

Cuyahoga Falls City Council

Minutes of the PUBLIC AFFAIRS COMMITTEE Meeting

January 20, 2004

Chair: Mary Ellen Pyke; Vice Chair: Terry Mader; Member: Jerry James
All Members Present.

Meeting minutes of 1-5-2004 approved as submitted.

Mary Ellen Pyke brought the committee to order at 6:35 p.m. and reorganized the agenda to accommodate the numerous people who have attended the meeting this evening to share their concerns/issues about JR's Pub. Mrs. Pyke explained the process and will begin with miscellaneous business to address their concerns and will conclude her committee meeting after a recess from the public testimonies on JR's Pub.

Miscellaneous business: Public discussion of JR's Pub Request for a hearing with the Department of Liquor Control by Cuyahoga Falls City Council.

Mr. Barnhart explains why there has been a request for hearing. The issue being, "Is Mr. Richards entitled to or fit to receive a new permit with his past improprieties?" Mr. Richards is evidenced to have broken previous violations and this has a bearing on his new license application. This is about Section 4303.292 of the Ohio Revised Code that indicates the Board of Liquor Control can deny liquor permits. Is he entitled to a permit? Mr. Barnhart feels this question and other concerns must be brought to the Board of Liquor Control to have them make the determination. He is requesting we allow due process and the Board of Liquor Control to make this determination. Mrs. Pyke reiterates that we are not the Board of Liquor Control. Don Walters states he spoke with the legal division of the Board of Liquor Control who stated they do review past and prior establishments, they do an internal hearing and they look at the facts prior to making a decision on a new permit. Mr. Richards passed these processes already.

Tim Gorbach indicates that City Council requested this hearing in November and it's not through the Board of Liquor Control yet and it is January 2004. It may be another month and he is uncomfortable with delaying his business and is for allowing him to begin to generate income. There is no timetable from the Board of Liquor Control and it could be weeks, months, or longer for Mr. Richards.

Mr. Barnhart states he agrees with Tim to some extent, however, going without revenue is based on Mr. Richards' bad decisions. If I do something that is questionable, I am held accountable. There are certain decisions that we have to take responsibility for. The info from the Police Chief attributes to his character and his decision to continue bar operations when his permit was gone. There were Mr. Richard's choices. He was informed on what he should do. He needs held responsible for the business continuing to open after the license was revoked.

Cynthia Seikel, 1806 4th St.: Mrs. Seikel has known Mr. Richards since 1978. She states he hired an attorney, who was (Mrs. Seikel's) my uncle, and he actually told him he could stay open. The attorney gave him bad information. The noise was not loud. JR's property butts into the back of several yards. I don't see why the adjacent businesses have a problem with him. The doors were always closed. The trash was taken out in the morning. People urinating on lawns is ridiculous with Hilarities is across the street, how do they know they are from JR's Pub and not another place? I don't understand why this bar is such a problem. JR takes good care and shuts the doors to refrain the music from being too loud.

Elizabeth Modic, 1542 20th St.: Feels the bar has been in violation by operating beyond the dates he should of. The bar is a public and private nuisance to me and my family who live adjacent to the JR's property. Drunken patrons scare and break glass at all hours of the night. The Dept. of Liquor Control needs to have this reviewed, not City Council.

AJ Mazzarella, 3532 Marsh Blvd.: Indicates he is very aware of the JR situation and agrees with Mr. Walters's assessment in the Falls News. Mr. Mazzarella recites a recent Falls News article regarding JR's Pub. Mr. Barnhart is interfering with the reopening of JR's. The voters have spoken and this would fill a vacancy on the State Road end and bring revenue to the City of Cuyahoga Falls.

Joe Cheslock, 1135 Chestnut Blvd.: Mr. Richard's got the vote at the polls, he goes on to read Mr. Barnhart's letter to the editor. The evidence and facts of the bust on his business after losing his license does not show he was cited. Mr. Richard's told him that there

haven't been any violations in 17 years. He wasn't been charged with anything in March 2003. He wasn't charged in March, so where is the violation? As a homeowner, I can file noise/nuisance on things that happen outside my home. Jim Richards can't control drunken patrons. How do you hold him responsible? How about the individual being held responsible. Grant Avenue is a public street that anyone can park on. How do we keep him from earning a living? He has lost thousands of dollars due to these delays and council should allow him to get his license.

John Daley, 241 Pierce: I am not familiar with Mr. Richards; however, I feel this is a breakdown of the democratic process. It is not the City Council. What we have here is a case where the people have voted. If you go against the will of the people, you are fundamentally wrong and going against the process.

Jim O'Neil, 1563 19th St.: I live at the corner of Grant Ave. There is good news and bad news. Good news is that JR's bar has a For Sale sign posted on 1/6/04. A new owner will have the same problems as the previous owners. Busy Grant Avenue with beer trucks blocking the street and patrons who use private property for parking. It is time for the city to purchase and demolish it. The current asking price is \$140,000 for building. On 11/4/99, the purchase price was \$113,000 for Jim Richards. There is no parking and the city should authorize negotiations for 2110 Grant Ave.

