



MINUTES

President and Board of Trustees
Village of Arlington Heights
Committee-of-the-Whole
Community Room
Arlington Heights Village Hall
33 S. Arlington Heights Road
Arlington Heights, IL 60005
September 8, 2014
7:30 PM

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT:

President Hayes, Trustees: Blackwood, Farwell, Glasgow, LaBedz, Rosenberg, Sidor and Tinaglia

BOARD MEMBERS ABSENT: Scaletta

STAFF MEMBERS PRESENT:

Diana Mikula, Interim Village Manager; Charles Perkins, Director of Planning & Community Development; Robin Ward, Assistant Village Attorney; Eileen Hellstrom, Recording Secretary

IV. NEW BUSINESS

- A. Request for "Opt Out" from Cook County Animal and Consumer Protection Ordinance (Puppy Mill) from Happiness is Pets 15 W. Golf Road, Arlington Heights

Diana Mikula, Interim Village Manager said the owner of Happiness is Pets, Ronald Berning, submitted a letter asking the Village to adopt an "Opt Out" Ordinance exempting certain businesses from provisions of the Cook County Animal and Consumer Protection Ordinance.

Cook County adopted the ordinance on April 9, 2014. The ordinance prohibits the sale of dogs, cats, and rabbits in pet stores unless they're acquired from animal shelters or small breeders who meet the County Ordinance requirement.

Mr. Berning owns the pet store and voiced concerns about the ordinance and

claims that if he has to comply with the Cook County ordinance, it would put his store out of business.

The ordinance does have a provision to "Opt Out" but if nothing is done, the ordinance takes effect October 1, 2014.

The following are some options that may be considered by the Board:

1. Decline to pass an "Opt-out" Ordinance, so that the County ordinance takes effect on October 1, 2014.
2. Adopt an "Opt-out" Ordinance with a sunset date to allow the shopping center owner time to market and seek a new tenant for the space and also allow the owner of the business time to transition.
3. Adopt an "Opt-out" Ordinance applying to existing pet stores only.
4. Adopt a simple "Opt-out" Ordinance without any limitations, but direct Staff to propose additional licensing requirements for consideration within 60 days.

Mr. Berning said his business, Happiness is Pets, has been in Arlington Heights for fifteen years and has been in business for a total of twenty-eight years.

Mr. Berning said the definition of a puppy mill is when the breeder puts profit before the health and care of his dogs. Inadequate shelter, food, water, exercise, socialization, and veterinary care would be neglected. The only place you can buy a dog from a federally regulated breeder is from a pet store. As a breeder, if you don't sell to a pet store, such as selling dogs on-line, there are no regulations.

Mr. Berning said all of his breeders have large in-door pens, access to an outdoor run, and a play area 24 hours a day, 7 days a week. He said if you are a breeder there are two types of violations, a direct violation which means something directly related to the care of the dog, such as long nails or teeth that are not clean. Indirect violations would be something that doesn't affect the health or well-being of the dogs.

In the last three years, Mr. Berning has invested over \$300,000 buying dogs from breeders. All his dogs come from Amish breeders in northern Indiana and currently he has about 20 different kennels. He also buys dogs from hobby breeders, which means they have five or less females and you don't have to be USDA regulated. If one of his breeders gets a direct violation, he is no longer going to work with that breeder.

Mr. Berning talked about the Puppy Lemon Law passed by the State last year which says the pet store has an obligation for veterinary expenses for anything that is wrong with the dog at the time of sale. He guarantees his dogs for thirty days. The State says dogs must have a one year health guarantee, but he gives a two year guarantee with his dogs and stands behind their dogs.

He is asking the Village to "Opt Out" of the ordinance so he can stay in business.

Mayor Hayes asked if there are any other pet stores in the Village of Arlington Heights that would be shut down under the Cook County ordinance besides

Happiness is Pets?

Charles Perkins, Director of Planning & Community Development Department, said Happiness is Pets is the only one.

Mayor Hayes said since this ordinance is for October 1, to make sure these issues are fully discussed including the pros and cons, the best option would be Option #4. The Village would have some time to consider a Village of Arlington Heights ordinance that would have specific criteria created by the Board.

