

WORK SESSION
Liquor Commission
September 18, 2012

Commission Present: Steve Stockton, Rich Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins.

Commission Absent: Mark Gibson.

Staff Present: George Boyle, Asst. Corporation Counsel, and Tracey Covert, City Clerk.

The Work Session was called to order at 11:40 a.m. Commission Stockton stated that there would not be any motions. He introduced the topic – Proposed Entertainment “E” and Qualified Restaurant “Q” license classifications. He had prepared an Initial Draft for Preliminary Discussion Purposes Only. This draft did not represent a finished product. This meeting provided the Commission with the opportunity to discuss same. He presented the time line. The Public Hearing was scheduled for Thursday, September 20, 2012. He hoped that the final draft would appear on the Commission’s October 9, 2012 meeting agenda. The goal was to place a Text Amendment to Chapter 6. Alcoholic Beverages on the City Council’s October 22, 2012 meeting agenda.

Commissioner Buchanan expressed his opinion that the Commission would have to work hard to achieve this goal.

Commissioner Tompkins recommended that the final language be drafted after the September 20, 2012 Public Hearing and the Text Amendment be placed on the Council’s October 8, 2012 meeting agenda. Commissioner Stockton expressed his preference for the October 22, 2012 Council meeting. He wanted the final draft to be put out for the Commission’s and the public’s review. The focus would be on the Council’s October 22, 2012. He hoped the Commission had reviewed the draft document.

Commissioner Stockton address the current class “R”, Restaurant and “T”, Tavern liquor licenses. The Commission has used these two (2) license classifications and added conditions as modifications to address specific neighborhoods. He noted that there were some applications where these two (2) classifications did not fit. He cited bowling alleys, the Castle Theater located at 209 E. Washington; Elroy’s located at 102 W. Washington St., and the US Cellular Coliseum (USCC) located at 101 S. Madison St., as examples. Conditions have been used to tailor a liquor license to its location. The Commission has heard that there should be no conditions. Others have called for new classifications with additional specificity.

Commissioner Buchanan noted the variety of neighborhoods throughout the City. Conditions were needed to make liquor licenses acceptable.

Commissioner Stockton expressed his opinion that conditions may still be necessary in some instances. The City was growing. The Downtown represented a unique

entertainment district. The City was also a college town. There needed to be places for individuals ages eighteen to twenty, (18 – 20), years old to go. He addressed the E classification which would require separate areas with a “no alcohol” zone. He cited the USCC’s family area as an example. In addition, the Q classification meant that the establishment would qualify for an R liquor license. Currently, an R license required that the business’ accounting show less than fifty percent (50%) liquor sales. He noted that there currently were R licensed establishments whose atmosphere was similar to a tavern. The Q license classification meant that the establishment would operate as a restaurant during the day. At night, there would be additional restrictions. He cited no one under twenty-one (21) years of age as an example. He cited the City of Champaign which allows under twenty-one (21) year olds to be present in taverns. He would not support same.

Commissioner Clapp questioned how other cities with coliseum type venues had issued liquor licenses. Commissioner Stockton noted that the applicant selected the license classification at the time of application. He added that the family seating at the USCC was located in the northwest corner of the building.

Commissioner Petersen questioned which Downtown liquor license holders might apply for a class E or Q liquor license. Commissioner Stockton cited Laugh Comedy Club located at 108 E. Market St., as a potential class E. The license holder’s plan called for a bouncer as the means for separating the patrons by age. The draft proposal called for a physical barrier. A staff person could be called away from a doorway. No one would be aware of same. The Castle Theater had two (2) separate floors.

Commissioner Buchanan added that no alcohol was sold and/or consumed in the balcony. He cited the years of experience on the Commission. He cited existing liquor licenses holders as examples. He noted various issues addressed by the Commission: USCC’s private suites, bowling alleys, Laugh Comedy Club, and hotels/motels. He addressed the Qualifying Factors for a class E. He questioned the rationale for the “no more than sixty/seventy percent (60 – 70%) of all revenues . . . derived from alcoholic beverage sales or legal gambling”. He added the Town of Normal’s claim that it did not have any taverns. The Town requires an establishment to have a functioning kitchen. He noted the Council’s concerns regarding T liquor licenses.

Commissioner Stockton noted that one of the Qualifying Factors for the class E would be the percentage of alcohol sales.

Commissioner Clapp questioned if the sixty percent (60%) was aimed at bowling alleys and the seventy percent (70%) was aimed at Laugh Comedy Club.

Commissioner Stockton noted that the percentages were more liberal than that of an R license classification, (fifty percent/50%). The class E addressed establishments that offered live entertainment. He cited a jazz club as an example. He added that class E might have a cover charge in addition to liquor sales.

