

WORK SESSION  
Liquor Commission  
October 25, 2011

Commission Present: Steve Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins.

Staff Present: George Boyle, Asst. Corporation Counsel and Tracey Covert, City Clerk.

Others present: Jan Lancaster, Patrick Fruin, Alderman Jim Fruin, J. Balmer, Alderman Karen Schmidt, Jill Ascher-Mohr, Heartland Community College representing the BNCCC (Bloomington Normal Community Campus Committee), and Dennis Arnold.

The Work Session was called to order at 4:07 p.m. Commission Stockton stated that there would not be any motions. He had brought copies of the DETF (Downtown Entertainment Task Force) report's pages which addressed Liquor License and Noise Study Groups. He hoped to hold an informal discussion.

*Commissioner Clapp had prepared a list of recommendations: 1.) redefine license types, including BYOB establishments; 2.) review compliance and look for reinterpretation of restrictions; 3.) consider density when awarding new licenses; 4.) address overcrowding; 5.) annual review sales receipts/compliance with license type; 6.) require STEP/BASSET training for all license holder employees; 7.) establish Downtown bar owner review process; and 8.) improve community information about the Downtown.*

Commissioner Clapp noted the other Study Groups, (Cleanliness, Safety, and Transportation). The DETF had received feedback from City staff. She recognized the members of the Liquor License Study Group (LLSG): Jan Lancaster (owner/operator of the Bistro located at 316 N. Main St. and Lancaster's located at 513 N. Main St., Daniel Rolfe, owner/operator of Six Strings located at 525 N. Center St., Tricia Stiller, Downtown Bloomington Association's Executive Director, and Tony Fabrizio, owner/operator of Killarney's located at 523 N. Main St. She reviewed the Liquor License Study Group's issues. Interesting ideas were presented.

Commissioner Clapp addressed the first issue: license types. Mr. Rolph had expressed his concerns regarding the "R", Restaurant classification. Establishments had been given an "R" license and were selling tickets not food. He also addressed BYOB (Bring Your Own Bottle). He believed that there were different standards. Theaters Cool located at 403½ N. Main St. and Merlot & Masterpieces located at 412 N. Main St. were cited as examples. Liquor consumption was allowed without a liquor license. The Police Department was unaware. There was no security staff. Individuals under the age of twenty-one (21) were present. Concerns were expressed regarding underage drinking. Theaters Cool was cited again as a place where underage individuals commingle with those over twenty-one (21). Two (2) issues were cited with BYOB businesses: 1.) City oversight and 2.) consideration given to licensed establishments.

Commissioner Stockton cited BYOB and its organizational level. He cited Ewing Manor and the Shakespeare Festival. Illinois State University (ISU) allows picnicking on the grounds with BYOB.

Alderman Schmidt had spoken to Randy McKinley, Police Chief. She cited an example of a twenty-one (21) year old male with a nineteen (19) year old female. She questioned the responsible party if the female consumes alcohol. Commissioner Tompkins expressed his opinion that the responsible party would be the person who provided the alcohol. Commissioner Stockton added that the property owner would also be subject to suit. Dram shop coverage provided extended liability. General liability insurance was different. Commissioner Tompkins cited the Chess Club located at 320 N. Main St. He believed that BYOB was also allowed there.

J. Balmer cited first Fridays and the Downtown art galleries. These galleries offer beer and wine at no cost. He noted that for other businesses there may be an entry fee for entertainment. Commissioner Stockton readdressed the Shakespeare Festival at Ewing Manor.

Jan Lancaster cited the cost of holding a liquor license. She suggested that BYOB businesses be required to file a copy of their insurance with the City.

Commissioner Clapp questioned negative experiences with these BYOB businesses. Ms. Lancaster stated that there had not been any issues with the plays. She noted incidents when there are bands. Individuals pay at the door. She had seen individuals carrying coolers and individuals who appear to be under the age of twenty-one (21).

Commissioner Stockton acknowledged the potential for abuse. He cited the Eaton Gallery as an example of the Downtown art galleries. He questioned how to differentiate this business from Theaters Cool.

