



**SPECIAL MEETING MINUTES  
 PUBLISHED BY THE AUTHORITY OF  
 THE LIQUOR COMMISSION OF THE CITY OF BLOOMINGTON, ILLINOIS  
 TUESDAY, DECEMBER 15, 2020, 4:00 P.M.**

*This meeting was conducted under Governor Pritzker’s Executive Order 2020-07 Section 6, which was reissued and extended by Executive Order 2020-74, and implemented in response to COVID-19, which suspended in-person attendance under the Open Meeting Act, 5 ILCS 120.*

The Liquor Commission convened in a special session virtually via Zoom conferencing with George Boyle, Asst. Corporation Counsel, and Amanda Mohan, Deputy City Clerk, in-person in City Hall’s Council Chambers and virtually via Zoom conferencing at 4:07 p.m., on Tuesday, December 15, 2020. The meeting was called to order by Commissioner Tari Renner.

**Roll Call**

Attendee Name	Title	Status	Arrived
Tari Renner	Commissioner	Remote	
Jim Jordan	Commissioner	Remote	
Lindsey Powell	Commissioner	Absent	

**Staff Advisors**

Staff Present	Title	Status	Arrived
Amanda Mohan	Deputy City Clerk	Present	
Angela Fyans Jimenez	Deputy Corporation Counsel	Remote	
George Boyle	Asst. Corporation Counsel	Present	

George Boyle, Asst. Corporation Counsel, requested that the Commission allow a statement about the status an agenda item before public comment was heard. Commissioner Renner accepted the change in agenda.

*The following item was presented:*

Agenda Item 5. Hearing on Complaint and Citation (Violation #2020-28) issued to BayMT, Inc. d/b/a Western Tap, located at 1301 N. Western Ave., as requested by the Legal Department.

George Boyle, Asst. Corporation Counsel, informed the Commission that Western Tap had entered into a settlement agreement and a hearing would not be necessary.

**Public Comment**

Commissioner Renner opened the meeting for public comment and the following individuals spoke live: (1) Christian Gramm (2) Eric Hjerpe; and (3) Grant Jones; (4) Nathan Durako and (5) Michael Reginelli. Jon Reed registered for public comment, but was not present in the meeting.

*The following item was presented:*

Agenda Item 4. Hearing on Complaint and Citation (Violation #2020-31) issued to Ted J, LLC, d/b/a Joe's Pub, located at 3907 General Electric Rd., Unit 2, as requested by the Legal Department.

Commissioner Renner opened the hearing at 4:22 p.m.

A procedural discussion was had.

George Boyle, Asst. Corporation Counsel, addressed the Commission and provided opening statements, which included an explanation on the Governor's executive orders under the Illinois Emergency Management Act; the City's authority to enforce said orders; as well as other laws and regulations. He pointed out the severity of the pandemic and believed that the facts collected in the case were clear. On November 28, 2020, at approximately 4:45 p.m., the licensee (Ted J, LLC, d/b/a Joe's Pub,) violated Chapter 6, Section 37(e)(3) and (e)(4) of the Bloomington City Code, requiring compliance with state laws and health and safety regulations. The licensee violated the prohibition on indoor, on-premises consumption by allowing persons to dine-in. The prohibition came from the Governor's Executive Orders #69 and #73.

Mr. Boyle moved to admit exhibits: *City Exhibit 1: Ch. 6, Sec. 37 Same - Powers and Duties Generally (1); City Exhibit 1A: Section 100.30; City Exhibit 1B: Ch. 6, Sec. 43 Adoption of State Law; City Exhibit 2: 33056 Emergency Management Powers of the Governor; City Exhibit 3: 33057 Emergency Powers of the Governor; City Exhibit 4: Disaster Proc 11-13-2020; City Exhibit 5: Executive Order-2020-69; City Exhibit 6: Executive Order-2020-71; City Exhibit 7: Executive Order-2020-73; City Exhibit 8: Police Report 2020124889 - Joe's Pub - Summary Report; and City Exhibit 9: Public Comment\_Joe's Pub\_1\_Redacted.*

Tom Devore, Counsel for Joe's Pub, stated all of the exhibits except City Exhibit 8 were to assert legal authority and agreed to admit the exhibits.

Discussion on the exhibits was had by Mr. Boyle and Mr. Devore. Commissioner Renner reminded the attorneys that the exhibits were accepted and asked Mr. Devore to provide his opening statements.

Mr. Devore addressed the Commission and provided opening statements, which included an argument that the matter was a health regulation requiring enforcement by the McLean County Health Department, not the City. He stated that the City used a liquor license as a tool to force closure of business' premises. He argued that the Governor's executive orders were not laws or regulations under the Emergency Management Act and stated that the specific executive orders referred to a stipulation that all restaurants and bars must suspend indoor, on-premises consumption, but the orders didn't mention the regulation of alcohol. He went on to challenge executive orders being used as regulations. He then defined a health regulation and reiterated his position that only the health department had enforcement authority.

Mr. Boyle called Officer Nolan Arjona as a witness, who, after being sworn, was questioned on McLean County Incident Report #2020-14889. Throughout questioning, Officer Arjona stipulated that many people were seen eating and drinking inside the premises, all Joe's staff wore masks, and all customers had a mask with them.

Mr. Devore questioned Officer Arjona on his length of employment and then asked detailed questions regarding the number of patrons, which patrons consumed on-premises, the floor plan of the establishment, and how the officer had identified staff. Officer Arjona reported that there were 10-12 patrons consuming inside the premises and that the employees had identified themselves when the officers arrived. He then stated upon the officers

explaining they were present for a compliance check, staff called Mr. Wargo (an owner of the establishment) who came to the property to talk to the officers.

