

MINUTES OF THE BLOOMINGTON  
LIQUOR COMMISSION

February 8, 2011

The Bloomington Liquor Commissioner Stephen Stockton called the meeting to order at 4:14 p.m. The following Commissioners were present: Stephen Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins. Also present was City staff: George Boyle, Asst. Corporation Counsel, Robert Wall, Asst. Police Chief, and Tracey Covert, City Clerk.

Commissioner Stockton noted that an attorney from Peoria had called the Commission's meeting into question. He noted that five (5) Council members were present, (Aldermen Fruin, McDade, Sage, Schmidt and Stearns). The issue raised was a possible Open Meetings Act violation. The City's Corporation Counsel Office was instructed to contact the Attorney General's office. Commissioner Stockton expressed his opinion that the Council members would be allowed to remain contingent upon two (2) factors: 1.) no discussion amongst the Aldermen and 2.) no comments addressed at the Commission. He requested that the record reflect that two (2) Aldermen left the meeting until the Commission heard from the Attorney General's office.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to address the notification of change of corporation from Hooters of Bloomington Inc., d/b/a Hooters, located at 409 N. Hershey Rd., 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 to Hooters of Bloomington, LLC. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief and Tracey Covert, City Clerk.

Commissioner Stockton opened the liquor hearing and noted that no one was present to represent the current license holder. The change of corporate ownership was prompted by the death of Robert Brooks. The local restaurant would be held through seven (7) layers of nested LLCs, (HOA Holdings, LLC, Night Owl, LLC, Owl Wings, LLC, Owl Restaurant Holdings, LLC, Hooters Restaurant Group, LLC, Hooters of America, LLC to Hooters of Bloomington, LLC).

George Boyle, Asst. Corporation Counsel, addressed the Commission. He recommended that further documentation was necessary, (liquor license application). This was a significant change of ownership.

Motion by Commissioner Buchanan, seconded by Commissioner Clapp that the notification of the change of ownership for Hooters of Bloomington, Inc., to Hooters of Bloomington, LLC, d/b/a Hooters, located at 409 N. Hershey Rd., 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 be approved contingent upon receipt of the appropriate documentation.

Motion carried.

City staff will provide a liquor license application to the law firm representing Hooters of Bloomington, LLC. Upon receipt and review of same, this item will be placed on a future City Council meeting agenda.

There being no further business before the Commission, the meeting recessed at 4:20 p.m.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to address the request from KPTS Inc., d/b/a Six Strings, located at 525 N. Center 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 allow Chi Omega Sorority to hold a semiformal dance on February 19, 2011 from 7:00 - 10:00 p.m. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief and Tracey Covert, City Clerk, and Daniel Rolph, Six Strings' owner/operator and License holder representative.

Commissioner Stockton opened the liquor hearing and requested that the License holder address the Commission. Daniel Rolph, Six Strings' owner/operator and License holder representative, addressed the Commission. He requested consideration by the Commission to allow him to host fraternity and sorority functions. He requested the ability to rent Six Strings to host these social functions. Currently, Six Strings holds a "T", tavern liquor license which meant that no one under twenty-one (21) years of age was allowed on premise unless accompanied by a parent and/or legal guardian. Fraternities and sororities had limited options on where to host their events. He added that there have been times when they have used establishments with "R", restaurant liquor licenses. He believed that restaurants were uncontrolled environments which lacked a security presence.

He had formed a new corporation, SAFE, (Sorority and Fraternity Events). He requested that the City/Commission give consideration to a special license classification. He recommended a license fee of \$250. A license holder would not be eligible for same if there had been a liquor violation within six (6) months prior to the event. He cited the potential for additional sales tax revenue. The Police Department would be informed of the event and could spot check same. He believed that his proposal was a better solution. Chi Omega had rebooked their event at Station 220. He restated that a restaurant lacked security personnel. He again requested consideration. This action would assist his business. He cited Illinois State University's (ISU) concerns regarding liability.

Commissioner Stockton noted that some good points had been raised. The Council would consider the formation of a Downtown Entertainment Task Force at their February 14, 2011 meeting. The task force's membership would include the BNCCC, (Bloomington Normal Community Campus Committee), and a student government representative from ISU and IWU,

(Illinois Wesleyan University). He encouraged Mr. Rolph to put his thoughts into writing and present them to the task force. Mr. Rolph noted that his goal for today was to start the thought process.