Mr. Balmer addressed the nature of the business. Theaters Cool was opened weekly and BYOB was a part of the business. He noted that ISU had dram shop insurance. Commissioner Stockton did not believe dram shop insurance would cover BYOB.

Commissioner Petersen noted that dram shop insurance require the sale of alcohol. A dram shop claim must show negligence. He added his opinion that a BYOB business might fall under general liability and/or an individual's homeowner's policy. Commissioner Stockton added that dram shop also involved legislated liability. He also believed dram shop involved the sale of alcohol.

Ms. Lancaster noted that the Downtown was a unique situation. The Downtown Bar Association members wanted a level playing field. She restated BYOB versus other license types.

Commissioner Stockton addressed the nature of the business. Commissioner Petersen noted the warehouse district along S. Center St. Ms. Lancaster acknowledged that events

were held in this district between the hours of 10:00 p.m. and 6:00 a.m. Commissioner Stockton noted that if admission was charged then this would be sale of alcohol.

Mr. Balmer expressed his concern regarding the proliferation of this type of business. The City was understaffed.

Commissioner Clapp focused on the principal business, frequency efforts, and establishing factors.

Ms. Lancaster informed the group that Global Tobacco, (smoke shop) located at 614 N. Main St. had been hosting raves in their basement until 6:00 a.m. Commissioner Stockton stated that the Police Department had spoken to the business owner/operator. He restated that there were parties held in the warehouse district and smoke shop basement until 6:00 a.m. Property damage occurs after these after hour parties.

Commissioner Stockton questioned how to address abuses. He returned to the issues of frequency and principal business.

Commissioner Petersen provided a description of dram shop insurance. He questioned if dram shop was addressed in state law. The Commission needed to become familiar with general liability insurance and how it was different from dram shop.

Commissioner Clapp questioned if licensed businesses should be allowed to be BYOB. The Commission was not ready to address this issue.

Commissioner Clapp addressed the second recommendation. Condition follow up/review especially for new license holders. The Commission needed to develop follow up procedures at six (6) months and one (1) year. Commissioner Tompkins noted that he and Commissioner Buchanan performed self checks on new licenses. Conditions were reviewed.

Commissioner Clapp believed a process should be codified. When conditions are imposed the Commission should inform the license holder of the follow up procedure.

Commissioner Petersen addressed "R", Restaurants which turn into "T", Taverns. Alderman Schmidt believed that the food sale requirement was fifty-one percent (51%) of total sales. The Commission needed to perform due diligence when a complaint is received. Commissioner Tompkins stated that this was complaint driven. There had only been one (1) complaint since he began serving on the Commission.

Commissioner Clapp addressed the bar's owners advisory group. This group would serve in a liaison role to the Commission.

Commissioner Stockton informed those present that the Commission had begun to draft white paper. He provided a copy of same for review to those present. He noted that the Commission has requested a report which split alcohol and nonalcohol sales. A report

could be altered. The Commission could observe an establishment's observations. The Commission could also review the inventory, purchases, and sales.

Mr. Balmer believed enhanced manpower was needed. He cited trained observers. Commissioner Stockton believed that the City could solicit volunteers. He cited liability concerns. Commissioner Tompkins cautioned that one must be careful when visiting licensed establishments.

Ms. Lancaster expressed her opinion that most Downtown license holders were doing a good job. She was concerned about a few of them. The Commission could compare invoices to bar stock. The Downtown Bar Association was aware of the establishments with issues. Certain establishments needed to be targeted. Commissioner Stockton stated that the City received tips.

Commissioner Tompkins acknowledged that the Downtown bar trade was a competitive business. Ms. Lancaster restated that the bar owners wanted to be treated fairly. All were concerned about the Downtown's quality of life. She noted that the City had retained experts to draft long range plans. She had heard that the Downtown needed a bakery. A key issue was location.

Commissioner Tompkins questioned which establishments did not have at least fifty percent (50%) in food sales. Ms. Lancaster cited Main St. Bar & Grill located at 517 N. Main St. holding an RAS liquor license, Castle Theater located at 209 E. Washington St. holding an RAS liquor license, and Laugh located at 108 E. Market St. holding a TA liquor license.

