

MINUTES OF THE BLOOMINGTON
LIQUOR COMMISSION

December 11, 2012

The Bloomington Liquor Commissioner Stockton called the Liquor Hearing to order to hear the notification by Wal-Mart Stores, Inc. d/b/a Wal-Mart Supercenter #3459, located at 2225 W. Market St., currently 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. Present at the hearing were Liquor Commissioners Stephen Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and noted that this request involved a change of corporate officer. The Liquor Control Commission requires that a License holder inform the municipality and obtain a letter from same stating that the municipality had been informed and the license remains in force.

Commissioner Stockton added that the City Code also required a License holder to inform the City of a change in corporate officers.

Commissioner Stockton noted that Karen Roberts, Sr. VP President & Chief Compliance Officer, had been replaced by Phyllis Harris.

Motion by Commissioner Tompkins, seconded by Commissioner Clapp to accept the change of corporate officer for Wal-Mart Stores, Inc., d/b/a Wal-Mart Supercenter #3459, located at 2225 W. Market St., currently holding a PAS liquor license; said license remains in force.

Motion carried.

Tracey Covert, City Clerk, informed the Commission that a letter would be provided to the Liquor Control Commission.

There being no further business before the Commission, the meeting recessed at 4:11 p.m.

The Bloomington Liquor Commissioner Stockton called the Liquor Hearing to order to hear the notification by Bona Fide Thai Cuisine LLC, d/b/a Bona Fide Thai Cuisine, located at 1500 E. Empire St., Ste. A1, currently holding 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. Present at the hearing were Liquor Commissioners Stephen Stockton, Marabeth Clapp, Steve Petersen, and

Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and noted that this request involved a change of membership. The Liquor Control Commission requires that a License holder inform the municipality and obtain a letter from same stating that the municipality had been informed and the license remains in force.

Commissioner Stockton added that the City Code also required a License holder to inform the City of a change in membership.

Commissioner Stockton noted that currently the members were Supakorn Lertmahawong, Soungpan Missakasavake and Tenet Missakasavake. The new members are Supakorn Lertmahawong, Soungpan Missakasavake and Thaniti Missakasavake.

Motion by Commissioner Tompkins, seconded by Commissioner Clapp to accept the change of members for Bona Fide Thai Cuisine LLC, d/b/a Bona Fide Thai Cuisine, located at 1500 E. Empire St., Ste. A1, currently holding an RBS liquor license; said license remains in force.

Motion carried.

Tracey Covert, City Clerk, informed the Commission that a letter had been provided to the Liquor Control Commission.

There being no further business before the Commission, the meeting recessed at 4:11 p.m.

The Bloomington Liquor Commissioner Stockton called the Liquor Hearing to order to hear the notification by Carlos O'Kelly's Inc., d/b/a Carlos O'Kelly's Mexican Cafe, located at 2105 N. Veterans Pkwy., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Stephen Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and noted that this request involved a change of corporate ownership and corporate officers. The Liquor Control Commission requires that a License holder inform the municipality and obtain a letter from same stating that the municipality had been informed and the license remains in force.

Commissioner Stockton added that the City Code also required a License holder to inform the City of a change in corporate ownership and corporate officers.

Commissioner Stockton noted that currently David K. Rolph, President and Paul E. Schwarz, Treasurer were the corporate officers with David K. Rolph as the sole stockholder. The new corporate owner is the David K. Rolph Living Trust, and is operated by the following corporate officers: David K. Rolph, President, Mark Rouleau, Secretary, and Paul E. Schwarz, Treasurer.

Motion by Commissioner Tompkins, seconded by Commissioner Clapp to accept the change of corporate ownership and corporate officers for Carlos O'Kelly's Inc., d/b/a Carlos O'Kelly's Mexican Cafe, located at 2105 N. Veterans Pkwy., currently holding an RAS liquor license; said license remains in force.

Motion carried.

Tracey Covert, City Clerk, informed the Commission that a letter had been provided to the Liquor Control Commission.

There being no further business before the Commission, the meeting recessed at 4:12 p.m.

The Bloomington Liquor Commissioner Stockton called the Liquor Hearing to order to hear the notification by Clarabel, Ltd., d/b/a Rosie's Pub, located at 106 E. Front St., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Stephen Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and noted that this request involved a change of corporate ownership and corporate officers. The Liquor Control Commission requires that a License holder inform the municipality and obtain a letter from same stating that the municipality had been informed and the license remains in force.

