

MINUTES OF THE BLOOMINGTON
LIQUOR COMMISSION

August 10, 2010

The Bloomington Liquor Commissioner Richard Buchanan called the Liquor Hearing to order to hear the request of Casey's Retail Company, d/b/a Casey's General Store #1721, located at 3007 Gill St., currently holding a GPBS liquor license which allows the sale of packaged beer and wine for consumption off the premises seven (7) days a week, regarding an expansion of premise, (total of 546 square feet). Present at the hearing were Liquor Commissioners Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins, George Boyle, Asst. Corporation Counsel, and Tracey Covert, City Clerk, and Dianne Cooper, District Manager, and Billie Jo Scott, Area Supervisor, and License holder's representatives.

Commissioner Buchanan informed the Commission that he had visited the store. Dianne Cooper, District Manager and License holder's representative, addressed the Commission. The store had been enlarged. The packaged beer had been moved to the beer cave. The amount of liquor stocked had been reduced. Casey's was within the City Code limit of fifteen percent (15%). Liquor stock occupied 14.7% of sales area.

Commissioner Buchanan noted that a beer cave was a walk in cooler. Ms. Cooper noted that customers may walk into the beer cave or access the beer from the floor, (three cooler doors).

George Boyle, Asst. Corporation Counsel, addressed the Council. There were no issues at this location.

Commissioner Petersen arrived at 4:11 p.m.

Commissioner Buchanan noted the space dedicated to liquor sales. He questioned the volume of liquor sales. Ms. Cooper believed that liquor sales would decrease.

Commissioner Clapp noted that the work was complete. Ms. Cooper responded affirmatively. The beer cave opened for business last Thursday, August 5, 2010.

Commissioner Buchanan questioned if part of the store addition was for food preparation. Ms. Cooper noted that an area had been converted for sub sandwich preparation.

Motion by Commissioner Clapp, seconded by Commissioner Tompkins to approve the expansion of premise for Casey's Retail Company, d/b/a Casey's General Store #1721, located at 3007 Gill St., currently holding a GPBS liquor license which allows the sale of packaged beer and wine for consumption off the premises seven (7) days a week.

Motion carried.

There being no further business before the Commission, the meeting recessed at 4:15 p.m.

The Bloomington Liquor Commissioner Richard Buchanan called the Liquor Hearing to order to hear the request of Aldi, Inc., d/b/a Aldi Foods #54, located at 1025 Wylie Dr., currently holding a PB liquor license which allows the sale of packaged beer and wine for consumption off the premises six (6) days a week, requesting the addition of an S, Sunday, liquor license classification to allow liquor sales seven (7) days a week. Present at the hearing were Liquor Commissioners Richard Buchanan, Marabeth Clapp, Steve Petersen, Mark Gibson, and Geoffrey Tompkins, George Boyle, Asst. Corporation Counsel, and Tracey Covert, City Clerk, and Josh Methe, District Manager and License holder's representative.

Commissioner Buchanan opened the liquor hearing and requested that the license holder explain this request. Josh Methe, District Manager and License holder's representative, addressed the Commission. Aldi was open on Sunday and wanted to expand liquor sales to include Sunday.

Commissioner Buchanan opened the hearing to public comment. No one came forward to address the Commission.

Commissioner Petersen questioned the store's business hours. Mr. Methe provided the following information: Monday through Saturday - 9:00 a.m. until 8:00 p.m.; and Sunday from 9:00 a.m. until 6:00 p.m.

Commissioner Gibson arrived at 4:19 p.m.

Motion by Commissioner Petersen, seconded by Commissioner Clapp that the application of Aldi, Inc., d/b/a Aldi Foods #54, located at 1025 Wylie Dr., currently holding a PB liquor license which allows the sale of packaged beer and wine for consumption off the premises six (6) days a week, requesting the addition of an S, Sunday, liquor license classification to allow liquor sales seven (7) days a week be approved.

Motion carried.

Commissioner Buchanan informed the License holder that this item would appear on the September 13, 2010 City Council Consent Agenda. He encouraged Mr. Methe to attend this meeting.

There being no further business before the Commission, the meeting recessed at 4:22 p.m.