The Commission reached a consensus that Mr. Rolph should address his idea to the Downtown Entertainment Task Force, (in writing).

There being no further business before the Commission, the meeting adjourned at 4:26 p.m.

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

Commissioner Stockton informed those present that the Violation hearing for Europe, Inc., d/b/a Chasers, located at 110 W. Washington 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, had been removed from the agenda. This item had reached a settlement prior to today's hearing.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the application of Tailwind BMI, LLC, d/b/a Tailwind Deli, News & Gifts, located at 3201 CIRA Dr., requesting 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 Steve Stockton, Richard Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief and Tracey Covert, City Clerk, and Jess Backhaus, Operations Manager and Kevin Scott, General Manager, and Applicant representatives.

Commissioner Stockton opened the liquor hearing. He stated that this hearing would be de novo, (starting over). He added that an objection was raised due to the number of Council members present, (Aldermen Fruin, McDade, Purcell, Sage and Stearns). The Illinois Attorney General's Office has confirmed the City's Corporation Counsel Office's opinion that as long as the Council members do not participate in the hearing, (no speaking/discussion), their presence was allowed. He stated that there would not be any input/discussion by Council members. He requested that the Applicant explain this request. Jess Backhaus, Operation Manager and Applicant representative, addressed the Commission. He introduced Kevin Scott, Tailwind's General Manager. Mr. Scott was a life long resident of the County and resided in Normal. He had been employed as Tobin's General Manager.

Mr. Backhaus informed the Commission that Tailwinds opened on the airport's air side (post security) on December 10, 2010. It offered a full menu with coffee service. He cited that the question of need for a liquor license was cited as a reason for denial. He presented the Commission with a petition/customer survey. He added that the voice of air passengers went beyond the City. The petition included the individual's name, location and a comments field. The survey was presented when a customer's requested an alcoholic beverage. In two (2) weeks, approximately 200 individuals had signed same. A petition was also placed in the land side (pre

security) gift shop. Eight (8) signatures had been collected. Only two (2) individuals signed no. Mr. Backhaus read the petition/survey. Tailwind's was pleased to have the opportunity to readdress the Commission. This application was larger than a local issue.

Commissioner Stockton questioned Mr. Scott's experience. Mr. Scott addressed the Commission. He had been employed at Tobin's for ten (10) years. He described his career as general management in the restaurant field. He cited his thirty-five (35) years of experience. He added that Tobin's held an RBS (Restaurant, Beer & wine, Sunday sales) liquor license. Commissioner Stockton questioned if there had been any violations at Tobin's during his tenure. Mr. Scott responded negatively. Tobin's had a strict liquor service policy. Liquor service had to accompany food sales. Tobin's also used different colored glasses for beer, pop and water. He cited challenging weekends such as Illinois State and Illinois Wesleyan Universities' homecomings.

Commissioner Stockton questioned Tailwind's application and if there were proper procedures to handle liquor sales. Mr. Scott cited Tailwind's 100% identification check policy. In addition, there was a four (4) drink maximum regardless of delay time. Tailwind provided responsible liquor service. The company was aware of the fact that this service was offered post security.

Commissioner Stockton noted that generally there were short boarding times. He cited the potential impact of four (4) drinks. Mr. Scott added that individual drink sales were spaced out, (fifteen to thirty minutes apart). He defined a drink as one (1) beer, one (1) glass of wine, and/or one (1) ounce of spirits. There was no reason for air passengers to sit and drink. He had completed the STEPS, (Safety Training to Encourage Profitable Services), program and become a certified trainer through Chestnut Health Systems. He would be providing STEPS training to Tailwind's employees. Commissioner Stockton questioned if this training would occur prior to an employee being authorized to provide alcohol service. Mr. Scott responded affirmatively. Failure to check identification prior to a liquor sale resulted in immediate termination. Tailwind's employees were instructed to check everyone's identification regardless of business volume. Tailwind's staff was trained to follow company policy/procedures. Mr. Backhaus informed the Commission that this policy was set in place in the last two (2) years.

Commissioner Stockton questioned Tailwind's physical layout. There was a bar area. Mr. Scott noted that signs would be posted. Alcohol would remain within the restaurant. It would not be allowed to leave the premise. Air passengers may have to surrender their beverages. Tailwind would contact the McLean County Sheriff's Deputy on duty if necessary. Commissioner Stockton noted that the Bloomington Normal Airport Authority, (BNAA), had a contract with the McLean County Sheriff's Department for additional airport security. Mr. Scott added that Tailwind's had direct contact with the deputy on duty within the airport. Commissioner Stockton questioned if the deputy's on duty station was located on the air side.

