

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
OCTOBER 5, 2010 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Ordinance Amendments: Liquor Provisions	Resolution ✓ Ordinance Motion Discussion Only	Enza I. Petrarca Village Attorney

SYNOPSIS

Ordinances been prepared amending the Liquor Code which would:

- Allow on-site consumption of alcoholic liquor at a video gaming facility;
- Amend the definition of recreational facilities in the Liquor Code to allow on-site consumption of beer and wine at an Indoor Simulated Golf Facility;
- Amend Sunday hours for the on-premise consumption of liquor.

STRATEGIC PLAN ALIGNMENT

The Downers Grove Vision for 2021 provides for *Businesses to Thrive* and a principle for that vision is *Unique, Quality Restaurants Serving Residents and Corporations*.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval on the October 12, 2010 active agenda.

BACKGROUND

Based upon a request, the Downers Grove Liquor Commission discussed creating a liquor license classification which would allow the consumption of alcoholic liquor at a video gaming facility. Currently, the Village does not have a license classification which would allow on-site consumption for premises where the primary business is where the public may participate for a fee in organized, competitive video gaming, online and through the use of video gaming consoles (i.e. Wii, XBox, PlayStation). Food service will be available at all times, however restaurant activities would not be the primary business of the establishment. The bar/lounge area will be limited to 20% of the total seating available in the establishment.

The Downers Grove Liquor Commission discussed another request to allow the consumption of beer and wine at an Indoor Simulated Golf Facility. Currently, the Village allows beer and wine consumption at certain recreational facilities which are sport oriented. Staff proposed amending the recreational facility definition to include indoor simulated golf as it is in line with the nature of the classification where activities such as volleyball, tennis, racquetball or handball clubs, bowling, pool are the primary business of the establishment. Limited food service will be available, however, restaurant activities would be ancillary to the primary business. The bar/lounge area will be limited to 20% of the total seating available.

The Municipal Code was amended in February of 2009 to allow the sale of alcoholic liquor for off-premise consumption to begin at 9:00 a.m. on Sundays. Currently, alcoholic liquor cannot be sold prior to 12 noon on Sundays at on-premise licensed establishments. A number of surrounding communities have amended

Sunday liquor sales hours for on-premise license holders, including Westmont (9:00 a.m.), Lisle (10:00 a.m.), Woodridge (6:00 a.m.) and Darien (9:00 a.m.) and most recently, Naperville (8:00 am.).

In an effort to remain competitive with our surrounding communities, staff presented a draft ordinance to the Liquor Commission to allow on-premised licensees to be able to offer liquor on Sundays beginning at 9:00 a.m. All other liquor sale hours will remain unchanged. (Monday through Friday 8:00 a.m. – 1:00 a.m. and Saturday 8:00 a.m. through 2:00 a.m.)

The Liquor Commission discussed these matters at their meeting of September 9, 2010 and unanimously recommended that the ordinances be forwarded to the Council for their consideration and approval.

ATTACHMENTS

Draft Ordinances

Liquor Commission Recommendation & Minutes – September 9, 2010

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Gaming Facility

ORDINANCE NO. _____

AN ORDINANCE CREATING A GAMING FACILITY LIQUOR LICENSE

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by **shading/underline**; deletions by ~~strikeout~~):

Section 1. That Section 3.3 is hereby amended to read as follows:

3.3 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

* * *

Gaming Facility. A place in which the public may participate for a fee in organized, competitive video gaming, online and through the use of video gaming consoles, excluding video gaming that involves gambling of any type.

* * *

Section 2. That Section 3.13 is hereby amended to read as follows:

3.13 Classification of licenses.

Such licenses shall be, and are hereby, divided into the following classes:

* * *

"E-6" Entertainment/Gaming Facility licenses shall authorize the sale of alcoholic liquor for consumption on the license premises where the primary business is a gaming facility as defined herein, of not less than ten thousand (10,000) square feet. Such facility shall have a retail game sales area. Such facility will have an area where food is prepared on the premises. Food service shall be available during operation and such facility shall have a guest seating capacity, excluding outdoor areas, of not less than thirty-five (35). Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment.