Commissioner Tompkins added that an applicant/license holder could decide to be more restrictive. He restated that the percentage of liquor sales for restaurants was fifty percent (50%). The class E would encourage businesses that did not offer a full kitchen. He cited entertainment venues.

Commissioner Petersen requested the basic description of a class R versus a class T.

George Boyle, Asst. Corporation Counsel, addressed the Commission. He cited Chapter 6. Alcoholic Beverages, Section 7A. Classification, (13) "RA" and (14) "RB". A class R addressed gross sales for tangible items other than services and rentals. He read the description/definition for an RA, (Restaurant, All types of alcohol).

Commissioner Stockton cited the Commission's ability to audit a license establishment. The Commission generally started with the business' atmosphere. The next step would be to request the business' receipts. A review was generally conducted after a citizen complaint.

Mr. Boyle questioned if gross sales for the class E license included all items. He cited charges for live performances.

Commissioner Clapp believed that the class E should include all revenue produced. She noted Laugh Comedy Club's request to allow eighteen (18) year olds and over. She questioned if the revenue from increase ticket sales had been encouraging. Commissioner Petersen expressed his opinion that Laugh was trying to establish additional revenue.

Commissioner Stockton addressed Qualifying Factor 1. "Live entertainment . . . cover charge. ". He cited a jazz club with a cover charge as an example. The class E would be less restrictive than an R license. He directed the Commission to the Definitions – Separate viewing area. The definition included a solid barrier and no alcohol sales. The percentage of sales for alcohol was higher than a class R.

Commissioner Buchanan addressed the cost of admission. He did not want to encourage liquor sales. He did not want an E establishment to become a tavern. Commissioner Stockton cited a bowling alley with a lounge as an example of a class E.

Commissioner Tompkins questioned establishments without a separate viewing area. He suggested that ticket sales could act as a controlling factor to allow for individuals under twenty-one (21) years of age. Commissioner Buchanan expressed his concern that the result might be a higher percentage of alcohol sales. Commissioner Tompkins noted that the principal activity of the business would be live entertainment. Commissioner Buchanan cited undesirable consequences by allowing a higher percentage of alcohol sales. Commissioner Buchanan suggested that a cover charge be mandatory.

Commissioner Stockton restated the Qualifying Factors which included a cover charge and the Definition for a “Separate viewing area”. He acknowledged the concern that Downtown taverns might apply for an E liquor license.

Commissioner Buchanan addressed the Laugh Comedy Club. He did not believe that it would turn into a high volume tavern.

Commissioner Stockton readdressed the E license classification which included live entertainment, cover charge, no alcohol sales after midnight during the week and 1:00 a.m. on weekends in addition to a limit on the percentage of sales from alcohol.

Commissioner Buchanan cited the E license classification and the Jazz Café with seventy percent (70%) alcohol sales. He questioned the Council’s willingness to approve same.

Commissioner Stockton questioned the possibility of a jazz club turning into a college bar.

Commissioner Buchanan noted the concern rose regarding what a business actually does/becomes.

Commissioner Petersen requested a definition of the T license classification. Commissioner Stockton cited the sale of alcohol by the glass. Commissioner Petersen noted that the percentage of alcohol sales would be different from an R license.

Commissioner Clapp expressed her support for the idea of a separate viewing area. She also supported the idea of a percentage of alcohol sales.

Mr. Boyle informed the Commission that the City had received request for live entertainment/recreation. He referred the Commission to the definition of an R license classification. He questioned if the percentage of alcohol sales for an E should be lower. The City could also amend its definition of an R license.

Commissioner Buchanan noted the proposed new classifications addressed establishments that were not a restaurant. The R classification would be applied to restaurants.

Commissioner Clapp addressed a true E venue. She stressed the separate viewing area. She noted the number of eighteen to twenty (18 – 20) years present in the community.

Mr. Boyle noted the impact upon small venues. He questioned the ability to implement same.

Commissioner Stockton noted that minors were present in an R establishment. A T environment was not appropriate for underage persons. The key issue was to determine where the line was. These establishments would not be an R and also not be a T. He restated key factors: the percentage of alcohol sales, live entertainment, cover charge, and

an earlier closing time. An E establishment would be a place for young adults, (eighteen to twenty year olds), to be present. He encouraged the Commission to think beyond the Downtown.

Commissioner Clapp expressed her opinion that there would be a limited marketplace.

Commissioner Buchanan noted that there would be a business decision regarding an E versus an R versus a T. He believed that a jazz café would fit the E license classification.

Commissioner Stockton questioned that if the goal was to attract the college crowd. He cited the example of a live, local, popular band. The establishment would have a cover charge. He questioned if there would be room to allow underage persons. He questioned if rock bands would qualify.