Mr. Scott stated that liquor service would occur behind the bar area. Tailwind's offered seven to eight (7 - 8) bar stools. Identification would be checked. The alcoholic beverage must stay within the restaurant. There was only one (1) entrance. Customers would be made aware of this restriction through staff communication and signage.

Commissioner Stockton noted that the area under lease terminated at the concourse. Mr. Backhaus stated that there was a transition line, (Tailwind's flooring was tile, the airport's concourse was carpeted). Commissioner Stockton noted that there was a leased area on the air side. Mr. Backhaus added that there also was a standing bar. Commissioner Stockton questioned the defined area of the premise. He recommended that the kitchen area be excluded.

Commissioner Tompkins questioned the viability of the business without liquor sales. Mr. Backhaus noted the loss of food sales without liquor service. Tailwind's business model was built off the experience at other airports of similar size. Operating Tailwind without a liquor license would be difficult.

Commissioner Buchanan noted that Tailwind had a retail area. He cited the BNAA's RFQ (Request for Qualification) process. Tailwind's response included space on the land and air sides of the airport. He questioned if Tailwind's plan included "P", Packaged, liquor sales at the land side's retail space. Mr. Backhaus responded negatively.

Commissioner Clapp questioned Tailwind's other locations. Mr. Backhaus stated that Tailwind operated in three (3) different states, (North Carolina, Florida and Tennessee). A single violation had occurred at the facility located in North Carolina, (NC). It involved underage sales. Tailwind appeared before the NC state liquor board and paid a fine. All of Tailwind's staff had gone through the state's two and a half, (2½), hour class and been certified. Tailwind had held this license for five (5) years. There had been no further violations. The company also changed its policy, (check identification for all liquor sales).

Commissioner Clapp questioned if there were other alcohol service issues. Mr. Backhaus responded negatively. He added that all airports had a variety of security options.

Commissioner Petersen questioned the Applicant's answer to Items 1(e) and 1(k) on the Liquor License Questionnaire, (1. Legal Requirements). He noted that both questions were answered affirmatively. Mr. Backhaus believed that there had been a misunderstanding. The only violation had occurred at the NC airport.

Commissioner Stockton stated that the application would be amended. The answer to Item 1(e) would be no. The answer to Item 1(k) would note the NC liquor violation. There were two (2) separate corporations with common ownership.

Commissioner Stockton cited the original application. He noted that construction had commenced prior to the liquor hearing. The Commission admonished applicants to not make any assumptions regarding the granting of a liquor license. He questioned why construction had been started.

Mr. Backhaus informed the Commission that Tailwind was awarded the bid. The space involved was the former vending machine lounge. A complete built out was required. The BNAA required Tailwind to be open by the holidays. A lease was needed to file the application. Tailwind recognized that a liquor license was a privilege. Tailwind held liquor licenses at other airports in three (3) different states. Tailwind had a good record. He provided a brief history of

the company. Tailwind believed it could earn the City's trust and felt confident in its ability to be granted a liquor license. The lease was signed in September 2010. The original goal was to open by Thanksgiving 2010. Tailwind opened on December 10, 2010.

Commissioner Stockton questioned if anyone had lead Mr. Backhaus to believe that a liquor license was guaranteed. Mr. Backhaus stated that this was not a factor in Tailwind's application. Tailwind had never been denied a liquor license.

Commissioner Petersen questioned Tailwind's history. Mr. Backhaus stated that the company began in 2001 in Aspen, Colorado. Tailwind moved to Wilmington, NC in 2005. Commissioner Petersen noted the process that Tailwind had gone through, (BNAA to the Liquor Commission to the City Council). He questioned if the process at Tailwind's other locations were similar. Mr. Backhaus responded affirmatively with the exception of the approval of the City Council.

Commissioner Buchanan noted that the BNAA had sent representatives to address the Commission.

Commissioner Tompkins questioned if Tailwind had joined any business organizations. Mr. Backhaus informed the Commission that Tailwind planned to join the McLean County Chamber of Commerce.

