

**REGULAR MEETING OF THE BOARD OF TRUSTEES
OF THE
DOWNERS GROVE PUBLIC LIBRARY
August 26, 2009**

MINUTES

ROLL CALL

President Daniels called the meeting to order in the Library Meeting Room at 7:32 p.m. Trustees present: Eblen, Greene, Humphreys, Read, and Daniels. Trustees absent: DiCola. Also present: Library Director Bowen, Assistant Library Director Carlson. Visitors: none.

APPROVAL OF MINUTES

The Board reviewed the minutes of the regular meeting of July 22, 2009. It was moved by Greene and seconded by Read **THAT THE MINUTES OF THE REGULAR MEETING OF JULY 22, 2009 BE APPROVED AS WRITTEN.** Ayes: Eblen, Read, Daniels. Abstentions: Greene, Humphreys. Nays: none. Motion carried.

PAYMENT OF INVOICES

The Board reviewed the list of invoices submitted for payment. It was moved by Greene and seconded by Eblen **TO APPROVE PAYMENT OF OPERATING INVOICES FOR AUGUST 26, 2009 TOTALING \$113,666.75 AND ACKNOWLEDGE PAYROLLS FOR JULY 2009 TOTALING \$173,983.60.** Ayes: Eblen, Greene, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT ON AGENDA ITEMS

None.

NEW BUSINESS

**-Approval of the hiring of the member of a library trustee's family
for a part-time position in the library**

As Bowen stated in the Board packet memo, the personnel policy of the Library states that "The appointment of members of the immediate families of Library Trustees, the Library Director, or the Assistant Library Director is subject to the approval of the Board of Trustees."

Over a year ago Trustee Kathy DiCola told Bowen that her son Joe was interested in applying for a job at the library, and she specifically asked him if there was any problem or a conflict of interest if the child of a trustee was employed by the library. Bowen knew that the library policy did not forbid it, but he completely forgot that the policy requires Board approval for such a hiring, so he told Kathy that there was no problem. In fact Joe had volunteered in the office and Bowen knew that he was a good worker and good with computers, so he encouraged him to apply. Joe was hired as a Circulation Department shelver. This summer he was promoted to

Circulation Clerk. Since he is now in college, Joe is no longer a regular, part-time employee, but a substitute who works as needed during vacations or breaks.

During the recent furor about nepotism at the high school, it occurred to Bowen that he should review the library policies and he realized that he had neglected to bring Joe's hiring to the Board for approval. So, this agenda item is a request for retroactive approval to correct the error.

Other than the policy quoted above, the only other applicable policy is in the Board By-Laws statement on the Obligations of Library Trustees that says "Trustees must avoid situations in which personal interests might be served or financial benefit gained at the expense of library users, colleagues, or the institution. It is incumbent upon any trustee to disqualify him or herself immediately, whenever the appearance of a conflict of interest exists."

Since the library has no union contract to negotiate, the only possible conflict of interest in this situation would result from a board action on salaries and benefits. For a part-time employee working less than 19 hours per week, there are virtually no benefits other than legally mandated Social Security and Medicare taxes. They receive no sick pay. They do receive two days (prorated) of vacation after two years of employment. Bowen suggested that to avoid any possibility of a conflict of interest, the trustee involved should abstain from voting on salary increases in the spring, and on any changes of benefits to employees in her relative's category. Since any discussion of changes to the policy would be discussed in open meetings, there would be no conflict of interest to a trustee in this situation being present when the policy is discussed. Bowen does plan a review of the Personnel Policy this fall, but at this time does not expect to propose any changes in employee benefits that would apply in this situation.

Bowen apologized for his failure to bring this approval to the Board when Joe was originally hired. He asked for a motion to approve the employment of Joe as a part-time Circulation Clerk, and said that if the Board chose not to approve the appointment, Joe would be terminated.

The Board discussion noted that the position was not full-time or a professional position, that there is high turn-over in the position, that the position is often filled by students, that Joe had volunteered at the library, and that this situation is different from the high school's.

It was moved by Humphreys and seconded by Read **TO APPROVE THE EMPLOYMENT OF JOE DICOLA AS A PART-TIME CIRCULATION CLERK.** Ayes: Eblen, Greene, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT ON PROPOSED 2010 BUDGET AND 2009 PROPERTY TAX LEVY

None.

While there is an opportunity for public comment at every Board Meeting, for many years it has been the custom of the Board to provide a specific opportunity for public comment on the budget and tax levy at the meeting at which the Budget is considered for approval. A copy of the proposed Budget and Five Year Financial Plan has been available for public examination in the local government documents collection of the library.

Bowen has received no questions or comments about the proposed budget from anyone in the community.

OLD BUSINESS

- Review and approval of the 2010 Budget and 2010 – 2014 Five Year Financial Plan

The Board discussed the proposed budget in detail at the last meeting, and the only additions to that budget document were the narrative first page and the breakdown of the budget into individual department budgets.

Trustee Greene asked what was being cut from the budget with the 4% rather than 5% increase for this next year. Staff salaries were increased 3.5% rather than 5% as originally planned to help salaries be more competitive with similar local libraries' salaries. It was noted by Trustee Humphreys that he had originally been concerned about the 4% rather than 5% increase based on the increasing demands of customers, due to the economic downturn. He now supports the plan as long as library services can be maintained and the library is able to meet the demands of customers. He emphasized that the Board should revisit this once or twice a year.

It was moved by Read and seconded by Greene **TO ADOPT THE 2010 BUDGET OF \$4,237,035 AND THE 2010-2014 FIVE YEAR FINANCIAL PLAN.** Ayes: Eblen, Greene, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

- Review and approval of the 2010 Construction Fund Budget

The construction fund comes from money remaining when the library completed the 1999 Building Project about \$200,000 under budget. The Board used a portion of the fund to re-carpet the lobbies and main stairway in 2008. The fund currently has a balance of about \$245,000 and the budget request is for \$75,000 to re-carpet the Junior Room in 2010. The remainder of the fund will likely be used to replace the carpeting on the second floor when that is needed in the future.

It was moved by Read and seconded by Greene **TO ADOPT A 2010 CONSTRUCTION FUND BUDGET FOR RE-CARPETING OF \$75,000.** Ayes: Eblen, Greene, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

- Approval of the 2009 Property Tax Levy

It was moved by Read and seconded by Humphreys **TO ADOPT THE 2009 PROPERTY TAX LEVY FOR OPERATING EXPENSES OF \$3,965,265.** Ayes: Eblen, Greene, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

REPORT FROM THE ADMINISTRATION

Bowen attended the annual meeting of the Joint Review Boards of the Ogden Avenue TIF District and the Downtown TIF District on July 27. The meetings basically review the development that has occurred in each TIF District. The Downtown TIF District has seen dramatic improvements, and the EAV of the District has increased from \$16 billion when the

District was established in 1997 to \$54.8 billion in 2008 (over 11% per year average). The Ogden Avenue District was established in 2001 and is in the beginning phases of development so the improvement has not been so dramatic. The recent paving of Ogden Avenue was done as part of the TIF development project.

Bowen highlighted several things in the department reports.

It was reported at the last Board meeting that the library had begun the Book a Librarian service that allows a resident to reserve time for up to an hour of one-on-one assistance with a librarian. We continue to have a few people each month taking advantage of the service. This month Bonnie Reid, head of reference services, spent some time with the Superintendent of High School District 99 showing him the library's local history materials. He is interested in a special project that would have students searching for historical information about the school district.

Gloria Walsh-Rock, who had been a part-time reference librarian for 10 years, resigned to take a position in an elementary school library. Over 50 applicants submitted resumes for the 13 hour per week position.

Staff thought the children's summer reading club was busy in June because of the bad weather, but July was even busier with as many as 200 children per day coming in for prizes.

In July the library had its highest one month circulation in history, with 99,679 items checked out. That was about 1,100 over the previous record set in July 2008.

The Village plans to resurface the Forest Street Parking Lot sometime in the next few weeks, depending on weather. So the lot will be out of commission for two days. Public Works staff did contact local merchants and the library to talk about the project. Bowen will be meeting with Village staff to talk about some possible changes in the layout of the striping of the lot.

Bowen substituted for the regular Zone 1 representative at the August meeting of the Metropolitan Library System Public Library Advisory Committee and attended what was probably the most interesting meeting in years. The system had received final word from the Secretary of State on the cuts to library system funding. Their 2010 funding will be cut by 16%. A very big cut, but much better than the up to 50% that was feared. The best news, from a member library's perspective, is that the State has mandated that systems maintain the funding of delivery service and cooperative circulation systems, such as SWAN, at the current level. The bad news for systems is that they have to make up for the cuts out of the other services they offer.

