

MINUTES OF THE BLOOMINGTON  
LIQUOR COMMISSION

September 8, 2009

The Bloomington Liquor Commissioner Rich Buchanan called the Liquor Hearing to review the Adult Responsibility Form for Keg Registration. Present at the hearing were Liquor Commissioners Rich Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; and Tracey Covert, City Clerk.

Commissioner Buchanan opened the liquor hearing. He noted that Commissioner Stockton had requested that the Commission review this form. Commissioner Buchanan noted a few minor textual changes were needed. He restated that the majority of keg sales occurred in Normal. George Boyle, Asst. Corporation Counsel, recommended that this item be laid over until the Commission's October 13, 2009 meeting to allow Commissioner Stockton to be present.

Commissioner Clapp arrived at 4:10 p.m.

Motion by Commissioner Petersen, seconded by Commissioner Clapp to lay the Adult Responsibility Form over until the Commission's October 13, 2009.

Motion carried.

Commissioner Buchanan noted that two (2) items had been removed from the Commission's agenda, (violation hearing for LR & R Inc., d/b/a Parkview Inn, located at 1003 Morris Ave., and a discussion of the conditions which had been placed upon Tjolo's Corp., d/b/a Show Me's Restaurant, located at 517 N. Main St., currently holding an RAS liquor license, and Fat Jack's Inc., d/b/a Fat Jack's, located at 507 - 511 N. Main St., currently holding a TAS liquor license).

Commissioner Buchanan opened the Violation Hearing for Hospitality International, LLC, d/b/a Chevy's Fresh Mex, located at 704 E. Eldorado, 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. Present at the hearing were Liquor Commissioners Rich Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; Leslie Lebel, Finance Department Office Manager; and Tracey Covert, City Clerk; Cheryl Hussain, owner/operator and license holder, and Mauricio Salinas, Chevy's Fresh Mex Manager and license holder representative. The violation involved the failure to pay the City's prepared food and beverage tax.

Commissioner Buchanan performed the oath for Leslie Lebel, Finance Department Office Manager.

George Boyle, Asst. Corporation Counsel, questioned Ms. Lebel. Ms. Lebel oversaw the collection of various City taxes including the Prepared Food & Beverage Tax. She had prepared for this hearing by reviewing the City's records. She had also prepared a report which documented that taxes were past due, (February, April, May, June and July 2009). Mr. Boyle noted that the month of July was not listed on the complaint.

Commissioner Clapp noted that this tax was not only late but also unpaid. Ms. Lebel responded affirmatively.

Commissioner Petersen questioned if the City had encountered problems with this license holder in the past. Ms. Lebel responded affirmatively. However, the license holder had never been before the Commission.

Commissioner Buchanan questioned if the license holder has been served and informed to appear before the Commission this date. Mr. Boyle informed the Commission that the complaint was mailed on August 14, 2009.

Ms. Lebel informed the Commission that the City had sent letters. The license holder had also been contact via e-mail. In the past, this tax had been paid via credit card. A payment plan could be established for same. The City also offered to waive the late fees. There had been little to no response.

Commissioner Petersen questioned the defined point. Ms. Lebel informed the Commission that a license holder received a final notice when the business was three (3) months behind. This license holder had never been referred to the City's legal office.

Commissioner Buchanan performed the oath for Cheryl Hussain, owner/operator and license holder representative. Ms. Hussain apologized to the Commission. She stated that business was down by fifty percent, (50%). She acknowledged that they were behind in payment of the tax. She requested that the Commission allow Chevy's to continue to operate. She offered payment in full within seven (7) days. She acknowledged that the information from the City had been received. Her husband simply did not respond.

Commissioner Buchanan questioned the amount owed. Ms. Lebel noted that generally Chevy's remitted \$800 per month. The amount owed is based upon receipts. Chevy's would need to file a return. Commissioner Buchanan stated that the total amount would be under \$4,000. He questioned any late penalty. Ms. Lebel noted that the penalty for the first month was ten percent, (10%). An additional two percent (2%) interest accrued for each additional month. The prepared food and beverage tax was suppose to be collected from the customers and remitted to the City.

Commissioner Buchanan noted that the local food & beverage tax equaled two percent, (2%). The total tax charged at local restaurants was 9.75% . The combined state and home rule sales tax rate was 7.75%.

Mr. Boyle questioned if it was possible for Chevy's to pay the total amount due in seven (7) days. Ms. Lebel recommended seven (7) business days. She offered to assist with the calculations.

