



LOCAL LIQUOR CONTROL COMMISSION
March 17, 2009

The Local Liquor Control Commission held a meeting on Tuesday, March 17, 2009, in City Council Chambers, Room 108 of the Civic Center, 200 S. Illinois Avenue. Chairman Brad Cole called the meeting to order at 7:26 p.m. with the following-named members of the Commission present/absent:

1. Roll Call

Present: Commissioner Mary Pohlmann, Commissioner Chris Wissmann, Commissioner Steven Haynes, Commissioner Joel Fritzler, Commissioner Corene McDaniel
Chairman Brad Cole

Absent: Commissioner Lance Jack

Also present were City Clerk Janet M. Vaught, City Manager Allen Gill and various members of the City's administrative staff.

2. Approval of Minutes

M. Pohlmann moved, S. Haynes seconded, that the Commission approve the minutes of the Liquor Control Commission meeting held on February 17, 2009. VOTE: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

3. Consideration of a Class F1 liquor license for Carbondale Main Street for the Carbondale Main Street Downtown Art and Wine Fair in the Town Square Parking Lot

Carbondale Main Street representative Barb Eidlin was present to answer questions. The City Clerk noted that the Liquor Advisory Board had recommended approval of the license contingent upon receipt of outstanding items. Outstanding items are proof of dram shop and liability insurance and approvals from the City of Carbondale for use of the Town Square area.

J. Fritzler moved, C. Wissmann seconded, that the Commission approve the Class F1 liquor license for Carbondale Main Street, Inc., for the Carbondale Main Street Downtown Art and Wine Fair on Friday, May 1, 2009, with the rain date of Friday, May 8, 2009, in the City parking lot located in the northeast quadrant of the Town Square contingent upon receipt of all outstanding items. VOTE: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

4. Consideration of an Application for a Class A1 Liquor License for Melting Pot Inc. d/b/a Fat Patties, 611B South Illinois Avenue

This portion of the meeting was recorded by a Certified Court Reporter.

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Applicant Lance Jack was present to answer questions. The City Clerk noted that the Liquor Advisory Board had recommended approval of the license contingent upon receipt of outstanding items. Outstanding items were the balance of the liquor license fee, lease or deed for the property, certificate of incorporation or certificate of good standing for the corporation, proof of dram shop and liability insurance, copy of health permit, affidavit of server training, retailer's occupation tax number and approvals from the Health Department, Building and Neighborhood Services and the Fire Department.

Chairman Cole invited the applicant to make comments. Applicant Lance Jack, 1026 North Bridge, Carbondale, thanked the Commission for allowing him to come before them. He said that under the outstanding items for the Commission's information, the health permit and approvals from the Health Department, Building and Neighborhood Services and the Fire Department have all been completed but have just not been turned in to the Clerk. Mr. Jack noted that the other items, if the license application is approved, are ready to be turned in now. He said that rather than pay an insurance premium he thought he would wait and see the outcome of tonight's meeting. Mr. Jack said it is a bit of a unique situation tonight since he is a member of the City Council and Liquor Commission and he is standing before this body asking for approval of a Class A1 license, adding that he appreciates the Commission hearing him. Mr. Jack said from the Council table there is often a lot of lip service paid to economic development in town. He said this is an example of him "putting his money where his mouth is", not just himself but many good friends and employees who have given their blood, sweat and tears to bring this project together. He said they decided to stay in Carbondale for the same reason he helped Laura Harbaugh open Harbaugh's Café, because he wanted to be in Carbondale. Mr. Jack said he looked around the area, had some offers to do work in Marion, but he wanted to stay here because Carbondale is his home and he wants to do his best to see it prosper. He said in particular he wants to be a part of revamping "The Strip", the City's downtown area. Mr. Jack said it is important to him that the City has a good entertainment district with a lot of choices for people to eat, hang out with other adults and wander around. He said one does not have to look very far to see strong citizen support for attracting new and expanded developments, not just in the City but in the downtown specifically. Mr. Jack said as Commission members came into the Civic Center tonight, in the hallway right outside one can see the results of a pretty detailed project that the SIU School of Architecture put together presenting various ideas on how to develop the downtown. Mr. Jack said that in yesterday's Daily Egyptian there are two articles, one on the front page talking about the Comprehensive Plan Review Committee and some of their recommendations are to revamp The Strip and the downtown area as well as other commercial areas in town. He said earlier tonight when the City Council discussed the approval of the final PUD for Liberty Village (sic) the City Manager said he hoped this would create new jobs. He said especially in the current economic times any chance the City has to create new jobs, it needs to. Mr. Jack said, "Am I going to fail this business without this Class A1 license? I hope not. Is it guaranteed either way? No. Is it going to make it much easier? Is my profit margin going to be more sustainable with a Class A1 license? Yes, it will be. And it also fits perfectly into the concept that I developed for the restaurant. And that is something that caters to the entire community." Mr. Jack said this community does allow people over the age of 21 to consume alcohol and he would like the privilege to be able to serve those of-age adults a beer or a glass of wine with their burger. Mr. Jack said he believes he has had a chance to speak with everyone individually and appreciates being given the opportunity to speak tonight. He said,

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bottom line, granting him the Class A1 license will increase the probability that he will be able to hire more people and on an increased schedule. Mr. Jack said he would simply ask the Commission to grant him equal treatment under the laws of this City and the State of Illinois and allow him the privilege that would be available to any other qualified citizen in this City. Mr. Jack offered to answer any questions from the Commission.

