

MINUTES OF THE BLOOMINGTON  
LIQUOR COMMISSION

November 8, 2011

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order at 4:10 p.m. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Stephen Petersen and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner Stockton opened the Public Comment portion of the meeting. No one came forward to address the Commission.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of Jonathan Kimmel and Megan Sage to allow moderate consumption of alcohol at their December 17, 2011 wedding reception to be held at Miller Park Pavilion. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Stephen Petersen and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner Stockton opened the liquor hearing to hear the request of Jonathan Kimmel and Megan Sage to allow alcohol consumption at Miller Park Pavilion on December 17, 2011 from 3:30 until 9:00 p.m. He noted that no one was present to address this request. Tracey Covert, City Clerk, stated that Mr. Kimmel and Ms. Sage did not reside in the City. She had spoken with David Sage, bride's father and Rick McCormick, Redbird Catering. She confirmed the contents of Mr. Kimmel's letter. The request was for limited beer and wine service. The event would be catered.

Motion by Commissioner Buchanan, seconded by Commissioner Tompkins that the request of Jonathan Kimmel and Megan Sage to allow moderate consumption of alcohol at their December 17, 2011 wedding reception to be held at the Miller Park Pavilion be approved.

Motion carried.

Commissioner Stockton noted that an Ordinance to suspend the City Code would appear on the Council's November 28, 2011 Meeting Consent Agenda. He encouraged their attendance.

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

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of Fat Jack's, Inc., d/b/a Fat Jack's located at 507 - 511 N. Main St., currently holding a TAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week to review the following agreed upon

conditions: 1.) keeping the windows closed during live music and 2.) closing the windows one (1) hour prior to close. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steven Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk, and Tyler Holloway, owner/operator and License holder representative and Jerry Raymer, License holder's attorney.

Commissioner Stockton opened the liquor hearing and requested that the License holder address this request. Jerry Raymer, License holder's attorney, addressed the Commission. He noted the restrictions placed upon Fat Jack's liquor license which addressed the windows. He cited complaints received by the City which have been submitted by John Shanks, owner/operator of the Chocolatier located at 514 N. Main St. Mr. Holloway had tried to comply with these restrictions. He cited the fact that additional taverns had opened. He cited Main St. Bar & Grill located at 517 N. Main St. as an example. This establishment had an outdoor beer garden with speakers that played music from 11:00 a.m. until close. Main St. also held events with DJ's and five (5) piece bands. These events have been held with the windows open.

Mr. Raymer cited a recent event, (September 7, 2011). The Police Department was called regarding loud noise at Fat Jack's. An Ordinance Violation (OV) was issued. He read same to the Commission and added that the City would not prosecute this OV. There was not a rational basis to this complaint.

Window restrictions have not been applied to other license holders. He expressed his interest in fair treatment to all Downtown taverns. All of these establishments were not subject to the same rules.

Mr. Raymer offered another example involving Mr. Shanks. He cited a May 2010 smoke free Illinois complaint. He added that Fat Jack's business owners had no authority to police the sidewalk. This citation was appealed to the Illinois Department of Public Health and Fat Jack's prevailed. A business owner was responsible for smoking indoors. Commissioner Stockton informed Mr. Raymer that he had strayed off topic.

Mr. Raymer readdressed the basis for a complaint. He restated his support for uniform enforcement. Commissioner Stockton noted that Mr. Raymer believed that there was an equity issue between Fat Jack's and Main St. Bar & Grill. Mr. Raymer expressed his belief that there was not a restriction regarding outdoor music at Main St.

Commissioner Buchanan expressed his opinion that the circumstances were different. He cited the size and volume of the speakers at Main St. He added that Main St.'s windows were not frequently opened. Mr. Raymer readdressed the DJ's and five (5) piece band.

Commissioner Buchanan cited personal use of a decibel meter at both Fat Jack's and Main St. He had taken such action a number of times. The readings were higher for Fat Jack's but not high enough to justify a complaint. He added that based upon his observations, Main St.'s windows were kept closed.

Commissioner Stockton read from the OV. The issue was equity.

Commissioner Petersen questioned when the windows were open. Tyler Holloway, owner/operator and License holder representative, addressed the Commission. The windows may be open until midnight. The windows must be closed when there is live entertainment. Commissioner Petersen noted that Main St.'s windows may be open at anytime.