The Bloomington Liquor Commissioner Richard Buchanan called the Liquor Hearing to order to hear the application of Ma Veharai, Inc., d/b/a Buddy's Liquors, located at 2303 E. Washington St., currently holding a PAS liquor license which allows the sale of all types of alcohol for consumption off the premises seven (7) days a week, requesting a change of location to 806 S. Eldorado Rd. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, Mark Gibson, and Geoffrey Tompkins, George Boyle, Asst. Corporation Counsel, and Tracey Covert, City Clerk, and Dilip Patel, owner/operator and License holder.

Commissioner Buchanan opened the liquor hearing and requested that the license holder explain this request. Dilip Patel, owner/operator and License holder, addressed the Commission. He planned to relocate his business. The plan would allow him to expand his business. He would be able to address parking issues. He would go from a tenant to a property owner. The building would also be used for storage.

Commissioner Buchanan stated his intention to allow the public to address this application.

Matt Parson, First State Bank, addressed the Commission. The building currently had two (2) tenants. Each was on a month to month lease. The Bank had a Letter of Intent with Mr. Patel. There were two (2) contingencies: 1.) liquor license approval and 2.) parking lot issues. Mr. Parson was aware of the objections by a current tenant. The Bank has held this property for several years. The Bank has marketed same. Mr. Patel planned to improve the structure. The closing would be held sixty (60) days after license approval.

Commissioner Buchanan questioned the parking lot issues. Mr. Parson stated the condition of the parking lot was an issue. The Bank was taking bids on same. He believed the parking lot was a minor issue. The Bank was the current landlord.

Commissioner Tompkins questioned the current tenants. Mr. Parson noted that the leases were month to month. Termination of the lease requires thirty (30) days notice. The Bank has held discussion with Pastor Perry.

Commissioner Buchanan noted that the Nazarene Church was currently a tenant. This was a unique position before the Commission.

Commissioner Stockton arrived at 4:30 p.m.

Commissioner Buchanan noted that if the license is created and the building sold, then the church would vacate the structure. A recommendation to deny would prevent the sale of the property.

George Boyle, Asst. Corporation Counsel, addressed the Commission. He noted that both the Bank and the Commission had discretion. There was no prohibition upon the Commission.

Commissioner Buchanan stated that the Commission could not recommend denial due to the proximity to a church.

Commissioner Petersen noted that this was a business area. He questioned the planned improvements. Mr. Parson cited the building's exterior, (parking lot), and interior, (retail store and storage area). Mr. Patel presented a rough layout of the store to the Commission.

Commissioner Clapp noted Mr. Patel's intention to purchase the property. She questioned the proximity to church. Mr. Parson cited the economic risk. The Bank would provide significant notice to the church.

Commissioner Buchanan opened the hearing to public input. Pastor Kay Lynn Perry, Sanctuary International, (affiliated with the Nazarene Church), 806 S. Eldorado Rd., addressed the Commission. The Church had been a tenant since 2007. She was familiar with the neighborhood. She cited the adjacent apartment buildings. There were small children in the neighborhood. She noted an incident that occurred two (2) years ago during a church sponsored outdoor movie that involved an intoxicated person. She expressed her concern for the neighborhood. The Church was prepared to move.

Commissioner Tompkins noted the Church's length as a tenant. He hoped that the Church did not view this building as a permanent home. Pastor Perry noted that the Church had been a tenant since 2007. She had hoped to be able to acquire the property.

Derrick Williams addressed the Commission. He expressed his respect for religion. He cited the economy. He did not believe that Buddy's would bring additional issues to the neighborhood. Mr. Patel was a business man who was trying to expand his business. Mr. Patel would not hurt the community. He expressed his support for this application.

Commissioner Stockton questioned the Bank's plan to terminate the current leases. Commissioner Buchanan noted that the current tenants held month to month leases. The Bank wanted to sell the structure. The sale of the property was contingent upon the creation of the liquor license.

Mr. Boyle noted a factor at issue was the proximity to a church, Section 4B(5)(c) Creation of New License. He also addressed location and its impact, Section 4B(5). Mr. Boyle read from the Alcoholic Beverage code.

