

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

A meeting of the City of Peoria Liquor Commission was held in Room 404, City Hall, Peoria, Illinois, on December 6, 2010, Chairman Frank McCabe presiding.

ROLL CALL:

Present: Chairman Frank McCabe; Commissioners Ted Arndt, Drew Cassidy, Virginia White
– 4

Absent: Don Jackson – 1.

Others present: Deputy Liquor Commissioner Eric Turner; Assistant Corporation Counsel Sonni Williams; Liquor Investigator Scott Jordan; Fire Inspector Dan McGann; Building Inspector Jim Stevens; Kristin Cannaday-Stash, Commission 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 November 1, 2010 Liquor Commission Meeting; seconded by Commissioner Cassidy.

Approved by roll call vote:

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

Nays: 0

III. LIQUOR SITE APPLICATIONS

10-32 **Walgreen Co.**
d/b/a Walgreen's
2515 N. Knoxville Avenue
Requesting: Class C-1 (packaged liquor)

10-33 **Walgreen Co.**
d/b/a Walgreen's
3524 N. University
Requesting: Class C-1 (packaged liquor)

Attorney Bob Hall and District Manager Mike Palmer, representing Walgreen's, presented the applications for a Class C-1 (packaged liquor).

In discussion with Chairman McCabe, Mr. Palmer stated there had been no problems whatsoever either inside or outside the other Walgreen stores in the Peoria area. He also indicated that all of the stores had the same set-up with regard to the liquor, and that it would be away from the door on the far side of the store.

Attorney Hall stated that the reason these two stores were brought to the Commission separately was because the District Councilperson wanted them to meet with the neighborhood associations. He stated that the meetings had taken place and the stores had neighborhood

support. He reported that the University store had 100% support, while the Knoxville store had a majority support. He stated that the Knoxville group's concerns dealt mainly with trash and traffic.

In further discussion, Mr. Palmer stated the operating hours of these two stores are 7:00 a.m. until 10:00 p.m. Monday through Friday and 8:00 a.m. until 10:00 p.m. on the weekends.

In discussion with Liquor Investigator Jordan in regards to the Knoxville store being cited for selling cigarettes to underage people, Mr. Palmer stated that was aggressively addressed by the manager of the store with retraining of that employee and a warning sent to all the other stores. He stated that was a definite slip by that employee and identification is always required for anyone who looks under 40 years of age for both tobacco and alcohol.

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

A motion was made by Commissioner Arndt to recommend approval of the site application for a Class C-1 (package liquor) Liquor License for 2515 N. Knoxville Avenue; seconded by Commissioner White.

Yeas: Arndt, Cassidy, McCabe, White – 4
Nays: 0

A motion was made by Commissioner Arndt to recommend approval of the site application for a Class C-1 (package liquor) Liquor License for 3524 N. University; seconded by Commissioner White.

Yeas: Arndt, Cassidy, McCabe, White – 4
Nays: 0

Chairman McCabe stated that these site applications would be heard at the next regular City Council Meeting scheduled for Tuesday, January 11, 2011.

10-34 **Wantong Zhau**
 d/b/a The Great Wall
 1219 West Main
 Requesting: Class G (restaurant, beer & wine only)

Mr. Xirui Zhau, owner, presented a site application for a Class G (restaurant, beer & wine only) Liquor License for 1219 West Main Street.

Mr. Zhau stated the hours of his restaurant were from 11:00 a.m. until 9:00 p.m. Tuesday through Sunday. He indicated he had a capacity to serve about 60 customers.

In discussion with Chairman McCabe regarding underage students, Mr. Zhau stated that the majority of his customers were hospital workers.

Conrad Stinnett III, 1027 N. Underhill, stated he lived within 300 feet of The Great Wall and had come to support this site application. He indicated that since Mr. Zhau had been in charge of this restaurant he had drastically increased his sit-down business and that being able to have a glass of wine or beer with your dinner was great. He stressed that this was the kind of business on Main Street that the neighbors wanted to see.

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

A motion was made by Commissioner Cassidy to recommend approval of the site application for a Class G (restaurant, beer & wine only) Liquor License for 1219 W. Main Street; seconded by Commissioner Arndt.