Commissioner Stockton added that the City Code also required a License holder to inform the City of a change in corporate ownership and/or corporate officers.

Commissioner Stockton noted that currently John Robert Anet, President, Cynthia Grieves-Anet, Secretary/Treasurer, and Molly J. Charleston f/k/a Molly J. Bradle, Vice President, and also served as the corporate directors. In addition, these three (3) individual were also the stockholders. The new corporate stockholders are Cynthia Grieves-Anet and Molly J. Charleston. The corporate officers are Cynthia Grieves-Anet, President and Molly J. Charleston, Secretary/Treasurer, and corporate directors. These changes were due to the death of John Robert Anet.

Motion by Commissioner Tompkins, seconded by Commissioner Clapp to accept the change of corporate ownership and corporate officers for Clarabel, Ltd., d/b/a Rosie's Pub, located at 106 E. Front St., currently holding an RAS liquor license; said license remains in force.

Motion carried.

Tracey Covert, City Clerk, informed the Commission that a letter would be provided to the Liquor Control Commission.

There being no further business before the Commission, the meeting recessed at 4:12 p.m.

The Bloomington Liquor Commissioner Stockton called the Liquor Hearing to order to hear the notification by CVS, LLC, d/b/a CVS Pharmacy #8660, located at 210 N. Center St., currently 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. Present at the hearing were Liquor Commissioners Stephen Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and noted that this request involved a change of corporate officers. The Liquor Control Commission requires that a License holder inform the municipality and obtain a letter from same stating that the municipality had been informed and the license remains in force.

Commissioner Stockton added that the City Code also required a License holder to inform the City of a change in corporate officers.

Commissioner Stockton noted that the current corporate officers were Zenon P. Lankowsky, President, Carol A. DeNale, Sr. Vice President/Treasurer, Thomas S. Moffatt, Vice President/Secretary, Terence M. Corrigan, Vice President/Asst. Treasurer, Linda M. Cimbron, Asst. Secretary, Melanie K. Luker, Asst. Secretary, Jeffrey E. Clark, Asst. Treasurer, Jason D. Desrochers, Asst. Treasurer, and Marina Zaslavskiy, Asst. Treasurer. The corporate officers are Thomas S. Moffatt, President, Carol A. DeNale, Sr. Vice President/Treasurer, Melanie K. Luker, Secretary, Linda M. Cimbron, Asst. Secretary, Jeffrey E. Clark, Asst. Treasurer, and Jason D. Desrochers, Asst. Treasurer.

Motion by Commissioner Tompkins, seconded by Commissioner Clapp to accept the change of corporate officers for CVS, LLC, d/b/a CVS Pharmacy #8660, located at 210 N. Center St., currently holding a PAS liquor license; said license remains in force.

Motion carried.

Tracey Covert, City Clerk, informed the Commission that a letter would be provided to the Liquor Control Commission.

There being no further business before the Commission, the meeting recessed at 4:13 p.m.

The Bloomington Liquor Commissioner Stockton called the Liquor Hearing to order to hear the notification by CVS, LLC, d/b/a CVS Pharmacy #7017, located at 1130 Veterans Pkwy., currently 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. Present at the hearing were Liquor Commissioners Stephen Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and noted that this request involved a change of corporate officers. The Liquor Control Commission requires that a License holder inform the municipality and obtain a letter from same stating that the municipality had been informed and the license remains in force.

Commissioner Stockton added that the City Code also required a License holder to inform the City of a change in corporate officers.

Commissioner Stockton noted that the current corporate officers were Zenon P. Lankowsky, President, Carol A. DeNale, Sr. Vice President/Treasurer, Thomas S. Moffatt, Vice President/Secretary, Terence M. Corrigan, Vice President/Asst. Treasurer, Linda M. Cimbron, Asst. Secretary, Melanie K. Luker, Asst. Secretary, Jeffrey E. Clark, Asst. Treasurer, Jason D. Desrochers, Asst. Treasurer, and Marina Zaslavskiy, Asst. Treasurer. The corporate officers are Thomas S. Moffatt, President, Carol A. DeNale, Sr. Vice President/Treasurer, Melanie K. Luker, Secretary, Linda M. Cimbron, Asst. Secretary, Jeffrey E. Clark, Asst. Treasurer, and Jason D. Desrochers, Asst. Treasurer.