The System has a developed plan of service to deal with cuts, and the Advisory Committee was the first member library group to be asked to react to it, in preparation for the final version that will be presented to membership at the Quarterly Administrators' meeting next week. The Quarterly will be the first of a series of discussions and focus groups where member libraries will have the opportunity to discuss and comment on the plan. The advisory committee has been asked to keep the details confidential until next week's meeting, as it does include reductions in System staff.

Bowen said that Downers Grove's biggest concerns were delivery service and SWAN, which are intact. He said the MLS staff and Board members who prepared the plan did an excellent job of

identifying the most and least essential services, and the advisory committee's reaction was to ask questions and suggest clarifications in the language of the plan. The proposed changes will not have a major impact on the services that the library provides to patrons. Libraries may see increases in some fees or the loss of some reimbursements, and some work may shift from MLS to member library staff, but he does not think the library will have any trouble dealing with the changes that are going to occur at MLS.

The Museum Pass program begins September 1 and is being promoted via colorful brochures, library website and newsletters, as well as in local newspapers. Passes are available for 17 museums and other institutions. Admission offers vary per museum. For some, 2 or 4 people may be admitted free per pass. Patrons must have a Downers Grove Library card to check out a pass at the reference, literature, or children's service desk, and one pass may be checked out per person per one-week loan period. Passes are available on a first-come, first-served basis in the library, and they may not be reserved.

TRUSTEE ANNOUNCEMENTS AND REQUESTS FOR INFORMATION

Trustee Greene asked if there was any news on the Walter Gordinier sculpture, and Carlson reported that she has been in contact with the artist every month this summer, and he has stated that he will have it to us as soon as possible, but he needs an income so his priority is to work on paying projects before he finishes our piece.

Trustee Humphreys announced that the Rotary Club had decided to take a one-year hiatus on OctoberFest. He also mentioned that he had visited the Burbank (CA) Public Library and attended a Board meeting during which he was asked if the Downers Grove Library Board was an advisory or governing board. He was happy to say that the library has a governing board. He also noted that the Burbank Library offers an online live homework and employment help service similar to the online homework help service the board had considered in the past.

Trustee Read, an MLS Board member and Treasurer and Chair of the Finance Committee, reiterated Bowen's comment that the MLS staff had done a great job of planning for their budget cuts, which includes a \$90,000 reduction in consulting services as well as a reduction in the health benefits for MLS staff families.

OPPORTUNITY FOR PUBLIC COMMENT

None.

ADJOURNMENT

The meeting was adjourned at 8:50 p.m.

**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE**

Thursday, August 6, 2009

I. CALL TO ORDER

Chairman McInerney called the August 6, 2009 Liquor Commission meeting to order.

II. ROLL CALL

PRESENT: Ms. Strelau, Mr. Adank (6:33 pm), Ms. Fregeau, Mr. Krusenoski, Chairman McInerney

ABSENT: Mr. Clary, Ms. King

STAFF: Village Attorney Enza Petrarca, Assistant Village Attorney Beth-Janicki Clark, Liaison to the Liquor Commission Carol Kuchynka

OTHERS: Chun Sum Choi, Sean Chaudhry, Frank Tatar, Phil Cullen, Marta Cullen, Will Cullen, Joe Mengel, Mike Polz, Shannon Wesseling, Frank Gatto, Charles Gatto, Spiro Zarkos, Rachel Nasgowitz, Robert Taft, Tim Canning, Linda Kunze, Greg Bedalov, Mark Thoman, Court Reporter

III. APPROVAL OF MINUTES

Chairman McInerney asked for approval of the minutes June 4, 2009 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the minutes of the June 4, 2009 Liquor Commission meeting were approved.

Chairman McInerney reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present taking the minutes verbatim.

IV. DISCIPLINARY HEARING FOR ALLEGED VIOLATIONS

Chairman McInerney made the following statements:

"Section 3-40 of the Downers Grove Municipal Code provides that the Local Liquor Commissioner may revoke or suspend any license issued if the Commissioner determines that the licensee has violated any of the provisions of this chapter or any State law pertaining to the sale of alcohol. Both under the Section cited above, and under Chapter 235, Section 5/7-5, Illinois Compiled Statutes, the Local Liquor Commissioner is required to hold a public hearing after notice to the licensee, in which the licensee is afforded an opportunity to appear and defend. Pursuant to Section 3-5 of the Downers Grove Municipal Code, this hearing is being conducted by the Local Liquor Commission at the request of the Local Liquor Commissioner."

"The Commissioner has the power to temporarily suspend a license without a hearing if there is reason to believe that continued operation of the licensed business would immediately threaten the welfare of this

community. Such was not done in this case. The licensee may be represented by counsel, although he need not be for the purposes of this hearing."

Chairman McInerney asked if there were signed stipulations in these cases. Ms. Clark replied yes.

Chairman McInerney made the following statements:

"In view of the stipulation, the order of this hearing will be substantially as follows:"

- A. Prosecution will read the signed stipulation into the record with the opportunity for the licensee to register its concurrence or non concurrence for the record.
- B. Prosecution may present any additional evidence in this case with the right of the licensee to cross-examine.
- C. Licensee may present any defense or mitigating evidence with right of prosecution to cross-examine.
- D. Summary of case by prosecution and defense."

"The prosecution should establish that timely notice of this hearing has been provided to the licensee."

"Witnesses shall be sworn."

"Strict rules of evidence will need not be adhered to although the Commission expects to exercise control over the hearing to ensure that irrelevant or repetitive testimony does not unduly prolong the hearing."

"A court reporter is present and will take the proceedings verbatim. Staff is also present for the purpose of summarizing the proceedings."

"The Commission will submit the findings and recommendations to the Local Liquor Commissioner regarding the existence and nature of any violation and the appropriate penalty, if any."

"Upon receipt of the recommendation of the Commission, the Commissioner will render a decision and the licensee will be notified in writing."

Yum Yum Dish, Inc d/b a Bok Choy Cafe - 2117 63rd Street

Chairman McInerney stated that the first order of business was to conduct a disciplinary hearing for Yum Yum Dish, Inc. d/b/a Bok Choy Cafe located at 2117 63rd Street. He noted that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman McInerney asked any individual(s) in the audience representing the licensee to step forward and be seated. He asked that any individual(s) giving testimony be sworn in by the Court Reporter. He asked that they state and spell their name for the record and indicate their affiliation with the establishment.

Mr. Chun Sum Choi was sworn in by the court reporter. He introduced himself as an officer of Bok Choy Cafe.

Chairman McInerney asked the prosecuting attorney to present her case.

Ms. Clark stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Yum Yum Dish, Inc. d/b/a Bok Choy Cafe, 2117 63rd Street, Downers Grove, Illinois, is the holder of a Class R-1 Liquor License #LQ-000040, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since February 15, 2007.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 5:30 p.m. on Monday, June 15, 2009, Downers Grove Police Officer Rau and Downers Grove Police Officer Lichamer observed M.G., a special employee of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is June 9, 1990 (making her 19 years old), enter Bok Choy Cafe located at 2117 63rd Street, Downers Grove.
4. The special employee was seated at a table in the restaurant and employee Xiong Datong, asked her for her order.
5. The special employee ordered a Miller Lite beer while Officers Rau and Lichamer observed her.
6. That employee, Xiong Datong, whose date of birth is December 27, 1987 then served the special employee a bottle of Miller Lite beer.
7. That Xiong Datong at no time asked the special employee for identification.
8. Officers Rau and Lichamer who witnessed the events in the foregoing paragraphs, identified themselves to employee Xiong Datong and advised that the delivery of an alcoholic beverage had been made to a minor.
9. Xiong Datong was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
10. The Officers advised that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Clark asked that the signed stipulation be entered into the record as Village's Exhibit #1. Chairman McNerney accepted the signed stipulation as Village Exhibit #1.

Chairman McNerney asked the licensee to present its case.

Mr. Choi stated that they did not disagree that the incident happened. He stated that they did their own investigation and found that their manager did not train the employee according to their procedure. He stated that the manager has since been terminated.

Mr. Choi understood that this was a serious offense and should not have happened. He requested that the Commission take into consideration that it is their first offense. He added that they have passed tests before. He requested that the Commission consider an extended suspension in lieu of a fine.

Chairman McInerney requested that the Commission members ask questions, rather than go around the table in the interest of time.

Ms. Strelau confirmed that they terminated the manager who failed to train the employee. Mr. Choi replied yes. She asked what happened to the employee. Mr. Choi stated that she is being trained now by a new manager who is taking additional steps in training staff.

Ms. Strelau asked if the manager or employee was BASSETT trained. Mr. Choi replied that the manager was BASSETT trained. He stated that the employee was to receive BASSETT training, but it was not done. Mr. Choi stated that it was the manager's duty to oversee that new employees receive the training.

Ms. Strelau asked if they would prefer suspension in lieu of a fine. Mr. Choi replied yes.

Ms. Strelau stated that they have held their license since February of 2007.