Commissioner Stockton stated that the technical standards had been met. He addressed the issue of need. He cited the petition with air passenger signatures which had been submitted. He questioned if the Applicant had any other testimony. Mr. Backhaus cited TSA, (Transportation Security Administration) standards. He cited the liquid ban as an example. The TSA's regulations were becoming even more stringent. Business travelers expect food and beverage service post security. This service included the availability of alcoholic beverages. He cited Tailwind's experience at its FL location. He expressed his belief that there was a definite need post security for air passengers. He noted Tailwind's investment, (air side - \$330,000 and land side - \$70,000), estimated at \$400,000. On the land side the gift shop had already been built out.

Commissioner Stockton questioned the revenue projection for alcohol sales. Mr. Backhaus cited liquor sales were estimated at thirteen to twenty percent, (13 - 20%). The majority of sales would come from food sales. Tailwind had seen lost food sales. There was no fair comparison. Tailwind would be a restaurant with a small bar. Commissioner Stockton noted that a food purchase was not required to purchase an alcoholic beverage. He questioned the business hours. Mr. Backhaus stated that staff arrived at 4:30 a.m. Tailwind opened at 5:00 a.m. and remained open until the last out going flight left, (7:00 - 8:00 p.m.). Tailwind would remain open an additional hour for a delayed flight. Tailwind was closed by 9:00 p.m. Tailwind would make adjustment to its business hours as needed by the BNAA.

Commissioner Stockton noted that Tailwind did not plan to offer entertainment. He added that the Hanger held a liquor license on the airport's land side. He questioned interaction/competition between the two (2) businesses. Mr. Backhaus cited the possibility of air passengers visiting both facilities. He believed that the two (2) businesses operated in two (2)

separate markets. Tailwind's staff must be responsible and use common sense when handling liquor sales.

Commissioner Petersen questioned when the Applicant understood the City's process. Mr. Backhaus arrived in August 2010. He had remained here for four (4) months. He reviewed the City's alcoholic beverage code and picked up a liquor application packet in September/October 2010.

Commissioner Petersen questioned if at other airports where Tailwind operated if it was the only air side establishment. Mr. Backhaus stated that Tailwind was the only establishment on the air side. Two (2) airports offered additional food and beverage services. One (1) airport was smaller. Tailwind would be opening two (2) additional facilities, (one at a same size airport and the other at a smaller one).

Commissioner Tompkins noted that this was the first time that Tailwind needed Council approval. Mr. Backhaus responded affirmatively. All other applications were addressed before a state's liquor commission.

Aaron Quick, BNAA board member, addressed the Commission. He introduced the other board members present, Dave Colee and Earl Kingman, Carol Olson, Executive Director, and Bill Wetzell, board attorney. CIRA (Central Illinois Regional Airport)/BNAA was a municipal corporation and a regional entity. It was created by referendum in 1964. There was a seven (7) member Commission. Each commissioner served five (5) year terms. The make up of the Board was as follows: City - two, Town of Normal - two, and McLean County - three. One third of the airport's operating revenues came from taxes. The BNAA had never raised its tax rate. The remaining two thirds of the airport's revenue came from businesses at the airport. The airport was a regional facility. Its growth was well documented. Air passengers had increased by thirteen percent, (13%) from 2009 to 2010.

He reviewed the daily flight service at the airport. Fifty-five percent (55%) of air passengers drive twenty-five (25) miles or more. Twenty-five percent (25%) of air passengers were from Bloomington/Normal. The airport was important to the community. Businesses were looking for locations with vibrant community airports. This was a business requirement. The BNAA provided a variety of services. There were 125 leases at the airport. The airport's staff must administer these leases. They were a major source of revenue. Customer expectations were addressed. He cited food and beverage service which included alcohol post security. This was becoming a standard practice at airports. Various airports were cited which offered alcoholic beverages post security. Security at airports had become a boundary. The airport retained private security. In addition, there was an intergovernmental agreement with the County Sheriff's Department to address security. There were no issues with the airlines regarding alcohol service post security.

Commissioner Stockton questioned if there had been security incidences with intoxicated passengers at the airport. Mr. Quick responded that perhaps once a year a passenger was not allowed to board. This was one of the reasons why the airport had security. The board required that the concessionaire's be trained.

Dave Colee, BNAA board member, addressed the Commission. He had been a resident of the City and/or Town of Normal since 1968. He had recently retired from State Farm. The TSA security check point was a barrier, (physically and functionally). The business traveler was a post security purchaser. There was no interest to cycle back and forth due to the need to be rescreened. From a business perspective, the airport offered the lowest airfares outside of Chicago. He cited the Air Tran, the airport's low cost carrier since 1997. Air Tran would soon become Southwest. The BNAA offered low airport fees and a competitive cost structure. Food and beverage sales including liquor on the land and air sides were important to the airport.