George Boyle, Asst. Corporation Counsel, addressed the Commission. He noted the various parties involved. City staff needed to research the various conditions placed on the Downtown bars located on Main St. He added that the City should notice various parties within the Downtown regarding noise in this area. Information needed to be gathered.

Commissioner Stockton added that the City was researching a new noise ordinance. He added his opposition to lifting any restrictions until City staff has the time to investigate this request further.

Commissioner Tompkins questioned Mr. Holloway's preference regarding the windows. Mr. Holloway stated that all Downtown taverns be required to keep their windows closed.

Commissioner Clapp addressed decibel level and a noise ordinance. She noted that all of the Downtown establishments do not have the same conditions. She expressed her understanding of Mr. Holloway's frustration.

Mr. Raymer noted that Fat Jack's and Main St. were two (2) businesses located one (1) storefront apart.

Commissioner Stockton stated that City staff would do the necessary research. He believed that there should be restrictions regarding outdoor areas. Any argument regarding a new noise ordinance was moot. He hoped the new ordinance would address noise at a certain distance.

Commissioner Buchanan expressed his opinion that this issue should not be referred to City staff. He was not confident in the City's ability to manage noise. He noted that Fat Jack's believed that it had a competitive disadvantage. Mr. Raymer added that Fat Jack's patrons have requested that the windows be opened. Mr. Holloway stated that this was a frequent request.

Commissioner Buchanan recommended that the restrictions be removed. At this time, he believed that this was the only course action to take.

Commissioner Stockton expressed his opinion that Fat Jack's had not presented a strong enough case to remove the restrictions.

Commissioner Tompkins recommended that this request be laid over until the Commission's December 13, 2011 meeting.

Motion by Commissioner Clapp, seconded by Commissioner Tompkins to lay this request over until the Commission's April 10, 2012 meeting.

Motion carried.

The Commission expressed its hope that the City will have drafted a noise ordinance by this time.

Commissioner Clapp noted the impact of the winter weather.

Commissioner Petersen requested that City staff prepare a list of conditions for the following Downtown taverns: Six Strings located at 525 N. Center St.; Main St. Bar & Grill located at 517 N. Main St.; and Fat Jack's located at 507 - 511 N. Main St.

There being no further business before the Commission, the meeting recessed at 4:27 p.m.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Violation Hearing to order regarding Ma Verhari, Inc., d/b/a Buddy's Liquor located at 806 Eldorado Rd., 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 regarding the sale of alcohol to an underage person. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steven Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk, and Dilip Patel, owner/operator and License holder representative.

Commissioner Stockton opened the liquor hearing and requested that George Boyle, Asst. Corporation Counsel, address the Commission.

Mr. Boyle addressed the Commission. He informed them that the violation occurred on July 21, 2011 at 9:30 p.m. The violation involved the sale of alcohol to an underage person. Evidence would be presented. Mr. Patel would be given an opportunity for rebuttal. Mr. Boyle noted that the violation occurred. The hearing would address sentencing which would include aggravating and mitigating circumstances.

Commissioner Stockton restated that the hearing would address sentencing.

Mr. Boyle called Officer William Wright. Mr. Boyle interviewed Officer Wright regarding the Complaint and Citation. The age of the confidential source had been verified. Officer Wright confirmed when conducting police audits he dressed in plain clothes.

Dilip Patel, owner/operator and License holder, addressed the Commission. He stated that Officer Wright told him that the Ordinance Violation (OV) was not a criminal complaint. He had no questions for Officer Wright.

Commissioner Buchanan noted that Officer Wright had not accompanied the confidential source.

Mr. Boyle called Officer Scott Sikora. Mr. Boyle interviewed Officer Sikora regarding the Complaint and Citation. The Police Department conducted compliance checks. A confidential source went through a background process. The Police Department's vice/criminal section

conducted same. He reviewed the process used and action taken after a sale. An OV was issued for underage sale. He described Mr. Patel as cooperative.

Mr. Patel restated that the ticket was not explained and his action was not criminal. It was his understanding that the person was not a minor.

Officer Sikora had given a copy of the OV to Mr. Patel. He was informed about the violation. Mr. Patel had continued to wait on customers.

Mr. Boyle questioned mitigation involving subsequent compliance checks. Officer Sikora noted that Mr. Patel successfully passed a compliance check on Friday, November 4, 2011.

Mr. Patel addressed the Commission. He presented the Commission with a folder containing letters when Buddy's had successfully passed police audits. In his statement, he noted that he tried hard. He added that at the time of the incident there were three (3) men in the store who he believed had broken a store window. He was unsure of what had happened.