Alderman Schmidt addressed Reality Bites located at 414 N. Main St. Downtown bar owners stood up for Gary Pagano, applicant. Ms. Lancaster noted that a liquor license applicant starts with a plan. The key was the ability to make it as a business.

Commissioner Petersen addressed liquor violations. The Commission's review was partially subjective. He welcomed input from the Downtown Bar Association regarding violations.

Ms. Lancaster believed that the Commission had generally been fair when imposing fines. She cited Main St. Bar & Grill located at 517 N. Main St. and the number of violations.

Mr. Balmer recommended that the fine structure be codified. Commissioner Stockton stated that the Council could set a range for fines. Commissioner Tompkins cited the license holder's ability to appeal to the state.

Alderman Schmidt requested that the Commission make an example of repeat offenders. Commissioner Tompkins believed that fines had been increased. Commissioner Petersen cited Fiesta Ranchera's response to its liquor sanction.

Commissioner Stockton added that the Commission was researching what other cities do. There were three (3) types of bar owner: 1.) the majority were no trouble, earning a living; 2.) deliberately skirting the law in an attempt to earn additional revenue; and 3.) those that were negligent, lazy, incompetent, etc. There were times when the Commission provided an applicant with an opportunity. Three (3) violations within three (3) years sent a strong signal to the Commission. If the Commission revokes a liquor license, then there cannot be liquor sales at the location for one (1) year. It was uncertain if this was contained in City ordinance, state law or both. He expressed his concern regarding vacant buildings. He noted the substantial overhead involved with a sit down restaurant. It is difficult to be a successful restaurant without a liquor license.

Commissioner Tompkins noted that Main St. Bar & Grill had been given the largest fine ever imposed by the Commission. He expressed his belief that the license would be revoked if there was another violation. Commissioner Petersen echoed that Main St. was being watched. Commissioner Tompkins had visited this establishment over the weekend with Alderman Rob Fazzini.

Commissioner Clapp addressed density. New "T", Taverns should be located outside of the Downtown.

Alderman Schmidt recommended that new "T" should not be allowed in the 500 & 600 blocks of N. Main St.

Commissioner Stockton did not believe that a true "T" had been approved in the Downtown. Applications had been filed for an "R", Restaurant liquor licenses. There was an informal moratorium. Generally, there was little customer interest in food after 11:00 p.m. He cited the impact of the college age crowd at closing time. The Commission did not want to see "R" turn into "T". The Commission has applied "T" rules an hour after the kitchen closes. "R" operating as "T" have been placed under various conditions. He cited the right of the Commission to review and earlier closing hours. The Commission could tell an "R" to close at 10:00 p.m

Ms. Lancaster addressed the lunch trade. She believed that various taverns allowed individuals under twenty-one (21) years of age to enter during the lunch hours. She suggested that no one under twenty-one (21) be allowed in a tavern after 9:00 p.m. The Commission should set an hour when a bar atmosphere was apparent. No one under twenty-one (21) should be present after that time. *(No one under twenty-one years of age allowed in a tavern under City Code, Chapter 6. Alcoholic Beverages, Section 27 (a) (2) (b), (a) (3) (b) (2) )*

Pat Fruin did not believe that individuals under the age of twenty-one (21) should be banned from taverns over the lunch hour. Commissioner Stockton added that things were different in the evenings/nights.

Commissioner Stockton cited the impact of technology and the ability to provide information to the Police Department. He cited Commissioner Buchanan's dedication

and institutional memory. Enforcement issues were addressed. Conditions could be better defined which would address interpretation of same.

Mr. Balmer noted that a number of licenses have conditions which address when an “R” turns into a “T”. He recommended that all “R” licensed establishment be turned into a “T” by 10:30 – 11:00 p.m. This could be done by zone. He cited the Downtown as an example. Pat Fruin expressed his concern regarding the impact upon food sales.

Commissioner Stockton acknowledged that conditions can be seen as subjective. The Commission can set an hour when it appears that an “R” has turned into a “T”. At that time, tavern rules apply. The Commission tries to visit each licensed establishment twice each year. Private clubs were generally visited less often.