Mr. Krusenoski asked how many employees they have. Mr. Choi replied that four employees serve alcohol, which included the manager. Mr. Krusenoski asked if the new manager is BASSETT trained and if the employees were in the process of being trained. Mr. Choi replied that one employee is already BASSETT trained. He stated that two are in the training process. Mr. Choi noted that the new manager just finished his training. Mr. Krusenoski asked how long Ms. Datong had been employed. Mr. Choi replied three or four months.

Mr. Krusenoski asked if liquor was a large portion of the overall revenue. Mr. Choi replied no. He stated that they recently downgraded their license from full alcohol to beer and wine only. He stated that liquor sales were not that great and they could not justify holding the inventory.

Ms. Fregeau was sorry to see Bok Choy under these circumstances. She asked what they plan to do on a go forward basis with training and asked if they have regular training sessions planned. Mr. Choi replied that they have regular training planned. He stated that he plans to show up unannounced to remind employees about checking identification and make sure staff is taking care of other restaurant tasks. He stated that other operational issues also contributed to the termination of the former manager.

Ms. Fregeau stated that she had a chance to review their manual which looked very thorough. She stated that the execution of the manual is what counts. She stated that employees must be aware of their responsibilities. She asked when the last training was held. Mr. Choi replied that he conducted a training seminar about two weeks ago. He stated that all employees received a copy of the manual.

Ms. Fregeau asked if it was their policy to card patrons appearing 30 years old or younger. Mr. Choi stated that they have since updated that policy. He stated that if there is any question or doubt about age, employees are to card everyone.

Chairman McInerney felt that they understood the seriousness of the incident. He asked that they submit the updated liquor manual for their file. Mr. Choi agreed.

There being no further discussion by the Commission, Ms. Clark summarized by stating that Yum Yum Dish, Inc. d/b/a Bok Choy Cafe located at 2117 63rd Street, has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor.

Ms. Clark stated that this is the licensee's first violation in the past five years. She noted that there are no aggravating circumstances in this case.

Ms. Clark recommend that the license be suspended for one (1) to three (3) days. In addition, she recommend that the licensee be required to pay a fine of \$1,000 and an administrative fee of up to \$1,000 to cover the costs of conducting this hearing. She stated that should the Commission recommend that the licensee to serve a suspension in lieu of fine, they may also serve additional suspension days.

Chairman McInerney asked if the licensee had any additional comments for the record. Mr. Choi replied no.

MR. KRUSENOSKI MOVED TO FIND YUM YUM DISH, INC. D/B/A BOK CHOY CAFE LOCATED AT 2117 63RD STREET GUILTY OF A VIOLATION OF SECTION 3-25(a) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MR. ADANK SECONDED.

VOTE:

Aye: Mr. Krusenoski, Mr. Adank, Ms. Fregeau, Ms. Strelau, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman McInerney requested a recommendation be made as to the fine and/or suspension for the violation.

Mr. Krusenoski did not prefer abstaining completely from a fine simply because liquor sales are low. He preferred a \$500 fine and 3-5 day suspension. Chairman McInerney noted that in addition to punitive fines, the licensee is still required to cover administrative costs of the hearing.

Ms. Strelau understood that the licensee was asking for suspension in lieu of a fine. She stated that 3-5 days of suspension is significant for a first offense. She stated that they typically do not suspend that long, but usually fine higher. She stated licensees more often prefer to pay a higher fine in lieu of being suspended. She agreed that this is not supposed to be an easy process and felt the fine should be closer to \$1,000 and a two day suspension.

MS. FREGEAU MOVED TO RECOMMEND THAT THE LICENSE OF YUM YUM DISH, INC. D/B/A BOK CHOY CAFE LOCATED AT 2117 63RD STREET, BE SUSPENDED FOR THREE (3) DAYS, THAT THE LICENSEE BE FINED IN THE AMOUNT OF \$1,000, NOT TO EXCEED \$15,000 AND THAT THE LICENSEE PAY AN AMOUNT OF \$1,000 TO COVER ADMINISTRATIVE COSTS TO CONDUCT THIS HEARING. MS. STRELAU SECONDED.

VOTE:

Aye: Ms. Fregeau, Ms. Strelau, Mr. Krusenoski, Mr. Adank, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

The Cellar Door, LLC d/b/a The Cellar Door - 5150A Main Street

Chairman McInerney stated that the next order of business was to conduct a disciplinary hearing for The Cellar Door, LLC d/b/a The Cellar Door located at 5150A Main Street. He noted that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman McInerney asked any individual(s) in the audience representing the licensee to step forward and be seated. He asked that any individual(s) giving testimony be sworn in by the Court Reporter. He asked that they state and spell their name for the record and indicate their affiliation with the establishment.

Mr. Sean Chaudhry was sworn in by the court reporter. He introduced himself as the owner of The Cellar Door. Mr. Frank Tatar was sworn in by the court reporter. He introduced himself as the liquor manager for the Cellar Door.

Chairman McInerney asked the prosecuting attorney to present her case.

Ms. Clark stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. The Cellar Door, LLC d/b/a The Cellar Door, 5150A Main Street, Downers Grove, Illinois, is the holder of a Class W-1/O Liquor License #LQ-000097, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since August 17, 2005.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 6:20 p.m. on Monday, June 15, 2009, Downers Grove Police Officer Rau and Downers Grove Police Officer Lichamer observed M.G., a special employee of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is June 9, 1990 (making her 19 years old), enter The Cellar Door located at 5150A Main Street, Downers Grove.
4. That the special employee took a bottle of wine from the shelf and approached the check-out register where manager Frank Tatar was working as a cashier.
5. The special employee presented the bottle of wine to manager, Frank Tatar, while Officer Lichamer observed the transaction.
6. That manager, Frank Tatar, whose date of birth is August 8, 1979, rang up the purchase charging the special employee \$21.00 for the bottle of wine.
7. That at no time did manager, Frank Tatar, ask the special employee asked for her identification.
8. Officers Rau and Lichamer who witnessed the events in the foregoing paragraphs, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
9. Frank Tatar was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.

10. The Officers advised that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Clark asked that the signed stipulation be entered into the record as Village's Exhibit #1. Chairman McNerney accepted the signed stipulation as Village Exhibit #1.

Chairman McNerney asked the licensee to present its case.

Mr. Tatar apologized for the violation. He stated that there was no excuse for his actions. He advised that he has been in the business for over 15 years and this was the first incident he had ever been involved in. He stated that he has taken additional precautions since the incident. He stated that they hold weekly pre-shift meetings, go through liquor laws and cover carding. He stated that they now card 40-50 or under, while showing respect to senior citizens. He noted that this was a first offense for the store.

Mr. Chaudhry stated that this incident was unfortunate and he and Mr. Tatar take full responsibility for the incident. He stated that they have made efforts to ensure this does not happen again.

Mr. Chaudhry advised that Mr. Tatar has been in the industry most of his life. He stated that Mr. Tatar attended a prestigious college and received a degree in wine making and understands the industry well. He stated that he has made wine throughout the country and worked for a family restaurant in Frankfort. He stated that Mr. Tatar has received a warning and understands that he will be terminated for any future violations.

Mr. Chaudhry stated that Mr. Tatar had been on the job for two weeks when the incident happened. He stated that was not an excuse. He stated that Mr. Tatar is a very qualified person to run a wine shop.

Mr. Chaudhry stated that he has been in the business for seven years. He stated that he also has a wine shop in Hinsdale. He stated that he passed every test there. He noted that they have been in Downers Grove for four years and had passed every test since this incident. He understood the seriousness of the incident and they never intend this to happen again.

Mr. Chaudhry advised that it is a family-owned business and he and his wife spend countless hours in the store. He stated the he, Mr. Tatar and his wife generally run the store. He stated that it is difficult to make profit in such a small business.

Mr. Chaudhry stated that all employees are TIPS certified and has been given their manual. He advised that Mr. Tatar was in the process of training. He stated that they take training very seriously. He stated that employees are advised that if they have the slightest doubt, not to make the sale.

Mr. Chaudhry stated that in this instance, mistakes happen. He stated that there was no excuse and that he and Mr. Tatar take full responsibility for the incident. He stated that Mr. Tatar was devastated about it.

Mr. Chaudhry stated that he and his wife were on their way back from a trip when the incident happened. He stated that they cannot man the shop 24/7. He stated that they are committed to Downers Grove and that they work hard and it is their intention to be responsible business owners.

Mr. Adank thanked Mr. Tatar for being at the hearing as it was not often that the employee involved attends. He wondered how a 19 year old that was not carded could purchase a bottle of wine, especially from someone with 15 years of experience in a shop that caters to 40-50 year olds. Mr. Tatar replied that he had been at the establishment only two weeks. He stated that at the time of the sale, he had one server

with him. He advised he was operating as chef, busboy, manager and was helping serve tables. He added that they were busy.