Sharon Archer, 1683 20th St.: Mr. Richards is being treated unfairly. It's been said this bar was a nuisance and she was encouraged last year to vote her area dry. This may have been settled amicably with Mr. Richards if Ken Barnhart would have met him early on. When it was on the ballot, I went into the bar and it is very small and I was the youngest person in there. People were friendly, not loud or rowdy. It seems like a nice local bar. Now, we are here to decide and I am requesting we drop the hearing with Liquor Control. From my investigation of the period 1995- present, there were 227 complaints: 94 Hilarities, 94 Beer Gardens and others from Laconi's and The Boulevard. The numbers have convinced me that this is not a trouble spot. Let him earn a living. Nothing supports denying him.

Ken Barnhart: To correct Mrs. Archer's statements, I have spoke with his late wife, Barb and met with them *at their bar* and engaged in conversations with Mr. Richards.

Terry Gahring, 1550 20th St.: I thought this was a committee meeting to discuss his illegal activity after he lost his license. I thought this was for a liquor violation. He was ordered closed on March 12 and should have closed at this time. He was illegally opened. There was money on the bar. From 9:00 a.m. to 12:00 in the afternoon Mr. Richards is there, then he leaves the premises. Mr. Gehring is constantly hearing the trash being dumped and it is a nuisance. It is a neighborhood with small children.

Jim Richards, 2513 16th St.: There are 4 dumpsters outside my place. Not all are mine causing the noise.

John Daley: The point is not to rehash. Council is acting out of order.

Mary Ellen Pyke: Residents voted it dry for the precinct. Mr. Richard's fell short on signatures for his appeal on his petitions. Whenever someone is issued a new license, council is requested to review the new application. The vote at the polls is certified, yet there are members of council that want the hearing to go on, to ensure the Board of Liquor Control has all the evidence it needs for an accurate decision. Virgil Arrington indicates that we can't assume the Board of Liquor Control has the evidence. They may not. A request sends a notice to city council and it is distributed to the ward councilman and the councilman can request a hearing. It is based usually on complaints. Tim Gorbach acknowledges that City Council does not have a set standard of what to look at for requesting a hearing. We can request a hearing on an existing bar. That doesn't mean Mr. Richards can run his bar without regard to his neighbors. I am in favor of rescinding the hearing request and feel he should be allowed to go forward.

Russ Vitale, 1755 8th Street: I own the building across the street and the problems we encountered included the parking. I can come in and clean up trash on the weekends and barely use my area. He does not have the appropriate parking places and his patrons' park inappropriately.

Mark Modic, 1542 20th St.: This is not a personal vendetta. Unless you live adjacent to the bar, you may not understand. We won a dry precinct, then he violated the law and got lucky on making it wet again by one vote. Why is he receiving a free pass? I would like to see the ward return to a dry precinct.

William Jarvis, 1210 Grant.: I would like this hearing to go forward. During the Grant Center operations, the car parking is awful. I would like to support the hearing with the Board of Liquor Control. I am concerned for the children and what they are exposed to.

Kathy Johnson, 1730 Grant Avenue: The voters have spoken and I feel that he should be allowed to open. JR's was not the biggest nuisance. I went into JR's once and it was late afternoon with loud Frank Sinatra playing to an older crowd, but the bar was too smokey. I couldn't hear the music outside when I walked around. I received a notice in my mailbox about the issue making our ward dry. It should not have been placed into my mailbox. Postal regulations come into question when this flyer was stuffed into my mailbox. Please request the hearing to be withdrawn.

Jim Sublet, 2743 12th St.: It is a Frank Sinatra crowd. Perception tells me that several members of council are doing everything they can from allowing him to make a living. We have voted and it is time to allow him to go on.

Dave Alspaugh, 3518 18th St.: Is there are violation? If there is not citation, then why are we here? Other than to put up another roadblock to keep him from operating. It is well after the fact and do we have a violation or not? Virgil Arrington states the Department of Liquor Control will make the determination if there was a citation. There is evidence to suggest there was a violation, but the police officers have discretion to cite or not. On 3/17/03, they achieved the goal by shutting them down without writing a citation.

JR Richards: I asked Columbus, if I could operate as a party center? That night we were having a private party.

Elizabeth Modic: A small number of residents are the ones who directly back up to this establishment. I have never had good relations with Mr. Richards and I immediately knew that I didn't want this in my backyard.

JR Richards: I've been through four hearings in Summit County, then to a state hearing, and it's been 2-3 years. It's ridiculous that this is happening.

Loretta Morton, Akron resident: I have been a bartender for years and have worked 5 nights a week for Mr. Richards. There is no loud music after 11:00 and Mr. Richards is a wonderful person to work for.