Commissioner Petersen questioned if there would be an agreement. Ms. Lebel addressed a payment plan. Generally, a business is given four to six (4 - 6) months to catch up. The business must stay current or the agreement is voided.

Commissioner Petersen recommended that the City collect the total owed in full. He expressed an interest in a guarantee that this situation would not happen again. Ms. Lebel informed the Commission that the City relied on the businesses' report of sales volume.

Mr. Boyle questioned when the August tax was due. Ms. Lebel stated September 25, 2009.

Commissioner Buchanan noted the license holder's strong conviction. He noted the code violation. These dollars would be placed in the City's General Fund. Chevy's was an established business. He cited the economy. He wanted the City to collect the dollars owed and expressed his interest in a course of action.

Ms. Hussain stated that going forward, both her husband and herself, would make the payment of this tax a priority.

Mr. Boyle recommended that the license holder be given ten (10) days to make payment and that all penalties be waived. If the Commission rejected this recommendation, then he suggested that all penalties be applied. In addition, the City should remove the liquor license until the tax is paid. Failure to make payment would result in another appearance before the Commission. He also stated that the business should be put on a three (3) month probationary period. He acknowledged that Chevy's was an established business.

Commissioner Buchanan stated that he could not support all of Mr. Boyle's recommendations. Future actions would be addressed in the future.

Commissioner Clapp questioned a statement about what might happen. Ms. Lebel encouraged the license holder to establish a separate account in order to remit the dollars owed to the City.

Commissioner Buchanan noted that businesses were struggling. The Commission needed to construct a sanction. He recommended that all outstanding taxes be paid within ten (10) calendar days. This amount would include July 2009.

Commissioner Petersen noted that the license holder was aware of the situation. He questioned the man hours involved in the collection of these dollars.

Motion by Commissioner Clapp, seconded by Commissioner Petersen that Hospitality International, LLC, d/b/a Chevy's Fresh Mex, located at 704 E. Eldorado be granted until September 18, 2009 to make full payment of the City's Prepared Food & Beverage Tax with all penalties waived.

Motion carried.

The license holder was cautioned failure to comply would result in another appearance before the Commission.

Commissioner Buchanan noted that all penalties had been waived for the five (5) months, (February through July 2009).

Mr. Boyle noted that three (3) Commissioners were present at the meeting. He expressed his opinion that there should be a penalty for the tax remaining unpaid. He cited the Complaint and the lack of response from the license holder. Beyond, this afternoon's discussion, there was still the failure to pay. He restated his belief that there should be a sanction.

Commissioner Clapp stated that the City was being generous. The City might be setting a precedent. Times were tough. She expressed her belief that an agreement had been reached this day.

Commissioner Petersen expressed his sympathy for the business owner. He expressed his concern about the lack of communication. The tax had not been paid. He believed that there should be a sanction. He believed that the license holder would make payment.

Commissioner Buchanan added that if the license holder was unable to pay they were aware that the liquor license would be in jeopardy.

Commissioner Petersen expressed his appreciated to City staff for their comments.

Commissioner Buchanan noted that the Commission operated under the Administrative Review Act.

Ms. Hussain thanked the Commission for their consideration.

Mr. Boyle noted that there was an understanding but no order. Commissioner Buchanan restated that failure to pay would place the license holder back before the Commission. At that point, there might be an order. He restated that the City wanted this business to be successful.

Ms. Lebel reminded the Commission of her offer to assist the license holder. She encouraged the license holder to contact her.

There being no further business the hearing recessed at 4:50 p.m.

Commissioner Buchanan opened the Violation Hearing for OYOS, Inc., d/b/a Rhino's, located at 602 N. Main St., currently holding an 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. Present at the hearing were Liquor Commissioners Rich Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; Leslie Lebel, Finance Department Office Manager;

and Tracey Covert, City Clerk. The violation involved the failure to pay the City's Prepared Food and Beverage Tax.

George Boyle, Asst. Corporation Counsel, informed the Council that the license holder had been served. He had received a telephone call but had failed to return same. Rhino's had not paid the City's Prepared Food & Beverage Tax for October 2008, and April, May, June, and July 2009.

Commissioner Buchanan noted that the Tax had not been paid for five (5) months. Mr. Boyle stated his preference that the license holder be given fifteen to thirty (15 - 30) days to pay the outstanding tax due. No one was present on behalf of the license holder.