Motion by Commissioner Tompkins, seconded by Commissioner Clapp to accept the change of corporate officers for CVS, LLC, d/b/a CVS Pharmacy #7017, located at 1130 Veterans Pkwy., currently holding a PAS liquor license; said license remains in force.

Motion carried.

Tracey Covert, City Clerk, informed the Commission that a letter would be provided to the Liquor Control Commission.

There being no further business before the Commission, the meeting recessed at 4:13 p.m.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of the Becky Suiter and Daniel Mauger to allow moderate consumption of alcohol at Miller Park Pavilion for their wedding reception on February 2, 2013. Present at the hearing were Liquor Commissioners Steve Stockton, Marabeth Clapp, Steven Petersen and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel; Clay Wheeler, Asst. Police Chief; and Tracey Covert, City Clerk; and Becky Suiter, bride

Absent: Mark Gibson, Commissioner.

Commissioner Stockton opened the liquor hearing and requested that Becky Suiter, bride, address the Commission regarding this request. Ms. Suiter addressed the Commission. She informed them that the wedding reception was scheduled for Saturday, February 2, 2013. There would be a wedding ceremony and reception. Beer and wine would be offered during the cocktail hour and after dinner. Alcohol service would be provided for the approximate 200 wedding guests. The reception was scheduled from 4:30 until 11:00 p.m. The Pavilion must be cleaned and vacated by midnight.

Commissioner Stockton noted that Miller Park looked lovely with snow.

George Boyle, Asst. Corporation Counsel, questioned the caterer with dram shop insurance. Ms. Suiter informed the Commission that Famous Liquors located at 1404 E. Empire St. had been selected as the alcohol service provider.

Tracey Covert, City Clerk, informed the Commission that Famous Liquors provided the City with a copy of the contract with the appropriate Certificate of Insurance.

Motion by Commissioner Petersen, seconded by Commissioner Tompkins that the request of Becky Suiter and Daniel Mauger to allow moderate consumption of alcohol at Miller Park Pavilion for their wedding reception on February 2, 2013 be approved.

Motion carried.

Commissioner Stockton informed Ms. Suiter that this item would appear on the January 14, 2013 City Council Consent Agenda. He encouraged her to attend this meeting.

There being no further business before the Commission, the meeting recessed at 4:17 p.m.

The Bloomington Liquor Commissioner Steve Stockton called the Liquor Hearing to order to hear the application of Koeppen Corporation., d/b/a Kep's Country Kitchen, located at 506 IAA 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. Present at the hearing were Liquor Commissioners Stephen F. Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert; City Clerk, and Dan Koeppen, owner/operator and Applicant representative.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and requested that the Applicant address the Commission. Dan Koeppen, owner/operator and Applicant representative, addressed the Commission. Kep's Country Kitchen had been open for six (6) years. He had stopped dinner service on January 1, 2012. If the liquor license is approved, he planned to be open for dinner again. He hoped to expand his customer base and grow his business. This in turn would allow him to hire additional staff.

Commissioner Stockton noted the business hours, (5:30 a.m. to 10:00 p.m.). He specifically cited the 10:00 p.m. closing time. Mr. Koeppen stated that the restaurant would probably close earlier. He cited 8:00 p.m. He was not interested in operating a tavern.

Commissioner Stockton questioned the menu. Mr. Koeppen stated that Kep's offered breakfast, lunch and dinner. The menu was value priced and offered daily specials. He cited Friday's fried fish special as an example.

Commissioner Tompkins questioned the servers' ages and BASSET, (Beverage Alcohol Sellers & Servers Education & Training), certification. Mr. Koeppen noted that his servers were over twenty-one (21) years of age. He expressed his willingness to become BASSET certified.

Commissioner Petersen questioned Mr. Koeppen's alcohol service experience. Mr. Koeppen stated that he had past experience with alcohol sales. He informed the Commission that he worked at the restaurant seven (7) days a week.

Commissioner Clapp questioned the restaurant's seating capacity. Mr. Koeppen estimated the restaurant's capacity at 150.

Commissioner Stockton addressed the floor plan.

Commissioner Clapp noted the two (2) separate dining rooms. Mr. Koeppen responded affirmatively. In addition, there would be a bar area with seating available.

