

**COMMITTEE-OF-THE-WHOLE
MINUTES OF THE MEETING OF THE MAYOR AND THE BOARD OF
TRUSTEES OF THE VILLAGE OF ARLINGTON HEIGHTS
COMMUNITY ROOM
MONDAY, December 9, 2013 7:30 P.M.**

BOARD MEMBERS PRESENT: President Hayes; Trustees: Farwell, Glasgow
LaBedz, Rosenberg, Scaletta, Sidor and
Tinaglia

BOARD MEMBERS ABSENT: Trustee Blackwood

STAFF MEMBERS PRESENT: Bill Dixon, Village Manager; Diana Mikula,
Assistant to the Village Manager; Robin Ward,
Asst. Village Attorney; Eileen Hellstrom,
Recording Secretary

SUBJECTS:

4. Target Store Request for Waiver from Section 13-608 of Liquor Code
 5. Proposed Code Amendments of Chapter 13 of the Liquor Code
 6. Continued Discussion of Bring Your Own Beverage (BYOB)
 7. Continued Discussion of Board of Trustee Policy: Convenience-Type Food
Marts and Drug Stores
 8. Other Business
 9. Adjournment
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President Hayes called the meeting to order at 7:30 PM. The Pledge of Allegiance was recited.

Trustee Scaletta suggested to take item #5 on the agenda and move it up to #4.

TRUSTEE SCALETTA MOVED, SECONDED BY TRUSTEE FARWELL, TO MOVE ITEM #5 PROPOSED CODE AMENDMENT OF CHAPER 13 OF THE LIQUOR CODE TO BE ITEM #4, AND TARGET STORE REQUEST FOR WAIVER FROM SECTION 13-608 OF LIQUOR CODE TO BE ITEM #5.

Upon a voice vote, the motion passed unanimously.

4. Proposed Code Amendments of Chapter 13 of the Liquor Code

Bill Dixon, Village Manager, discussed that at the August 12, 2013 Committee-of-the-Whole meeting, the Committee was in favor of requiring all sellers in package liquor stores to be BASSET trained. An amendment was prepared to that effect and while working on the amendment, came across two other provisions that we

would like the Board to consider for modification.

The first pertains to the requirement for a separate area for alcoholic liquor to be sold for holders of Class B licenses. This provision has not been utilized for many years.

The second is regarding an amendment that pertains to BASSET training.

Trustee Scaletta said it makes sense that everyone handling alcohol should be BASSET trained.

TRUSTEE SCALETTA MOVED SECONDED BY TRUSTEE TINAGLIA THAT THE COMMITTEE-OF-THE-WHOLE RECOMMEND TO THE VILLAGE BOARD: ADOPTION OF AN ORDINANCE AMENDING SECTIONS 204b, 501c, AND 607 OF CHAPTER 13 OF THE VILLAGE CODE.

Upon a voice vote, the motion passed unanimously.

5. Target Store Request for Waiver from Section 13-608 of Liquor Code

Mr. Dixon said that the Village has received a request from Target for a waiver from Section 13-608 of the Village Code. That section prohibits the issuance of a liquor license to any retail establishment located within 100 feet of a school. The Target store is located within 100 feet of Hersey High School and is prohibited from selling alcohol under Section 13-608.

The Target Store Team Leader sent a letter explaining the various security measures the store has in place and are also willing to put in place if the waiver were granted and the store was issued a liquor license.

In considering this request, the Board is reminded of the concerns raised in 2009 about the number of retail liquor stores in the Village. While considering regulations on the selling of certain sizes of liquor bottles, several liquor store owners expressed concerns about the number of retail liquor stores in the Village. Within the last three years, the number of retail liquor stores has been reduced by six.

If this request is granted, Target must still apply for and go through the usual process for obtaining a liquor license.

Brad Phillips, Store Team Leader from the Arlington Heights Target store as well as Nadia Popova, Asset Protection Business Partner for Target who takes care of security measures and also shortage and theft prevention, are present to answer questions from the Board.

Mayor Hayes said that Target needs to get concurrence from the Board. He has had meetings with District 214 and they have not indicated any opposition to the

request.

Robin Ward, Assistant Village Attorney, read a statement from Dr. David Schuler, Superintendent of District 214:

"As a representative of the school district, I can't support or recommend the Village approve the request. At the same time, we appreciate Target being an important member of our community, we acknowledge and appreciate the work of the Village in reviewing applications like this, and we also appreciate the anti-theft security pre-cautions and other concessions Target has committed to making to continue to be a terrific community partner with the district."