Fred Debellis, 1524 20th St.: If the law is broken, I am held accountable. It is a joke to allow him to stay open and the police officers should have written a citation.

Elizabeth Modic: My backyard in the summer is awful. This is about a liquor violation and letting the state liquor board look into the calls and violations.

JR Richards: The fact is I have operated for 17 years with no violations, why wasn't I cited in March? Apparently the city didn't cite me because they found no illegal activity. Do you have citations on me? Does anybody?

Mr. Potts: The democratic process is being done tonight. Obviously we have both sides being represented. We cannot allow the public hearing process to be shut down. I feel that process cannot be stopped. If that right was taken away, we shouldn't allow it to move forward. Today, the public process will move forward and allow those people to present their case to the Board of Liquor Control.

Mrs. Hummel: When someone is requesting a hearing, there is usually no track record on that person. These requests are normally allowed to move forward. Past history on this establishment is being brought up. This is a new establishment and old past histories are being brought up. The voters have agreed to allow liquor to be sold in this ward. Asking for a hearing on a new permit should not be delayed to this extent.

Doug Flinn: The democratic process was denied when Mr. Richards operated for 4 months after the voters dried up their ward.. It is a new permit and his history goes with it. It would give JR time to present the evidence. During the period of November 2002 and March 2003, Mr. Richard stayed open illegally and some of it legally. We have a never had an issue like this. Please allow us to represent our people. The hearing will be in less than 6 weeks. Please ask that this is done as quick as we can and allow the people to move forward.

Tim Gorbach: The Department of Liquor Control Board hasn't seen fit to deny his license at this point. This isn't a natural course hearing without the public comments. In order to retract our request for a hearing, we will have to have a motion next week. It will be settled one way or the other. Typically, the new application has a hearing then. All permits come up for renewal, and city council can request a hearing.

JR Richards: My application has been approved in Columbus; *this* is the only thing holding it up!

Ken: I represent all of Ward 3 and I am obligated to help these people. There are several bars in this ward that I haven't received any phone calls on. That doesn't mean there aren't any issues. The request for hearing based on 5 different violations have some merit which need to be brought in front of the Board. This is due process of the law. It is not our duty to pass judgement, let the people of authority make the decision. We would be remised by not allowing this hearing to take place.

Don Walters questions if it sells and another bar goes in, would that be the problem? Mr. Barnhart states the hearing has to do with Mr. Richard's at the Board of Liquor Control, not a new owner. Terry Mader shares as a new councilman, my past experience, as a citizen in a fight with other entities and states we are all NIMBY's (not in my backyard residents), we tried every door to vent our issues with the right entity. Mr. Richard's went through the process to revoke the dry precinct. We should not be voting on this

process but allow these opportunities for people to pursue their grievances. We would be negligent to allow these people not a avenue to air their grievances. We don't have a right to stop this process of a hearing.

The Public Affairs committee temporarily recessed at 7:58 pm

The Public Affairs committee reconvenes 8:08 p.m.

Scheduled legislation:

Temp. Ord. A-12 **Regulating the complete collection and disposal of solid waste in the City of Cuyahoga Falls, Ohio, establishing the rates and charges therefore, and repealing Ordinance No. 82-1994 and its amendments, and declaring an emergency.**
(second reading)

Bob Leonard clarifies some changes from previous legislation regarding sanitation. Specifically, Section 2 . Every occupant must have service and Line 410 Section 14, retroactive to Jan 4, 2004. This date will reflect 4/1/04. *There needs to be a Floor Amendment on Section 14 and line 200 to date 4-1-04 like the new senior rate will be effective 4/1/04.* Valerie states this legislation has nothing to do with 96-gallon carts. There will be introductory phases over the next years. Waste Management rates compare at about \$18.83 per month from the accounts the city acquired. Mrs. Hummel indicates that Section 6 refers to people not being able to be take items off of curbs. Does anyone have complaints of people using trash dumpsters that don't belong to them? By enforcing Section 404, Valerie states that we can control by forcing them to use our service. Mrs. Hummel feels the memo clarifying unanswered questions has assisted them in supporting this ordinance. Mr. Leonard states Line 363 asks about a private hauler with disabled service truck would need clarified they would not have to pay the \$700 fee again. If it's a replacement, they can apply within the 30 days without incurring the fee.

SUBSTITUTE A-12 will be presented with the corrections.

Mr. Leonard states there are currently seven licensed haulers. Summit County Hazardous Waste information can be included in our literature to residents.

Mrs. Hummel discusses the compost facility. Mrs. Hummel checked the equipment we sold for \$1800 that was bought for \$38,000 from SCWA (with grant money) and another piece that was sold for over \$6000, which originally cost \$32,000. We did use the screener for 11 years however the other equipment was never used. It is a shameful use of money and I will take this up with the Summit County Waste Authority.

The Public Affairs Committee Meeting was adjourned at 9:15 p.m.