Commissioner Stockton questioned Kep's atmosphere at 9:30 p.m. Mr. Koeppen responded the same as at 6:00 p.m. Customers would be seated in the dining rooms while eating their dinners. Commissioner Stockton questioned when food service would be available. Mr. Koeppen stated that food would be available whenever the restaurant was open.

Commissioner Tompkins noted Kep's hours of operation and that the application was for an "R", Restaurant, liquor license.

Commissioner Clapp addressed BASSET certification. Commissioner Tompkins expressed his opinion that either the restaurant and/or bar manager should become BASSET certified within ninety (90) days of the license being issued.

Commissioner Petersen addressed consistency by the Commission going forward.

Commissioner Stockton recommended that the Commission look at the proposed text amendment which addressed server training. He requested that the Commission work towards a server training ordinance.

Commissioner Stockton noted that the Commission would rely upon Mr. Koeppen's business plan and his statement that the kitchen would remain open.

Commissioner Petersen noted that the application stated 10:00 p.m. This closing hour had been self imposed by the Applicant.

George Boyle, Asst. Corporation Counsel, addressed the Commission. He noted the character of the business. He did not believe that additional conditions were needed.

Motion by Commissioner Tompkins, seconded by Commissioner Petersen that the application of Koeppen Corporation, d/b/a Kep's Country Kitchen, located at 506 IAA 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, be approved with the following condition: 1.) either the restaurant and/or bar manager shall be BASSET certified within ninety (90) days of the license being issued.

Motion carried, (viva voce).

Commissioner Stockton informed Mr. Koeppen that this item would appear on the January 14, 2013 City Council Consent Agenda. He encouraged him to attend the meeting.

There being no further business before the Commission, the meeting recessed at 4:30 p.m.

The Bloomington Liquor Commissioner Steve Stockton called the Liquor Hearing to order to hear the application of RSB Retail Properties, Inc., d/b/a RSB Retail Properties, located at 1810 S. Morris Ave., requesting a GPBS liquor license which allows the sale of packaged beer and wine for consumption off the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Stephen F. Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert; City Clerk, and Karen Anderson, District Manager, and Stephanie Hatten, Manager - Fast Stop, and Applicant representatives.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and requested that the Applicant address the Commission. Karen Anderson, District Manager and Applicant representative, addressed the Commission. Stephanie Hatten, Manager - Fast Stop located at 1001 Six Points Rd., would manage both locations. This business is currently known as a Clark Gas Station.

Commissioner Stockton questioned this application's location. Ms. Anderson noted that Fast Stop had to give up fuel sales. The liquor license classification was changed from a GPBS to a PAS, (Packaged, All types of alcohol, Sunday sales). RSB Retail Properties was given the opportunity to lease the Clark station. She noted the traffic and the ability to regain fuel sales. The business would become a branded BP gas station.

Commissioner Stockton noted that Fast Stop was located on the west side of Morris Ave. And the Clark station was located on the east side of Morris Ave. Currently, NTR Foodmart, Inc., d/b/a Clark Gas Station held a GPBS (Gasoline, Packaged, Beer & Wine only, Sunday sales). This application involved a change of ownership.

Ms. Anderson noted that the facility would be cleaned and remodeled. A good camera surveillance system would be installed. In addition, Ms. Hatten would be a good manager.

Commissioner Stockton questioned the current owners. Ms. Anderson acknowledged that there was a lease. The property owner approached RSB Retail Properties. The lease was contingent upon the building's condition.

Commissioner Stockton questioned the application's liquor license classification. George Boyle, Asst. Corporation Counsel, reminded the Commission that the GPA, (Gasoline, Packaged, All types of alcohol), license classification had been eliminated. The only classification available was a GPB.

Commissioner Stockton restated that this application involved a change of ownership.

Commissioner Tompkins noted that the application was for a GPB liquor license as the GPA license classification had been eliminated.

Commissioner Clapp addressed the floor plan. Stephanie Hatten, Store Manager, addressed the Commission. All alcohol would be stocked in the coolers. There was a three (3) door cooler. The store would offer six packs of beer for sale. One (1) of the cooler doors would be stocked with soda and water.

Commissioner Petersen noted that Ms. Hatten currently managed the Fast Stop store. He questioned if beer sales were offered there. Ms. Anderson responded affirmatively. In addition, spirits were available for sale. Hard liquor was stocked behind the counter. No small bottles were offered for sale.