Commissioner Clapp expressed her concern regarding the number of underage persons in the Downtown. She believed that they would find a way to consume alcohol. Commissioner Buchanan noted that individuals/college students start consuming alcohol prior to coming Downtown.

Commissioner Petersen stated that the E classification would fit the Castle Theater. He noted that Gat's Jazz Café planned to offer live entertainment. The applicant did not want to have a cover charge and did not want anyone under twenty-one (21) years of age present. He added that the Q classification meant that the establishment would be an R during the day and a T at night.

Commissioner Buchanan added that the class E was not intended for an establishment that qualified as an R or a Q. He questioned if an establishment could qualify as an E and a Q.

Commissioner Clapp expressed her interest in looking for issues with this proposal. She questioned if an R could become an E.

Commissioner Stockton cited Downtown taverns with rock bands and a minimum cover charge. He noted that seating was required. An E license would require live entertainment, a cover charge and seating for all.

Commissioner Buchanan did not believe that the Commission could address every situation. The Commission would do the best job possible to meet the deadline. He cited the application for Sidetracked located at 907 E. Oakland Ave. He noted the number of conditions which made the application cost prohibited.

Commissioner Stockton noted his interest in gapping holes. He encouraged the Commission to image a rock band with a minimum cover charge and a large number of underage persons (college students) versus a live jazz club with a minimum cover charge. These would be different venues. One would offer seating for its patrons versus standing

room only. The Commission could limit the size of the venue, i.e. address occupancy. He restated that the class E required seating.

Commissioner Tompkins questioned the percentage of seating.

Commissioner Buchanan noted that the Commission was attempting to create license categories which would allow for viable businesses. In addition, these categories would avoid the closing time for taverns.

Commissioner Stockton added that the classification would apply city wide. He did not want to add to the load in the Downtown at closing time. Closing time was an issue in the Downtown. In addition, he did not want to create and/or allow eighteen to twenty (18 – 20) year olds in a tavern atmosphere.

Commissioner Clapp noted that size could be used and/or percentage of alcohol sales. She cited sixty percent (60%) as an example. The cover charge would be limited to what the market would bear.

Commissioner Stockton cited a percentage of the fire code/occupancy could be used. Other options included square feet per person and/or occupancy, or the lesser of one of these options. He offered to review the draft document based upon the Commission's feedback at this meeting.

Commissioner Clapp suggested that the Commission addressed items/things that could not be done.

Mr. Boyle directed the Commission to Chapter 6. Alcoholic Beverages, Section 33. Entertainment.

Commissioner Stockton readdressed seating and/or venue size. He cited bowling alleys as an example. He noted that youth were present. He cited Gill St. Sports Bar & Restaurant located at 3002B Gill St., which offered volleyball. There would be establishments which qualified for an R and/or a Q. The Q would allow for the automatic change from an R during the day to a T at night. No underage individuals should be present at night. He cited Elroy's, located at 102 W. Washington St., as an example. The establishment would qualify an R during the day and become more restrictive at night.

Commissioner Buchanan expressed his opinion that the Q classification was more straightforward. The Public Hearing would not address every situation. He questioned what the Commission would present at the Public Hearing.

Commissioner Stockton expressed his interest in public feedback.

Mr. Boyle addressed Gat's Jazz Café and the kitchen issue. He read from the Definition of Qualified food service.

Commissioner Stockton addressed a jazz café versus a rock band. One would offer seating the other would be standing room only. He believed that a jazz café in the Downtown would be desirable. He did not want another establishment offering rock music. He also did not believe that this was desired.

Commissioner Clapp noted that an R was allowed to stay open later than a Q.

Commissioner Stockton stated Gat's Jazz Café's goal for a full kitchen. The current budget did not support same.

Commissioner Petersen expressed his opinion that Elroy's and Gat's Jazz Café were not a mirror of one another. He added that there needed to be some restrictions.

Commissioner Buchanan stated that the Commission was a fact finding body. Gat's Jazz Café would not be a tavern. The Commission could not create a classification for a jazz café.

Commissioner Tompkins added that a Q license classification meant that the establishment could be a restaurant and/or an entertainment venue.

Commissioner Stockton encouraged the Commission to focus on the end result. He addressed the vision for the Downtown. He questioned what the Commission wanted to see, believed was acceptable and/or would enhance same.

Commissioner Buchanan restated that a jazz café would not be a college bar. The Commission had seen establishments morph into something else due to revenue concerns. The Commission needed to determine what it wanted to encourage and/or discourage.

Commissioner Stockton addressed a jazz café. The patrons would be seated. There would be a substantial menu available. Individuals would be drinking alcoholic beverages. There would be jazz performed live. It would be a nice addition to the Downtown. If late at night it turned into something else that would not be what the City wanted. The Commission had a vision. The key question was how to insure this shared vision and continue same.