* * *

Section 3. That Section 3.15. is hereby amended to read as follows:

3.15. Limitation on number of licenses.

The number of licenses in each classification as defined in Section 3-13 which it shall be lawful to issue shall be limited so that the licenses in force and effect at any time shall not exceed the following numbers:

License Classification	Amount of licenses not to Exceed
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* * *

<u>"E-6" (Gaming Facility - full)</u>	<u>1</u>
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* * *

Gaming Facility

Section 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk



www.downers.us

September 23, 2010

The Honorable Ronald L. Sandack
Mayor and Liquor Commissioner

Re: *Creation of a Gaming Facility Liquor License*

Dear Mayor Sandack:

On Thursday, September 9, 2010, at a regular meeting of the Downers Grove Liquor Commission, the members made a recommendation to forward a draft ordinance to the Council which would create a full alcohol, on-premise consumption gaming facility liquor license. The following finding was made:

MS. FREGEAU RECOMMENDED CREATING A CLASS E-6 GAMING FACILITY LIQUOR LICENSE. MS. STRELAU SECONDED.

VOTE: **Aye:** Ms. Strelau, Ms. Fregeau, Ms. King, Mr. Clary, Chairman McInerney

Nay: None


Abstain: None

MOTION CARRIED: 5:0:0

The motion carried.

This motion can be found in the September 9, 2010, minutes of the Liquor Commission (attached).

Very truly yours,

Daniel McInerney 

Daniel McInerney, Chairman
Liquor Commission

VILLAGE OF DOWNERS GROVE

Attachments

cc: April Holden, Village Clerk

a'recommend.l-c\gamingfac

COMMUNITY RESPONSE
CENTER

630.434.CALL (2255)

CIVIC CENTER
801 Burlington Avenue
Downers Grove
Illinois 60515-4782
630.434.5500
TDD 630.434.5511
FAX 630.434.5571

FIRE DEPARTMENT
ADMINISTRATION
5420 Main Street
Downers Grove
Illinois 60515-4834
630.434.5980
FAX 630.434.5998

POLICE DEPARTMENT
825 Burlington Avenue
Downers Grove
Illinois 60515-4783
630.434.5600
FAX 630.434.5690

PUBLIC WORKS
DEPARTMENT
5101 Walnut Avenue
Downers Grove
Illinois 60515-4046
630.434.5460
FAX 630.434.5495

DRAFT

License Classifications:

Ms. Kuchynka provided the Commission with requests concerning recreational facilities. She stated that she left the Commission a draft ordinance creating a gaming facility license classification and amending the existing definition for recreational facilities to include an indoor simulated golf facility.

Ms. Kuchynka asked that the Commission first review the gaming facility license classification. She reminded the Commission that they discussed this matter a number of months ago. She noted Game Pazzo was in the final stages of build out. She stated that the Mayor and Village Attorney have visited the facility. She recalled concern at first as to what type of facility it was. She noted that this is the first of its kind and the Village had nothing to compare it to when determining a license classification. She stated that once the Mayor had an opportunity to visit the facility, he got a better understanding of what they are proposing and how the establishment will operate. She advised the Commission that the concept is completely different from what the group discussed and envisioned.

Ms. Kuchynka stated that Game Pazzo representatives were in attendance to discuss their request. She asked that they introduce themselves and state and spell their names for the record.

Mr. Jim Russ introduced himself as the attorney for Game Pazzo. He thanked the Commission for taking the time to consider their request. He informed the Commission that this facility is not an arcade. He stated that this will be the first business of its kind. He stated that Terry and Carey Newsome, along with Gene and Vicky Esposito are the proprietors of the business. He stated that there was some misunderstanding in the beginning with staff as to the concept of the establishment. He advised that Microsoft, Comcast, and other major corporations have partnered with Game Pazzo. He stated that they have a full kitchen with food service. He encouraged the Commission to see the facility.