Commissioners Buchanan and Tompkins had visited the site. He noted that there were "R", Restaurant liquor licenses in the area. He believed that there would be limited interaction with adjacent apartment buildings. He did not perceive a conflict.

Commissioner Stockton noted that once the structure was purchased by Mr. Patel, the church would vacate the structure. He recommended that a condition be placed on the liquor license regarding same. He acknowledge that a liquor license would not be issued until after the remodeling project was completed.

Commissioner Buchanan clarified that a liquor license would not be issued until after the church has vacated the structure. He believed that clarity was essential. A condition which stated that a liquor license would not be issued until the premise was in compliance with Section 4c.

Commissioner Tompkins stated his intention to support approval of this application.

Mr. Parson noted that the church would no longer be a tenant of the property.

Commissioner Buchanan noted that the sale of the property was contingent upon liquor license approval.

Commissioner Gibson questioned church notification after the sale. Mr. Parson stated that the Bank would notify the tenants prior to the sale. The property sale would occur sixty (60) days later.

Commissioner Petersen noted the limited number of "P", Packaged liquor license. He recommended that Mr. Patel consider additional lighting and video surveillance. He expressed his concern regarding the proposed location. Mr. Patel acknowledged the need for additional lighting and video surveillance.

Commissioner Gibson supported adequate safety and security. He noted the adjacent multi family housing and the store's impact upon the neighborhood.

Commissioner Buchanan questioned Mr. Patel's ideas for the store. Mr. Patel anticipated an increase in night business. The location would require additional lighting to the building's front, side, and rear. There would be sixteen (16) parking spaces. Commissioner Buchanan encouraged Mr. Patel to acquire the necessary permits. He questioned rear lighting. Mr. Patel added that surveillance would provide safety for his customers and himself.

Motion by Commissioner Tompkins, seconded by Commissioner Gibson that the application of Ma Veharai, Inc., d/b/a Buddy's Liquors, currently located at 2303 E. Washington St., holding a PAS liquor license which allows the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week, to relocate to 806 S. Eldorado Rd., be approved with the following condition 1.) that the City Clerk affirm that the Church is no longer a tenant.

Motion carried.

Commissioner Buchanan informed the License holder that this item would appear on the September 13, 2010 City Council Consent Agenda. He encouraged Mr. Patel to attend this meeting.

There being no further business before the Commission, the meeting recessed at 5:05 p.m.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the application of Fred Wehrenberg Circuit of Theatres, Inc., d/b/a Bloomington Galaxy 14 Cine, located at 1111 Wylie Dr., requesting an RBS liquor license which would allow the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, Mark Gibson, and Geoffrey Tompkins, George Boyle, Asst. Corporation Counsel, and Tracey Covert, City Clerk, and Jim Hoffmeister, President/Treasurer and co-CEO, and Brett Havlik, Director of Concessions, and Applicant representatives.

Commissioner Stockton opened the liquor hearing. He noted that Wehrenberg has last appeared before the Commission in September 2007. The Council voted to deny that application. He requested that the Applicant address changes since that time. Jim Hoffmeister, President/Treasurer and co-CEO and Applicant representative, addressed the Commission. In 2007, there was a different person in his position. Wehrenberg owned fifteen (15) movie

theaters. Eleven (11) of them have liquor licenses. Wehrenberg used TIPS, (Training for Intervention Procedures by Servers of Alcohol) for its employees. The company had adopted a train the trainer approach. He noted that a liquor license would result in additional revenue and taxes. Liquor service at movie theaters was an industry trend. An individual must show identification to purchase an alcoholic beverage. One (1) drink may be purchased at a time. Wehrenberg set the sale price high. He noted that less than two percent (2%) of its customers purchase alcohol. Mr. Hoffmeister recognized that a liquor license was a privilege.

Commissioner Stockton noted that at the original liquor hearing it was stated that liquor sales would occur at Fred's Drive In. Mr. Hoffmeister noted that Fred's was still there. Alcohol sales would occur at the concession counter. Customers would have the choice to sit at Fred's or take their beverage to the theater.

Commissioners Buchanan and Tompkins informed the Commission that they had visited the establishment. Alcohol sales would be handled at one end of the concession counter. Mr. Hoffmeister informed the Commission that there would be individuals dedicated to handle liquor sales.