Option 4: Adopt a simple "Opt-Out" Ordinance without any limitations, but direct Staff to propose additional licensing requirements for consideration within 60 days.

This would prevent Mr. Berning's business from being shut down on October 1st and would give the Board some time to explore a Village ordinance that would address some of the issues.

Trustee Tinaglia asked how long a puppy stays in Mr. Berning's store. He replied 60 days is the longest a dog would stay in his stores and he starts reducing the price of the dog at about 20 days. Trustee Tinaglia asked what happens if a dog doesn't get sold. Mr. Berning replied that they all get sold and he never puts dogs to sleep. He is in this business because he loves animals.

Trustee Sidor asked about the dogs that are provided to Mr. Berning's breeders, and how many times they are bred in a year. Mr. Berning replied that his breeders average three puppies per year per female.

Trustee Glasgow said the way the Cook County ordinance is drafted, he feels it is overbroad legislation. It doesn't give adequate definition as to what can and cannot be a puppy mill. He also has problems with some of the wording.

Mr. Berning said an animal welfare act now states that they have to make available to the public all the information about every dog in the store. He keeps a binder with all the information required for each dog.

Trustee Farwell said he concurs with Trustee Glasgow that the wording on the Cook County Ordinance could be much clearer. After reading the ordinance he has more questions than answers. He wouldn't want to pass anything or take any action without a full opportunity for public commentary and public hearings.

Mayor Hayes asked if anyone in the audience would like to address the Board on this issue.

Dianne Arp, Chicago Outreach Coordinator for the Companion Animal Protection Society, said they are a nation-wide non-profit organization that investigates puppy mills and pet stores like Happiness is Pets. They have been doing this for over 20 years.

Ms. Arp wanted to clarify that if you have five or more breeding females you must be licensed by the USDA in order to sell to pet stores. If you have four breeding females or less, you are considered a hobby breeder which means you can do what you want and not be licensed by the USDA. They have been working with Naperville and Orland Park on a puppy mill ban.

Ms. Arp wanted to point out that House Bill 5772, the Pet Care Disclosure Law, was a bill they passed in Springfield a few years back. This bill requires that pet stores which sell puppy mill puppies must post next to each cage paperwork that lists the name of the breeder, address, USDA license number, any treatments the dog is receiving if it's sick, and any vaccinations the dog has received. This binder gives full disclosure. Happiness is Pets keeps their information in a binder at their front desk. Petland keeps it super glued to their front counter. If someone does not know to ask for this information, you would not know that it exists.

Happiness is Pets is the largest retail seller of puppy mill puppies in the state of Illinois. Last year they sold 4800 dogs.

Joe Madas, a resident of Arlington Heights, had heard about the law regarding the binder that includes all the information pertaining to the puppy, and 3 ½ years ago, he walked into Happiness is Pets. He asked for the binder which was behind the register. Mr. Madas wanted to see where some of the breeders were located and was told all the breeders were local. According to the binder, the breeders were from Ohio, Missouri and Iowa.

Mr. Berning said the law states that there must be a sign within eight feet of the dog that states the information on the dog can be found in a binder in the middle of the store. He said the binder is there in his stores and is screwed to the top of the counter. He has never had a violation in 28 years with the Department of Agriculture.

Mayor Hayes said we've heard that there is passion on both sides of this issue and our job is to find some middle ground where we can address some of these concerns. His preference is to go with Option #4.

Trustee Glasgow concurs with Mayor Hayes. His question is whether or not Happiness is Pets is connected with puppy mills. He needs more information to make any kind of decision and he is not going to be rushed into legislation or rushed into enacting something that is going to be detrimental to a business. He wants to make a fully informed decision. Option #4 is the appropriate thing to do and can be revisited in the future.

TRUSTEE GLASGOW MOVED, SECONDED BY TRUSTEE TINAGLIA, THAT THE COMMITTEE-OF-THE-WHOLE RECOMMEND TO THE VILLAGE BOARD TO ADOPT A SIMPLE "OPT-OUT" ORDINANCE WITHOUT ANY LIMITATIONS, BUT DIRECT STAFF TO PROPOSE ADDITIONAL LICENSING REQUIREMENTS FOR CONSIDERATION WITHIN 60 DAYS.