Ms. Carey Newsome introduced herself as the president of Game Pazzo. She stated that her background is in retail market expansion, business process engineering and regulatory compliance. Mr. Terry Newsome introduced himself as co-owner of Game Pazzo. He stated that he has 15 years of sales and marketing experience for an international consulting firm. Mr. Bill Kenny stated that he is an advisor for Game Pazzo. He stated he has experience in retail and digital services. Mr. Gene Esposito introduced himself as part owner and stated that he has 20 years experience in engineering and information technology fields. Ms. Esposito introduced herself as a partner and would help out at the facility.

Ms. Newsome stated that Ms. Kuchynka provided the Commission with gaming statistics projected for the facility. She provided presentation documents for the Commission. She stated that they will address the floor plan, key departments and operation of the facility.

Ms. Newsome stated that they are an entertainment destination where adolescents, adults and families will experience cutting edge gaming technology in a unique environment. She added that it will allow consumers the ability to shop, play and compete in organized gaming activities, eat, drink and socialize in one location. She stated that this facility will bring a new edge to Downers Grove. She stated that if the Downers Grove location is successful, they plan to franchise the concept.

Ms. Newsome stated that Game Pazzo will be comprised of three revenue sources. She stated that they will have retail sales, organized competitive gaming along with food and beverage service. She noted that alcohol will not be a primary revenue stream.

Ms. Newsome stated that gaming is on-line and video console video game playing on Wii, XBox, PlayStation and desktop computers. She stated that Comcast has provided them with high-end internet access.

Ms. Newsome stated that only 25% of gamers are under 18. She noted that the average gamer is 34 years old and that 30% of them are female. She stated that this is a social activity and they hope to bring people out of their homes and into their gaming center.

Mr. Esposito showed the Commission a floor plan of the facility. He stated that the facility is broken into different segments. He stated that there is a retail front end where they will be selling new and used video games and accessories. He stated that customers will have a membership card with a photo on it. He stated that membership will allow their patrons perks such as discounts on retail, gaming and restaurant areas.

Mr. Esposito described the gaming center. He stated that they have 40 different games set up. He stated that they have gaming pods, Wii, XBox, PlayStation and personal computer games. He stated that there is high speed internet access for quick connection to on-line games. He stated that they will have tournaments. He advised that they have a live MTV RockBand stage. He stated that RockBand, Guitar Hero and Wii are very popular. He stated that they have a private party room area. He stated that the party room will be available for private events, birthdays, corporate events and team building.

Mr. Esposito stated that when customers come in, they enter the retail sales area. He stated that they will approach their "cash wrap"/security control area. He stated that is the only way in and out of the gaming center. He stated that minors will have to provide a consent form to let them play due to the ratings of the games. He stated that they will issue a membership card which is checked at the counter. He advised that gaming time increments are from 30 minutes to hours, depending on how long a customer wants to play.

Mr. Esposito explained the café and bar areas. He stated that the café area is connected to a full kitchen. He stated that they will serve sandwiches, pizza, nachos, chicken fingers, hamburgers, hot dogs and snacks. He provided a copy of the menu. He stated that they will have soft drinks, energy drinks, juice, coffee and alcoholic beverages. He stated that there are tables set up for dining. He advised that there are also high-top tables behind all the gaming stations.

Mr. Esposito stated that customers will order and pick up their food at the counter. He stated that they will not have wait staff service. Ms. Fregeau asked if food can be taken throughout the facility or if they are confined to the café area. Mr. Esposito replied that customers can take food anywhere in the gaming facility, but not into the retail sales area.