Commissioner Stockton noted that companies wanted an airport. It was important to his former employer. Mr. Colee stated that State Farm represented one third of the airport's passengers. The board was attempting to give its passengers what they wanted on both the land and air sides. These services were also important to the individual traveler.

Commissioner Stockton noted that distance and fares were important. Mr. Colee noted that total sales at the airport (including liquor) helped to keep fares low.

Commissioner Stockton questioned diversions. Mr. Quick noted that travelers have choices. The airport must be customer oriented. It was a competitive industry. Liquor sales were an important issue to the board. The board had passed a resolution. Diversions were due to inclement weather. Planes land at the airport for layovers. The airport offered these passengers amenities. These actions assisted the airport to build relationships with other airlines.

Commissioner Tompkins noted that the airport was the gateway to and from the community. He cited comments made on Tailwind's petition. Mr. Quick noted that the airport was not offering the amenities they were use to.

Commissioner Petersen questioned if there was an out cry for liquor service post security. Mr. Quick restated that the Board was in the process of responding to customer requests. Commissioner Petersen questioned if offering liquor service on both sides, (land and air), would result in viable businesses. He believed that this action might eliminate a business. Mr. Quick stated that the Board had the assistance of airport experts. The board considered the entire airport and performed due diligence.

Commissioner Clapp questioned the percentage of business to leisure travelers. Carl Olson, Executive Director, addressed the Commission. Generally, the ratio was 60:40. These figures differed during the holidays. He noted that in February 2011 flights to Ft. Myers, FL would be offered. He anticipated that these flights would be used for leisure travel.

Mr. Olson reviewed/recapped the Board's process for solicitation and award. The process was driven by customer requests. On the air side providing services that the customers want was important. The study began in 2008. CIRA was bench marked against other airports. An RFQ was developed in line with the FAA's, (Federal Aviation Administration), policies. It was an open process. The existing concessionaires were invited to submit a proposal. In addition, the board placed local and national advertisements. Three (3) proposals were received. A committee was formed to review, evaluate and rank the proposals. Tailwind's proposal was



ranked number one. Tailwind submitted a strong proposal. The Hanger's proposal was incomplete. He cited various items that were missing. This included the food and beverage portion. The Hanger's ownership acknowledged that their proposal was incomplete.

Tailwind exceeding all deadlines. He cited the company's investment at the airport. The airport had received positive feedback from its customers. He addressed Tailwind's application for a liquor license. At the board's September 2010 meeting, the lease was authorized with an opening date December 2010. Tailwind appeared before the Commission on November 9, 2010. The board drove the process. Packaged sales would not be allowed on the land side. In addition, under Tailwind's lease with the BNAA packaged sales were not allowed. Liquor would be controlled on the air side. The area was well defined by the finishes and the lone entrance. There were no issues with the Hanger. It had been a good tenant. The airport had good support from local law enforcement.

Commissioner Clapp questioned the board's evaluation criteria. She also questioned if a quantitative methodology had been used. Mr. Olson noted that a spread sheet had been prepared by the airport's consultant. Upon review of same, it was easy to determine the best submittal. An RFQ process was used and not a competitive bid. Airport staff negotiated the lease terms, (rates/charges).

Commissioner Stockton questioned if liquor could be a detriment in the airport. He cited disturbances and the impact upon air passengers. Mr. Olson did not believe that there was a negative impact. There was a short time frame prior to boarding. It was an airport. Tailwind and the airport were businesses. Liquor sales would not be an issue. The dynamics were the same for both markets, (land and air).

Commissioner Stockton cited the potential for delay. Mr. Olson stated that passengers would make a decision based on the flight schedule. Passengers would need to leave the air side if they needed to rebook on to another flight. Passengers may remain or leave the airport.

Commissioner Tompkins noted that the airport had two (2) tenants and two (2) markets. He questioned if both would survive. Mr. Olson believed there was the opportunity for both businesses. Air traffic was growing. The Hanger was located in the free zone and offered a sit down menu. Tailwind was located on the air side. It offered a grab and go menu. He presented the Commission with a copy of the RFQ plus the three (3) submittals. These documents were entered into the record.

