

LIQUOR CONTROL AGENDA

To: Liquor Control Committee
Commissioner Dave Piepkorn
Commissioner Tony Gehrig
Police Chief David Zibolski
Grant Larson, Environmental Health

FROM: City Auditor Steven Sprague

DATE: October 15, 2020

SUBJECT: Liquor Control Committee Meeting

The Liquor Control Committee will be meeting on Wednesday October 21, 2020 at 1:30 p.m.

Agenda items are:

1. Approve minutes of the September 16, 2020 meeting.
2. Review Liquor Applications
 - a. Application to transfer Class FA license from Bistro's & More, Inc. d/b/a Old Chicago to 701 OPS, Inc. d/b/a 701 Eateries; Prairie Kitchen & Camp Lone Tree. To be located at 701 University Drive North.
3. Request from Dan Hurder to create a beer and wine on and off sale liquor license. See attached email.
4. Other

LIQUOR CONTROL BOARD
September 16, 2020 1:30 P.M.

Present: Commissioner Piepkorn, Commissioner Gehrig, Deputy Police Chief Ross Renner, City Auditor Sprague, Grant Larson, Environmental Health
Absent: None
Others Present: Rick Carik, Rick's; Dave Erickson, Bulldog Tap, Dan Hurder, Boiler Room; Dave Glesner Sidestreet; Chad Klimek, SouthTown PourHouse, Brent Edison, Vogel Law and other interested parties.

Meeting was called to order at 1:30 P.M.

1. Commissioner Piepkorn called the meeting to order and asked if there were any additions or corrections to the minutes of May 20, 2020. There were no additions or corrections to the minutes of May 20, 2020. Moved by Gehrig, seconded by Larson to approve the minutes of the May 20, 2020 meeting of the Liquor Control Board all voted in favor, motion passed unanimously.
2. A. There are no applications to consider at this time.
3. Commissioner Piepkorn introduced the request from SouthTown PourHouse to amend class FA and FA-RZ so that companies with \$50,000 in monthly food sales or 50% food sales would be considered restaurants.

Brent Edison, Vogel Law, stated the proposal is that the current 50/50 ratio of food sales to alcohol sales would remain in place but additionally, if a company reaches \$50,000 in food sales monthly they would be considered a restaurant for the purposes of this license class. SouthTown offers a full menu and is a top five account for US Foods classifying them as a high volume restaurant. Public eating and drinking habits have changed, 50/50 is harder to attain because drinks are more expensive with signature cocktails, craft beer and specialty wines. This change would allow for more flexibility.

Commissioner Gehrig stated this situation is a function of the limit on bar licenses, he is fine with this change. Deputy Chief Renner stated there would be potential equity issues. Commissioner Piepkorn said we should let the new police chief have an opportunity to contribute, he said he can appreciate the concept. Larson asked why the \$50,000? Edison replied there is nothing magic about that amount, his thought was to make it fair to all. He said they are looking for a solution to a situation and are open to discussions.

Commissioner Gehrig asked if a Class A license were available would you buy it? Chad Klemik replied due to language in their lease they can only have an FA, restaurant, license.

Rick Carik spoke about the history of the FA license, it started in 1990 and originally required 65% food sales, didn't allow cabaret etc. over time the ratio was lowered to 50/50, the lowered ratio is much easier to monitor.

Dan Hurder, Boiler Room, said they are just coming off the 30 days suspension at Twist, he'd like to see square foot of the facility or number of seats taken into consideration. He didn't invest in a restaurant to just be a bar. The market is changing, alcohol sales are a vital ingredient in having a profitable operation.

Sprague commented that the FA license is designed to be a restaurant license and the ordinance says alcohol sales are to be adjunct to the sale of food, if alcohol sales exceed food sales the alcohol is no longer adjunct. We have the most liberal interpretation of adjunct being that food sales only have to exceed alcohol sales by \$1. If this change were adopted you could have \$50,000 in food sales and \$200,000 in alcohol sales, it is pretty clear you are no longer a restaurant so the question at what point do you cross over and are no longer a restaurant. Ideally, we'd just have on sale and off sale but having an unlimited number of liquor licenses has social and economic impacts that need to be considered. Additionally, there is the equity issue, some of the licensees paid \$250,000 for a license because they knew they wouldn't meet the 50%, they could have avoided a lot of scrutiny by just getting an FA license but didn't want to play games so got the appropriate license.

There being no further business to come before the Liquor Control Board, the meeting was adjourned at 1:50 p.m. **The next regular meeting will be held Wednesday, October 21 2020 at 1:30 p.m. in the City Commission Room.**

Steve Sprague

From: Dan Hurder <dan.hurder@greatplainshospitality.com>
Sent: Friday, October 9, 2020 2:14 PM
To: Steve Sprague
Subject: Offsale license conversation

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Hi Steve - I know I have mentioned in conversations in the past that I would love to open a wine shop downtown. With Twist continuing to perform poorly and no end in sight to the COVID slowdowns, it's continued viability is not likely, and we are starting to explore other potential uses for the space.

My business concept is a unique one, and can't currently be done in the market because of liquor license restrictions, and I am wondering what the appropriate first move would be to discuss the potential creation of a new license that would accommodate the concept I have in mind.

The ideal scenario would be a beer and wine only license that allows for both on-sale and off-sale revenues. The concept would effectively be a retail wine and beer shop, focusing on boutique wines and craft beers, as well as retail items that compliment wine and beer. The on-premise consumption piece of this license would allow for the purchase of samples in a "try it before you buy it" approach to retail. It would also allow for on-site wine tasting events, pairing dinners, etc. I think there could easily be restrictions to the number of ounces allowed to be sold to a single customer in a single day that would still allow for the business model to work and not step on the toes of other establishments with different licenses. The off-premise piece of the license is, of course, a critical piece in order for a wine shop to work. Because it would be limited to only beer and wine, I am hopeful that we can find a solution that works for the existing retailers that won't step on their toes but also gives the business the room it needs to succeed.

I know licenses have been created to accommodate businesses when the perfect license didn't previously exist, so I am hopeful we can work together to come up with something for this idea as well. The license structure exists in Moorhead and West Fargo, but I believe this business is best suited for downtown Fargo, and we already have much of the infrastructure in place at the Twist location to make it happen.

I appreciate any insight you can provide or direction in helping to accomplish this.

Thanks,

Dan Hurder
Managing Partner
Great Plains Hospitality
The Otter Supper Club and Lodge
Twist
The Boiler Room
The Boiler Room Wahpeton
Chef's Table Catering
670 4th Ave N
Fargo, ND 58102
Cell: 701-318-1080