Commissioner Stockton noted letters regarding past police audits which Buddy's had passed successfully.

Commissioner Tompkins did not believe that Mr. Patel was unsure if a citation had been written. The Police Officers testified that a copy of the OV had been given to Mr. Patel. In addition, he had been verbally informed by the Police Officer.

Commissioner Stockton noted that Mr. Patel had not denied the allegation. He questioned if there were any closing comments. He restated that Buddy's had passed a number of compliance checks.

Commissioner Petersen questioned Buddy's employees. Mr. Patel stated that he was the only employee. He restated that he was watching individuals who were in the store at the time of the violation. He believed that they had broken a store window.

Mr. Boyle reviewed Buddy's past violation history. In 2007, the State of Illinois assessed a fine of \$250 for underage sales. In 2008, the City assessed a fine of \$250 and mandated a new cash register which required that the Date of Birth (DOB) be entered into same prior to the sale of alcohol.

Mr. Patel noted that there was an employee at the time of the first violation. He acknowledged that he was responsible for the underage sale in 2008. He had purchased a new cash register.

Commissioner Stockton questioned if the new system required that identification be checked prior to the sale of alcohol. Mr. Patel stated that he had a scanner for Lottery sales. This scanner computed an individual's age. It could be used for liquor sales. Commissioner Stockton referred to the OV. Mr. Patel had not checked the individual's identification. He believed that Buddy's had the equipment. Proof that identification had been checked needed to become part of the sales record. He added that there was no way to prove that the scanner had been used.

Commissioner Buchanan cited his familiarity with this establishment. He cited the video surveillance. Mr. Patel noted that there were twenty-four (24) cameras. He questioned if Mr. Patel had reviewed the record of this sale which occurred on July 21, 2011. Mr. Patel responded negatively. He added that the video was retained for forty-five (45) days. Commissioner Buchanan believed that the Commission had the authority to order Mr. Patel to grant access to the video of the July 21, 2011 sale. Mr. Patel responded affirmatively.

Commissioner Stockton questioned how long the video was archived. Mr. Patel responded that he did not know.

Commissioner Stockton closed the evidentiary portion of the hearing.

The violation hearing recessed to allow the Commission to deliberate in closed session. Time: 5:15 p.m.

The violation hearing reconvened to regular session at 5:30 p.m.

Commissioner Stockton noted that the Commission considered the Findings of Fact and concluded that the sale occurred. The Commission considered aggravating and mitigating circumstances. He noted that Buddy's had successfully passed compliance checks by the City's Police Department. The Commission also noted that Buddy's was not fully utilizing the equipment available. Mr. Patel failed to review the video footage of the sale. Finally it was noted that the DOB was not recorded on sales receipts. There must be better utilization of equipment.

Mr. Patel offered to look into same.

Commissioner Stockton announced the penalty: \$1,000 fine due by December 16, 2011 and a one (1) day suspension on Friday, December 16, 2011. He informed Mr. Patel of his right to appeal which was limited to thirty (30) days.

There being no further business before the Commission, the meeting recessed at 5:40 p.m.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of LSRE, Inc., d/b/a Laugh Comedy Club located at 108 E. Market St., currently holding a TA liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises six (6) days with the following conditions: 1.) that the closing hour on Monday through Thursday shall be 12 a.m. (midnight), and on Friday and Saturday shall be 1:00 a.m.; 2.) that the last call shall be thirty (30) minutes prior to closing time or one (1) hour after the show ends whichever is later; 3.) a cover charge (ticket) will always be applied for admission with a minimum charge of \$10; and 4.) that patrons who arrive after the comedy act starts shall be charged half the face value of the ticket price with a minimum charge of \$5, for the following changes: 1.) that the closing hour Monday through Thursday be 1:00 a.m. and 2:00 a.m. on Friday and Saturday; 2.) allow secondary shows consisting of live music/DJ's following comedy shows; 3.) admission for shows changed to eighteen (18) years of age and older with the following conditions: a.) separate seating for individuals/groups consisting of customers under

the age of twenty-one (21); b.) incorporating wristbands to specifically identify individuals under the age twenty-one (21); c.) individuals under the age of twenty-one (21) will be asked to leave the premise; d.) should music follow a comedy show the showroom will be cleared of alcohol with security personnel posted at the barroom door to limit access by individuals under the age of twenty-one (21); all alcohol will be consumed in the barroom; and e.) additional personal placed in the showroom area with secondary lighting to monitor crowd. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steven Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk, and Adam Weber, owner/operator and License holder representative.

