



**LIQUOR COMMISSION MINUTES
THURSDAY, JANUARY 30, 2014
4:00 P.M.
CITY HALL COUNCIL CHAMBERS**

Liquor Commissioner Barra called the meeting to order at 4:23 p.m.

PLEDGE of ALLEGIANCE led by Fire Chief Kurt Nelson

ROLL CALL

The following members were present for roll call: Liquor Commissioner Laurie Barra, Fire Chief Kurt Nelson, Police Chief Greg Nelson and Deputy Liquor Commissioner Rick VonRohr

Absent: Commission Member Buster Hanley and Commission Member Dale Vonderheide

Also present: Attorney Sue Bosich – Corporation Counsel

Public present: Attorney Bridgett Lobacz, David Mahoney, and Dustin Maquet

Deputy Liquor Commissioner Rick VonRohr entered the meeting at 4:20pm

APPROVAL OF AGENDA

Motion made by Liquor Commissioner Barra to approve the Agenda for January 30, 2014, seconded by Fire Chief Kurt Nelson. On roll call vote all present voted Aye. Motion carried.

APPROVAL OF MINUTES

Motion made by Liquor Commissioner Barra to approve the Liquor Commission Minutes of November 21 2013, seconded by Fire Chief Kurt Nelson. On roll call vote all present voted Aye. Motion carried.

PUBLIC INPUT/COMMENTS/QUESTIONS

OLD BUSINESS

Quick Pic, 422 Derby Street – Attorney Bridgett Lobacz stated her case:

Asked if the letter sent to the Liquor Commissioner was shared with all of the Commission. The Liquor Commissioner did share with the Attorney and the Commission. If not, she had copies with her an attached color copy of site plan. Ms. Lobacz would read from the letter sent to the Liquor Commissioner. Attorney Lobacz stated we've been through this for several months now, so thought it would be helpful to run through of what we've been talking about and where we are on this today. The Commission has the power to grant and deny licenses, but they can't abuse the power. Good cause has to be shown for any kind of denial and the good cause has to be based upon the possible reasons that are listed in the liquor code by the city or in the State code. The real issue we are dealing with is that you are concerned about the two liquor licenses on one premise. The premise is defined in the Pekin Liquor code. The Pekin Code also has a licensed premise as defined as a place or location where alcoholic beverages, stored or displayed or offered for sale or where the drink containing alcoholic beverages are mixed for purchase options. We talked about if he needed a separate address or PIN number. She feels he just needs to say in his application where the alcohol will be served for a Class A liquor license and that's the only premise they would be dealing with. It's a very limited area that's the premise that we are talking about.

Another issue that has come up whether or not the State Code will allow two licenses in one building. If you read it, it very clearly says only one license is describe in one location, it doesn't say any one location and can only be described as a single license, just says that you can only have one location described in a license and she thinks the purpose of doing it this way makes sense; and example in the letter says if Mr. Mahoney decides to apply for a second liquor license, then he would need to fill out the application and make sure it follows all the liquor codes. He needs two locations and therefore two different licenses. The Liquor Code doesn't say separate buildings or separate license in one building is not allowed. We are not asking for a combined A & B liquor license. He is asking for two different Liquor Licenses, a Class A and he already has a Class B, two different applications and two different site plans within the building. These two licenses are not going to overlap, he will not be selling from one and then from the other. These would be two separate areas. Would pay for two separate license, have two separate check-out counters, abide by all the rules and regulations and restrictions that would apply for each of those licensed premises. Another thing we talked about is if this Liquor Commission was going to discuss calling these little Mini Casino's? City Council has the power to decide from the Video Gaming Act to make that decision to allow these within the City. We do want the Video Gaming without the Bar atmosphere because some people want to gamble and don't necessarily want to go into a bar. We discussed that this might violate Section W-3-3-4-4, which says No license of any kind shall be issued hereto any premise for the primary purpose of the sale of product and services not related to the sale of alcoholic liquor. So here the primary purpose is really to provide the video gaming and this is a service that relates to having a liquor license because State Legislature has made it that way. We are not trying to work around it, we are saying we are going to provide a service that is related to serving alcohol and a liquor license would help provide that service. This is a good thing for the City of Pekin. More revenue brought in the City and business for the Southside of town. Could create more jobs by hiring another cashier in the Class A premise. This is a good thing and it fits within the City of Pekin's Liquor Code. She would ask that the Liquor Commission grant the Class A liquor license.

Attorney Sue Bosich states that she disagrees that the Liquor Commission can not deny a license unless it's numerated in the Liquor Code. Case law states that Liquor Control Commissioner has authority to refuse or issue a liquor license on public safety grounds by power vested in a commissioner by legislature regardless of validation by local ordinances. Attorney Bosich doesn't need to go that far because she still maintains that there is a licensed premise at that location, and once there is licensed premise at that location with a definition of that licensed premise he can not come in and ask for another license at that premise. We don't need to grant another license that would incorporate a part of that licensed premises. He has a license on that premise that's defined at that address. Attorney Bosich believes that is enough for the City to choose to do so to deny the license. On the basis of premises it could be denied.