Commissioner Petersen questioned if there had been any incidents. Ms. Anderson responded negatively. Commissioner Petersen questioned if the Fast Stop had cameras installed. Ms. Anderson responded affirmatively. She added that liquor was secured in the office.

Commissioner Petersen questioned the businesses closing hour. Ms. Anderson stated 11:00 p.m. Commissioner Stockton restated that this application involved a change of ownership and was for a GPBS liquor license.

Commissioner Tompkins noted Ms. Anderson's reputation. He stated his confidence in her and noted RSB Retail Properties' previous application.

Motion by Commissioner Clapp, seconded by Commissioner Tompkins that the application of RSB Retail Properties, d/b/a RSB Retail Properties, located at 1810 S. Morris Ave., requesting an GPBS liquor license which would allow the sale of packaged beer and wine for consumption off the premises seven (7) days a week.

Motion carried, (viva voce).

Commissioner Stockton informed Ms. Anderson and Ms. Hatten that this item would appear on the January 14, 2013 City Council Consent Agenda. He encouraged them to attend the meeting.

There being no further business before the Commission, the meeting recessed at 4:40 p.m.

The Bloomington Liquor Commissioner Steve Stockton called the Liquor Hearing to order to review the status of Tjolo's, Inc., d/b/a Main Street Grill, located at 517 N. Main St., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Stephen F. Stockton, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert; City Clerk.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the discussion. He reviewed the Stipulation, Findings & Order regarding LV #2012 - 007. He noted the requirement to submit financial reports, (see Stipulation, Findings & Order, C. The Licensee shall provide quarterly audited revenue statements from a licensed accountant showing the breakdown of alcohol versus non-alcohol sales of tangible items at the licensed premise. The first such statement shall be for the months of September, October and November, 2012 and shall be received at the City Clerk's office no later than December 8, 2012). He noted that the report documented the following: September 2012 - food sales equaled 41.31%, October 2012 - food sales equaled 44.31 %, and November 2012 - food sales equaled 51.04%.

George Boyle, Asst. Corporation Counsel, addressed the Commission. He noted the Order from the violation hearing. Quarterly financial reports were required. Alcohol sales had exceeded food sales. In November 2012, the City established a midnight closing hour and the liquor license was suspended for six (6) days. He added that the earlier closing hour may have impacted gross sales.

Commissioner Stockton noted that generally gross sales would be reviewed on an annual basis. Mr. Boyle stated that for two of the three (2 of 3) months Main St. had not functioned as a restaurant. Commissioner Stockton questioned if the City had established the period to be measured. The City needed to set a reporting period. The license restrictions were designed to make Main St. function as a restaurant.

Commissioner Tompkins believed that Main St. was required to file quarterly financial reports. He added his opinion that Main St. had not complied with the Order. He directed the Commission to the Discount Summary and the dollar totals listed.

Commissioner Clapp noted that the Discount Summary was forgone revenue.

Commissioner Tompkins stated that the trend was headed in the wrong direction. He expressed his concern for the future.

Commissioner Petersen believed that it was difficult to determine the food discount.

Commissioner Tompkins questioned if a six (6) month period was long enough. Mr. Boyle reminded the Commission that the sanctions were good for six (6) months. The City could continue to receive financial information afterwards. He acknowledged the language listed in the Stipulation, Findings & Order under item C.

Commissioner Stockton recommended that the Commission have an accountant review the information submitted by the license holder. He also expressed an interest in the license holder's expenses.

Commissioner Petersen noted that the financial information presented had been derived from the restaurant's POS, (Point of Sale), system.

Commissioner Tompkins questioned liquor license renewal. He believed that the sanctions had been violated at least twice. He noted outdoor amplified music around midnight. He cited Main St.'s staff response to same. (See Stipulation, Findings & Order, D. No live or amplified music shall be allowed on the patio at the licensed premises after 10:00 p.m., effective as of the date of this Order.)

Commissioner Stockton recommended that the Commission invite Brian Novotny, Main St.'s owner/operator and license holder, to address them. The City needed to do some follow up work. The Commission would remind Mr. Novotny of the sanctions and the apparent violations.

Mr. Boyle offered to follow up with Mr. Novotny.