Mayor Hayes said in terms of a proposed ordinance, the Orland Park ordinance is a good model. He heard from Ms. Arp that it is acceptable to them and Mr. Berning indicated that his store could operate under that ordinance. This would be a good sample to work with.

Upon a voice vote, the motion passed unanimously.

- B. Consideration of recommending to the Liquor Commissioner the issuance of a Class "AA" Liquor License to Bottles & Barrels, Inc., dba Bottles & Barrels, located at 1609 W. Campbell (formerly Murphy's) in the Westgate Shopping Center.

Mayor Hayes swore in Ilias Haritos, who was present for consideration of the Class "AA" (Full Service Restaurant) liquor license for Bottles & Barrels.

Diana Mikula, Interim Village Manager said Mr. Haritos is seeking a Class "AA" liquor license for the space that was formerly Murphy's Restaurant located at 1609 W. Campbell in the Westgate Shopping Center.

As stated in the application, Bottles & Barrels, Inc. is 100% owned by Mr. Haritos. In August 2014, a background report was issued on Mr. Haritos and no convictions were disclosed and no criminal derogatory information was found. In addition, no lawsuits, judgments or liens were outstanding. Ms. Mikula conducted a walk-thru of Bottles & Barrels and the space is still under construction. It appears the general floor plan layout is consistent with what was submitted as part of the application. A final walk through will be conducted once the build-out is completed.

Mr. Haritos brought a modified floor plan to this meeting to show the Board changes to the layout of tables compared to what was submitted with his application.

Mayor Hayes asked Mr. Haritos what the concept is of his restaurant. Mr. Haritos replied he is leaning towards a sports theme and it would be family orientated. He is going to have nine TV's in the front, a pool table and a basketball hoop machine. Mayor Hayes asked if he was going to have any type of entertainment or loud music. Mr. Haritos replied he was thinking about an open "mike night" but is still undecided. He is not planning on having live music.

Mayor Hayes asked Mr. Haritos about his experience in the restaurant and liquor business. Mr. Haritos said he had previously been in the restaurant business with his brother and owned four Chicken Huts at one time. He also worked at a gentleman's club in Bridgeview for five years.

Mayor Hayes asked him about his job at Polekatz. Mr. Haritos replied that he was a manager there.

Mayor Hayes said there was a blank period of time between 2008 and 2010 on his

application. He asked Mr. Haritos if he operated any type of restaurant during that time. He replied that he was doing heating and air conditioning jobs while taking care of his Dad who passed away in 2012.

Mayor Hayes asked Mr. Haritos if he has ever been cited for any violations of local liquor laws. He replied that he has not. Mayor Hayes asked Mr. Haritos if he has ever had a liquor license revoked or suspended. He replied no.

Mayor Hayes asked Mr. Haritos if he has completed Basset training. He replied he has completed the online training.

Mr. Haritos said the hours of operation would be Sunday through Thursday from 11:00am until 1:00am and on Fridays and Saturdays he would be open from 11:00am until 2:00am.

Mayor Hayes asked Mr. Haritos if he is aware that food service must be available at all times but that there can be a limited menu after 11:00pm. Mr. Haritos said it's going to be a full menu.

Trustee Glasgow asked Mr. Haritos where he worked from 2008 until 2010. He said he worked in Indiana at a club and then went to Rockford to work at a place called Big Foot.

Trustee Glasgow told Mr. Haritos that there are no bars in Arlington Heights just restaurants that serve liquor. You must serve food at the same time you serve alcohol. His concern is how Mr. Haritos' experience and background from food service at Chicken Hut is going to relate to owning a full service restaurant that serves alcohol. He wants to make sure everything is going to work correctly and that Mr. Haritos understands the rules.

Trustee Glasgow indicated that he has concerns because an applicant has never submitted a hand written menu with no prices.

Mr. Haritos said the menu provided was put together by his wife. He said the menu is going to be basically ribs, chicken, steak, burgers, and appetizers.