M. Pohlmann moved, J. Fritzler seconded, that the Commission deny the license on the basis that granting such license would not be in the best interests of the City of Carbondale.

DISCUSSION ON MOTION: Commissioner Fritzler said his main concern is that if Mr. Jack were to hold a liquor license he (Jack) would no longer be able to participate as a Liquor Commissioner or as a City Council Member when there were issues of liquor come up. He added that since this is a college town, there are plenty of issues dealing with liquor that come up so in his opinion it would put a hardship on the rest of the Council and the rest of the Liquor Commission to do the job. Commissioner Wissmann said he would probably not support the license at this time but would probably not support the motion either because he feels it would be more appropriate to start with a motion to approve, take the positive route first, then move to the negative route if the positive route does not pass. Chairman Cole said that the Commission needs to take some definitive action tonight and the motion has been made to deny the license. The Chairman said he did not feel it would be appropriate to take action on a motion to deny, then possibly a motion to approve, the possibly another motion to deny. Commissioner McDaniel said she thinks the Commission should treat the Councilman as any other citizen in the community. She said he is moving forward to provide a business for this community and even though he may say that the license will not make or break his business, she thinks it would be vital to have alcohol available to those that want it. Commissioner McDaniel said that since the applicant has passed the background check that he should be treated as any other citizen even through there will be times that he will have to recuse himself from voting on issues, Council members also have conflicts of interest and when something comes up they also have to recuse themselves. So, she said, she does not understand the difference on whether it is alcohol or whether she has a leash on her dog, Council members may still have to recuse themselves. Commissioner McDaniel said the Commission should look at him as a businessman wanting to help develop the downtown area, provide an additional service to his clientele and move forward with that.

Applicant Lance Jack said that they are going to do their darndest to survive whatever the outcome of this meeting. He said he finds it hard, though, to be a member of the City Council that talks over and over about giving businesses the tools that they need to survive, especially today. He said he has heard comments tonight that are pretty much the opposite of that, some members saying they are going to vote against him when he has the legal right to a Class A1 license like anyone else who has cleared the hurdles that he has cleared. Mr. Jack said he would ask the Commission to strongly consider when they are voting whether they want to do their best to give this business all the tools that it can to make a profit and hire as many people in town as possible and be a successful business in the heart of The Strip, a building that before he rented it had been empty for over two years and before that had a sketchy track record for the previous ten. Mr. Jack asked how many other spots there are up and down The Strip that we hope and pray that somebody is going to put a business there so the base and opportunities in Carbondale can be expanded. He said that is what he is trying to do and is asking for the Commission's help

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in making that a more successful venture. Mr. Jack said that he would also ask the Commission that if it does choose to vote against the license that he and the public could know why. He said that Dr. Pohlmann made the motion to deny it on the basis that it would not be in the best interests of the City and Mr. Fritzler pointed out that he sees a conflict of interest. So, he said, if the Commission is going to vote against him he would ask that the Commission have some discussion amongst themselves as to why. He asked if it is because he hasn't cleared hurdles that everyone else has to or is it something a little more personal or is it just "business unusual". He said he apologizes for putting the Commission in this position.

Chairman Cole thanked Mr. Jack for his comments and reminded the audience and the applicant that the purveyance of liquor is a privilege in this community and in this state in accordance with the law. Chairman Cole asked if anyone else wished to speak. There being no one else who indicated a desire to speak, the Mayor asked the Clerk to restate the motion.

MOTION: that the Commission deny the license on the basis that granting such license would not be in the best interests of the City of Carbondale. FURTHER DISCUSSION: City Clerk Janet Vaught clarified the motion for the record that the denial was being based on Carbondale Revised Code Section 2-4-5.J, whether the issuance of the license would be in the "best interests" of the City of Carbondale. Mayor Cole further clarified that the motion was to deny the Class A1 liquor license for Melting Pot, Inc. d/ba/ Fat Patties, 611B South Illinois Avenue. VOTE ON MOTION: Ayes: M. Pohlmann, C. Wissmann, S. Haynes and J. Fritzler. Nays: C. McDaniel and B. Cole. Motion declared carried; license was denied.

5. Consideration of Second Quarter Reports from the Police Department, Fire Department and Building and Neighborhood Services

S. Haynes moved, M. Pohlmann seconded, that the Second Quarter Reports from the Police Department, Fire Department and Building and Neighborhood Services be accepted and placed on file. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

5. Adjournment

There being no further business to come before the Commission, the meeting was declared adjourned at 7:47 p.m.

Janet M. Vaught
City Clerk

Approved by the Commission on:
UNAPPROVED