Commissioner Tompkins questioned if the license holder had complied with the BASSET, (Beverage Alcohol Sellers & Servers Education Training), training and certification. He specifically cited evidence of same.

Commissioner Stockton restated that the Commission needed to schedule a meeting with Mr. Novotny. Mr. Boyle questioned if this meeting would be a review hearing. Commissioner Stockton described it as a special meeting of the Commission. He requested that Commissioners Clapp and Tompkins address Mr. Novotny. Mr. Boyle questioned if there would be a sanction for violating the sanctions.

Commissioner Tompkins requested that proof of BASSET certification be submitted. He also requested an audit regarding outdoor music. An auditor/accountant needed to approve the financial report. (See Stipulation, Findings & Order, E. All servers, bartenders and managers at the licensed premises must receive BASSET certified training within 30 days of the beginning of their employment, or within 30 days of the entry of this Order, for those persons presently employed by the Licensee.)

Commissioner Clapp believed that the Commission's requests were fair.

Commissioner Stockton requested that Commissioners Clapp and Tompkins work with Mr. Boyle on the following: 1.) letter from an accountant substantiating the financial report; 2.) no outdoor amplified music; and 3.) BASSET training compliance. BASSET training compliance would include an employee listing with certification.

George Boyle, Asst. Corporation Counsel, addressed the Commission regarding his memorandum dated December 11, 2012 regarding Restaurant Class Licenses/Tangible Items. He described this memorandum's contents as tangible versus non tangible items. He expressed his opinion that tickets sales could be counted toward the definition of restaurant. He also addressed the legal meaning of tangible. He noted the City's past practices. He cited "R", Restaurant, liquor licenses, held by the US Cellular Coliseum (USCC) located at 101 S. Madison St., Bloomington Center for the Performing Arts (BCPA) located at 600 N. Center St., and Castle Theater located at 209 E. Washington St. These three (3) establishments focused on entertainment. Ticket sales were a primary revenue source. Liquor sales were ancillary. Ticket sales were considered as part of the establishment's gross sales. No one was entitled to an R liquor license. A licensed establishment was required to have and maintain revenue evidence.

Mr. Boyle addressed Chapter 6. Alcoholic Beverages, Section 4.B. Creation of New License - Findings. Fourteen (14) factors were listed. The Commission was directed to look at the nature of the business. A key question was primary sales, (alcohol versus tickets). He cited the BCPA as an example. The facility was devoted to performance. He encouraged the Commission to consider the bar area. The Commission must consider the type of license requested. The Commission and Council each had a role in the license creation process. Each had the power to issue conditions upon a license. He cited the nature and character of the establishment. These facilities opened for entertainment and closed afterwards.

Commissioner Stockton informed the Commission that he had recently held discussions with Mr. Boyle. The focus was on creation of new liquor licenses. The City may require licensed establishments to change the way revenue is tracked. Tickets were generally issued for admittance.

Mr. Boyle cited other factors beyond revenue. The memorandum addressed how things were. There was control/protection. There could be some revision/clarification to the City Code. The moratorium provided the City with the opportunity to address same.

Commissioner Stockton expressed his concern regarding the various revenue streams. He cited the USCC. He added his concerns regarding some licensed establishments. He cited Main St. Grill, located at 517 N. Main St., as an example.

Commissioner Clapp noted that Main St. Grill must sell food. She cited that a number of reasons had been cited. She noted Chapter 6. Alcoholic Beverages, Section 4B. Creation of New License - Findings, (b)(5)(a - e). These factors addressed consideration of an R liquor license.

Mr. Boyle questioned if the Police Department had any concerns regarding enforcement issues.

Commissioner Tompkins addressed ticket sales. He added his opinion that a ticket to enter Main St. Grill held no monetary value.

Commissioner Stockton was uncertain if ticket sales could be counted as food sales.

Mr. Boyle encouraged the Commission to look at the language contained in the City Code and past practices. The Commission needed to address any concerns.

Commissioner Petersen questioned Laugh Comedy Club located at 108 E. Market St. Ticket sales were considered as tangible items. Mr. Boyle noted that the Commission can require food service. Commissioner Petersen expressed his belief that food sales needed to be greater than alcohol sales for an establishment to be considered a restaurant.

Commissioner Stockton stated that there was no agreement with the licensed establishments. He believed that the City had opened a loophole.