George Boyle, Asst. Corporation Counsel, arrived at 5:12 p.m.

Pat Fruin noted Tyler Holloway’s, (owner/operator of Fat Jack’s located at 507 - 511 N. Main St.), suggestion that the bars remain open until 3:00 a.m. Liquor sales would cease at 2:00 a.m. Commissioner Stockton stated that consumption must end at 2:00 a.m. Patrons would not have to leave. Ms. Lancaster believed that liquor could not be visible.

George Boyle, Asst. Corporation Counsel, addressed the Commission. He questioned enforcement. He cited determination of liquor consumption as an example.

Ms. Lancaster expressed her concern regarding potential sales. There is a small window of time to make money.

Commissioner Stockton addressed staggered hours. He noted after 2:00 a.m. or 1:45 a.m., 2:00 a.m. and 2:15 a.m. Closing times could be rotated. This could be confusing. A few establishments could be granted an additional half hour. He noted the impact of bar patrons out on the street. Staggered hours could spread the crowd which might be for better or for worse. An establishment would pay a premium for same. Ms. Lancaster cited the potential for BYOB. Commissioner Stockton added that no new customers could be admitted.

Mr. Balmer cited after hour parties. Commissioner Stockton noted that the Commission was attempting to be creative. He stressed the 2:00 a.m. crush/mob.

Pat Fruin expressed his opinion that the taxi cabs and shuttle vehicles were doing a good job at closing time.

Commissioner Petersen would not support later closing hours. He believed that a number of bars were currently closing down at 1:45 a.m. He saw a variety of issues with later closing hours. Commissioner Stockton expressed his interest in a win win compromise.

Commissioner Clapp addressed the next recommendation – overcrowding. The Commission could set occupancy lower than the one set by the City’s fire inspector. Fire inspectors look to the fire code to set occupancy.

Commissioner Stockton agreed that the occupancy determined by a fire inspector may not be in the best interest of the Downtown.

Commissioner Stockton noted other concerns: 1.) no staff training; 2.) controlling liquor sales; and 3.) over serving.

Pat Fruin believed that addressing over serving would be problematic. He noted that female customers are known to hid airline bottles in their purses. Commissioner Stockton acknowledged the challenge. He added that there needed to be a reasonable atmosphere.

Commissioner Clapp questioned if the fire code was enforced. Ms. Lancaster stated that there had been issues in the past with occupancy. The bar owners goal was maximum capacity. Today, the issue was the number of smoking patrons standing outside of the bars.

Commissioner Stockton recalled that the BNCC had expressed concerns regarding over serving. Occupancy needed to be addressed and it went beyond the fire code.

Ms. Lancaster stated that the bars relied on the doorman to catch those who have been over served at the door. She added that the majority of the college students utilize the shuttles.

Commissioner Tompkins added that when visiting licensed establishments, the bar staff has been cooperative on the issue of over serving. Commissioner Stockton noted the impact upon dram shop insurance.

Jill Ascher-Mohr, BNCC, noted that the BNCC offered a server training program. There were educational programs in the schools. The group planned to look at the shuttle service. Commissioner Stockton stated that the City did not want to see alcohol consumption of the shuttles.

Commissioner Petersen questioned if the Downtown bars’ doormen have counters to track occupancy. Ms. Lancaster noted only for certain events. She added her belief that on the weekends no one was at capacity. Commissioner Stockton acknowledged that occupancy was not being tracked.

Pat Fruin did not believe that the Downtown bar owners would be opposed to tracking occupancy. Commissioner Stockton stated that the issue was management and control of a licensed establishment.

Pat Fruin recommended that the liquor fines be increased by \$250.

Ms. Lancaster addressed STEPS (Safety Training to Encourage Profitable Services) and BASSET (Beverage Alcohol Sellers & Servers Education & Training) training. She noted that BASSET training was also available on line. She believed that all license holders should be required to complete one or both of these training programs. She also believed that licensed establishments' employees would benefit from same. The STEPS program also included a bar owner who could provide insight and provide that personal hands on touch. She believed that this type of training was important.