Trustee Glasgow asked what the security measures are going to be used to prevent someone underage from obtaining alcohol from the store.

Mr. Phillips said that the Arlington Heights location has only one entrance which is on the far side from where the department containing the liquor would be located.

Ms. Popova talked about several security measures they have to control the area containing liquor. One of them is they have a uniformed security officer that will patrol the area. Their security camera system is very high tech and will view the aisle containing alcohol. They also have additional security measures that can be put on the bottle of alcohol. It is called a "spider wrap" that goes around the bottle of alcohol and must be removed at the register.

Trustee Glasgow asked if the clerks at Target would have to be BASSET trained in order to sell the liquor.

Diana Mikula, Assistant to the Village Manager, replied that by passing the proposed Code Amendments of Chapter 13 of the Liquor Code they would have to be BASSET trained.

Mr. Phillips said that Target as a company always ensures that their leaders are BASSET trained and any liquor sales at the registers have to be from BASSET trained individuals.

Trustee Glasgow said he did research on Target and their asset protection program and he does not see where this is going to be a problem. He said Target is taking additional precautions being so close to Hersey High School.

TRUSTEE GLASGOW MOVED, SECONDED BY TRUSTEE SCALETTA THAT THE COMMITTEE-OF-THE-WHOLE RECOMMEND TO THE VILLAGE BOARD, GRANTING OF THE REQUEST FROM TARGET FOR A WAIVER FROM SECTION 13-608 OF THE VILLAGE CODE, TO PERMIT THE SALE OF ALCOHOL WITHIN 100 FEET OF A SCHOOL.

Trustee Sidor asked if the alcohol section in the store would be staffed at all times.

Mr. Phillips said that their presence in that area would be pretty intense. Their security guard would be there during heavy traffic times when there may be more students in the store. The guard makes his presence where the students spend most of their time.

Trustee Sidor asked if Target had any kind of corporate policy regarding checking ID's.

Ms. Popova said in order to scan the liquor through the register, you have to scan the driver's license or ID.

Trustee Farwell asked if the Arlington Heights store is not selling as much volume compared to other stores.

Mr. Phillips replied that the Arlington Heights store is an average store in sales volume. This request to sell liquor is not to get their sales in line or anything of that nature, rather it is to obtain better consistency across all Target stores. It is also to give Target guests that extra component they are looking for to complete their purchases. This store is not looking to become a liquor store but is something they would like to have as an addition to the rest of the store's selections. Many Target guests, who shop at other Target stores, come in to the Arlington Heights store and have full carts of groceries and clothing and are wondering where they can get a bottle of wine or beer to go with their meal. For this store, it's more about having a full selection and not as much about increasing sales. This will also help Target compete with retailers that are opening around their store.

Trustee Farwell talked about Target asking for a variation that would allow them to sell liquor within 100 feet of a high school which has never been done before. He asked if Target offers any alcohol or drug awareness programs.

Mr. Phillips said that one of the major programs that is already in place is called, "Take Charge of Education." Through Target guests' purchases, Target provides a percentage of the purchases directly to the school. As of August 2013, Target gave about \$4300, and through the entire course of this program, Target has given about \$46,000. Target is supportive of the community and works hard to maintain that relationship.

Mayor Hayes talked about Robin Ward and Diana Mikula discussing the best way to approach this request from a standpoint of approval, and it was felt that this waiver was the best way to go rather than make a policy or ordinance change. He felt as Liquor Commissioner that this waiver allows the Board to look at requests for a waiver on a case by case basis.

Mayor Hayes said from a consistency standpoint it is within Target's business model for their stores to sell alcohol. Their customers have an expectation when they go into a Target store that they will be able to purchase alcoholic beverages.

Trustee Farwell asked if the Arlington Heights store is a minority in comparison to their other stores. Mr. Phillips replied yes, but there are some exceptions and they are also in the process to request to sell alcohol.

Trustee Tinaglia asked what is the percentage of stores that sell alcohol. Ms. Popova replied that 17 out of 20 sell alcohol in this area.

Trustee Tinaglia said he is not concerned about Target selling alcohol at its store. The fact that Target will have the security it discussed, he does not see this as a problem.