Yeas: Arndt, Cassidy, McCabe, White – 4

Nays: 0

Chairman McCabe stated that these site applications would be heard at the next regular City Council Meeting scheduled for Tuesday, January 11, 2011.

10-35 **Groce' at Ease Incorporated**
d/b/a to be announced
9915 N. Knoxville, Suites I & J
Requesting: Class C (packaged liquor store)

Anil Mathew, owner, presented an application for a Class C (package liquor store) for 9915 N. Knoxville, Suite I & J.

Mr. Mathew stated that a name had not been chosen yet for this liquor store. He said they planned to be open seven days a week from 10:00 a.m. until Midnight on Thursday, Friday and Saturday, and from 10:00 a.m. until 10:00 p.m. during the week.

Liquor Investigator Jordan stated he had discussed this site application with the Police Chief who was recommending denial. He said, historically, package liquor stores were detrimental to neighborhoods which has been seen throughout Peoria. He indicated the Police Department did not have a problem with stores that are not entirely package liquor such as Walgreen's or Hy-Vee. He stated that strictly liquor stores were a problem with increased noise, litter, crime and traffic, as can be seen with the problems at Big Hollow Convenient and Sterling Liquors, which the applicant currently owns.

Liquor Investigator Jordan stated that the Police Department was staying consistent in keeping with their policy of recommending denials for all the liquor store applications that have been presented the last two years.

Mr. Mathew stated the store they were trying to open on North Knoxville would have no single beer and be designed with wide open spaces like the Friar Tuck on University.

Chairman McCabe reiterated that the Police Department was not concerned with the design of the inside of the store, but with the effect the store would have on the neighborhood with litter and noise.

In discussion regarding Mr. Mathew's liquor store on Sterling, Liquor Investigator Jordan stated he had run statistics on Sterling Avenue Liquors but did not have them with him because they were not so much for site approval but if this site application is approved, he would look at the applicant and the calls that occurred there. He stated that Mr. Mathew's site application for Sterling Avenue Liquors was that he would remain a grocery store selling groceries, meat, and produce, which he no longer sells. Investigator Jordan stated the applicant also stated he would not sell 40 oz. bottles of beer and he has sold 40 oz. bottles. Thus, he said, the past history of the applicant has shown that he has not been honest with the City with what he has applied for and then what he has actually done down the line. He indicated the Sterling store has no

groceries and is just 100% alcohol. Investigator Jordan stated that the site recommendation was based on what was presented to the Liquor Commission.

Mr. Mathew stated that when he applied for Sterling Liquors it was for a grocery store, but then he changed it because it was primarily a store for Indians, Chinese and Viet Nameese and he had to go to Chicago to buy the groceries. He indicated he had to make a change in the business so he chose to make it into just a liquor store. He also stated that during the past five years he has run a good business compared with the other liquor stores in this area.

Investigator Jordan reiterated that he did not have the Police and call reports because they were not at that stage of the investigative process, but the site application for Groce' at Ease when it was the Asian Market was based on the fact that it was Asian Market. He stated that had changed without going back for site approval, which it was not required to do, but the change from the grocery store to the liquor store on Sterling was one of the reasons the Police Department has recommended that a certain floor space be dedicated to liquor only, such as the store on South Adams and the 15% floor space at the Indian Market on Pioneer Parkway.

Investigator Jordan stated that the Liquor Commission approved the site application for the Sterling store because of what Mr. Mathew had presented and a businessman should hold to what he said he was going to do. Investigator Jordan stated that in the Sterling Avenue application Mr. Mathew said he was going to sell groceries and have a produce and meat area and then it was 100% changed, so this applicant's past history would come up if this site application is approved.

In discussion with Chairman McCabe, Investigator Jordan stated there had been a number of Police calls during the past five years but not that many reports and he did not have that data with him.

Deputy Liquor Commissioner Turner stated that he had received a lot of complaints from the Sterling Towers when the store was changed because of all the people hanging out in front of the store and it became an issue with the neighbors.