Commissioner Clapp noted that applicants had been specific. A key issue had been the lack of follow up by the Commission.

Commissioner Buchanan cited how Gat's Jazz Café had narrowed down the application. He believed the proposed conditions were enforceable.

Commissioner Stockton added that there had been some intervention by the Commission. He cited Main St. Grill, located at 517 N. Main St., as an example. He added that conditions have been placed upon various liquor licenses. The Commission had also added conditions.

Commissioner Clapp cited follow up, license holder audits. She addressed the Downtown Entertainment Task Force (DETF) report.

Commissioner Stockton noted that the Commission could fine tune the definition of a kitchen. It must offer more than bar food.

Commissioner Buchanan addressed the need for the Commission to have more autonomy and control. The Commission should be enabled with appropriate legal advice to address compliance issues. The Commission had created conditions. He cited the example of taverns in residential neighborhoods. The Commission could put applicants under oath. He noted the Commission's efforts at liquor hearings to ensure compliance.

Commissioner Clapp noted that the applicants needed to live up to their promises when they become license holders.

Commissioner Tompkins expressed his opinion that the Commission had enforcement authority.

Mr. Boyle cited Chapter 6. Alcoholic Beverages, Section 3. Number of Licenses Limited – Applications, (o) and Section 4. Disqualification for License (p), which addressed false statements and testifying before the Commission.

Commissioner Stockton expressed his opinion that the Commission had the authority to address willful misrepresentation. There were times when the applicant's business plan did not work out. Mr. Boyle addressed the term willful and an applicant's ownership information. He specifically cited economic conditions.

Commissioner Buchanan suggested that the Commission be more proactive with the license holders.

Commissioner Clapp noted that some of the Commission's conditions were substantive.

Commissioner Stockton cited his concern regarding the late night environment in the Downtown. He cited the load placed upon the Downtown and City services. The Q classification could be amended. The kitchen language could be addressed.

Commissioner Buchanan noted the progress made and the work done on these two (2) proposed classifications.

Commissioner Stockton questioned attendance for Thursday's Public Hearing. Commissioners Buchanan, Clapp and Tompkins stated their intention to attend. Commissioner Stockton encouraged all to attend same.

Commissioner Buchanan expressed his concern regarding terminology.

Commissioner Stockton noted that Commissioner Clapp served on the DETF. Commissioner Clapp noted areas of movement. She cited transportation and cleanliness. She noted the DETF's belief that the Commission needed to follow up on license conditions.

Commissioner Stockton added that the DETF cited the need for an E license classification. Commissioner Clapp did not recall any discussion regarding same. She noted the DETF's frustration at what occurred in the Downtown at closing time. She cited noise, behavior, ordinance violations, (OV), property damage, etc. She questioned the Police Department's interest in these two (2) proposed classifications. The Commission needed to hear law enforcement's focus. She questioned the Police Department's overall sense of this proposal.

Commissioner Stockton acknowledged that a minority was creating issues in the Downtown. He cited the crowd size. He noted the following issues: fighting, vandalism, public urination, noise, etc. Police officers use subjectivity, i.e. discretion. These issues were common in college communities.

Commissioner Clapp cited the interest of Downtown residents. The City needed to gain better control over negative issues. She stated that the T license classification had become the scapegoat. The issue was various behaviors. Commissioner Clapp cited other issues such as noise and vandalism. She expressed her opinion that there needed to be better controls in the Downtown.

Commissioner Tompkins believed that there had been a specific mandate.

Mr. Boyle addressed the proposed Text Amendment to address litter in the Downtown. It would require license holders to clean up around taverns.

Commissioner Tompkins left the meeting at 1:25 p.m.

Commissioner Buchanan did not believe that the solution would be to close all taverns. The Downtown was an entertainment district. He noted the cost for the Downtown detail, (police presence). He questioned the cost for same versus the dollar value of the OV that were written.

Commissioner Petersen informed the Commission of his experience attending a wedding in St. Louis, MO at the Landings. The streets were closed to vehicular traffic. The police department cleared the area.

Commissioner Buchanan cited flash mobs. Mr. Boyle noted that the Police Department had come across various groups of underage juveniles hanging out in the Downtown.

Commissioner Stockton added that this was the reason the Commission was considering new license classifications. The Commission needed to provide clarity. The discussion needed to address how to make the existing Downtown environment different. The City

was a college town with over 28,000 college students who needed somewhere to go. At this time, the Downtown was it. He noted the state's Liquor Control Commission's 4th Annual College Town Summit Task Force which will be held on October 17, 2013 in Springfield.

Commissioner Clapp stated that the City was not the college town. There was a mix of individuals. Commissioner Stockton restated that there were enough students present to be a college town.

There being no further business the meeting adjourned at 1:30 p.m.

Respectfully submitted,

Tracey Covert
City Clerk