Trustee Glasgow asked Mr. Haritos why he didn't include working at Big Foot in his application. He said since it was for a short period of time, two to three months, so he didn't include it. This was when he was taking care of his Dad.

Trustee Glasgow said the Secretary of State lists Mr. Haritos as being part of Synergy Entertainment. He asked about the type of business. Mr. Haritos replied that Synergy Entertainment was a management company that would help "fix" clubs.

Trustee Blackwood said the site where Bottles & Barrels is located has not always been successful. To open a restaurant in that location, you need to market your business. She would like to see a more formalized menu so the good food he is

planning on serving will bring in customers for lunch and dinner.

Trustee Sidor asked Mr. Haritos who would do the cooking for the restaurant and he replied that he hired three cooks and he would be dealing with the customers. If he needs to go into the kitchen and cook he can help out.

Sam Amirante, Attorney representing Mr. Haritos, said in all successful restaurants, the owner works long hours, cooks, manages, markets and looks over everything which is what Mr. Haritos wants to do.

Trustee Glasgow asked Mr. Haritos if he was the owner of any of the other businesses he worked at in the past other than Chicken Hut. Mr. Haritos replied that he was not the owner of the other establishments, he has not owned a business in the last fifteen years. He did not have the financial opportunity to own a business back then but he is capable of owning a business now. Trustee Glasgow's concern is that this is different from managing a bar and Bottles and Barrels is in a residential area of the community.

Mr. Haritos said he is always concerned about the safety of his customers and will not let them leave his establishment intoxicated. He said his staff will be trained to check ID's and they are all Basset trained. His staff will consist of three cooks, two bus boys, four bartenders and four waitresses to work different shifts.

Trustee Farwell asked about the changes made to his floor plan and wanted to confirm that he still has the same amount of seating. Mr. Haritos said there is seating at the bar and table seating. Trustee Farwell asked if it is a family restaurant, why most tables have only two chairs according to his layout. Mr. Haritos replied that tables could be pulled together for families requiring more seating.

Trustee Farwell said the menu without pricing presented in Mr. Haritos liquor license application is essentially nonexistent as far as a business is concerned. He is also concerned looking at the layout of the tables and how family orientated this establishment is going to be. He asked what the dress code would be for the waitresses. Mr. Haritos replied they would wear polo shirts and black pants.

Trustee LaBedz said she agrees with the other Board members and she is also disappointed with the menu and the layout being changed last minute. She asked if he would have the same food available at lunch and for dinner. Mr. Haritos replied that it would be the same menu all day until it closes.

Trustee Rosenberg asked Mr. Haritos if he was firm on having some high tables in the center of the restaurant. He replied that there is a lot of traffic in that area and it is easier to deal with a high volume of traffic with high tables. Trustee Rosenberg said the lack of tables that seat four takes away from the restaurant being family orientated.

Ms. Mikula wanted to point out that for a Class "AA" liquor license, in order to

meet the criteria that is established in the ordinance, you have to have seating capacity for a minimum of 75 people for food service. She is not sure if the modified layout shown at the meeting meets this criteria. She had concerns that the floor plan change was not included as part of the applicant's original submittal.

Mr. Haritos said he could add two more tables in the area that is currently open.

Mayor Hayes asked Mr. Haritos why he named the restaurant Bottles & Barrels. He replied he just thought it was a catchy name since they would have tap beer as well as bottle beer. Mayor Hayes said he is not sure that is consistent with a family orientated business.

Mr. Amirante said the purpose of this establishment is to have a good restaurant with great food. He said his client will pull his menu together including pricing and produce a business plan. It's a restaurant with good food that's going to serve liquor which will make this a successful business. He doesn't want the Board to get hung up on it being a family orientated place.

Mr. Haritos said he has complied with everything the Village has asked him to do and this is his passion, dealing with people, and serving good food.

Trustee Tinaglia said he has a few concerns. Mr. Haritos spent a lot of money investing in the construction of the space but most businesses get their liquor license first before they put that kind of money into the business. Secondly, what makes most businesses successful is great food, service, atmosphere, location and marketing. He asked if Mr. Haritos has given some thought to the name Bottles & Barrels. In his opinion, it sounds like a bar. It doesn't say anything about the kind of good food he would serve.

