VII. ADJOURNMENT

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

Approved by *viva voce* vote.

The Liquor Commission Meeting adjourned at 4:29 p.m.

Kristin Cannaday-Stash, Secretary

Attachment