Mr. Chaudhry noted that they have increased staff since the incident. He stated that they now have a cook, busboys and have added servers. Mr. Tatar advised that when he started they had three staff members, now they are up to twelve. He stated that each employee concentrates on their own specific tasks and the establishment is running smoother. Mr. Chaudhry noted that he made radical staff changes prior to hiring Mr. Tatar.

Mr. Krusenoski asked Mr. Tatar if he was in the process of being TIPS trained. Mr. Tatar replied yes.

Mr. Krusenoski noticed that they are busy on the weekends. Mr. Tatar added that they also have ½ off wines by the glass as a Monday special which brings people in at all hours. Mr. Krusenoski asked Mr. Tatar if he was the only one working the register. Mr. Tatar replied yes, the server was making drinks for the tables and giving him food orders while he rung up customers, cooked and answered the phone. He did not want to make being busy as an excuse.

Mr. Krusenoski did not feel that economic viability or profitability of a business plays into whether or not a fine is more lenient or not. He stated it still is a violation of the ordinance which is not mitigated by the economic circumstances of the business.

Ms. Fregeau stated that the Liquor Commission tries to set standards to protect citizens and promote responsible drinking. She stated that managers have an added responsibility to set the tone for the business and the people that work for them. She reviewed their liquor manual which clearly indicates that “they card hard”. She would ask that they re-address their manual, not just in content, but in execution. She stated that they have a zero tolerance for liquor law violations by management, employees or customers. She stated that their policy is to card 25 and under. She noted that they may want to re-address that issue with their employees and leave no doubt when to card. She stated that there have been some changes to the liquor code allowing them to serve liquor by the glass. She was concerned that someone under 21 was sold a bottle of wine and that fact that they were never carded. She hoped the 12 employees will be set up on regular training to ensure this never happens again.

Ms. Strelau asked Mr. Tatar if he had been in the liquor business for 15 years. Mr. Tatar replied yes. She was confused why he had never received certified training. Mr. Tatar stated that it had never been a requirement. He stated that liquor training he received was taught in-house.

Mr. Tatar advised that he has weekly and pre-shift meetings. He stated that they go over carding and keep refreshing the training. He stated that all servers are TIPS certified. He stated that their first day consists of paperwork and before they are placed on shift they have to have their certification.

Ms. Strelau wondered how many of the 12 staff members serve liquor. Mr. Tatar replied six, including himself. He stated that the only ones not certified are the busboys who are eighteen and responsible only for clearing tables.

Ms. Strelau stated that they have taken steps to correct the problem but they need to be certain that the steps are taken seriously. She stated this is their chance and they need to follow through. She stated that it is not the intent for the Liquor Commission to cause any undue financial hardship on any licensee. She appreciated that the additional staffing may cost a good deal of money. She stated that they violated the liquor law and the ramifications of such have nothing to do with whether they are profitable or not. She stated that fines and suspensions are based upon the violation of the law.

Chairman McInerney stated that the Village worked with the Cellar Door on expanding the license classification to allow on-site sales. He preferred having licensees back for expansions, rather than at these types of hearings. He noted that a liquor license is a privilege not a right and responsibility comes with it.

There being no further discussion by the Commission, Ms. Clark summarized by stating that The Cellar Door, LLC d/b/a The Cellar Door located at 5150A Main Street, has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor.

Ms. Clark stated that this is the licensee's first violation in the past five years. She noted that there is an aggravating circumstances in this case where a manager was involved in the sale.

Ms. Clark recommend that the license be suspended for one (1) to three (3) days with an additional day of suspension for the aggravating circumstance. In addition, she recommend that the licensee be required to pay a fine of \$1,000 and an administrative fee of up to \$1,000 to cover the costs of conducting this hearing.

Chairman McInerney asked if the licensee had any additional comments for the record. There were none.

Upon hearing the evidence presented in this case, Chairman McInerney requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MS. STRELAU MOVED TO FIND THE CELLAR DOOR, LLC D/B/A THE CELLAR DOOR LOCATED AT 5150A MAIN STREET GUILTY OF A VIOLATION OF SECTION 3-25(a) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. FREGEAU SECONDED.

VOTE:

Aye: Ms. Strelau, Ms. Fregeau, Mr. Adank, Mr. Krusenoski, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman McInerney asked the licensee if there was a preference for suspension or an increased fine in lieu of suspension.

Mr. Chaudhry was aware that there were aggravating circumstances and hoped for only a one day suspension.

Chairman McInerney requested a recommendation be made as to the fine and/or suspension for the violation.

MR. KRUSENOSKI MOVED TO RECOMMEND THAT THE LICENSE OF THE CELLAR DOOR, LLC D/B/A THE CELLAR DOOR LOCATED AT 5150A MAIN STREET, BE SUSPENDED FOR NOT LESS THAN TWO (2) NOR MORE THAN FOUR (4) DAYS, THAT THE LICENSEE BE FINED IN THE AMOUNT OF \$1,000 /NOT TO EXCEED \$15,000 AND

THAT THE LICENSEE PAY AN AMOUNT OF \$1,000 TO COVER ADMINISTRATIVE COSTS TO CONDUCT THIS HEARING. MS. STRELAU SECONDED.

VOTE:

Aye: Mr. Krusenoski, Ms. Strelau, Ms. Fregeau, Mr. Adank, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Ballydoyle, LLC d/b/a Ballydoyle Irish Pub & Restaurant - 5157 Main Street

Chairman McInerney stated that the next order of business was to conduct a disciplinary hearing for Ballydoyle, LLC d/b/a Ballydoyle Irish Pub & Restaurant located at 5157 Main Street. He noted that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman McInerney asked any individual(s) in the audience representing the licensee to step forward and be seated. He asked that any individual(s) giving testimony be sworn in by the Court Reporter. He asked that they state and spell their name for the record and indicate their affiliation with the establishment.

Mr. Phil Cullen and Mr. Shannon Wesseling were sworn in by the court reporter. Mr. Cullen introduced himself as the owner of Ballydoyle. Mr. Wesseling introduced himself as the general manager of Ballydoyle.

Chairman McInerney asked the prosecuting attorney to present her case.

Ms. Clark stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Ballydoyle, LLC d/b/a Ballydoyle Irish Pub & Restaurant, 5157 Main Street, Downers Grove, Illinois, is the holder of a Class R-1/O Liquor License #LQ-000020, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since October 31, 2003.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 5:15 p.m. on Wednesday, June 24, 2009, Downers Grove Police Officer Rau and Downers Grove Police Officer Lichamer observed J.F., a special employee of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is March 21, 1991 (making her 18 years old), enter Ballydoyle Irish Pub & Restaurant located at 5157 Main Street, Downers Grove.
4. The special employee sat at the bar area of the restaurant and employee Hilary Jursa, asked her for her order.

5. The special employee ordered a Miller Lite beer while Officers Rau and Lichamer observed her.
6. That employee, Hilary Jursa, whose date of birth is June 22, 1984, then asked the special employee for identification.
7. That the special employee produced her valid vertical Illinois driver's license indicating her date of birth as March 21, 1991, and reading "Under 21 until 3-21-2012" on the face of the license.
8. That employee, Hilary Jursa, viewed the special employee's driver's license and took the special employee's Under 21 license to manager, Nicholas Neihengen, to review. After a brief discussion with the manager, Nicholas Neihengen, employee Hilary Jursa then returned the Under 21 driver's license to the special employee.
9. Hilary Jursa then served the special employee a bottle of Miller Lite beer.
10. Officers Rau and Lichamer who witnessed the events in the foregoing paragraphs, identified themselves to manager Nicholas Neihengen and employee Hilary Jursa and advised that the delivery of an alcoholic beverage had been made to a minor.
11. Hilary Jursa was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
12. The Officers advised that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Clark asked that the signed stipulation be entered into the record as Village's Exhibit #1. Chairman McInerney accepted the signed stipulation as Village Exhibit #1.

Chairman McInerney asked the licensee to present its case.

Mr. Cullen submitted a cover letter and materials to the Commission prior to the hearing. He admitted the incident and that it was an inexcusable and intolerable mistake. He stated that they work hard to make sure that these incidents do not occur. Mr. Wesseling stated that he informed Mr. Cullen of the incident immediately. Mr. Cullen stated that a very experienced server and manager were involved in the sale. Mr. Cullen stated that she had been employed with Ballydoyle for six months and had just been re-certified through the BASSETT training course. He added that the manager on staff was diligent. He could not understand how they could make this kind of an error.

Mr. Cullen stated that both employees were brought in the same evening and were terminated immediately. He stated that they do not accept the serving of minors in their establishment. He stated that Nick had been employed with Ballydoyle for over three years. He stated that the licenses are very clear, better and easier to read. He stated that they held an emergency manager's meeting on the following day and an emergency employee meeting the day after, which was the just before Heritage Festival. He advised that they were put in contact with an officer who came in to discuss carding and the licenses with all of the staff. He stated that they re-emphasized the policy of immediate termination if employees serve minors and every employee signed off on awareness of such zero tolerance policy.

