

**VILLAGE OF WINNEBAGO LIQUOR COMMISSION**  
**SEPTEMBER 10, 2014, MEETING MINUTES**

The Village of Winnebago Liquor Commission met on September 10, 2014, at 5:30 p.m. at the Village of Winnebago Office. Present were the following: Village Liquor Commission Members Stan Maligranda, Jim O'Rourke, and Kelli Jeffers. Guests present were Village Liquor Commissioner Franklin J. Eubank, Jr., Shirley Crawford, Trustee Mike McKinnon, Police Officer Randy Smith, and Village Attorney Mary J. Gaziano.

**APPROVAL OF MINUTES:** Liquor Commission Chairman Stan Maligranda called the meeting to order at approximately 5:30 p.m. Kelli Jeffers made a motion to approve the Liquor Commission Meeting Minutes from the May 29, 2014, meeting, the motion was seconded by Jim O'Rourke, and the motion carried.

**PUBLIC COMMENT:** None

**CONFLICT OF INTEREST STATEMENT:** Chairman Maligranda asked if anyone had any conflict of interest in reference to being an owner of a liquor establishment, or any other interest in a liquor establishment. All replied in the negative.

**BYO PROHIBITION DRAFT ORDINANCE DISCUSSION:** All business owners in the Village had been sent a copy of the draft BYO prohibition ordinance, with notification that the same would be discussed at the Liquor Commission Meeting tonight. Only one Village business owner was in attendance, namely, Shirley Crawford from Garden Arts. A Liquor-Related Commonly Asked Questions information sheet that had been prepared by Attorney Gaziano was distributed and discussed. A copy is attached, and a copy will be posted by the Village staff on the Village's web site. Frank Eubank indicated that the reasoning behind the ordinance is because allowing "bring your own alcohol" to establishments that do not hold a liquor license does not allow for the normal oversight and safeguards in place with a liquor license holder (e.g. designated responsible person, policies in place to make sure underage patrons are not served alcohol and to cut someone off from drinking who has had too much alcohol, Dram Shop insurance, etc.).

It was explained that the related desired activity of some businesses without a liquor license of serving free alcohol to their customers is actually controlled by the Illinois Administrative Code Section 100.280, which prohibits a business from giving away alcohol for commercial purposes, or in connection with the sale of non-alcoholic products, or to promote the sale of non-alcoholic products. Attorney Gaziano explained that the Illinois Liquor Control Commission, in interpreting this section, takes the position that when a business gives away alcoholic liquor to its customers, invitees, etc., the logical purpose is to promote its business, which is a commercial purpose.

Shirley Crawford remarked that business is tough enough, so any allowed practice that would bring in customers would be desirable. Shirley suggested contacting other municipalities to see how they deal with the issue of businesses giving away alcohol to

customers. Attorney Gaziano remarked that the Illinois Administrative Code is applicable statewide. Questions were raised about whether hosting an in-house party to sell a product (e.g. Pampered Chef Party) would be prohibited, or if an invitee could bring the alcohol to the party hosted by the business. Attorney Gaziano will check into the position of the Illinois Liquor Control Commission to these questions.

VIDEO GAMING: Liquor Commissioner Frank Eubank indicated Mike Capriola of Cappy's had planned on attending the meeting tonight to talk about the desire for video gaming, but Frank later learned that Mike Capriola is involved in training someone at the restaurant, and will not be able to be present at the meeting. Frank Eubank indicated that the State of Illinois receives a lot of the revenue from video gaming, while some goes to the business and some to the municipality. Based on the current State requirements for video gaming, Frank Eubank indicated the two current businesses in the Village with liquor licenses that would qualify to apply for a video gaming license, if the Village allowed video gaming, would be Cappy's and Toni's of Winnebago. Also, if the Village had a truck plaza it would potentially qualify, as a truck plaza does not have to have a liquor license in order to have video gaming. Frank Eubank raised the question for discussion of whether there would be any effect on businesses in the "dry" portion of Village if the Village allowed video gaming to businesses with liquor licenses in the "wet" area of the Village. The Committee is open to hearing more from anyone interested in allowing video gaming in the Village.

The next Liquor Commission Meeting is scheduled for 10/8/14 at 6:00 p.m.

There being no new business or matters to discuss in Executive Session, Jim O'Rourke made a motion to adjourn, Kelli Jeffers seconded the motion, and the motion carried so the meeting was adjourned at 7:20 p.m.

UNAPPROVED

Mary J. Gaziano, Village Attorney

Minutes approved by Village Liquor Commission  
on \_\_\_\_\_.

**VILLAGE OF WINNEBAGO, ILLINOIS**  
**LIQUOR-RELATED**  
**COMMONLY ASKED QUESTIONS (CAOs)**

<b><u>QUESTIONS</u></b>	<b><u>ANSWERS</u></b>
<p>1. Does every type of business operate as a "public accommodation"?</p>	<p>No. According to Illinois Statute (65 ILCS 5/11/42-10.1), only a <b>refreshment, entertainment, or recreation facility of any kind</b>, whether licensed or not whose goods, services, facilities, privileges, or advantages, are extended, offered, sold, or otherwise made available to the public qualifies as a public accommodation.</p>
<p>2. May a business allow a client/prospect to consume alcoholic beverages at the business owner's office if that business owner does not hold a valid liquor license from both the Village of Winnebago and the State of Illinois?</p>	<p>No. This answer applies whether or not the consumption would occur during the normal operating hours of the business or after hours. This rule has nothing to do with the BYO Ordinance. Rather, it is governed by the Illinois Administrative Code Regulation 100.280 which says:</p> <p style="padding-left: 40px;">"No licensee, individual, partnership or corporation shall give away any alcoholic liquor for commercial purposes or in connection with the sale or non-alcoholic products or to promote the sale of non-alcoholic products."</p> <p>It is the interpretation of the Illinois Liquor Control Commission that when a business gives away alcoholic liquor to its customers/invitees, etc., the logical purpose is to promote the business, which is a commercial purpose.</p> <p>This rule applies whether or not the business is located in the "wet" or "dry" part of town. The operative prohibition is for a business to give away alcoholic liquor for a commercial purpose, whatever the location.</p>

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**COMMONLY ASKED QUESTIONS (CAQs)**

	<p>(cont.)</p> <p>When a business owner hosts an event (e.g. Chamber After Hours, Lions Club event, etc.) the Illinois Liquor Control Commission deems that to be a promotion of the business.</p>
<p>3. May a business owner and/or his employees consume alcoholic beverage(s) at his place of business either during or after business hours if that business owner does not hold a valid liquor license from both the Village of Winnebago and the State of Illinois?</p>	<p>Yes. However, the alcoholic beverage(s) may only be consumed by either that business owner and/or his employees, but not other invitees/guests/patrons because that would revert back to the business owner giving away alcohol to promote his business.</p>
<p>4. May a business owner allow patrons/employees/invitees to consume alcoholic beverages at the office of a business that does not hold a valid liquor license from both the Village of Winnebago and the State of Illinois, in order to celebrate a birthday, retirement etc.?</p>	<p>Yes. However, this is only allowed in the instance where the consumption of alcoholic beverages is done solely to celebrate one of the type of occasions referenced in the question. In other words, a business owner could not justify holding a Chamber After Hours or Lions Club event, or serving complimentary wine to patrons etc., with the justification that it is someone's birthday that day.</p>
<p>5. Would the BYO Ordinance apply to business located both in the "dry" zone in the Village of Winnebago, and business in the "wet" zone that do not hold a valid liquor license?</p>	<p>Yes.</p>