Commissioner Buchanan expressed his concern that no one was present. He was not comfortable with a Complaint & Citation or an Order which cited revocation. The official communication cited the months due, (October 2008, April May and June 2009). Another communication from the City granted the license holder thirty (30) days to bring the account current. He acknowledged possible penalties included suspension up to revocation of the liquor license. Mr. Boyle restated that the license holder had been informed.

Commissioner Clapp noted that there had not been a response from the license holder.

Commissioner Buchanan questioned the mailing. Leslie Lebel, Finance Department Office Manager, addressed the Commission. The final notice is sent certified mail. The Finance Department starts with first class mail. A license holder is contacted at least four (4) times before being referred to the Commission.

Commissioner Petersen cited his experience on the Commission. Issues involving payment of sales taxes had not appeared on previous meeting agendas. Ms. Lebel noted that the Prepared Food & Beverage Tax was established in 2003. Rhino's had been a repeat offender. City staff tries to avoid this situation. Every effort is made. There had been no response from the license holder. Staff had not seen a trend. Some businesses were struggling.

Commissioner Buchanan noted that City staff had made every effort.

Commissioner Clapp expressed her opinion that this hearing was different. She believed that the license holder should be sanction for failure to appear. Mr. Boyle noted that the license holder had been given a number of opportunities. These dollars are collected. He stressed that the license holder failed to appear.

Commissioner Buchanan questioned the complaint verbage. He wanted it changed.

Commissioner Petersen noted that the Commission failed to ask Chevy's why it failed to respond. Cheryl Hussain, owner/operator and license holder representative for Chevy's, appeared at the hearing and apologized.

Commissioner Clapp recommended that an Order be issued which required full payment by September 18, 2009; failure to comply with said Order would result in license suspension

effective September 19, 2009 until the tax is paid. She expressed her opinion that the license holder would make payment to the City. The City wanted the taxes to be paid.

Commissioner Buchanan expressed his opinion that the license holder should be instructed to appear before the Commission at its October 13, 2009 meeting to show cause why the license should not be revoked. He noted that no one was present to represent Rhino's. A more severe penalty was called for.

Commissioner Buchanan stated that suspension was problematic. The business would be one step closer to closure. He expresses his preference that the license holder appear before the Commission prior to license revocation.

Commissioner Clapp expressed her opinion that revocation should be used for more serious violations.

Commissioner Buchanan noted that revocation would result in a full year with no liquor license at the given location. Suspensions were limited to thirty (30) days. Commissioner Clapp noted that if the tax was not paid within thirty (30) days, then the business would be closed.

Commissioner Buchanan requested that the City send an official communication to the license holder which stated that all taxes with penalties must be paid by September 18, 2009. Failure to pay same would result in license suspension effective September 19, 2009. Suspension would be limited to thirty (30) days. Failure to comply with same would result in a subsequent hearing before the Commission regarding license revocation.

Commissioner Petersen recommended that the license holder should be given fifteen (15) days. Commissioner Clapp expressed her support for same.

Motion by Commissioner Petersen, seconded by Commissioner Clapp that an Order be issued which required full payment, (taxes and penalties), by September 23, 2009; failure to make full payment would result in license suspension until full payment is received.

Motion carried.

There being no further business the hearing recessed at 5:15 p.m.

The Bloomington Liquor Commissioner Rich Buchanan called the Liquor Hearing to hear the request of Mugshots, LLL, d/b/a Mugshots, located at 107 W. Front St., requesting 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. Present at the hearing were Liquor Commissioners Rich Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; Tracey Covert, City Clerk; Mark Bentley, owner/operator and Applicant representative.

Commissioner Buchanan opened the liquor hearing. He requested that the Applicant present the business plan. He noted that this would be a new entity located in former site of Canteen. Mark Bentley, owner/operator and Applicant representative, addressed the Commission. He was a life

long resident of the City. He currently owned and operated a tanning salon business in Normal. He had also been a painter at Illinois State University for seventeen (17) years. He like his brothers, Bill and David, were business minded. He knew how to own and operate a business. He knew Karen Murukas, Canteen's owner. The timing was right. There was a contract for the sale of the business. He hoped to do well and believed that he would be an asset to the community.

Commissioner Buchanan addressed the contract for sale of the business. He noted that the lease would remain with Ms. Murukas. Mr. Bentley expressed his belief that he owned the business unless he broke the contract. George Boyle, Asst. Corporation Counsel, noted that it would be an installment sale. Commissioner Buchanan questioned who owned the property and held an authorized lease. Mr. Bentley stated that he would be subletting the property. Commissioner Buchanan stated that the City's legal staff would provide the City with the necessary assurances. Mr. Bentley noted that he had taken over the business on July 29, 2009. Tracey Covert, City Clerk, informed the Commission that the Application would appear on the Council's September 28, 2009 meeting.