Mr. Cullen stated that they wrote non-negotiable standards that every staff member is required to card everyone that looks under the age of 30. He stated that they met personally which each employees and went through standards and discussed the incident. He stated that they set high expectations for their

employees. He stated that all employees are required to be BASSETT certified before they are put on the floor. He stated all employees go through their own extensive training program.

Mr. Cullen advised that they have added staff at the door on Wednesdays and Thursdays, in addition to the door normally being staffed on Fridays and Saturdays. He stated that they have daily pre-shift meetings where carding is discussed.

Mr. Wesseling stated that they have posted signage indicating that patrons "Must be born on xx/xx/xx" to be served alcohol. Mr. Cullen stated that they added the license training to the manual, required employee to sign off on the agreement that they understand the termination policy, and had them sign off on the non-negotiable standards. Mr. Cullen stated that they recently hired secret shoppers. He stated that he also hired a professional to do spot checks on the establishment to be sure employees are carding. He stated these people will be of age, but will look younger.

Mr. Cullen stated that there are pre-shift meetings with the bartenders and door men. He wanted to make it clear that it is not their intention to serve minors. He advised that most patrons are between 35-55 years old. Mr. Cullen stated that they have a zero tolerance policy on serving minors.

Mr. Cullen summarized that Ballydoyle is a big part of the community and he understood that controlling liquor is important. He stated that what happened was unfortunate and they try to do everything they can to support Village policies. He stated that they have a good manual and training, but sometimes people make mistakes. He stated that two good employees made a mistake which cost them their job. He stated this was very hard for him and he apologized for being emotional. He apologized for the incident and stated that they never intended for it to happen. He noted that they have taken significant steps to make sure this does not happen again in the future.

Ms. Strelau apologized in advance if her questions sounded harsh. She stated that there are three aggravating circumstances in this case. She stated that it was inconceivable that alcohol was sold to a minor when an Under 21 license was shown that two people looked at the license, one being a manager. She stated that Ballydoyle's control buy record is 50%. She stated that there are many licensees who never have failed a control buy and are successful at passing tests. She stated that they should be made aware that this is a significant problem. She advised that they will be re-tested in the next few months and noted that the ramifications will continue to get more significant in the event they are before the Commission in the future. She stated that their manual is good and she was pleased that they put it together and allowed them to review it before the meeting. She stated that it is thorough but if it sits on a shelf it will be a double edge sword if they have another violation. She stated that it can be an excellent tool and their way to get their arms around the situation and never come back before the Commission for this again. She stated that would be entirely up to them.

Ms. Strelau stated that since it was a manager took the Under 21 license, she suggested that one of their non-negotiable standards would be for the managers to card. She stated that there is nothing in the standards that mentions carding or ensuring that servers are carding. Ms. Strelau stated that it is #8 the standards for Ballydoyle employees, but she did not see it on the standards for managers. Mr. Cullen stated that it was added to the manager's copy.

Ms. Strelau asked if the items the Commission received were becoming part of their official manual. Mr. Cullen replied yes. She suggested that they provide Carol with a copy so the complete manual is on file.

Mr. Krusenoski stated that he was impressed with their response to the incident with the immediate terminations and meetings with staff. He stated that was a step in the right direction.

Mr. Krusenoski asked if the manual prior to the incident included information on the vertical Under 21 license format. Mr. Cullen stated that they have a guide that is separate, but not part of the manual, but he stated it has since been added to the manual.

Mr. Krusenoski was certain that they have had vertical licenses presented before and that employees were familiar what a vertical license is and what it implied. He did not feel it was a failure in training, because they followed procedures in asking a youngster for identification. He stated there may have been some confusion on the servers behalf about the license, so she took it to a trained manager. He stated that the manual is good, but did not feel it was a training failure.

Mr. Krusenoski asked if the employees offered a defense or if they just willfully sold to a minor. He wondered how they did not understand it after reading "Under 21 Until 2012". Mr. Wesseling responded that both employee were friends before they were employees. He stated that they had great tract records and quality employees. He stated that they did everything right except for checking the date of birth. Mr. Cullen stated that Hillary advised him that the card read "Under 18 Until March, 2009" and for some reason she thought it meant under 21, completely misread it and it was confusing for her, which is why she went to the manager and said it did not look right. She indicated that the manager said it looked fine and handed it back to her. He stated that Hillary advised the agent that she needed to get her license renewed. Mr. Cullen stated that it was not the training aspect, it was the employees making poor execution of understanding the license. Ms. Fregeau noted that Hillary had been trained a week before.

Mr. Krusenoski stated that if they are in the business of serving liquor, they must know what a vertical license means and implies.

Mr. Adank appreciated their aggressive response.

Ms. Fregeau stated that most of her concerns were addressed. She stated that they may want to consider amending their policy to refer to "controlled busy" in lieu of "sting operations" which has a negative connotation. She felt that they fully understand the importance of compliance testing. She stated that the Village is not out to "catch" them, the Village is out to do the right thing for the right reasons. She stated that they have been very successful and good for Downers Grove and knows they want to continue in that manner.

Ms. Fregeau stated that their preliminary manual had two pages dedicated to liquor service. She stated that it was positive that they have addressed changes. She noticed that they have a number of employees whose certifications expire in November. She also noticed that Mark Cullen was certified in 2003, which she believed expiration to be 2-3 years, but did not see that he has been re-certified since that time.

Ms. Fregeau cautioned them about the number of DUI Notifications. She stated wanted them to be aware of that and the culture of responsibility of both not over serving patrons and not serving minors.

Chairman McInerney stated that they have expressed challenges from this experience and the learning opportunity that they have gained from it. He felt the timeliness of the response and the background they provided to the Commission in advance of the hearing was helpful and good to see. He stated that the purpose of the control buy program is not to catch people doing something wrong, it is to check if licensees are doing something right. He stated there are press releases for licensees who pass, as the Village wants to give licensees positive press that they are doing the right thing. He was disappointed about this incident given the aggravating circumstances and hoped not to see them again for another disciplinary hearing.

There being no further discussion by the Commission, Ms. Clark summarized by stating that Ballydoyle, LLC d/b/a Ballydoyle Irish Pub & Restaurant located at 5157 Main Street, has stipulated to a violation of

Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor.

Ms. Clark stated that this is the licensee's second violation in the past five years. She noted that there are aggravating circumstances in this case where a manager was involved in the sale and a red vertical "Under 21" license was shown.

Ms. Clark recommend that the license be suspended for two (2) to five (5) days with an additional day of suspension for each of the aggravating circumstances. In addition, she recommend that the licensee be required to pay a fine of \$1,000 and an administrative fee of up to \$1,000 to cover the costs of conducting this hearing.

Chairman McInerney asked if the licensee had any additional comments for the record.

Mr. Cullen stated that a 2-5 day suspension for a pub would be difficult and that he preferred a fine. He stated if the doors are closed, it could be the kiss of death. Chairman McInerney noted that the liquor service would be suspended, not food service. Mr. Cullen advised that liquor service is a significant part of their Irish pub business.

Ms. Strelau asked staff what the fine and/or suspension was for Ballydoyle's previous violation.

Ms. Kuchynka stated that Ballydoyle served zero (0) days of suspension, paid a \$2,000 fine and \$500 in hearing costs for the April 2006 liquor violation.

Upon hearing the evidence presented in this case, Chairman McInerney requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MS. STRELAU MOVED TO FIND BALLYDOYLE, LLC D/B/A BALLYDOYLE IRISH PUB & RESTAURANT LOCATED AT 5157 MAIN STREET GUILTY OF A VIOLATION OF SECTION 3-25(a) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MR. KRUSENOSKI SECONDED.

VOTE:

Aye: Ms. Strelau, Mr. Krusenoski, Ms. Fregeau, Mr. Adank, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman McInerney requested a recommendation be made as to the fine and/or suspension for the violation.

Mr. Krusenoski felt that they should serve at least on day suspension for the aggravating circumstances and pay a \$4,000 fine.

Ms. Strelau noted that it was not their intention to be brutally crippling but the Commission needs to determine a proper fine and suspension to levy to curtail this behavior. She leaned toward another day of suspension, but understood their position and she did not want to be crippling, but wanted them to do the right thing.

Ms. Krusenoski asked if this is really bad behavior. Ms. Strelau stated that taking an Under 21 license by two people in a pub is bad behavior. She would be comfortable with a one day suspension and \$5,000 fine.

Chairman McInerney requested a motion.

MS. FREGEAU MOVED TO RECOMMEND THAT THE LICENSE OF BALLYDOYLE, LLC D/B/A BALLYDOYLE IRISH PUB & RESTAURANT LOCATED AT 5157 MAIN STREET, BE SUSPENDED FOR NOT LESS THAN ONE (1) DAY, NOR MORE THAN THREE (3) DAYS, THAT THE LICENSEE BE FINED IN THE AMOUNT OF \$4,000 /NOT TO EXCEED \$15,000 AND THAT THE LICENSEE PAY AN AMOUNT OF \$1,000 TO COVER ADMINISTRATIVE COSTS TO CONDUCT THIS HEARING. MR. KRUSENOSKI SECONDED.