Ms. Newsome stated that they plan to have a bar area. She stated that it is partially segregated from the gaming area by a partition wall. She stated that it has counter seating. She stated that alcohol can only be purchased from the bar area. She stated that the POS system has a lockout which allows only certain employees access.

Ms. Newsome stated that they have a number of check points and controls. She stated that customers who wish to purchase alcohol will have their age verified at two areas. She stated that their valid photo identification will be checked at the "cash wrap" entry point into the gaming center where they will be given a wristband. She stated that driver's licenses will be scanned through VeraAge Whiz which is a device programed with state identification information to verify age. She stated that wristbands will be checked by the bartender each time they order an alcoholic beverage. She stated that customers may be required to present their identification again at the bar area. She stated that wristbands will have alternating colors to ensure that fake wristbands are not being utilized. She stated that there will be a maximum of two alcoholic beverages per purchase. Ms. Kuchynka informed Ms. Newsome that only one alcoholic beverage can be delivered at a time, pursuant to local ordinance.

Ms. Newsome stated that they will have dedicated staff who are over 21 will tend bar. She stated that floating staff will conduct spot checks. She stated that alcoholic and non-alcoholic beverages will be served in different cups. She stated that alcohol servers will be BASSETT certified. She stated that serving staff will be required to annually sign off on their liquor policies and procedures.

Ms. Newsome that they will post signage that anyone purchasing alcohol will be required to show a valid photo identification and have a wristband. She stated that no alcohol will be allowed past the "cash wrap" counter, which leads into the retail sales area.

Ms. Newsome advised that security cameras have been installed to monitor all areas of the establishment. She stated that management will have 24/7 access via the web and their iPhones.

Ms. Newsome stated that Game Pazzo may host 21 and over events.

Ms. Newsome stated that they will be diligent with their staff about policies and procedures. She stated that all employees will be subject to background checks.

Chairman McInerney noted that other establishments have used the scanning approach at their point of entry. He advised that bartenders should also be diligent in carding although customers have already been carded at entry and received a wrist band as precaution. He would not want them simply relying on the automated system. Ms. Kuchynka stated that bartenders should be encouraged to re-card a customer if they feel the individual is under 30, according to their guidelines. Mr. Esposito stated that the bartender will be responsible for carding again.

Ms. King asked about the carding system. She wondered if the bartender will scan the identification or if it will be visually checked. She asked if they would be able to manually override a date of birth that may be keyed into the system. Mr. Esposito replied they will initially scan the identification at the "cash wrap" area. He noted only those over 21 will get a wristband, but at the bar, the bartender will again card the individual. He added that staff will also be walking through the facility to spot check.

Ms. King noted that the cash register will lock out under 21 year olds from alcohol sales. Ms. Newsome replied yes. He stated that security cameras monitoring the cash register areas.

Ms. Strelau asked if anyone had liquor handling experience. They replied no. She stated that although they have put many things in place, there is still a chance for a violation. She stated that the tone and tenor they set for their employees will determine their success. She cautioned them not to be overconfident with the electronics and scanning software in saving them from a violation.

Mr. Esposito stated that they plan to hire someone with expertise in running a bar and being a professional manager.

Ms. Strelau asked about the square footage of the facility. Mr. Newsome replied 13,000.

Ms. Newsome asked if licensees are allowed to self-test. Ms. Strelau replied yes.

Mr. Esposito stated that there is nothing like Game Pazzo. He stated that they will have social networking through gaming along with retail and food service. He stated that they can plan all they want but will not know the true demographics until the doors open. He hoped that the facility will rate highly with older segments of the local population which is why they sought a liquor license. He advised that after 6 months they plan to re-visit the business model and revise it accordingly. Ms. Fregeau noted that other

licensees have made similar assumptions about demographics and not knowing what to expect when just starting up.

Ms. Strelau asked if they were seeking a full liquor license or beer and wine only. Mr. Esposito replied full alcohol.

Mr. Esposito advised that a big part of their business will be corporate events. He stated that they will have gaming leagues.