Commissioner Buchanan requested that Mr. Olson contrast the airport's arrangements (leases) with the Hanger and Tailwind. Mr. Olson cited past leases were based on square footage. Today, there was a different rate structure. The airport received a percentage of gross sales. Tailwind's food preparation area was based on square footage. The retail area was based upon a commission rate. The food and beverage sale area was based upon percentage. In addition, there was an annual minimum guarantee. The current industry standard was based upon a complicated formula. It was a cooperative arrangement which offered advantages to both parties.

Commissioner Stockton questioned TSA policy. Mr. Olson noted that air passengers recycling through security were frowned upon. He cited the impact upon work load. At this time, there was not an official policy.

Bill Wetzel, 115 W. Jefferson, BNAA's attorney, addressed the Commission. He was present in support of Tailwind's application. The project had developed over time. The facts did exist to support the application. He requested that the Commission support same.

Mr. Quick readdressed the Commission and entered into the record the BNAA's Resolution 2011 - 1, Request for Cooperation with the City of Bloomington.

Commissioner Stockton opened the hearing to public comment.

Brian Mooty, attorney with Kavanagh, Scully, Sudow, White, 301 SW Adams St., Suite 700, Peoria, IL, addressed the Commission on behalf of Hubbard and Davis, Inc., d/b/a The Hanger, located at 3201 CIRA Dr., Suite 110, currently holding an RAS, (Restaurant, All types of alcohol, Sunday Sales), liquor license. He cited his procedural objection to the hearing, (number of Council members present). He claimed that a Freedom of Information Act, (FOIA) request had been filed for Tailwind's reapplication. (*Upon a review of the FOIA database, no request was found.*) He cited the Council's December 13, 2011 seven to one, (7 to 1) vote to deny Tailwind's original application. There were interested parties beyond The Hanger's ownership. He noted that Tailwind reapplied within weeks. He questioned if the City had charged Tailwind the application fee. (*See receipt number 14145C dated January 27, 2011 in the amount of \$300.*) Tailwind had submitted a new application.

Mr. Mooty major concern addressed procedural issues. He noted that more than one (1) Council meeting had passed and therefore this item could not be brought back before the Council. He cited that Tailwind had been granted liquor licenses in other states. The City had the authority in this matter and should not rely upon another unit of government. The City had no provisions for LLC as applicants within its code. An LLC was a separate legal entity. He compared LLCs to partnerships. He cited membership and agreements as examples. There was a separate act for LLCs. He expressed his opinion that technically and LLC could not hold a liquor license. He questioned the responsible party. He added that Tailwind's application was insufficient. There was not a local employee.

He questioned if criminal background checks had been done. He believed that additional inquiry was needed regarding the criminal felony question. Tailwind had failed to demonstrate that the company had a clear criminal history. He questioned if the City could enforce a liquor license issued to this company. He also questioned who would be the responsible party for the license and the City's actions if a violation occurred. He questioned if a criminal background check had been performed on Tailwind's General Manager. He noted that Mr. Scott had recently been hired.

Mr. Mooty directed his comments to the BNAA. He questioned the legality of its actions. He believed that the BNAA had violated the Open Meetings Act (OMA) by failing to post its agendas and minutes on its web site. He questioned the actions and conduct of the BNAA. He

added that its failure to post agendas and minutes made it difficult for him to conduct his research.

He again raised the question regarding the presence of Council members which he believed was a violation of the OMA. He also questioned the BNAA's preparation of this meeting. He noted that the RFQ did not specifically mention liquor sales. He also cited the BNAA's new lease provisions. The Hanger paid a flat rent and made timely payments. Other concessionaires had gone out of business. He believed that the percentage rate was fairer. The market was not there. He described the Hanger's sales as marginal. He noted Tailwind's short market, (thirty minutes). Most lease holders paid little to no rent. He also claimed to have filed a FOIA request for Tailwind's financial records. He questioned the claim that Tailwind had invested \$400,000. This figure equaled \$1,000 per square foot. He did not believe this claim. He encouraged the Commission to look to the necessity for the liquor license. The Commission needed to trust and verify the information presented. He encouraged the Commission to file a FOIA with the BNAA to verify that lessees were in arrears. He questioned the true impact of this application on the City. Businesses under stress cut back on proper training and staffing levels. He questioned Tailwind's ability to handle liquor sales.

Commissioner Stockton noted that the RFQ provided some latitude. The Commission had seen businesses with marginal operations and the detrimental effects.