VOTE:

Aye: Ms. Fregeau, Mr. Krusenoski, Ms. Strelau, Mr. Adank, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Downers Grove Restaurant Group, Inc. d/b/a Gatto's Restaurant & Bar - 5123 Main Street

Chairman McInerney stated that the next order of business was to conduct a disciplinary hearing for Downers Grove Restaurant Group, Inc. d/b/a Gatto's Restaurant & Bar located at 5123 Main Street. He noted that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman McInerney asked any individual(s) in the audience representing the licensee to step forward and be seated. He asked that any individual(s) giving testimony be sworn in by the Court Reporter. He asked that they state and spell their name for the record and indicate their affiliation with the establishment.

Mr. Charles Gatto and Mr. Frank Gatto were sworn in by the court reporter. Frank and Charles Gatto introduced themselves as the owners of Gatto's Restaurant & Bar.

Chairman McInerney asked the prosecuting attorney to present her case.

Ms. Clark stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Downers Grove Restaurant Group, Inc. d/b/a Gatto's Restaurant & Bar, 5123 Main Street, Downers Grove, Illinois, is the holder of a Class R-1 Liquor License #LQ-000107, issued by the

Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since November 10, 2008.

2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 4:50 p.m. on Wednesday, June 24, 2009, Downers Grove Police Officer Rau and Downers Grove Police Officer Lichamer observed J.F., a special employee of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is March 21, 1991 (making her 18 years old), enter Gatto's Restaurant & Bar located at 5123 Main Street, Downers Grove.
4. The special employee sat at the bar area of the restaurant and bartender, Rachel Nasgowitz, asked her for her order.
5. The special employee ordered a Miller Lite beer while Officers Rau and Lichamer observed her.
6. That bartender, Rachel Nasgowitz, whose date of birth is February 27, 1972, then asked the special employee for identification.
7. That the special agent produced her valid vertical Illinois driver's license indicating her date of birth as March 21, 1991, and reading "Under 21 until 03-21-2012" on the face of the license.
8. That bartender, Rachael Nasgowitz viewed the special agent's driver's license and then returned the driver's license to the special employee.
9. That bartender, Rachel Nasgowitz, then served the special employee a bottle of Miller Lite beer.
10. Officers Rau and Lichamer who witnessed the events in the foregoing paragraphs, identified themselves to bartender Rachel Nasgowitz and advised that the delivery of an alcoholic beverage had been made to a minor.
11. Rachel Nasgowitz was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
12. The Officers advised that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Clark asked that the signed stipulation be entered into the record as Village's Exhibit #1. Chairman McInerney accepted the signed stipulation as Village Exhibit #1.

Chairman McInerney asked the licensee to present its case.

Charles Gatto stated that he was disappointed and embarrassed to be in front of the Commission for the violation. He stated that all employees are BASSETT trained. He stated that once at the establishment, employees are also put through their liquor training. He stated that they take liquor handling importance to a high degree, but apparently they did not train enough. He apologized to the Commission and the community that they did not uphold their responsibility of carrying liquor.

Charles Gatto stated the control buys are a good idea. He stated that they have taken steps to make certain this does not happen again. He stated that it was a mistake of the bartender, who was in the audience and present this evening.

Frank Gatto stated that incident was indefensible. He stated that they cater to families and children. He stated that they are not big in the liquor business, but it is a part of the business. He could not explain why it happened especially since the Under 21 license was shown. He stated that he and Charles were baffled and wished he could tell them there was a reason for what happened. He stated that they were sorry for the incident and welcomed any suggestions the Commission may have as to how they can do a better job. He stated that they have been in business for 10 years with two other restaurant and never had an incident. He stated that they try very hard to do the right thing and their good history was indicative of what they do.

Mr. Krusenoski asked if the vertical license was in the training material for employees. Charles replied that it was not in the original training manual. He stated that since then it has been added. He stated that the sample was in the store, just not in the manual.

Mr. Krusenoski asked if BASSETT was part of their training. Charles replied yes. He stated that he had contacted Carol and she came out and did a seminar at the establishment.

Mr. Krusenoski recalled their application hearing and that they had other restaurants and a spotless record. He stated that the showing of the license baffles him as it is an immediate red flag in that it is vertical which indicates the person is under 21. He stated that they must scrutinize that license as there are only a slim portion of people that have turned 21 and still hold the license as they did not get a new one. He wondered what it would take to make the under 21 license stand out any more.

Charles Gatto stated after the incident, the officer advised Rachael that she served a minor who indicated "no, it was this date". He stated that she did what she was supposed to do by carding, because the agent did not look like she was 21. He wondered what is was she was looking at because the license says "under 21 until" on it.

Mr. Adank realized Gatto's was uncomfortable and equally was the Commission.

Ms. Strelau stated that she hated this violation most of all. Mr. Krusenoski agreed and noted that carding with the vertical license shown was an aggravating circumstance. Ms. Strelau noted that the bartender looked at something that was clearly written that the agent was under 21.

Ms. Kuchynka stated that licensees have requested that the \$250 server fine for not carding be raised to \$500 just as the fine for carding had been. Chairman McInerney felt that discussion should be saved for a new business item.

Mr. Krusenoski stated that this instance was not from the failure of not carding, this was the failure of not reading the date of birth.

Ms. Strelau asked about the programs of Tinley Park and New Lenox which were passed. She stated that at application the Commission was impressed with their record and letters that they were responsible servers of alcohol and capable of handling liquor. She wondered how their programs differed from Downers Grove. Charles stated that there was no difference. She asked if they send in underage agents. Charles stated that they have control buys. He stated that they try in every instance to provide their servers with the right training. He stated that they always been proactive in handling liquor. He stated that he was disappointed because everything that they have worked for and tried to establish is diminished by this incident and he did not want this perception so early on. He stated that they have a

good track record, they run constant training and monthly staff meetings. He stated that since the incident carding is emphasized on a daily basis and during shift changes. Charles believed that they do more frequent testing out there. He stated that they take pride in letters from the police. He agreed with what the Village is doing as it is meant to protect them and they are always being made aware and keep servers on notice that they need to be vigilant. He stated that employees need to understand the different licenses.

Mr. Krusenoski suggested that all vertical licenses be approved by a manager. Frank replied that the discussed the issue with Carol and they decided not to accept the vertical under 21 license. He stated that they plan to apply this policy to all three stores. He stated that this was a great experience in and of itself and they wants to look at it as a learning experience and do better.

Ms. Strelau stated that some licensees do not take the vertical license at all, even if the individual is over 21, they are told to go get the new license. She stated that might be a helpful solution for them.

Ms. Strelau stated that a revision to the manual would be to add the license samples to the manual. She stated that it was mentioned in earlier testimonies that the server looked at the expiration date rather than the "Under 21 until" which may need to be highlighted or explained better in training. She felt that they need to have a plan into effect so this never happens again. She recognized that alcohol sales were a small percentage of their business.

Ms. Fregeau suggested that they amend their manual to also be more consistent in their policy about handling employees that violate their policies.

Mr. Adank asked what their alcohol sales percentage were. Charles replied 20%.

Chairman McInerney stated that it was disappointing to have them before the Commission for a violation less than a year of them being issued a license. He stated that they sat through several hearings and the same message is that they are responsible for their employees actions. He stated that owners set the culture. He stated that the Village needs to be sure that licensees do right by the community and hold up their obligations as a license holder. He stated that the Village is counting on licensees to make the right decisions. He stated that the control buy program is a tool to let the Village and licensees know whether or not their practices are working. He was less concerned about what happened on the day of the incident but what happens on all the days when the Village is not testing. He asked that they take this incident as a learning opportunity.

There being no further discussion by the Commission, Ms. Clark summarized by stating that Downers Grove Restaurant Group, Inc. d/b/a Gatto's Restaurant & Bar located at 5123 Main Street, has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor.

Ms. Clark stated that this is the licensee's first violation within their first year of operation. She noted that was an aggravating circumstances in this case along with a red vertical "Under 21" license being shown.

Ms. Clark recommend that the license be suspended for one (1) to three (3) days with an additional day of suspension for each of the aggravating circumstances. In addition, she recommend that the licensee be required to pay a fine of \$1,000 and an administrative fee of up to \$1,000 to cover the costs of conducting this hearing.

Chairman McInerney asked the licensee's representatives if they had any additional comments for the record.

Charles was concerned of what the perception of the community is and preferred a fine in lieu of suspension.