Commissioner Stockton noted that in 2007 a figure of \$8 for a thirty-two ounce, (32 oz.), beer was cited. Mr. Hoffmeister provided the following information regarding beer sales: \$8.50 for thirty-two ounce, (32 oz.); \$7 for twenty-four ounce, (24 oz.); and \$6.50 for sixteen ounce, (16 oz.). He noted that the larger container is offered as the beverage is consumed during the movie. He offered to initially start with packaged alcohol which comes in smaller containers. Draft beer would not be offered for sale.

Commissioner Stockton reviewed the historical issues. There was some concern that the movies were the last bastion of family entertainment. There were individuals opposed to beer service where children were present. Intoxicated persons would interfere with movie viewing. Mr. Hoffmeister expressed his preference that liquor sales be allowed at any movie. He noted that parents often accompany their children to the movies. He expressed his willingness to be flexible. Wehrenberg was trying to serve its customers. He noted that Wehrenberg chose higher prices to control consumption.

Commissioner Stockton questioned alternative programs. Mr. Hoffmeister noted that special programs were currently limited to an opera series. He noted that at Wehrenberg theaters with liquor licenses Cosmopolitans were offered during the Sex and the City movie showings. This cocktail was associated with this movie.

Commissioner Stockton noted that the City owned and operated the Bloomington Center for the Performing Arts and US Cellular Coliseum, (USCC). These two (2) facilities offered alcohol sales. Commissioner Gibson noted that the USCC offered a thirty-two ounce, (32 oz.) beer at this public venue. Commissioner Stockton noted that Chuck E. Cheese located at 1701 E. Empire St., currently holds an RBS liquor license.

Commissioner Clapp questioned how alcohol consumption would be monitored. Mr. Hoffmeister cited the theater's ushers who check the theater periodically. He noted that cell phones have become a big issue during movie showings.

Commissioner Clapp restated that liquor sales would be limited to one (1) at a time. Mr. Hoffmeister responded affirmatively.

Commissioner Stockton addressed another issue. He cited enforcement in the case of beverage sharing. He noted that under City ordinance the licensee would be responsible for any infractions. Mr. Hoffmeister acknowledged that control was a challenge. Theater personnel could not watch everyone. If discovered, the beverage is taken, the individuals are made aware, requested to leave the premise, and the parents are informed.

Commissioner Gibson noted that a patron purchases an alcoholic beverage and enters a theater. He questioned if the theater had a method to identify who purchased alcohol. He questioned the number of liquor licenses held by Wehrenberg and any violations. Mr. Hoffmeister restated that Wehrenberg owned fifteen (15) theaters. Eleven (11) theaters hold liquor licenses. Wehrenberg planned to pursue other licenses. There had been no violations.

Commissioner Buchanan noted that the Wehrenberg hired back City police officers. He questioned the rationale for same. He also questioned if Wehrenberg had faced any encounters with alcohol sales. Mr. Hoffmeister informed the Commission that almost all locations hired back police officers. Officers provided good security. If a liquor violation were to occur, theater staff is happy to turn the individual over to a police officer. Commissioner Buchanan questioned when police officers were present. Mr. Hoffmeister stated on weekends and at holiday times.

Commissioner Petersen questioned if Wehrenberg had theaters in other college towns. Mr. Hoffmeister cited Springfield and St. Louis, MO, and Cedar Rapids, IA. Commissioner Petersen questioned a party bus with twenty-five (25) college students. Mr. Hoffmeister noted that theater staff had the right to refuse service. Wehrenberg staff would be courteous and polite. If individuals in the party were over twenty-one (21), they might be served.

Commissioner Petersen noted industry competition. Wehrenberg needed to be aware of customers' interests. He added that movies were popular with young adults. Mr. Hoffmeister noted that theater staff was trained to identify if individuals have already been drinking. He restated TIPS training. Theater staff has the right to deny service.

Commissioner Petersen questioned if the theater would be flexible enough to consider liquor service for some but not all movies. Mr. Hoffmeister noted that there were times when a movie theater might become an auditorium with servers. In those instances, individuals must be twenty-one (21) to enter. He restated that liquor sales equaled two percent (2%) of total sales. He noted that typical liquor sales were to older couples. He cited the purchase price for an alcoholic beverage. For these customers, liquor sales represented a percentage of the purchase price.