Trustee LaBedz talked about the Dominick's that used to be located in the Prospect Crossing shopping center that is located behind Target and she asked Staff to see whether or not there were any liquor violations.

Ms. Mikula replied that she did check with Prospect Heights and was informed that when Dominick's was open there was one violation which was over ten years ago. Currently, there are about six establishments in the Prospect Crossing shopping center that have liquor licenses.

Trustee LaBedz said this made her feel comfortable knowing that there was not a problem with liquor violations since this store was also close to Hersey High School. She feels that all the different security measures Target has in place makes her feel comfortable with this waiver.

Trustee Scaletta asked if the new Ultra Foods opening up in the Prospect Crossing Shopping Center is going to sell liquor. Ms. Ward replied that they are going to sell liquor.

Trustee Scaletta said he appreciates all the safeguards that Target talked about. If Target receives a liquor license, this will also help the store be more competitive with surrounding stores.

Trustee Rosenberg asked if Target planned on carrying beer, wine and spirits.

Mr. Phillips replied that it was still up for discussion as far as how many spirits they would have but he said it would be minimal. It would be mostly the larger packs of beer and a wine selection. Anything over a certain value would have theft protection.

Trustee Scaletta asked if all the liquor could be "spider wrapped" for security purposes.

Mr. Phillips said this is something that is not done in the other Target stores but he understands that the proximity of the school makes this a bigger concern. If this is something the Board would like to see done, then he would make sure it was done at one hundred percent.

Mr. Dixon asked if a six pack of beer could be "spider wrapped."

Ms. Popova responded that Target would not wrap a six pack of beer with a "spider wrap" which is just for hard liquor and wine bottles. There is another wrap that could go around a six pack of beer.

Mayor Hayes said at this point Target doesn't exactly know what they are going to be selling until they come before the Board for their liquor license. We all share the concern of appropriate security measures with the understanding that Target is going to implement these measures.

Trustee Glasgow mentioned since the idea of wrapping all the liquor was just brought up tonight that the discussion could continue when Target comes back for their liquor license. Then, we can talk about the security measures and what would be economically feasible for Target to do once they had a chance to do some research.

Trustee Sidor asked about the stores that do sell alcohol, what kind of theft has been experienced? Ms. Popova replied that there has not been a big issue with theft.

Mr. Dixon reminded the Village Board that we may get some push back from existing liquor license holders.

Upon a voice vote, the motion passed unanimously.

6. Continued Discussion of Bring Your Own Beverage (BYOB)

Mr. Dixon said that at the Committee-of-the-Whole meeting on August 12, 2013, the Village Board discussed whether to regulate Bring Your Own Beverage ("BYOB"). Currently, the Village does not have any regulations on BYOB, so restaurants have the option to allow BYOB in their establishments.

After discussing several options for regulating BYOB, Staff was directed to conduct additional research. Several communities were surveyed and the results showed that very few communities have any formal regulations for BYOB. Of nine surrounding communities, only Wheeling currently regulates BYOB. Mt. Prospect is in the process of considering regulations for BYOB, which would permit wine only to be allowed at restaurants without a liquor license.

Mr. Dixon asked the Police Department on behalf of a Trustee, what the Police

has experienced in regards to BYOB. Chief Mourning indicated that they are not aware of any issues.

Trustee Glasgow asked if you are required by law to have Dram Shop insurance to have a BYOB license.

Ms. Mikula replied that it is recommended by the State Liquor Commission that if BYOB is allowed that they do seek Dram Shop insurance.

Trustee Glasgow said under the current BYOB policy what exactly can someone in a restaurant do in regards to BYOB.

Ms. Mikula said that a restaurant is told if they are going to have BYOB, they can't handle the liquor meaning they cannot pour or uncork it, they can't serve it, and they can't display it.

Trustee Glasgow asked what the benefit would be to regulate BYOB other than knowing who is allowing BYOB.

Mr. Dixon responded that there would be more regulations by the Village and this would provide more information on what is taking place.

Mayor Hayes asked how we would tell a BYOB establishment what our policies are if the Village is not aware they are doing BYOB.

Ms. Mikula said there is a question on the business license application asking if they are going to be selling liquor. This can be checked to see if they have a liquor license.

Trustee Glasgow asked if an establishment can charge a corkage fee for a BYOB.

Ms. Mikula replied that right now the Village is not regulating that so if they want they can do so.