Ms. King noted that they mentioned alcoholic and non-alcoholic beverages will be in different cups. Mr. Esposito confirmed. He stated they want to be able to easily identify those who are consuming alcohol. Ms. King asked how they plan to monitor groups that are of mixed ages. Mr. Newsome replied that staff will be walking around and monitoring the gaming area.

Chairman McInerney noted his concern with adults sharing drinks with minors in this type of environment. He stated that it is important that they have a plan to address those incidents.

Ms. King asked about security. Mr. Esposito security needs can be determined once they open. He noted that they can put a person on staff or they can use a security company if necessary.

Chairman McInerney asked about the mature game ratings. He suggested that they review local laws to ensure they are not in violation of the liquor ordinance or code other provisions. Mr. Newsome stated that they are under a license agreement and contracted as to what games they can play. Mr. Esposito added that none of the games will involve nudity.

Ms. King asked if customers can access live internet. Mr. Newsome stated that they will have firewalls installed on the computers to allow access to certain parts of the internet.

Mr. Esposito stated that their future success is dependant on their image. Mr. Kenney stated that he worked for Sears and noted all of their internal controls and processes. He stated that he could walk into any store and tell immediately wether the management team was on top of things or not - just by the tone in the store. He realized Ms. Strelau's point that management staff sets the tone.

Mr. Esposito stated that product launch parties, private parties and corporate events will be extremely important to their business. He stated that they will be targeting 21-35 year olds. He reminded the Commission that gaming started in the 1990s and remain popular with those growing up in that era.

Mr. Kenney stated that focus groups were used. He noted that this concept is new and focus group reactions are questionable.

Mr. Esposito stated that they have partnered with Comcast who will be their internet service provider. Mr. Newsome stated that Comcast is going to be spotlighting their facility and run about 200 commercials per week.

Mr. Esposito stated that they are working with Microsoft's product development manager for XBox who has sent them merchandise for the store. He added that RockBand, MTV, Monster Energy, Mad Cats, Triton, Polk Audio, etc. have contributed and have partnered with them.

Mr. Kenney stated that they want to create a venue for people to socialize and play video games, which is a unique aspect of this facility.

Mr. Esposito informed the Commission that they have been speaking with Comcast and MTV about hosting weekly gaming shows and a RockBand reality show. He stated that they have a RockBand license where they can host events as venues throughout Chicago and use MTV's name.

Mr. Esposito stated that they plan to hire 26 employees. He felt that their business will enhance the Meadowbrook Plaza. He stated the facility will bring in sales tax revenue and bring awareness to Downers Grove.

Ms. Fregeau stated how many bar staff they anticipate. Mr. Esposito replied that the number of staff will vary, depending on the time of day. Mr. Newsome stated that once they open they will have a better understanding as to how much staff they will need.

Ms. Fregeau asked about their hours of operation. Mr. Newsome replied 10:00 a.m. to 10:00 p.m. on weekdays and 11:00 a.m. to 1:00 a.m. on Friday and Saturday.

Mr. Esposito stated that they plan to offer Wii for elderly and handicapped events for organized leagues during the day.

Ms. Newsome stated that they are committed as serious about their commitment to the establishment.

Chairman McInerney asked them when they planned to open. Mr. Newsome hoped to open within the next few weeks. He stated that the landlord needs to finish some things.

Mr. Russ stated that they are aware of the time frame in which it will take to have an ordinance passed by Council as well as the time frame needed to obtain a license.

Chairman McInerney noted that the process for creating a liquor license can take some time. He stated that the Commission needs to discuss whether or not an establishment is right for the Village. Mr. Newsome understood that their facility was a new and unique concept and that careful review would be necessary. Ms. Newsome invited the Commission to visit the facility.

Mr. Russ asked that the Commission contact Ms. Kuchynka and they can coordinate schedules for members visit. He stated that they are truly committed to the community.