Mr. Mathew stated he was working at that store seven days a week and he will make sure that no one is hanging out at that store. He indicated he was willing to do whatever it takes to open the new store, even offering to close down the Sterling store if the Commissioners think he got it by cheating.

Chairman McCabe opened the Floor to anyone who wished to speak. No neighbors were present.

Liquor Investigator Jordan reiterated that the Police Department had opposed the application for the liquor store on Allen Road as well as the applicant who wanted to open a liquor store in the old Chantilly Lace, which is consistent with what the Police Department had done for the past two years.

Liquor Commissioner Cassidy stated that he would like to discuss the blanket position from the Police Department about the liquor stores. He indicated that very few times in the past had he not deferred to the Police Department's recommendation so he would be recommending denial of this application.

Commissioner White stated she would agree with the recommendation of denial.

A motion was made by Commissioner Cassidy to recommend **denial** of the site application for a Class C (package liquor store) Liquor License for 9915 N. Knoxville, Suites I & J; seconded by Commissioner White.

Yeas: Arndt, Cassidy, McCabe, White – 4
Nays: 0

Chairman McCabe stated that this recommendation of denial of the site application would be heard at the next regular City Council Meeting scheduled for Tuesday, January 11, 2011.

10-36 Famous City Bistro, Inc.
d/b/a Famous City Bistro
629 W. Glen
Has Applied: Class B (restaurant, 50% food)
Requesting: Subclass 3A (sidewalk café)

Ken Humphrey Sr. and Ken Humphrey Jr. presented an application for a Subclass 3A (sidewalk café) License to be added to their Class B (restaurant, 50% food) Liquor License.

In discussion with Chairman McCabe, Mr. Humphrey Sr. stated the sidewalk café was not a make or break deal for them. He stated there was some concern about all of the liquor things going in near Notre Dame High School.

In further discussion, Mr. Humphrey indicated that the patrons would come through their front door and go out another door to enter the patio area, which will be completely closed off. The patio area is completely surrounded with a brick wall and wrought iron on top of that, from 2 feet to 4 feet depending upon the elevation. He added that he knew the requirements of the sidewalk café included all of the patrons being seated and served by a waitress while they are seated. He also indicated that this was a restaurant geared towards eating, not a drinking establishment.

After discussion with Commissioner Cassidy regarding the safety of the café area right next to the drive-thru area, Mr. Humphrey stated there is a wrought iron fence with bolsters and solid concrete poles because of the elevation to keep cars from going over the edge, meeting all of the safety regulations of the City.

In discussion with Inspector Stevens regarding some sort of an emergency gate to get out of the sidewalk café area, Mr. Humphrey stated that there would be one installed on the west side.

A motion was made by Commissioner Arndt to recommend approval of the site application for a Subclass 3A (sidewalk café) to be added to the Class B (restaurant, full-service bar) Liquor License at 629 West Glen; seconded by Commissioner Cassidy.

Yeas: Arndt, Cassidy, McCabe, White – 4
Nays: 0

Mr. Humphrey stated they were trying for February 1, 2011 to open, depending upon the weather.

IV. UNFINISHED BUSINESS

11-3 (10-31) The 3 Devils, Inc.

d/b/a La Copacabana

1801 SW Adams Street

Has applied: Class A (tavern)

Requesting: Subclass 2 (live entertainment)

Lisa Avila, owner, stated that they had not opened because they were finishing up what the City had requested them to do.

Inspector Jim Stevens stated that he and Fire Investigator McGann had inspected the building and were satisfied with all the building elements, indicating the signage is ok and the bathrooms are ok. He explained that since the bathrooms are existing, they do not have to be brought into Illinois disability compliance; however, if remodel work does take place, then everything will have to go through the process and be brought up to Code. He stressed that the food issue is significant and depends on what they choose to do. Because this is a Class A and there is not a food element, Inspector Stevens indicated they can still microwave or use the wall oven and heat up pizzas and bar food, but the cook top set up has an issue with the grease receptor that would be in violation of plumbing and Health Department requirements. He explained that in order to really do some cooking and use the cook top, they would need a full Code upgrade.