Commissioner Tompkins had toured the premise. Clear cups would be used for alcohol beverages. He believed that these cups would be easy to identify during theater checks. Mr. Hoffmeister informed the Commission that there were two to three (2 - 3) theater checks per showing. Commissioner Tompkins questioned if a movie ticket was required for alcoholic beverage sales. Mr. Hoffmeister responded affirmatively.

Commissioner Gibson questioned movie showing times. Mr. Hoffmeister informed the Commission that the last showing was usually 11:00 p.m. He noted that sometimes there were midnight showings on Thursdays. Commissioner Gibson questioned the curtain time for the last movie and the cut off time for liquor sales. He also questioned if Wehrenberg would limit the number of thirty-two ounce (32 oz.) beers sold during a movie showing. Mr. Hoffmeister responded affirmatively. He restated TIPS training.

Commissioner Gibson suggested that the Commission set the time for liquor sales and the number of beverages. Mr. Hoffmeister informed the Commission that first movie showings occurred at 11:00 a.m. Wehrenberg would not be opposed to conditions. He restated his belief that the theater could handle liquor sales. Limiting liquor sales per person was a part of TIPS training. Commissioner Gibson questioned if Wehrenberg would sell two (2) thirty-two ounce (32 oz.) beverages during a movie showing. Mr. Hoffmeister responded affirmatively.

Commissioner Buchanan restated that Wehrenberg had had no issues or violations. Mr. Hoffmeister responded affirmatively.

Commissioner Tompkins questioned if the Applicant was familiar with the City's Alcoholic Beverage Code. Commissioners had the right to inspect the premise. Mr. Hoffmeister stated that the Commissioners would be welcome. Commissioners should ask for the General Manager.

Commissioner Buchanan questioned if City police officers would perform theater walk through. Mr. Hoffmeister noted that generally the police officers were located in the parking lot and theater lobby. Police officers have assisted during theater disturbances.

Commissioner Stockton informed the Applicant that the Commission could not go back to the Council with the same proposal as 2007. Wehrenberg operated a good business. The City would try to work with the theater. The Commission should place several conditions upon this Application. The conditions might be altered by the Council after a time. He suggested the following conditions: 1.) no thirty-two ounce (32 oz.) sales; 2.) no liquor sales ninety (90) minutes prior to no sale hour and no consumption after 1:00 a.m. on week nights; and 3.) restrict alcohol consumption at any "G", General and "PG", Parental Guidance, during certain hours.

Mr. Hoffmeister cited his preference for flexibility. Wehrenberg would agree to no liquor sales during "G" movies. Wehrenberg wanted to be a good citizen and would agree to the conditions. He hoped to request additional flexibility after one (1) year.

Commissioner Clapp expressed support for conditions. Conditions were a starting point to a compromise.

Commissioner Gibson expressed support for the time restrictions. He expressed his interest in limiting the number of sales during a movie showing. He cited his concern regarding consistency. He cited Chuck E. Cheese as an example. He believed that thirty-two ounces (32 oz.) of beer was a large amount. This sales volume is allowed at the USCC. The same standard should be applied to all. He would support some conditions. These conditions should be applied broadly.

Commissioner Stockton noted that the conditions must address the Council's concerns. The USCC has a family section where alcohol sales were not allowed.

Commissioner Gibson expressed his opinion that the conditions be applied universally. He acknowledged that restricting the size might encourage more consumption.

Commissioner Stockton questioned limiting the number of sales. He added the effort to track and enforce same. Mr. Hoffmeister stated that this was part of TIPS training. The servers were supposed to remember who had been served. The seller should also note the condition of the patron and the volume of the sale.

Commissioner Buchanan concluded that the Applicant had given assurances. The Commission needed to draft a motion which the Council would view favorably. "G" rated movies would be excluded. He was not concern about consistency. Consumption on week days would end at 1:00 a.m. by City Code. Commissioner Buchanan questioned the rating system. Mr. Hoffmeister provided the following information: G, PG, PG - 13, and R, (age 17 and over). Wehrenberg requested identification for R rated movies.