Mr. Mooty expressed his opinion that the City's rules were lacking. The current concessionaire was under stress. Tailwind was an out of town concessionaire with remote management. He questioned profitability. There were important salient points such as the appropriateness of the application and the necessity of the liquor license. He reminded the Commission that he had not received a response from the BNAA to his FOIA's request. No new information had been raised. He questioned the business' sophistication and if the lease was contingent upon obtaining a liquor license. Tailwind believed that a liquor license would be granted. This fact was assumed at the time of application. Tailwind believed that their application would be accepted. He cited the Council's December 13, 2010 vote. A decision had been made. The Council did not return the application to the Commission. In his opinion, based upon Tailwind's application, any applicant could reapply. He recommended that the Commission deny the application.

Commissioner Tompkins noted that the City's code allowed an applicant to reapply. Mr. Mooty stated that other applicants had been informed that they could not reapply for six (6) months. He believed that something was materially different with this application. He again requested that the Commission vote no.

George Boyle, Asst. Corporation Counsel, addressed the Commission. This was a new application. Tailwind was not prohibited from reapplying. He addressed the LLC issue. He had drafted a memorandum to the Council dated December 1, 2010. The City treated an LLC like a corporation. A number of issues raised by Mr. Mooty were not relevant in the City. An LLC was not precluded from applying. He acknowledged that LLCs were under a different act. Both were treated similarly by the state and the state's Liquor Control Commission. It was a Commission decision. Local control was provided by the responsible party, (General Manager).

Commissioner Buchanan expressed his opinion that it would be impractical to address Mr. Mooty's objections this evening. Mr. Mooty responded that it was incumbent upon him to raise the issues.

Commissioner Stockton believed that the LLC versus incorporation issue had been clarified. The Commission allowed for corrections/amendments to applications. Mr. Mooty believed that the issue went beyond correction. The Commission should have required more of an explanation for its consideration.

Commissioner Stockton addressed Tailwind's General Manager. This individual was a resident of the county.

Commissioner Petersen expressed his opinion that the whole process was unusual. He questioned the number of weeks that had passed since Tailwind first appeared before the Commission. (*First appearance was on November 9, 2010.*) The Commission's vote was four to two (4 to 2) in favor of the application. The Council's vote was seven to one (7 to 1) to deny the application. The Council did not return the application to the Commission. There were concerns and inconsistencies. He noted the potential impact upon a local business that also had made an investment. The Commission's vote would be forwarded on to the Council.

Commissioner Stockton restated that this hearing was de novo. The BNAA had the authority to enter into a lease with Tailwind. The Commission had never made a request of other landlords as to the reason for a lease. Tailwind had been approved as a tenant by the BNAA.

Commissioner Petersen restated his concern regarding Tailwind's inconsistency. He cited the answer to Item 1(e) and the LLC as examples. Commissioner Stockton noted that an applicant must inform the City as to the entity applying for a liquor license.

The Commission recessed from 6:35 p.m. until 6:55 p.m.

Mr. Boyle addressed the Commission. Tailwind was an LLC. He referred the Commission to his December 1, 2010 memorandum. The LLC was held by a lone member. There was a local responsible party.

Commissioner Stockton added that the City has allowed LLC to hold liquor licenses. There was a number of City liquor licenses currently held by an LLC. (*The City currently had an estimated forty liquor licenses held by LLC.*) There had not been any problems. He addressed standards for creation and the factors to be considered. (See Chapter 6. Alcoholic Beverages, Section 4B. Creation of New License, (b)(1) - (14). He specifically cited Items (5)(h) and (i), location of proposed establishment and probable impact upon surrounding neighborhood or City as a whole, (h) extent other businesses are licensed to sell liquor at retail in the area and (i) whether and what types of liquor proposed for sale in single serve sizes for off premise consumption.

Mr. Mooty stated that this application was not necessary for local individuals. It would be a convenience for travelers. The Commission was not compelled to approve this application.

Commissioner Stockton addressed any liquor license which was awarded. He cited restaurants which viewed a liquor license as a necessary public convenience. The Commission believed that the market place would decide. These same standards had been applied to the Hanger.

Mr. Mooty noted the finding by the Council. He acknowledged the unique circumstance, (airport). He expressed his belief that both businesses would suffer. There was a lack of business at the airport. In addition, Tailwind was an out of town business.