Commissioner Stockton opened the liquor hearing and noted that LSRE, Inc. was held by Mr. Weber and Luke Swanson on an equal basis. Adam Weber, owner/operator and License holder representative, addressed the Commission. He requested that Laugh be granted the same closing hours as the other Downtown bars. He cited a level playing field as the reason for this request. Laugh wanted to add secondary shows. He cited DJ's and bands as examples. Laugh wanted to be accessible to eighteen (18) year olds. Laugh was a destination and not a bar. Ticket sales represented the majority of Laugh's revenue. Laugh was an entertainment venue.

Commissioner Buchanan noted that Mr. Weber needed to clarify this request.

Commissioner Tompkins questioned if this request was critical to Laugh's survival. Mr. Weber responded negatively. He expressed his interest in working with the Commission.

Commissioner Stockton noted Mr. Weber's comments regarding an even playing field. Mr. Weber compared Laugh to other Downtown bars. Commissioner Stockton noted that the Commission and City had made it clear that there was no interest in another Downtown bar. He added that Laugh was established with all parties aware that there was not a level playing field. He noted the informal moratorium on Downtown taverns. The Downtown Entertainment Task Force had expressed its concern regarding the concentration of bars in the 500 - 600 blocks of N. Main St.

Commissioner Buchanan cited his agreement with Commissioner Stockton's comments. He had visited Laugh as a patron and as a Commissioner. Laugh was not close to being another Downtown bar. It was a comedy club that served alcohol. He was familiar with the activities at this establishment. He was pleased to see that the Council granted Laugh a liquor license. He restated his comfort level with its operations and restated that Laugh was not a bar.

Commissioner Stockton restated that there was no interest in evening the playing field with other Downtown bars.

Mr. Weber noted that there had not been any police calls for service and no liquor violations. Laugh wanted to stay open later and offer secondary shows. He added that there were two (2) separate rooms, a showroom and a bar.

Commissioner Petersen questioned occupancy. Mr. Weber noted 197. Commissioner Petersen questioned the bar area's occupancy. Mr. Weber noted thirty to forty (30 - 40). Commissioner Petersen questioned the secondary shows. Mr. Weber restated that there would not be any alcohol in the showroom. Liquor sales and consumption would be limited to the bar area.

Commissioner Buchanan restated that there would not be any alcohol in the showroom.

Commissioner Stockton noted that currently Laugh's closing hour was one (1) hour earlier than the time allowed in the City Code. Laugh hoped to retain customers and expand its business. Mr. Weber added that there would be a cover charge for the secondary shows. Commissioner Stockton noted that Laugh held a "T", Tavern, liquor license. No one under twenty-one (21) years of age was allowed unless accompanied by a parent and/or legal guardian. Laugh has requested that individuals eighteen (18) years and older be admitted to the premise.

Commissioner Buchanan stated that an eighteen (18) year old might come to a show (music). There would be separate seating for those under twenty-one (21) years of age. Mr. Weber responded affirmatively. He planned to seat those under twenty-one (21) years of age separately.

Commissioner Buchanan noted the music would start after the comedy show was over, (10:00 p.m.). No one under twenty-one (21) years of age would be allowed in the bar area. Alcohol would not be allowed in the showroom.

Commissioner Tompkins restated that Laugh currently held a tavern license. Commissioner Stockton expressed his concern establishing a two (2) tiered system.

Commissioner Clapp questioned Laugh's ability to segregate a no alcohol space.

Commissioner Buchanan believed that the City would need to create an "RA", Restaurant, All types of alcohol, liquor license to accommodate this request.

Commissioner Stockton noted that Laugh must have the ability to qualify for same.

Commissioner Tompkins questioned Laugh's ability to qualify for same. Mr. Weber believed that tickets sales at Laugh were close to fifty percent (50%) of total revenue.

Commissioner Petersen noted that currently no one under twenty-one (21) years of age had access. Mr. Weber responded affirmatively. Laugh would document ticket sales. He hoped to add food sales. These ideas would increase revenue. Commissioner Petersen questioned the impact of allowing eighteen (18) year olds to have access to Laugh. Mr. Weber hoped these individuals would come for the comedy show and stay for the music. There would be no charge for the second show. Commissioner Petersen expressed his concern regarding control. He expressed his discomfort regarding the hours. He noted the City's informal moratorium on Downtown taverns. He noted the concentration of taverns in the north end of the Downtown.

