

LIQUOR AND LICENSE COMMISSION
McHenry County Government Center – Administration Building
667 Ware Road - Woodstock IL 60098

MINUTES OF WEDNESDAY, DECEMBER 12, 2007

Chairman Hammerand called the meeting to order at 9:15 a.m. The following members were in attendance: John Hammerand, Chairman; Yvonne M. Barnes; James P. Kennedy; Mary McCann; and Nick Provenzano. Also in attendance: Jamie Rein, Assistant State's Attorney; Captain Tony Cundiff – Sheriff's Office; Peter Austin, County Administrator; Kenneth D. Koehler, County Board Chairman; and interested public.

John Hammerand, Chairman
Yvonne M. Barnes James P. Kennedy
Mary T. McCann Nick Provenzano

MINUTES OF THE PREVIOUS MEETING

Mr. Provenzano made a motion, seconded by Ms. Barnes, to approve the regular session minutes of November 14, 2007. The minutes were approved as submitted with all members present voting aye.

PUBLIC COMMENT: None

PRESENTATION: None.

NEW BUSINESS

Mr. Austin addressed the Commission to report on a request for a State's Attorney's opinion as to if a Liquor License should be approved for an establishment prior to the receipt of finger print results. He stated that the legal answer would be "yes" however, it would be up to the Commission as to the process and if they wish to approve the request prior to the results being received. Ms. Rein stated in response to the Commission's request, she did revisit the issue and reviewed the Ordinance which indicates that there is only a requirement that finger printing must be done, but it does not require that results be received prior to approving a liquor license. Mr. Provenzano stated he was concerned with giving a liquor license before receipt of finger print results since Captain Cundiff had advised against doing so. Chairman Hammerand noted that it is quite frequent that a liquor license is given prior to the receipt of finger print results. He stated there is a certain amount of trust given to the applicant who has completed the forms and signed them indicating they have not been convicted of any criminal activity. If a problem does arise after a liquor license is approved, the owner is called in to meet with the Commission to discuss the issue. Chairman Koehler noted it is a privilege to have a liquor license and he would be appalled if the Ordinance was not being followed. Ms. Barnes questioned what the procedure is to request a State's Attorney's opinion. Mr. Austin stated that such requests can come from the County Board Chairman, the County Administrator, a department head or elected official or a committee. Such requests should be made in writing. He noted that at most committees there is a staff member present that would follow through on any direction given by the committee. Mr. Kennedy noted that this is a strong Commission and it is important for all rules to be followed. Mr. Provenzano added that the Commission should not dilute the process and all applicants should appear before the Commission with all required documents completed and signed appropriately. Ms. Rein noted that if finger prints are returned with no violations found a liquor license could be processed without the need for the applicant to re-appear before the Commission if an appropriate motion is made to approve said license once the results have been returned with no concerns. Captain Cundiff stated he is concerned with "worse case scenarios" and if a license had been issued and the finger print results revealed a felony conviction what steps would then be taken and would the County be held liable. Ms. Rein stated chances would be low that the County could be held liable since the applicant had indicated there were no felony convictions on the application form. Ms. Barnes stated that by approving a license prior to the receipt of finger print results makes the commission appear irresponsible. Chairman Hammerand noted that the turn around time for the processing of finger prints can be lengthy and concerns have been expressed during previous meetings. He stated that the Sheriff's Department only allows for an applicant to be finger printed on Wednesday between 1 and 3 p.m. He also noted that the health inspection and health permitting can also take time to complete. He stated he would welcome any assistance to make the finger printing process easier. Koehler stated he would check into such possibilities and would also talk with the Regional Superintendent of Schools office to see if they could do the finger printing for liquor applicants. He stated it is important to keep the process the same for all applicants. Ms. Barnes questioned if the ordinance would need to be changed. Ms. Rein stated she did not think amending the ordinance would be necessary as the application is still subject to the Commission's review. It was noted that perhaps the application and checklist should be amended.

In response to the commission's previous request, a sample ID badge that could be used by the Liquor Commission members was provided. The Commission approved the ID badge and the Sheriff's Department was directed to move forward with processing the badges for use by members.

LIQUOR AND LICENSE COMMISSION

Minutes of Wednesday, December 12, 2007

Page: 2

New and Renewal Liquor License, Manager and/or Amusement License Requests: Mr. Patel met with the Commission to review his application for a liquor license. At the November meeting, the Commission had requested that Mr. Patel return for today's meeting at which time it was hopeful that the finger print results would have been received and the Health Permit would be available. Mr. Patel provided a health permit. It was noted that the finger print results had not been received to date. Ms. McCann made a motion, seconded by Mr. Provenzano, to approve a liquor license for Mr. Patel subject to the return of finger print results. Mr. Patel had noted previously that he had been arrested while in high school, but he was unsure if he was a minor at the time of said arrest. He stated he was arrested for a fight. Mr. Provenzano stated the applicant appears to be in a "catch-22" situation since if the applicant were a minor the incident may not appear on the finger print results. Ms. Rein stated if the applicant was arrested for a battery it would be considered a misdemeanor not a felony and based on what the applicant has reported the liquor license would not be denied. Members voiced their concern and a roll call vote was called. The motion to approve failed with two ayes (Provenzano, Hammerand) and three nays (Kennedy, McCann and Barnes). The Commission asked that Mr. Patel return in January for further consideration at that time.