Mr. Devore asked Officer Arjona if the compliance check performed was done to ensure there was no indoor dining. Officer Arjona confirmed and noted that the police had received reports of indoor dining. Mr. Devore then asked Officer Arjona what the patrons were drinking at the time of the check.

Commissioner Renner interrupted the line of questions as he did not believe the officer's knowledge of minute details were necessary.

Mr. Devore believed the questions were relevant and argued it was part of due process. He noted for the record that the decisionmaker had interfered with his questions. He then asked Officer Arjona what the patrons had drank. Officer Arjona could not recall exactly, but remembered seeing beer.

Mr. Boyle objected that what patrons consumed was irrelevant when the hearing was on the alleged violation of the prohibition of on-premises consumption.

Mr. Devore withdrew the question and had no further questions.

Mr. Boyle reserved his time for rebuttal.

Commissioner Renner confirmed with Mr. Devore that he had no witnesses.

Commissioner Renner discussed with Angela Fyans-Jimenez, Deputy Corporation Counsel, procedure for the individuals who had registered to speak on the item. After discussion with both attorneys, it was determined that individuals could provide comments after the Commissioner ruled and that their comments could not be part of the appeal as their statements would be opinion verses testimony.

Commissioner Renner explained that, as Liquor Commissioner, he would make the final decision, but that he could ask Jim Jordan, an assistant Liquor Commissioner, for advice.

Mr. Boyle provided closing statements, which reiterated the severity of the pandemic and the executive orders created as a result of said pandemic. He stated that on-premises consumption at Joe's Pub had been shown and at a time when indoor dining was prohibited. He reiterated the authority to enforce the prohibition and disagreed with Mr. Devore's statement that only public health could create health regulations. Mr. Boyle noted that over 6 businesses agreed with the regulations and to comply.

Mr. Devore objected to the relevance of the compliance statement.

Commissioner Renner asked Mr. Boyle to continue. Mr. Boyle explained that the City treated businesses equally and reminded the Commission of the other opportunities for bars and restaurants to generate revenue while indoor dining was prohibited. He provided examples of other cities who had enforced the prohibition. He asked for a finding in favor of the City and reserved for rebuttal.

Commissioner Renner discussed procedure on rebuttal with Mrs. Fyans-Jimenez.

Mr. Devore provided closing statements. He disagreed with the mention of other cities' enforcement as their local ordinances were different than Bloomington's. He stipulated that the measures levied against Joe's Pub had nothing to do with the regulation of liquor. He reiterated his position that, under Section 3 of the City Code, the Governor's executive orders were not state law or health regulations and that the City did not have the authority to enforce the Governor's executive orders through the liquor ordinance. Mr. Devore acknowledged

patrons consumed on-premises. He continued to argue that the City did not have the authority to act as the regulation fell to the health department, who had not acted against Joe's Pub.

Mr. Boyle entered rebuttal and reminded the Commission of the various reasons a licensee could be cited for a violation, which included health regulations. He stated that the executive orders pertained to on-premises, indoor consumption, and that proof of alcohol consumption was not needed. He reiterated the City's ability to enforce executive orders under the Emergency Management Act as valid health and safety regulations. He then provided an example of an old case from 1922, Barmore vs. Robertson, that said the wisdom of health regulations is not necessarily what courts review, provided that there is a rational basis that they are not arbitrary. He argued that enforcement was necessary.

Mr. Devore argued that the statements on the 1922 case of Barmore vs. Robertson were out of order and explained it was about a health department's authority to deal with similar events and that one individual should not create health and safety regulations.

Mr. Boyle responded that the 1922 Barmore vs. Robertson case was relevant when second guessing health regulations.

Mr. Devore agreed, but stipulated that the issue was the City's ability to enforce the emergency orders and not questioning health regulations.

Commissioner Renner discussed procedure with Mrs. Fyans-Jimenez as the remote meeting platform did not permit the Commissioners to privately discuss the case before a determination was made. It was decided that Commissioner Jordan could give his opinion publicly if he felt comfortable.

Commissioner Jordan stated that while the State of Illinois issues liquor licenses, they continued to rely on local authorities, the local liquor commission, to set forth the rules and regulations. He believed the Commission should also take the Legal Counsel's advice on interpretation of the law.

Commissioner Renner discussed procedure on how to administer his decision with Mrs. Fyans-Jimenez.

Commissioner Renner sympathized with the struggles of local small businesses and acknowledged the inequity of the City's authority to enforce executive orders with liquor licensees, but not non-license holders. He stated that pursuant to the evidence presented by the police officer, he found there to be a violation of the Governor's executive order.

Mr. Boyle stated that City ordinance provides for fines from \$250 to \$3,500 and then recommended a fine of \$600 for the first offense to be paid by a date certain of December 22, 2020.

Mr. Devore requested the fine for a first offense be \$250 under current circumstance and requested additional time to advise his client.

Discussion was had on the date the fine must be paid.

**Commissioner Renner determined Joe's Pub would be fined \$600 for the violation and that it was to be paid by January 10, 2021.**

Commissioner Renner closed the hearing at 5:47 p.m.

Commissioner Renner welcomed public comment and Mr. Nicholas Fitzgerald spoke live.

## **Adjournment**

Commissioner Jordan, seconded by Commissioner Renner, motioned to adjourn the meeting.

Motion carried (viva voce).

The meeting adjourned at 5:56 p.m.

A handwritten signature in cursive script, reading "Amanda Mohan".

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Amanda Mohan, Deputy City Clerk