Commissioner Stockton noted that a large number of City liquor licenses had been issued to out of town firms. In addition, there were a number of licenses issued to LLCs. He noted the Commission's agenda for February 8, 2011 which cited two (2) LLCs.

Mr. Mooty questioned the applicant. The Commission needed to act in a consistent manner. The application needed to be justified and necessary.

Commissioner Stockton noted that the Hanger also had facilities at the General Wayne A. Downing Peoria International Airport. Mr. Mooty acknowledged that the Hanger was that airport's operating concessionaire. The Hanger was the only one, (both land and air sides). He restated his belief that there would not be enough business at CIRA. Commissioner Stockton noted that the Hanger was an out of town operator in Peoria. Mr. Mooty stated that the Hanger stood on its reputation. It conducted business in both cities.

Commissioner Stockton questioned the relevancy of Tailwind being an out of town application. He readdressed the question of necessity and impact on the area. Mr. Mooty questioned Tailwind's operational structure. He described Tailwind as a whatever organization. He questioned if the applicant's file was complete. He questioned the City's power of enforcement. He expressed his opinion that an applicant must file all the necessary originating documents before an application is advanced.

Commissioner Stockton provided the applicant with an opportunity for rebuttal. Mr. Backhaus readdressed the Commission. Tailwind filed a new application and the filing fee was paid. Commissioner Stockton noted that the file had been reviewed. At an earlier date, a corporation had been established and dissolved. The applicant was an LLC.

Commissioner Stockton questioned the BNAA's lease and if the lease payment had been reduced. He noted Tailwind's business plan anticipated liquor sales. Mr. Olson readdressed the Commission. Tailwind anticipated liquor sales would equal fifteen to twenty percent (15 - 20%) of total sales revenue. The BNAA required that the facility be ready by the holidays. The BNAA had temporarily reduced the concessionaire rate until April 30, 2011.

Commissioner Stockton noted the issue of necessity, (see Chapter 6. Section 4B.(a)). Mr. Quick readdressed the Commission. There were a number of reasons why the BNAA believed that a liquor license was necessary. He restated that only twenty-five percent, (25%), of all travelers were City residents. Air passengers want this service post security. CIRA was vibrant airport. It was good for the City's taxpayers. He cited CIRA's competition - General Wayne A. Downing Peoria International Airport. There also was the issue of economic development. CIRA offered

low passenger fees which allowed it to attract air services. Business operation revenues were critically important to the airport. The airport currently held 125 leases. The airport was a gateway to the community. The BNAA needed the City's cooperation to operate the airport.

Commissioner Stockton closed the public comment portion of the hearing.

Commissioner Buchanan cited the preference for a local firm. He was glad that there had been a second hearing. He was pleased to learn about the process used by the BNAA. The approach used was professional. He had reviewed the RFQ submittals. He believed that the Commission had reached a conclusion.

Commissioner Clapp agreed that it had been a learning experience. The process had been interesting. She added the Commission rarely received this much information. She believed that Tailwind had demonstrated need. The Applicant had met the standards/requirements. She hoped that both businesses do well. She was a Hanger customer. The case had been made.

Commissioner Stockton noted the level of scrutiny. He added that questions had been raised by the Commission and public. There was testimony regarding the Applicant's background. All issues raised were not relevant to the factors listed in the City code. In broad terms, he described the process as largely subjective. The Commission considered all input provided.

Commissioner Petersen believed all had learned something through this process. He had a better appreciation for the role and responsibilities of the BNAA. CIRA was a fine facility. It was a gateway to the City. Good comments had been made by the Hanger's legal counsel. The Commission would report to the Council.

Commissioner Stockton questioned if the Police Department had any concerns. Bob Wall, Asst. Police Chief, addressed the Commission. He responded negatively.

Motion by Commissioner Buchanan, seconded by Commissioner Clapp that the application of Tailwind BMI, LLC, d/b/a Tailwind Deli, News & Gifts located at 3201 CIRA Dr., requesting 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 be approved with the following condition: 1.) the City's Corporation Counsel review the Applicant's file for completeness.

Ayes: Commissioners Stockton, Buchanan, Clapp and Tompkins.

Nays: Commissioner Petersen.

Motion carried.

Commissioner Stockton informed the Applicant that this item would appear on the February 14, 2011 City Council Consent Agenda. He encouraged them to attend this meeting.

There being no further business before the Commission, the meeting adjourned at 7:25 p.m.

Respectfully,

Tracey Covert, CRM, CMC, RMC  
City Clerk