Trustee Tinaglia said he likes the ability to have BYOB. He feels that wine or beer would be acceptable but not spirits.

Trustee Rosenberg said his concern is the Village doesn't know what establishments are allowing BYOB and if they are complying and asking for ID's. He would like to see some type of regulation for these reasons.

Trustee Scaletta asked if there were a BYOB license, would the Village require Dram Shop insurance.

Ms. Ward replied that the Village requires Dram Shop insurance for establishments that are serving alcohol. If it's a restaurant that does not have a liquor license and they don't touch the alcohol in any way, they don't necessarily

need the Dram Shop insurance since they are not opening it or serving it. If you chose to regulate BYOB and places are allowed to charge corkage fees to open bottles of wine and pour the wine into glasses, for their own protection, it would be wise for them to have Dram Shop insurance.

Trustee Sidor agrees with Trustee Glasgow that if BYOB currently works without problems, why regulate it. What would the overall benefit be to regulate BYOB?

Trustee Farwell said that since we are not regulating BYOB the requirement for Dram Shop insurance isn't the Village's responsibility since it is not being regulated by the Village. He likes the BYOB atmosphere but at the same time he knows of several establishments that knowingly violate the Village's policies.

Trustee Scaletta talked about having alcohol brought into a salon or business and how this would also be considered part of BYOB. He feels a business would take this very seriously and take responsibility. He thinks as a government we are over regulating. The Board is looking at all the different situations and one regulation is not going to fit all situations.

Trustee Farwell said if the Village is going to regulate BYOB then it should be done responsibly. The employee uncorking the bottle of wine should know how to read a Driver's License so when they check ID's they know how to do so correctly.

Trustee Glasgow said there have been no violations from the BYOB policy. He said this would be over legislating to make any more policies. He doesn't want to have businesses buy extra insurance if they don't need it.

TRUSTEE GLASGOW MOVED, SECONDED BY TRUSTEE SCALETTA THAT THE COMMITTEE-OF-THE-WHOLE RECOMMEND TO THE VILLAGE BOARD THAT NO ACTION BE TAKEN BY THE BOARD AND THAT STAFF ADVISE PERSONS INQUIRING ABOUT BYOB OF APPLICABLE STATE LAW PROVISIONS.

Trustee Scaletta asked how a BYOB policy could be violated if the Village doesn't really have a set policy in place.

Ms. Ward said there is no ordinance, code or formal policy. The Village has nothing formal related to BYOB. When phone calls come in regarding BYOB, we tell people you can't touch the liquor, can't open it or serve it, or charge for it. The Village can't fine anyone for violating the above. This is an informal policy. This is consistent with the state law that you can't serve liquor without a liquor license.

Mayor Hayes said he would not want to penalize businesses that don't want to sell alcohol but just want to provide the privilege for people who might want to bring in a bottle of wine. Since the majority of the municipalities don't regulate BYOB, he doesn't want to put the Villages' businesses at a competitive

disadvantage by over regulating them. He concurs with the motion for these reasons.

The Following Voice Vote Was Recorded:

Ayes: (6) Glasgow, LaBedz, Scaletta, Sidor, Tinaglia, and President Hayes

Nayes: (2) Farwell and Rosenberg

7. Continued Discussion Regarding Board of Trustee Policy: Convenience-Type Food Marts and Drug Stores

Mr. Dixon said that at the Committee-of-the Whole meeting back on August 12, 2013, the Board discussed existing Board of Trustees Policy 1976-5, which states:

No liquor license shall be issued to convenience-type food marts and/or drug stores.

This policy was established in 1976 and has been reviewed and retained several times since then.

At the meeting, a majority of the Board stated that they believed this policy was outdated, that the Village was missing out on retailers with this policy, and there was some belief that convenience stores are nothing but smaller grocery stores. Staff was directed to conduct additional research and to include the following discussion points:

1. What alcoholic beverages are allowed in convenience & drug stores?
2. Do municipalities impose square footage restrictions?

A survey of several communities was completed and of the nine communities surrounding Arlington Heights, six communities specifically allow convenience stores to sell alcoholic beverages.

As it relates to drug stores, all nine of these communities allow the sale of beer, wine and spirits at drug stores.

Naperville, Evanston and Skokie require an establishment to have a minimum square footage requirement in order to sell alcoholic beverages.