Mr. Boyle questioned Mr. Bentley's response to question (1). Mr. Bentley responded that he was unsure how to answer same. Ms. Covert noted that a state liquor license is obtained after the City license is approved and created.

Mr. Boyle questioned any changes to the business. Mr. Bentley expressed his interest in adding food. He would have to install a kitchen. He did not have a time line for same. He planned to look into a possible venture.

Commissioner Clapp restated that Mr. Bentley planned no changes. Mr. Bentley expressed his interest in obtaining a feel for the business. Current staff included his fiancé, an experienced bartender, and himself. The existing business owner, Karen Murukas, had been working with them.

Commissioner Buchanan questioned the hours of operation. Mr. Bentley stated that the business hours would be the same, (Wednesday through Saturday, 4:00 p.m. until closing hour). He cited the learning curve to the tavern business.

Commissioner Petersen stated that there would not be any live entertainment. Mr. Bentley responded that Mugshots would have to offer something to improve the business. He cited karaoke and/or small bands. Commissioner Buchanan noted that the Application should be amended to reflect same.

Commissioner Petersen questioned if Mr. Bentley had considered alcohol sales training classes, (TIPS, BASSETT, and/or STEPS). Mr. Bentley expressed his willingness to attend any and all classes that would help him operate his business better. He informed the Commission that the McLean County Health Department was scheduled to inspect the premise the next day.

Commissioner Petersen questioned Chapter 6. Alcoholic Beverages, Section 2(e). He cited the forty-five (45) day provision. Mr. Boyle noted that the file contained a letter from the seller. He also requested a letter from the buyer.

Commissioner Buchanan opened the hearing to public comment. No one came forward to address the Commission.

Motion by Commissioner Clapp, seconded by Commissioner Petersen that the application of Mugshots, LLC, d/b/a Mugshots located at 107 W. Front St., requesting 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 be approved.

Motion carried.

Commissioner Buchanan informed the Applicant that this item would appear on the Council's September 28, 2009 meeting. The item would appear on the Consent Agenda. He encouraged his attendance.

There being no further business the hearing recessed at 5:40 p.m.

The Bloomington Liquor Commissioner Rich Buchanan called the Liquor Hearing to hear the request of BAPS 12, LLC, d/b/a Amigo's Express, located at 502 N. Prospect Rd., requesting a PAS liquor license which allows the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Rich Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; Tracey Covert, City Clerk; Sonal and Rakesh Patel, owners/operators and Applicant representatives, and Mac Arnold, Applicant's attorney.

Commissioner Buchanan opened the liquor hearing. He requested that the Applicant present the business plan. Rakesh Patel, owner/operator and Applicant representative, addressed the Commission. He had lived in the City for the past ten (10) years. He operated a couple of local hotels. In addition, he had operated Main St. Convenient located at 1919 S. Main St. for the past eight (8) years. He had operated this business since 2001 without a violation. Amigo's Express was a Hispanic grocery store. There had been requests from customers for liquor products. He expressed his hope to grow the business.

Commissioner Buchanan wanted to confirm the application's requested classification. Mr. Patel restated the business' focus on Hispanic products.

Commissioner Petersen questioned the business' closing hour. Mr. Patel responded 8:00 p.m. Amigo's Express offered phone cards, dry groceries, and wire transfer services.

Commissioner Buchanan informed the Commission that he had visited the store. He described it as pleasant. He reviewed the submitted floor plan. He noted that there would be a three (3) door cooler which would house beer.



Commissioner Petersen questioned the size of liquor products available for sale. Mr. Patel stated 750 ml. Smaller bottles would be placed behind the counter.

Commissioner Buchanan noted that the premise would be the store's interior. He encouraged Mr. Patel to watch the parking lot.

Motion by Commissioner Petersen, seconded by Commissioner Clapp that the application of BAPS 12, LLC, d/b/a Amigo's Express located at 502 N. Prospect Rd., requesting a PAS liquor license which allows the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week be approved.

Motion carried.

Commissioner Buchanan informed the Applicant that this item would appear on the Council's September 28, 2009 meeting. The item would appear on the Consent Agenda. He encouraged their attendance.

There being no further business the hearing adjourned at 5:50 p.m.

Respectfully,

Tracey Covert, CRM, CMC, RMC  
City Clerk