Upon hearing the evidence presented in this case, Chairman McInerney requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MR. KRUSENOSKI MOVED TO FIND DOWNERS GROVE RESTAURANT GROUP, INC. D/B/A GATTO'S RESTAURANT & BAR LOCATED AT 5123 MAIN STREET GUILTY OF A VIOLATION OF SECTION 3-25(a) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. STRELAU SECONDED.

VOTE:

Aye: Mr. Krusenoski, Ms. Strelau, Ms. Fregeau, Mr. Adank, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

Ms. Strelau stated that the aggravating circumstances make it tough not to have suspension. She suggested a one to two day suspension and a \$4,000 fine.

Mr. Adank suggested a one day suspension and \$2,000 fine.

Mr. Krusenoski suggested a one to two day suspension and split the fine difference.

Ms. Fregeau did not like to see a business closed for any amount of time but understand that there are aggravating circumstances. Ms. Strelau stated only the liquor service would be suspended not their regular good service.

Chairman McInerney requested a recommendation be made as to the fine and/or suspension for the violation.

MR. KRUSENOSKI MOVED TO RECOMMEND THAT THE LICENSE OF DOWNERS GROVE RESTAURANT GROUP, INC. D/B/A GATTO'S RESTAURANT & BAR LOCATED AT 5123 MAIN STREET, BE SUSPENDED FOR NOT LESS THAN ONE (1), NOR MORE THAN TWO (2) DAYS, THAT THE LICENSEE BE FINED IN THE AMOUNT OF \$3,000 /NOT TO EXCEED \$15,000 AND THAT THE LICENSEE PAY AN AMOUNT OF \$1,000 TO COVER ADMINISTRATIVE COSTS TO CONDUCT THIS HEARING. MS. STRELAU SECONDED.

Chairman McInerney asked if the Commission had further discussion prior to a vote.

VOTE:

Aye: Mr. Krusenoski, Ms. Strelau, Ms. Fregeau, Chairman McInerney

Nay: Mr. Adank

Abstain: None

MOTION CARRIED: 4:1:0

The Motion carried.

Chairman McInerney concluded the disciplinary portion of the evening's meeting.

The group took a 5 minute break.

V. APPLICATION FOR LIQUOR LICENSE

Chairman McInerney made the following statements:

"The first order of business is to conduct public hearings on liquor license applications. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner"

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available licenses within 60 days in order to consult the Plan Commission for its recommendations."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) comments from the public, 4) discussion by the Commission, and 5) motion and finding by the Commission."

"Upon arrival a Court Reporter will take the minute verbatim. Staff is also present for purposes of summarizing the proceedings."

DATA B Corp. d/b/a 63rd Street Billiards

Chairman McInerney stated that the next order of business was an application hearing for DATA B Corp. d/b/a 63rd Street Billiards located at 2145 W. 63rd Street. He stated that the applicant is seeking a Class "E-3-D", full alcohol, on-premise consumption liquor license.

Chairman McInerney asked that any individual(s) representing the applicant step forward and be seated. He asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Robert Taft was sworn in by the court reporter. Mr. Taft introduced himself as the owner and liquor manager of 63rd Street Billiards.

Chairman McInerney asked the applicant to present his case.

Mr. Taft stated that he was seeking a liquor license for an existing billiard hall. He stated that he has been in the business since 2001. He advised that he has two other establishments with liquor licenses that are significantly larger. He stated that he is comfortable handling liquor and has a good track record in

Darien and Glendale Heights. He stated that it will be an amusement-type establishment with pool tables, video games and dart boards. He advised they will have a kitchen area and will be serving food.

Chairman McInerney asked if there were any staff recommendations pertinent to the application. Ms. Kuchynka stated that the license would be contingent upon receipt of a certificate of occupancy, the annual fee, satisfactory background checks and receipt of dram shop insurance.

Chairman McInerney asked if there were any comments from the public pertinent to the application. There were none.

Chairman McInerney asked if there were any comments from the Commission.

Ms. Strelau stated the Downers Grove location will be a billiard hall. She asked if the Glendale Heights facility is primarily billiard hall. Mr. Taft replied that Shark City is a billiard hall and sports bar. He stated that the facility has pool tables but also has an entertainment venue and beer garden as well.

Ms. Strelau asked Mr. Taft how many hours he will be able to devote to the Downers Grove location. Mr. Taft replied he will be there full time until the facility gets running. He stated that the other two locations run independently and he does not work any hours at either of them, besides bookkeeping. He stated that he has well-paid full time managers on staff at the other locations.

Ms. Strelau noticed in the manual that it read "No one under 21 allowed in". Mr. Taft replied yes. He preferred that the facility is 21 and over. He stated that he can allow under 21 year olds into the Glendale Heights and Darien facilities, but prefers not to. He stated that it is very hard to really watch liquor buys in that environment. He stated he chose not to allow anyone under 21 into any of his facilities. He stated that he was not looking for that type of environment and are seeking an adult environment. He stated that they have someone stationed at the door at all times who will check identification. He stated that bartenders or servers will also check identification a second time if there is any question or concern about the patrons age.

Ms. Strelau asked if they will take the vertical identification. Mr. Taft replied no, even if they have turned 21. He stated that those people will be told to get their license renewed before they are allowed in.

Ms. Strelau commented that the manual was thorough. She stated that she found that DUI notification was referenced in their manual. He replied that this portion of the manual also refers to the Glendale Heights location. He noted that employees may be terminated if it is determined they were the cause of over service.

Ms. Strelau advised that it is not just what is contained in the manual, but the tone and tenor set by management regarding liquor sales.

Mr. Taft stated that this location is much smaller than his other locations. He stated that he has a good working relationship with the Glendale Heights Chief of Police. He stated that they talk on occasion, especially if there are any problems. He stated locations with a smaller customer base tend to let their customers over indulge. He stated that they are very strict and try not to be dependent on individual customers and are willing to cut them off at any time.

Ms. Fregeau asked if the manual submitted will be the one in effect for Downers Grove. Mr. Taft replied it will get tailored more once the establishment is in operation. He stated that it is hard to envision exactly what rules will need to be set up and/or changed.

Ms. Fregeau asked about de-emphasizing excessive liquor sales and marketing promotions. She stated that there is a comment in the manual which reads “ask them if they are ready for some shots”. She was unsure if that may raise problems and that they may want to consider de-emphasizing this activity. She stated that it may invite the opportunity for over service of hard alcohol. Mr. Taft agreed. He stated that they try to offer all of their selections to their customers, but not to the point of intoxication. Mr. Taft stated that if they catch employees over serving, they will be written up, with termination thereafter. He stated that service is not provided past the point of excess, he just wants staff to tell customers all that they have to offer.

Ms. Fregeau was pleased to see development in this area of 63rd Street expanding.

Ms. Fregeau asked about the letter from the landlord with regard to outdoor seating. Mr. Taft replied that they have no intention for outdoor seating.

Ms. Fregeau felt his experience will give confidence in his ability to serve liquor in Downers Grove.

Mr. Krusenowski asked Mr. Taft if he plans to partner with the neighboring Mexican establishment and serve food. He noticed that they have a kitchen area on the plan and wondered if they will do food in-house. Mr. Taft replied that they will do both. He noted that he has a similar deal with Rosati's and offer their pizza on the Que Billiards menu in Darien. He added that the kitchen is relatively small which can easily get backed up if there is a crowd. He stated that partnering with the neighboring Mexican establishment will relieve pressure off the kitchen.

Mr. Adank had no questions and welcomed the applicant.

Chairman McInerney mentioned the menu and noted it was the menu from Que in Darien. He asked if the same menu will be offered in Downers Grove. Mr. Taft replied that it would be similar but he has not finalized it yet. He stated that it would depend upon what he can afford to put into the kitchen. He stated that the menu will be similar, but not exact. Chairman McInerney stated that once the finalized menu is complete, it will need to be provided to the Village. Ms. Kuchynka added that receipt of a liquor license would be contingent upon receipt of the finalized menu and adequate kitchen facilities to maintain the food service requirement.

Chairman McInerney commented that the disciplinary action for employees involved in the over service of patrons is commendable.

Hearing the testimony given in this case, Chairman McInerney asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "E-3-D" , full alcohol, on-premise consumption liquor license application.

MS. STRELAU MOVED TO FIND DATA B CORP. D/B/A 63RD STREET BILLIARDS LOCATED AT 2145 W. 63RD STREET, QUALIFIED FOR A CLASS “E-3-D”, FULL ALCOHOL, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. KRUSENOSKI SECONDED.

VOTE: **Aye:** Ms. Strelau, Mr. Krusenowski, Ms. Fregeau, Mr. Adank, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Mr. Krusenoski asked Mr. Taft when he planned to open. Mr. Taft replied 2-3 months, depending on permitting.

The Lemon Tree, LLC d/b/a Lemon Tree Grocer

Chairman McInerney stated that the next order of business was an application hearing for The Lemon Tree, LLC d/b/a Lemon Tree Grocer located at 5100 Mochel Drive. He stated that the applicant is seeking a Class "P-O-2" full alcohol, off-premise consumption license with beer and wine only on-premise consumption and a Class "O", outdoor, beer and wine on-premise consumption liquor license.