Chairman McInerney asked who they view as their competition. Mr. Esposito replied Game Stop for retail and perhaps Game Café in Naperville. He noted that there is nothing like this in the country.

Chairman McInerney stated that he has been to an area indoor racing facility where they have indoor go cart racing, a restaurant and bar. He suggested that they go there and look at their controls, particularly because of their lack of liquor handling experience. Mr. Esposito stated that they plan to hire someone with liquor handling experience.

Ms. Kuchynka advised that Mr. Russ reviewed the draft ordinance and accepted its provisions. She stated that the E-6 gaming facility license classification will allow the public to participate, for a fee, in organized competitive video gaming on-line and through the use of video consoles. She stated that would exclude any games involving gambling. She stated it will allow full alcohol consumption on the premises were the primary business is a gaming facility. She stated that there will be an area where food is prepared on the premises and food service shall be available. She stated that they have a minimum seating capacity of 35 and must be a minimum of 10,000 square feet. She stated that bar/lounge seating shall not exceed 20% of the seating provided.

Ms. Kuchynka stated the floor plan appears to have 40 seats, which would limit the number of seats at the bar to 8. Mr. Esposito noted that they will have close to 100 seats, if the tables behind game consoles are included in the seating calculation. Mr. Russ would like to discuss with staff how they plan to calculate game area versus restaurant area seating.

Ms. Strelau stated that tables where food is served can count. She thought they said that food could be brought near the game consoles, yet their "Code of Conduct" document states that "no food is allowed to leave the café" and "all alcoholic beverages must stay in the bar area". She wondered which plan they will follow. Mr. Esposito stated that they planned to allow customers to bring their food and beverages to the game console areas. He stated the statements in the Code of Conduct were wrong. He stated that should read that food and beverages are not allowed in the retail area. Mr. Russ stated that document would be updated.

Ms. Kuchynka stated that the Class E-6 gaming facility license will be limited to one. She asked for a motion as to whether they were in support of the creation of this license class.

Ms. King asked about food service and asked if it would be required during all hours of operation. Ms. Kuchynka replied that establishments must serve food up to one hour prior to close.

Ms. Strelau asked why staff picked the 10,000 square foot number. Ms. Kuchynka replied that was an arbitrary figure. She felt it would un-qualify smaller establishments with no facility to support kitchen service. Mr. Newsome stated that the kitchen is about 500 square feet.

Chairman McInerney recommended that the Commission review the license classifications and clean up the entertainment license classes. He felt that all of these classes fall into a common theme. Ms. Strelau agreed that clean up and simplifying the ordinance would be beneficial. Chairman McInerney noted that they have been crafted for a particular applicant and according to their distinct business model. Ms. Kuchynka replied she would put that item on a future agenda.

Ms. Strelau asked what the fee will be. Ms. Kuchynka replied \$3,670 and based it on the billiard hall, North Beach and the Tivoli Bowl. She stated that Game Pazzo will charge membership fees to join and may need to add that charge to cover additional costs.

Ms. Kuchynka reminded the Commission that the annual fees are not included in the Municipal Code and no longer have to be approved by ordinance. She stated that they are now in an administrative regulation and may be amended by the Village Manager on a regular basis.

Ms. King asked if a parent has to pay a membership fee if they come in with their child. Mr. Esposito replied no. He stated that the membership cards gives regular players discounts.

Ms. Kuchynka advised that the draft ordinance also contains a change to the recreational facility but requested that these items be addressed in separate ordinances. Ms. Strelau agreed they should be separate. Ms. Kuchynka asked for a recommendation on a draft ordinance creating a gaming facility license.

**MS. FREGEAU RECOMMENDED CREATING A CLASS E-6 GAMING FACILITY
LIQUOR LICENSE. MS. STRELAU SECONDED.**

VOTE: **Aye:** Ms. Strelau, Ms. Fregeau, Ms. King, Mr. Clary, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The motion carried.