Mr. Avila stated they were going to wait on the food and just serve pizzas and things like that.

In discussion with Chairman McCabe regarding parking, Ms. Avila stated that Mr. Lear of the Site Plan Review Board had explained that since the bar was grandfathered in, parking was not an issue because it had been a bar since 1940 even if they added live entertainment.

Commissioner Cassidy referred to a memo sent to the Commissioners from Mr. Lear that stated that adding live entertainment would be a change of use and paved, off-street parking would be required.

In discussion, Ms. Avila stated she was not aware of this and they had attended the One Stop Shop.

Commissioner Cassidy stated that, as he read the Memo from Mr. Lear, the applicant would lose their grandfather status if the Commission approved the live entertainment application and then they would have to pave the parking lot.

Ms. Avila stated they could pave the parking lot in the back if that is what it takes to get approval, but they were not told this at the One Stop Shop.

Attorney Williams stated that if this was for a full Class license change, there is a provision under the Code that the requirements of an establishment, regardless of whether it was non-conforming, if the proposed site could not be developed into the current zoning regulations could be a cause for denial. She added that for the subclass there is no such particular language in the Code, but that did not mean that the Commission could not view that as a reason for denial.

Commissioner Cassidy stated that the memo from Mr. Lear was very detailed and helpful and, as he read it, if the Commission approved this subclass request the applicant would no longer

be grandfathered in and then they could not even open up as a tavern, which it could now without the live entertainment, until the parking lot was paved.

In discussion with Ms. Avila regarding the repair of the emergency exits and the doors, Inspector Stevens stated that the exit signage and fixing the doors had nothing to do with the live entertainment license and would have had to be done for any facility for the safety of the patrons.

After clarification that she could play music as long as it was not live or karaoke, Ms. Avila stated she would withdraw the application for the live entertainment license at this time and go ahead and open the establishment as a tavern. She indicated she would come back later with the live entertainment application after the parking lot was done.

In discussion with Mr. Avila regarding why they had to wait a month to find out about the parking lot, Commissioner Cassidy stated that the Commission had deferred the application for a month on his motion so they could get the report from the Planning Department about a change of use.

Commissioner Cassidy reiterated that if this had never been approved as a tavern in the past, the applicant would have to have a paved parking lot with so many spaces before they could even open the door but, because at the time it was approved as a tavern back in the '40s there was no such parking requirement, they are grandfathered in and can get away with what most bars cannot and that is no parking requirements. However, if they get a live entertainment license, they are changing their classification so they are no longer grandfathered in and would then have to meet that parking requirement.

Ms. Avila clarified that if they apply for the subclass at a later time, the only issue they need to address is the parking.

After further discussion regarding a vote or withdrawing the application, Ms. Avila withdrew the application at this time.

Ms. Avila then addressed some of the complaints from the UFS people in the last meeting about their concerns with the parking issue and presented pictures of UFS customers parking all over the lot at 1801 SW Adams.

V. NEW BUSINESS

1. Liquor License Rate Increases

Commissioner Arndt stated he had been contacted by the Heart of Illinois Liquor Association wondering why the proposals for the rate increases in liquor licenses were not presented at the Liquor Commission.

Attorney Williams indicated that these proposals were not presented to the Liquor Commission before they were presented to the City Council.

2. Police Department Position on Retail Liquor Stores

In response to Commissioner Cassidy's request, Liquor Investigator Jordan stated that the Police Department Chief is not opposed to package liquor but they are opposed to straight liquor stores and stores such as Target and Kohl's trying to get liquor.

In further discussion, Liquor Investigator Jordan stated that a store like Friar Tuck is a good store, but it would depend upon the location.

Commissioner White stated that if a liquor store applicant is close to a neighborhood, that is a detriment to that neighborhood and she would be opposed also.

VI. NEXT SCHEDULED MEETING

The next scheduled regular meeting of the Liquor Commission is Monday, January 3, 2011.

VII. ADJOURNMENT

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

Approved by *viva voce* vote.

The Liquor Commission Meeting adjourned at 4:27 p.m.

Kristin Cannaday-Stash, Secretary