Commissioner Tompkins stated that Chuck E Cheese was different environment. Theaters were dark. He would support the restriction on G movies.

Commissioner Stockton noted that parents drop their children off at the theater. Chuck E Cheese also catered to children.

Commissioner Petersen noted that the Applicant was willing to be flexible. The Commission was willing to provide the Applicant with an opportunity. He expressed his willingness to support conditions.

Commissioner Stockton questioned if liquor sales should be allowed at PG during certain hours. Mr. Hoffmeister was comfortable with the time limitation and twenty-four ounce (24 oz.) sale limit. He expressed concern regarding a sales restriction for G and PG movies. He noted the broader audience.

Commissioner Buchanan understood the Applicant's rationale.

Commissioner Stockton questioned the starting time for PG movies.

Commissioner Petersen requested additional information about PG movies. Mr. Hoffmeister informed the Commission that he was new to the industry. He had been employed with Wehrenberg for two (2) years.

Brett Havlik, Director of Concessions, addressed the Commission. He provided the following information: PG - Parental Guidance; PG - 13 - no one under thirteen (13) without a parent/guardian, parental guidance recommended.

Commissioner Tompkins stated that Star Wars was rated PG. Mr. Havlik informed the Commission that PG and PG - 13 were the highest attended movies.

Commissioner Clapp expressed her preference that the limit only apply to G movies.

Commissioner Gibson noted that after the Commission's recommendation and Council's approval, other theaters may apply. He would support the motion. He believed that the Commission's action was arbitrary as these conditions would not be applied to other license holders. The Commission needed to look at the individual situation but apply a global perspective.

Mr. Hoffmeister stated that Wehrenberg would return before the Commission in a year or two to address any conditions. Commissioner Stockton acknowledged that conditions can be modified. The Commission was being cognizant of the Council's objections to this Application.

Commissioner Gibson made a point of clarification. Wehrenberg would use a different cup for alcoholic beverage sales. Beer would be sold in clear cups and wine would be sold in white paper cups. Mr. Hoffmeister added the nonalcoholic beverages were sold in Pepsi cups.

Motion by Commissioner Buchanan, seconded by Commissioner Petersen that the application of Fred Wehrenberg Circuit of Theatres, Inc., d/b/a Bloomington Galaxy 14 Cine, located at 1111 Wylie Dr., requesting an RBS liquor license which allows the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week, be approved with the following conditions 1.) that the sale size be limited to nothing in excess of twenty-four ounces, (24 oz.); 2.) that last call shall be set at ninety (90) minutes prior to the no sale hour; and 3.) that there be no alcohol sales to ticket holders of G and PG movies.

Motion carried.

Commissioner Stockton informed the License holder that this item would appear on the September 13, 2010 City Council Consent Agenda. He encouraged the Applicant to attend this meeting.

There being no further business before the Commission, the meeting recessed at 6:10 p.m.

Commissioner Buchanan raised a procedural question. He noted the size of the Commission's packet. He admitted that he rarely reviewed the Applicant's lease. He believed that City staff reviewed this item. He recommended that Applicants' leases no longer be provided to the

Commission. The City Clerk's Office should inform the Commission when a lease has been placed on file. Commissioner Stockton expressed his support for this recommendation.

Commissioner Gibson questioned if the Commission's packet could be provided in an electronic format. Tracey Covert, City Clerk, informed the Commission of the City's list serve function. This service would inform the Commissioners when the Liquor Commission's Agenda and Meeting Minutes were available on line at the City's web site. She expressed her concern regarding confidential information which is provided by each applicant. At this time, the City has not provided confidential information electronically.

Commissioner Tompkins requested that a Work Session be scheduled for the Commission to discuss an increase to liquor license fees prior to annual renewal time.

Commissioner Tompkins requested that the City provide each Commissioner with credentials. Ms. Covert volunteered to discuss this request with the City's Information Services Department staff. City staff would design a template.

Commissioner Buchanan questioned if there were any pending violations. George Boyle, Deputy Corporation Counsel, responded negatively.

There being no further business before the Commission, the meeting adjourned at 6:15 p.m.

Respectfully,

Tracey Covert, CRM, CMC, RMC
City Clerk