Trustee Rosenberg asked if gas stations or convenient marts would qualify for a liquor license. Ms. Mikula said gas stations would continue to be prohibited from selling alcohol.

Trustee Scaletta said we are surrounded by municipalities that do allow convenience-type food marts to sell liquor. We are making it difficult for people to do business in our town. He is interested in allowing drug stores to sell alcohol and is in favor of looking at a square footage requirement to allow convenience-type food marts to also sell liquor.

Trustee Glasgow said he is more comfortable with a square footage requirement

in order for a convenience-type store to sell liquor from a security and safety standpoint.

Trustee Tinaglia asked if there was a square footage requirement currently for any liquor stores.

Ms. Mikula replied no there is not. The smallest liquor store currently in the Village is just shy of 1200 square feet.

Ms. Ward replied that if the policy was deleted and convenience stores were allowed to sell liquor, the convenience stores become another retail establishment.

Trustee Glasgow said he is uncomfortable based on statistics from the Department of Justice that smaller establishments are an easy in and out, with access from all areas, which can make them a target for robberies. Issues can be avoided by adding a square footage requirement.

Trustee Tinaglia agrees that small gas stations with convenience marts should not be allowed to sell liquor. He would like the proposed square footage requirement to be a reasonable amount of space.

Trustee Rosenberg said in cases where convenience stores are allowed to sell liquor, we have a number of package liquor stores that already exist and their business might be at risk from more stores opening up around them that also sell liquor.

Mayor Hayes replied that one of the suggestions was to host a meeting inviting existing liquor license holders about the proposed changes. We could also invite convenience stores and drug stores that are not currently liquor license holders to get their input.

Trustee Farwell said he does not have a problem with drug stores having liquor licenses, but what would be expected from hosting a meeting with current liquor license holders. It's going to come back to the Board for a decision but be more heightened. He feels the question is are we going to continue our policy from 1976 and continue to regulate a portion of an industry. If the Board is not going to regulate it, then let competition determine who is to prevail.

TRUSTEE FARWELL MOVED, SECONDED BY TRUSTEE TINAGLIA THAT THE COMMITTEE-OF-THE-WHOLE RECOMMEND TO THE VILLAGE BOARD THAT BOARD OF TRUSTEES POLICY 1976-5 BE AMENDED TO DELETE THE REFERENCES TO "CONVENIENCE-TYPE FOOD MARTS AND/OR DRUG STORES" AND INSERT "GAS STATIONS, WITH OR WITHOUT MINI-MART-TYPE STORES" AND THAT THE CODE BE AMENDED TO REQUIRE THAT THE MINIMUM STORE SIZE FOR CLASS "B" AND "BB" LIQUOR LICENSE HOLDERS BE 2500 SQUARE FEET, WITH CURRENT CLASS "B" AND "BB" LICENSED STORES SMALLER THAN 2500 SQUARE FEET EXCLUDED

FROM THIS SIZE LIMITATION. FURTHER, THAT THE DEFINITION OF FOOD STORE, CONVENIENCE (CHAPER 28, SECTION 3.2-95) BE AMENDED BY DELETING THE REFERENCE TO "NON-ALCOHOLIC" BEVERAGES.

Mayor Hayes reiterated that a location that has an existing liquor license and is less than 2500 square feet would be grandfathered in, even if the ownership changes because they are in the same location.

Ms. Ward said that no one could open a new liquor store in a new location that was not at least 2500 square feet.

Trustee LaBedz said by this proposed amendment, anyone can sell whatever they want and we are doing away with distinctions that a liquor store cannot sell groceries and a convenience store cannot sell liquor, now everyone can sell both.

Ms. Ward explained that the reason that existed was there is a definition in the zoning ordinance that defines a convenience store as something that doesn't sell alcohol. Therefore, liquor stores couldn't sell convenience items and convenience stores couldn't sell liquor. When this is removed from the definition of a convenience store, they all become the same.

Ms. Ward said no one is entitled to a liquor license; it's a privilege not a right. Therefore, every person who applies for a liquor license is evaluated. The Liquor Commissioner has the right to deny the granting of a liquor license.

Upon a voice vote, the motion passed unanimously.

8. Other Business

None

9. Adjournment

TRUSTEE SCALETTA MOVED, SECONDED BY TRUSTEE GLASGOW TO ADJOURN THE MEETING 9:37 P.M.