Commissioner Tompkins noted that the Commission has questioned applicants about these training programs. He added his preference that this becomes a requirement.

Commissioner Clapp questioned if there was a fee for BASSET training. Ms. Lancaster expressed her opinion that the issue of fees could be addressed in a variety of ways. Commissioner Petersen noted that if training becomes mandatory it would have to be verified. Pat Fruin believed that the individual employee should pay any fee which he believed would be minimal. Ms. Ascher-Mohr expressed her opinion that BASSET training be made mandatory for all bar owners. Ms. Lancaster added that STEPS had been offered in languages other than English.

Commissioner Clapp addressed the last recommendation improve community information regarding the Downtown. She questioned what role the Commission should play.

Commissioner Tompkins believed that the Commission had a positive impact upon the Downtown. The Commission was tough but fair.

Commissioner Stockton noted that the Downtown cameras were active. The main purpose would be evidentiary. The City may install emergency blue lights in the parking garages. He hoped to offer the Commission a sample viewing of what these cameras capture in the near future.

Ms. Lancaster noted that the cameras would capture the transportation changes. Commissioner Stockton acknowledged that the City regulated the shuttles. The camera may enhance the City's understanding on this topic.

Commissioner Tompkins left the meeting at 5:45 p.m.

Commissioner Stockton addressed the big picture i.e. what is the Downtown going to be? He noted that there were some who wanted the bars to be gone. He believed that the City had made the Downtown an entertainment district. He cited the US Cellular Coliseum (USCC) and Bloomington Center for the Performing Arts (BCPA) as examples to support this idea. The City needed to make the Downtown a place where people wanted to come to. The Downtown would then become a place where people wanted to live. Downtown residents would bring retail business to the Downtown. Entertainment may be the key to a vibrant Downtown.



Mr. Balmer noted that there were retail businesses which were open during the day. All must work together to make the Downtown successful. Commissioner Stockton cited the figure of one million as people who came into the Downtown. The City needed to tap into this fact. There was a story which needed to be told. The Downtown was a safe place where things were happening.

Pat Fruin noted the City's two (2) anchors – USCC and BCPA. Coexistence was key. He expressed his opinion that there was support for an SSA (Special Service Area). He cited the issue of cleanliness. Cleanliness was key to accommodate daytime retail businesses. Parking was an issue. He expressed his opinion that parking was mismanaged. He noted that parking was not regulated at night.

Commissioner Stockton addressed branding and the Downtown's image. The City was not unique. It had campus town without the campus. When the City looked to the future and economic viability, the key would be its ability to retain existing and attract new businesses. The community needed to be attractive to young educated individuals who choose to have a career here. The City needed to have a good image. There needed to be a compact with the students to like and respect the community.

Commissioner Petersen questioned the appearance of the Downtown at 10:00 a.m. (when retail businesses generally open). Pat Fruin noted that it was average. Ms. Lancaster expressed her opinion that in the last year things had improved. She cited Downtown Bloomington Association's warnings regarding snow shoveling. There was a perception by the public that the Downtown was dirty. The Downtown needed to find its niche and the public needed to be re-educated. The Downtown was an entertainment district where people wanted to live. It was not a quiet place.

Commissioner Petersen expressed his opinion that cleanliness was important. Pat Fruin stated that cigarette butts were everywhere. He also noted refuse collection. Ms. Lancaster agreed that there were more Downtown residents. The City needed to increase collections. Another option would be to provide a location for refuse.

Mr. Balmer noted the two (2) business shifts. Each business addressed cleanliness on an individual basis.

Commissioner Stockton cited the recent change of ownership at Reality Bites. He noted issues in the alley. The Commission believed that license conditions were necessary to fit the situation. One size does not fit all.

Commissioner Stockton encouraged Pat Fruin to take this discussion back to the Downtown Bar Association. He specifically cited the idea of an advisory group.

Finally, Commissioner Stockton stated that if a Downtown Bar Association advisory group is formed that might be a good venue to review the Commission's white paper.

There being no further business the meeting adjourned at 6:10 p.m.

Respectfully submitted,

Tracey Covert  
City Clerk