Raffle Permits: None.

Mr. Provenzano asked for further discussion regarding the use of the checklist and the procedures for its use. Chairman Hammerand stated that the checklist is used to make sure the applicant has a clear understanding of what documents are needed as part of the application process. He stated it is the responsibility of the Commission to review all applications and to interview the applicants and make sure all requirements are met. Mr. Provenzano stated staff should use the checklist to make sure the documents are in order prior to the applicant meeting with the Commission. The list should be a guideline and no appointment with the commission should be made if all requirements have not been completed. He stated if an applicant does not have all requirements an appointment with the Commission should not be made. Should an applicant wish to come before the Commission without the application completed they could do so during Public Comment.

Chairman Hammerand stated perhaps the Commission should consider returning to a former process of interviewing all applicants during the renewal process. Ms. Barnes stated as a new member she was unaware that in previous years all renewal applicants were interviewed and reviewed by the Commission. She stated she remains concerned that procedures are not followed or that they change. She stated to her knowledge no member would be opposed to having all applicants appear before the Commission during the renewal process. Mr. Kennedy noted it would be up to the Commission to implement those procedures. He stated perhaps it would be good to meet with the owners and stated he would have no problem with additional meetings if necessary.

Mr. Provenzano stated the renewal process and the checklist for new applicants are two separate issues. He again noted that if all documents are not properly checked off by staff then an appointment to meet with the Commission should not be scheduled. Mr. Kennedy agreed with Mr. Provenzano. Chairman Koehler asked if both the owner and manager come to the interviews that are held for renewals. Chairman Hammerand stated that usually both come although sometimes it is a hardship for the small license holder as it may be necessary to close the establishment during the appointment time. Mr. Provenzano stated that usually only the establishments that have received numerous incident reports come in during the renewal process. Those that have had no problems during the year do not come in. Chairman Koehler suggested that perhaps an establishment that has raised no concerns should come in every five years so as not to make the process too cumbersome or burdensome to an owner. Mr. Provenzano pointed out that when an incident report raises concerns the Commission has that owner come in as soon as possible and does not wait to have the owner meet with the Commission during the renewal time. It was noted that owners are getting the message that the Commission is paying attention and the Wonder Lake establishment was used as a sample noting that nightly bar checks by the Sheriff has decreased concerns. A question was raised regarding health violations and Ms. Rein responded that such violations are handled through the Health Department.

In response to the Commission's previous request for a State's Attorney's opinion on special event licenses, Ms. Rein reported that if the event takes place in an unincorporated area of the County, a liquor license issued by the County would be necessary to hold such event. The applicant for such a license would need to be a charitable or non-for-profit organization, that organization could then contract with an establishment licensed by a municipality to cater the event. The event must be a charitable event. Mr. Provenzano asked that Ms. Rein provide this opinion in writing. He stated that the event must be viewed from all aspects as the ordinance is vague regarding catering and events.

Captain Cundiff provided a list of all Sheriff's activities for the past two years at the establishment known as Suds-R-Us located on Terra Cotta Ave. in Crystal Lake. He noted there have been 49 call in the last two years. Also included with

the list were memorandums from Lieutenant Lutz concerning bar check problems that have been encountered by deputies that have been asked to sign a "log sheet" upon trying to enter the establishment. There was also a departmental

correspondence from Lieutenant Lutz regarding a meeting he had with the owner of the establishment. Captain Cundiff stated although problems have decreased with the added monitoring ongoing issues still exist. The Commission reviewed the documents and discussed what further steps should be taken by the Commission. The Commission agreed that a letter should be sent to the owner asking him to attend the January meeting of the Commission for a discussion of these concerns. Ms. Rein stated she would draft the letter and will provide a copy to all members. She stated she has also talked with the attorney that represents the owner and asked if the letter should also be sent to this individuals. Members directed Ms. Rein to send a copy to the attorney. Mr. Provenzano made a motion, seconded by Ms. Barnes, to invite the owner of the Suds-R-U's to the January 9, 2008 meeting. The motion carried with all members present voting aye on a voice vote.

Members then further discussed a Class "C" catering license. Chairman Koehler had noted that there would need to be amendments to the ordinance to address the wine industry and tasting events. State Statutes and counties that have an existing ordinance that incorporates such a license should be reviewed. Ms. Rein stated she would do such a review and also draft proposed language to amend the current ordinance. Members also noted that the zoning issues would need to be resolved.

ADJOURNMENT: Noting no further business, the meeting adjourned at 10:59 a.m. on a motion by Mr. Provenzano, seconded by Mr. Kennedy, with all members present voting aye.

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