Commissioner Tompkins recommended that Laugh apply for a change of classification (to an "R", Restaurant), and be placed on the Commission's December 13, 2011 meeting.



Commissioner Stockton restated that an “R”, Restaurant, establishment with a “T”, Tavern atmosphere would result in the City applying tavern rules.

Commissioner Buchanan stated that post comedy there would be a secondary show. The City could apply tavern rules in the barroom and restaurant rules in the showroom.

Commissioner Stockton instructed the City Clerk to provide Mr. Weber with a copy of Laugh’s original Council memorandum and Liquor Commission minutes. Mr. Weber informed the Commission that Laugh needed to enhance revenue. There would be five (5) comedy shows plus other entertainment. Ticket sales would be tracked separately.

Commissioner Stockton expressed his concern regarding closing time on Thursday, Friday and Saturday nights. He cited the Downtown Entertainment Task Force, (DETF). The DETF had expressed concern regarding the number of people on the street at closing time. This request could expand that number. Any movement towards a tavern would be discouraged. Commissioner Stockton encouraged Mr. Weber to meet with the City Clerk. Laugh could file a request for a change of classification.

There being no further business before the Commission, the meeting recessed at 6:12 p.m.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to consider the application of Bona Fide Thai Cuisine, LLC, d/b/a Bona Fide Thai Cuisine located at 1500 E. Empire Ste. #A1, requesting an RBS liquor license which would allow the sale of beer and wine only by glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steven Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk, and Supakorn Lertmahawong, owner/operator and Applicant representative.

Commissioner Stockton opened the liquor hearing and requested that the Applicant explain this request. Supakorn Lertmahawong, owner/operator and Applicant representative, addressed the Commission. He planned to open Bona Fide Thai on Monday, November 14, 2011. He hoped to offer beer and wine. Commissioner Stockton questioned Mr. Lertmahawong’s experience. Mr. Lertmahawong had been employed as a server at a Chicago area restaurant which held a liquor license. He had also completed BASSETT, (Beverage Alcohol Sellers and Servers Education and Training), training. His managing partner had been employed at Thai House located at 805 Morrissey Dr. This individual had also been BASSETT trained.

Commissioner Stockton questioned Mr. Lertmahawong recent job experience. Mr. Lertmahawong had been employed as a data analyst at State Farm.

Commissioner Petersen questioned if Bona Fide Thai was a new restaurant. Commissioner Buchanan noted that this location was recently known as Na Na Thai. It also was the former location of Tien Tsien.

Motion by Commissioner Tompkins, seconded by Commissioner Buchanan that the application of Bona Fide Thai Cuisine, LLC, d/b/a Bona Fide Thai Cuisine located at 1500 E. Empire, Ste. #A1, 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.

Commissioner Stockton informed the Applicant that this item would appear on the December 12, 2011 City Council Consent Agenda. He encouraged him to attend this meeting.

There being no further business before the Commission, the meeting recessed at 6:20 p.m.

Commissioner Clapp addressed the Commission regarding the draft Downtown Entertainment Task Force (DETF) Recommendation Report, Liquor License Issues, Liquor Commission Review and Responses. She cited the effort by the Liquor Issues Work Group. The focus of the draft report was on the DETF's recommendations. The DETF would meet on November 17, 2011 to review each work groups' recommendations.

Commissioner Stockton requested that the Commission review this document and send feedback to Commissioner Clapp by November 14, 2011.

Commissioner Petersen stated his intention to review the minutes of the Commission's October 25, 2011 Work Session and the draft report.

Commissioner Stockton noted that the following Liquor License applications will appear on the Council's November 14, 2011 meeting agenda: Reality Bites located at 414 N. Main St. for an RAS liquor license and Parkway Liquor located at 2303 E. Washington, Unit 3 for a PAS liquor license. Commissioner Buchanan volunteered to attend the Council meeting.

Commissioner Tompkins noted a letter provided to the Commission regarding concerns raised for the property located at 2303 E. Washington. Commissioner Stockton informed the Commission that City staff would research the claims made and the Applicant would be notified of same. Commissioner Tompkins requested that Parkway Liquor be removed from the Council's November 14, 2011 meeting agenda.

There being no further business before the Commission, the meeting recessed at 6:30 p.m.

Respectfully,

Tracey Covert, CRM, CMC, RMC  
City Clerk