Chairman McInerney asked that any individual(s) representing the applicant step forward and be seated. He asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Timothy Canning was sworn in by the court reporter. He introduced himself as the liquor manager for the Lemon Tree Grocer.

Chairman McInerney asked the applicant to present his case.

Mr. Canning stated that they are a grocery store with full butcher. He stated that they planning to also hold cooking classes. He stated that they would like to sell packaged liquor, beer and wine for off-premise consumption and sell beer and wine for consumption on the premises. He stated they want to bring a grocery store to downtown Downers Grove.

Chairman McInerney asked if there were any staff recommendations pertinent to the application. Ms. Kuchynka stated that the license would be contingent upon receipt of a certificate of occupancy, the annual fee, satisfactory background checks, receipt of dram shop insurance, a signed lease and finalized menu.

Chairman McInerney asked if there were any comments from the public pertinent to the application. There were none.

Chairman McInerney asked if there were any comments from the Commission.

Ms. Strelau asked about liquor sales. She stated that the packaged sales were straight forward but wondered how the on-site sales would be as they relate to service at cooking classes and on-site consumption. She asked if they wanted on-site consumption during cooking classes only or if patrons be able to get beer and wine all the time. Mr. Canning replied all the time.

Ms. Strelau confirmed that they were seeking an outdoor license. Mr. Canning replied yes.

Ms. Strelau asked where on-site sales will be. Mr. Canning replied in the Barista area. She stated that the structure looked like a bar and wondered if there were stools around it. Mr. Canning stated that the Barista is a service counter, without stools. He stated that patrons could order coffee or juices or beer or wine from the counter area. He stated that all employees working at the Barista service counter will be 21 and over and that they will control the pouring of beer and wine.

Ms. Strelau asked if patrons could walk through the facility with beer and wine. Mr. Canning replied that customers will be required to stay in the cafe area. She wondered if there will be signage indicating that beer and wine must remain in the cafe area. Mr. Canning replied yes.

Ms. Strelau asked if the Barista will service the outdoor area as well. Mr. Canning replied yes. She wondered if there will be an adequate enclosure of the outdoor area. She wanted to be sure there were in compliance with the ordinance and have means to contain liquor outdoors. Chairman McInerney asked if she was referring to the fenced boundary. Ms. Strelau replied yes. She stated that the liquor code does not require a particular type of fencing, only that the area is enclosed. Ms. Kuchynka advised that the Village does own the underlying property which would require a license agreement between the Village and Lemon Tree. She stated that there was an ordinance recently adopted which amended new temporary use and café standards.

Ms. Strelau asked if the new standards require a more permanent means of containing the outdoor area. Ms. Kuchynka replied no, there were no specific enclosure requirements.

Ms. Fregeau felt the grocer would be a very welcome addition to Downers Grove. She asked about the layout. She noticed the packaged liquor area in the back of the store and wondered if there was a clear sight line from that area to the checkout registers. Mr. Canning replied yes. Ms. Fregeau wondered if the cases will be locked when alcohol sales are not allowed. Mr. Canning replied that they plan to have the area roped off when packaged liquor sales are not allowed. He stated that the store will also be monitored from the mezzanine above the bathrooms overlooking the store.

Ms. Fregeau felt that the manual was well done. She stated their zero tolerance policy was clearly stated. She suggested that they put the store hours on the first page of the manual. She liked that they plan to card anyone who appears to be under the age of 35.

Ms. Fregeau noted that employees will be advised that they are subject to fines or termination should they violate provisions of the ordinance. She asked Mr. Canning to elaborate on how they plan to do their training. Mr. Canning stated that they will have employees get certified within 4 months of their hire. He stated that if employees serve anyone under the age of 21, they will be terminated.

Mr. Krusenoski looked forward to the store's opening. He noted that the manual indicates that they will not accept vertical licenses. Mr. Canning confirmed that vertical licenses will not be accepted.

Mr. Adank asked what beer and wine will be served in. Mr. Canning replied glassware. He stated that there will be a dishwasher behind the Barista. Mr. Krusenoski asked about portable containers. Mr. Canning stated that there will be no plastic or foam cups and noted they want to have a classy environment.

Mr. Adank asked how the area will be monitored for patrons straying from the cafe area with glasses. Mr. Canning stated that servers will be responsible for looking after the tables.

Mr. Krusenoski asked if the outdoor tables will have umbrellas. Mr. Canning replied yes and noted that he was aware that they are not allowed to have alcohol advertising on them.

Chairman McInerney looked forward to the opening of the grocery store. He asked how many staff members they anticipated. Mr. Canning replied that there will be 24-30 employees on staff. He stated that there will be approximately 10 liquor servers.

Chairman McInerney asked Mr. Canning about his liquor handling experience. Mr. Canning replied that he has been in the restaurant business for 15 years. He stated that he owned a restaurant in

Massachusetts, where he spent his time in the kitchen as a chef and has not had serving experience. He was familiar with the seriousness of liquor service, however.

Chairman McInerney noted that this is a new license classification for the Village. He stated that The Lemon Tree will be the first grocery store with on-site consumption and off-site packaged sales. He urged them to be cautious and make sure that liquor service and training get the attention that they need. He stated that being new, there are successes and failures. He advised that liquor service is a privilege, not a right.

Ms. Strelau warned that Sunday mornings may be an issue for them. She noted that they may begin selling packaged liquor at 9 AM, but cannot allow consumption on the premises until 12 Noon. She stated that patrons may not understand that. Chairman McInerney noted that the wine shop also has this provision. Ms. Kuchynka noted that neither wine shop opens before noon on Sunday.

Hearing the testimony given in this case, Chairman McInerney asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "P-O-2" , full alcohol, off-premise consumption and beer and wine only, on-premise consumption liquor license application.

MS. FREGEAU MOVED TO FIND THE LEMON TREE, LLC D/B/A LEMON TREE GROCER LOCATED AT 5100 MOCHEL DRIVE, QUALIFIED FOR A CLASS "P-O-2" FULL ALCOHOL, OFF-PREMISE CONSUMPTION AND BEER & WINE ONLY, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. KRUSENOSKI SECONDED.

VOTE: **Aye:** Ms. Fregeau, Mr. Krusenoski, Ms. Strelau, Mr. Adank, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Hearing the testimony given in this case, Chairman McInerney asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "O" , beer and wine only, on-premise outdoor liquor license application.

MR. KRUSENOSKI MOVED TO FIND THE LEMON TREE, LLC D/B/A LEMON TREE GROCER LOCATED AT 5100 MOCHEL DRIVE, QUALIFIED FOR A CLASS "O" OUTDOOR, BEER & WINE ONLY, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. ADANK SECONDED.

VOTE: **Aye:** Mr. Krusenoski, Mr. Adank, Ms. Fregeau, Ms. Strelau, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman McInerney concluded the application hearing portion of the evening's meeting.

VI. OLD BUSINESS

Chairman McInerney asked if there was any discussion, update from staff or comments from the Commission regarding any old business. There was none.

VII. NEW BUSINESS

Chairman McInerney asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Kuchynka asked the Commission's availability for the September meeting. All were available, but Ms. Strelau noted it was not the best night for her.

Ms. Strelau thanked Ms. Kuchynka for the interim monthly report, even though they did not meet last month. She noted it was easier to keep track of things when they are kept informed monthly.

VIII. COMMENTS FROM THE PUBLIC

Mr. Mark Thoman stated that the Commission had their work cut out for them tonight. He noticed that two of the four liquor licensees involved in the disciplinary hearings, had experienced servers that were flummoxed by the vertical license. He asked if the Liquor Commission would consider banning licensees from accepting vertical licenses for identification purposes. He felt that Ballydoyle and Gatto's would have been kept out of trouble. Ms. Strelau wondered if that was in the Commission's purview. Ms. Kuchynka stated that she advises applicants about the Control Buy Program and tells them as long as they have an across-the-board policy, they do not have to accept the vertical Under 21 license.

Mr. Thoman wondered if Council can take action make it a mandatory ban on the acceptance of the Under 21 identification. Ms. Strelau stated that is a business decision and the Commission could certainly recommend that they not accept them.

Chairman McInerney stated that the Commission has taken progressive steps in requiring certified training for liquor servers. He stated that the Liquor Commission should not get into the area of how to run businesses, but make sure they comply with the law. He stated it is there choice how to operate.

Ms. Fregeau advised Mr. Thoman that 14 liquor licensees passed the control buy test.

IX. ADJOURNMENT

Concluding business for the evening, Chairman McInerney called for a motion to adjourn.

Ms. Strelau moved to adjourn the August 6, 2009 meeting. The meeting was adjourned by acclamation at 9:02 p.m.