Motion made by Liquor Commissioner Barra that there is a Class B Liquor License on the premise and we're not willing to reset the definition to the premises to allow Class A Liquor License and will deny the request. Seconded by Police Chief Greg Nelson. On roll call vote all present voted Aye. Motion carried.

Attorney Lobacz asked if she could ask a question. Was denied since there was already a motion made. Attorney Lobacz stated so the cause of the denial is the Class B License is already licensed at that premise. Would it be possible to reduce the area of the Class B License to just that section of the building that was submitted on the site plan to say it's only this part that is a licensed premise? Does the original Class B liquor license application state or define the premise of the entire building or just the area of where the alcohol is being sold and can we get an amended license that it is only this portion of the building. Attorney Bosich stated that is against our Liquor Code.

Attorney Bosich stated that this was just voted on and denied. Liquor Commissioner Barra stated the motion was established that the premise was a Class B Liquor License and we do not have a license that covers and A and B on the same premise. Attorney Lobacz asked if the motion was made on the Class B liquor licensed area of the premise or the whole building or just a section of the building which was defined in the original application. Attorney Bosich stated the licensed premise was off the original application. The Class A liquor license application was the one denied.

INEW BUSINESS

Beer Garden application – Dustin Maquet – 221 Court Street

Application and site plan submitted

Discussion: Dustin Maquet explaining the site plan submitted to the Liquor Commission. Fence would be 6' aluminum with 6" pickets for the clear view. All fenced in area would be the beer garden. The 4 Season room would be covered, similar to Kouri's Bar & Grill.

Motion made by Police Chief to approve the Beer Garden at 221 Court Street contingent upon final walk-thru's, inspections and final liquor license. Seconded by Liquor Commissioner Barra. On roll call vote all present voted Aye. Motion carried.

2% Food and Beverage Tax late returns

Vicki Bass emailed out late returns to the Liquor Commission on January 29, 2014.

Attorney Sue Bosich to file a complaint on Goodfella's Pub & Pizza for being 2 months behind on his 2% Food and Beverage tax, possibly 3 month's. The Dug Out Sports Bar and Quick Pic will be sent a letter and a certified letter through the Finance Department for being one month behind.

ANY OTHER BUSINESS

Fire Chief Kurt Nelson heard some talk about Denny Mullens opened up another place right next door to Goodfella's Pub & Pizza and someone else was going to run it? Asked why this never came before the Liquor Commission and when did this happen? Police Chief Greg Nelson stated he never saw a new application and why was this granted without it being brought before the Liquor Commission. Deputy Liquor Commissioner Rick VonRohr stated they are two separate businesses, he put up a wall in between the two buildings and they have two separate addresses, there is no public access from Goodfella's to the Goodfella's next door, only access would be through the kitchen. He has applied to the State Gaming Commission to get 10 video gaming machines, 5 on each side. Attorney Bosich stated he would need two leases since this is two separate businesses and addresses. Also, the question was raised on how Mr. Mullens would pay his 2% Food and Beverage tax. Does he have to submit two different forms for the two businesses? And if so, which business of his is behind on the 2%? Commission also wanted to know how Ace Liquor pays his 2% Food and Beverage since he has two businesses.

Deputy Liquor Commissioner VonRohr has talked to the KC Hall (David Lakin) on opening up their club to the public. He was told to he would need to fill out a new application for a Class A liquor license and this would not be considered a private club anymore. David Lakin called City Hall and was told about needing the new manager to come in for a background check. Nothing was discussed about a new liquor application. VonRohr will give him another call and find out what is going on with the status of the club.

Attorney Bosich asked about requiring bartenders not being allowed to consume alcohol on the job or have a blood alcohol level within the normal range. There have been issues before with bartenders calling in to the police and then not being able to give a statement because of being intoxicated. Attorney Bosich will get the Ordinance from another municipality and bring it before the commission.

Attorney Bosich was informed of a situation where a minor was seen coming out of a bar and the police required a breathalyzer and he blew a .07. He was ticketed for underage consumption and was charged in court. He stated he drank at home not at the bar and that his parents were both in the bar as to why he went in there. Commission felt there would be no way to monitor this or prove in some situations.

Fire Chief Kurt Nelson made a motion to adjourn, seconded by Police Chief Greg Nelson, meeting adjourned 5:10 P.M.

Next Meeting will be Thursday, February 27, 2014 at 4:00 P.M.

Respectfully submitted, Paula Gensel