Commissioner Clapp stated that the Commission would process an application for an R liquor license. If the Commission believed that a tavern liquor license was appropriate, then the Commission would deny the request for an R liquor license.

Mr. Boyle addressed the undesirable scenario which would allow under twenty-one (21) year olds in an establishment whose focus was the sale of alcohol with an application for an R liquor license. The Commission had found that ticket sales may be included in the fifty-one percent (51%) of non alcohol sales. He cited the nature of the establishment when determining the license classification and anticipated gross revenue from liquor sales.

Commissioner Stockton addressed the creation of new liquor licenses. The City currently had eighty-five (85) R liquor licenses. The definition of tangible items had been relaxed. He restated his opinion that the City was opening a loophole. He recommended that action be taken in stages. This would be a start. Additional safe guards were needed. He noted the proposed “Q”, Qualified, liquor license classification. The Q classification addressed floor space, earlier closing hours, and an open kitchen.

Mr. Boyle agreed that the proposed Q and “E”, Entertainment, liquor license classifications could have addressed some concerns.

Commissioner Stockton presented a proposed Text Amendment to the Commission. He added that there would be no action taken by the Commission at this meeting. The proposed ordinance would be placed on the Council’s December 17, 2012 meeting agenda.

Mr. Boyle acknowledged that this would be a text amendment. He added that currently a change of license classification was addressed by the Commission. The Commission made the final decision. The City Code currently does not have any provision for notification. The proposed text amendment included two (2) changes: 1.) it codified current practice and 2.) the Commission would make a recommendation to the Council. In addition, there was language regarding notice provisions, (notice in the newspaper and a courtesy mailing within 500 feet). The license holder

would pay the same fee as a liquor license application. There are hard costs associated with providing notice. Some of these actions have been done informally.

Commissioner Stockton noted that currently the Commission addresses a change of license classification. He believed that the Council's concern was a request to change an R, Restaurant license establishment to a T, Tavern. The Council wanted requests for a change of license classification to come before them. The Council wanted control regarding changing a restaurant into a tavern. He believed that there would not be any issues with the notice provisions. The City Clerk's Office recommended that a fee be charged to cover the cost of providing notice.

Commissioner Tompkins expressed his opposition to the proposed text amendment. He had hoped that the Council would have visited the Downtown. The Council did not understand the Commission's role.

Mr. Boyle noted that the ordinance had been reviewed by City staff. The proposed text amendment provided uniformity and clarified the process. Public notice had been codified.

Commissioner Tompkins expressed his concern as the final determination regarding a change of classification should be made by the Commission.

Commissioner Petersen questioned when the make up of the Council would change. Commissioner Stockton stated May 1, 2013. Commissioner Petersen questioned the moratorium. Commissioner Stockton stated that the moratorium only applied to the Downtown. He added that the Council had the right to change the City Code. The Council adopted ordinances. He hoped that the Commission understood the reasoning. He did not believe that it was worth controversy. Mr. Boyle cited the limited number of requests.

Commissioner Stockton noted that the proposed text amendment would be applied to any change of classification. He believed that the Council's focus would be on major changes of classification. Mr. Boyle expressed his opinion that the proposed text amendment could be placed on the Council's Consent Agenda.

Commissioner Petersen expressed his opinion that the Council was concerned about restaurants being changed to taverns.

Commissioner Stockton acknowledged that the Council's rationale focused on the license classification's first letter. He questioned if the Council would be interested in a "B", Beer and wine only classification being changed to an "A", All types of alcohol, or the addition of an "S", Sunday sales. Under the proposed text amendment, the Council would make the final decision.

Commissioner Petersen expressed his concern regarding the Council's focus on the Downtown.

Commissioner Tompkins questioned Council actions impacting other Boards/Commissions.

Commissioner Stockton noted that liquor violations and sanctions were the purview of the Commission.

Mr. Boyle added that if the Commission approved a change of classification, then the Commission's recommendation would be forwarded on to the Council.

Commissioner Stockton noted that the Commission can deny a request for a change of classification. It would not longer have the authority to approve a change of classification. The Commission would make a recommendation to the Council. He requested feedback from the Commission as soon as possible. The proposed text amendment was scheduled to appear on the Council's December 17, 2012 meeting agenda.

There being no further business before the Commission, the meeting adjourned at 5:37 p.m.

Respectfully,

Tracey Covert, CRM, CMC, RMC
City Clerk