Trustee Blackwood said since he is 100% the owner of this business, you need a well thought out business plan. She would like to see a business plan on paper to understand his business model.

Trustee Glasgow said the Village code states in order to issue a Class "AA" liquor license, the patrons have to be offered full complete meals. No licensing shall be granted to any establishment if the food service is not primarily a restaurant. He is personally hung up on the menu since it doesn't satisfy the requirement of full and complete meals. He agrees that most people come and get the liquor license first before they put money into the establishment.

TRUSTEE GLASGOW MOVED, SECONDED BY TRUSTEE SIDOR TO RECOMMEND THAT THE VILLAGE BOARD OF TRUSTEES RECOMMEND TO THE LIQUOR COMMISSIONER TO DENY THE ISSUANCE OF A CLASS "AA" LIQUOR LICENSE TO BOTTLES & BARRELS, INC., DBA BOTTLES & BARRELS, LOCATED AT 1609 W. CAMPBELL (FORMERLY MURPHY'S) IN THE WESTGATE SHOPPING CENTER.

Mr. Amirante asked if this is denied, does his client have to start over? He asked

if this decision could be tabled to allow Mr. Haritos to bring his business plan and a revised menu at a later time.

Mr. Haritos said he wasn't aware he had to put prices on the menu.

Trustee Glasgow replied it is not just the fact that there are no prices on the menu. There are too many deficiencies in the liquor submittal.

Trustee Tinaglia asked what is the petitioner's recourse at this point if his liquor license is denied as opposed to tabled?

Mayor Hayes replied that a denial does not prevent the petitioner from coming back with a revised plan. His feeling, as a Liquor Commissioner, is that the name screams out that this is a bar. He would like to see a revised floor plan with more low tables, a different name and a menu with pricing. This would fit the character of a restaurant.

Trustee Rosenberg asked for clarification about the difference between deferring and denying a liquor license.

Robin Ward, Assistant Village Attorney, said denying the license is a "no," unless he chooses to come back. If it's tabled or deferred, and if there is no motion, the petitioner is instructed to come back with all that is requested. The Board is not required to make a motion and can take no action.

Mr. Amirante said his client has put so much of his time and money into this place, with this Board's guidance, his client would come back with a viable plan. If this is denied, he would have to start over.

Trustee Glasgow said he could still open as a restaurant but he can't serve liquor. He can come back in the future when everything is put together.

Mr. Amirante said they are putting a good viable business in Arlington Heights and helping the economy and he can't see how denying the liquor license would help at this point. Give his applicant an opportunity to show this Board what he can do at his restaurant. He is asking for more time to complete everything.

Trustee Glasgow said he has to deny this liquor license and does not see the purpose of deferring it since there are entirely too many deficiencies in the entire application. He would like to see an entirely new application.

Mr. Amirante said the application isn't going to change, it would just delay the process longer. There is nothing in his background that would prevent him from having a liquor license.

The following voice vote was recorded to deny the liquor license:
Ayes: 7 Nays: 1

Ayes: Blackwood, Farwell, Glasgow, LaBedz, Sidor, Tinaglia and Hayes
Nayes: Rosenberg

The motion carried.

Mayor Hayes said this does not prevent Mr. Haritos from coming back as quickly as he can once everything has been completed and reapply for a liquor license.

Ms. Ward said the background has been done already and would not necessarily need to be redone.

V. ADJOURNMENT

TRUSTEE FARWELL MOVED, SECONDED BY TRUSTEE SIDOR TO ADJOURN THE MEETING 9:55 P.M.

Upon a voice vote, the motion passed unanimously.

Persons with disabilities requiring auxiliary aids or services, such as an American Sign Language interpreter or written materials in accessible formats, should contact David Robb, Disability Services Coordinator, at 33 S. Arlington Heights Road, Arlington Heights, Illinois 60005, (847)368-5793 (Voice), (847)368-5980 (Fax) or drobb@vah.com.