



# City of Gahanna

## Meeting Minutes

### City Council - Special

200 South Hamilton Road  
Gahanna, Ohio 43230

*Brian D. Larick, President*  
*Jamie Leeseberg, Vice President*  
*Karen J. Angelou*  
*Nancy R. McGregor*  
*Brian Metzbower*  
*Stephen A. Renner*  
*Michael Schnetzer*

*Kimberly Banning, Clerk of Council*  
*Council may caucus at 6:30 p.m.*

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Monday, July 10, 2017

6:30 PM

City Hall

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#### A. CALL MEETING TO ORDER - Roll Call.

\* Councilman Renner arrived at 6:33 p.m.

**Present** 7 - Brian D. Larick, Jamie Leeseberg, Stephen A. Renner, Michael Schnetzer, Nancy R. McGregor, Brian Metzbower, and Karen J. Angelou

#### B. MOTION RESOLUTION:

[MR-0011-2017](#)

MOTION RESOLUTION THAT THIS COUNCIL REQUEST A HEARING TO OBJECT TO THE NEW D5 LIQUOR PERMIT FOR BWR GAHANNA LLC, NWC OF BEECHER RD AND HAMILTON ROAD, GAHANNA, OH 43230.

City Attorney Ewald said this is to provide information; based upon current correspondence; procedural defect; doesn't require substantive ground; can serve as a basis on that defect to the application; state liquor division could review and could recertify or annul it; doesn't give legal basis but give them more time to review; Metzbower said reason party has misrepresented is a material fact; what would constitute; up to the Division of Liquor Control whether or not info for claim was filed before entity was open; Ewald said would defer back to Division of Liquor Control; Angelou asked Ewald if we felt that making an objection on this procedural issue would do anything; according to Deputy Chief letter we received additional information; he did a great job of what we can and cannot do; what is considered reasonable things; there are no bad things that have happened; took a very long time to fight one liquor license; there is nothing that has happened; they have received the emails; and they get it; have the BZA hearing at the end of the month; Angelou asked Deputy Chief to read his response on the matter.

Deputy Chief Spence read the following:

"Thank you for providing the attached information sent over the weekend regarding the Buffalo Wings and Rings (BWR) liquor permit request before Council. While we certainly understand the community concern regarding this development, we believe an objection by our department cannot be supported by facts and evidence. If Council were to object to the permit the applicant could, and likely will, appeal to the Ohio Department of Commerce's Liquor Commission. A hearing would occur and the City would be required to articulate specific facts and evidence in support of denying the application. We have only taken this approach in a very few cases with an objection to a renewal for Lounge 62 being the most recent. In that case we had substantive evidence - including several recent violations of liquor law - supporting our position that the business was not being operated in a legal and responsible manner (sales to heavily intoxicated persons resulting in traffic crashes, fight calls, sanitation issues, after-hours sales, and eventually a homicide). Mr. Ewald represented the City before the hearing officer and I provided sole testimony in support of the objection. Despite the efforts of very skilled opposing counsel in the Lounge 62 case, the City prevailed.

In the action request before Council any objection would be based upon pure conjecture. The applicant would certainly provide evidence that the vast majority of a typical franchise owner's sales come from food purchases. To support their position they could point to the Cornerstone Pub that is within very close proximity to the subdivision in question in which nearly 100% of their sales are derived from alcohol (the Cornerstone has no on-site food service). The City has never objected to the Cornerstone's renewal or that of the Mr. Sushi - another liquor establishment with a likely similar food-to-alcohol sales percentage as the proposed BWR site. These facts alone would substantially weaken any objection offered by the City.

While the calls-for-service (CFS) information provided for the Grove City BWR location is seemingly supportive evidence to those that oppose the construction of this development, the data is irrelevant to any objection in Gahanna and would likely not be admissible in a Commission hearing (Mr. Ewald could provide a more informed legal opinion on its admissibility). However, I did review the call information and did not see enough to support a denial of renewal if this were used in a hypothetical situation in Gahanna. It also lacks any contextual information as many environmental and agency-specific factors influence police call-for-service and not just the presence of a liquor establishment. In a cursory review of the call data most is consistent with any business (false alarm responses, vehicle lock-outs, parking complaints, etc.). The traffic crashes (those

occurring on a public roadway and linked only to the business address by virtue of vicinity), proactive police patrols, business checks and informational calls would be discounted and not supportive evidence for an objection. There are a few disturbances and other crime-related calls which are not significant in number and what one would expect to find with any liquor permit operation. In strictly giving our opinion, the call data attached would not be sufficient to prevail in a renewal objection hearing. The mere fact that the business appears to have never been the subject of a liquor violation in the three years of call history provided is compelling evidence that the business is being operated in a responsible manner. Additionally, any discussion regarding traffic and the impact the proposed business will have on area congestion is an entirely separate issue and one that should not be conflated with the liquor permit request.

In closing, while we appreciate the concerns expressed by the residents in the area, the Division of Police must remain neutral in this discussion and not offer an objection to the permit request. It is critical that we reserve objections to problem businesses already in operation such as described in the Lounge 62 case. To weigh into a situation prematurely and without supporting evidence may damage our ability to prevail in a case where facts and evidence support a direct threat to public safety. It is simply non-existent in the BWR proposal. Thankfully, the period of problem liquor establishments and the resulting community quality-of-life impact on our residents appears behind us. In our revived problem-solving policing approach we work with business owners to educate them on the law and provide the tools necessary to be good stewards of a vibrant Gahanna.

We hope we have answered your questions and clearly stated the position of the Division of Police. The Chief and I are always willing to provide any additional information or comment required based upon our knowledge and experience"

Deputy Chief Spence thanked everyone in attendance and for the police reports; Angelou said the division has no objection; given that particular type of objections; dealing with as a Council; taking things into consideration; they understand process and duties; filing of the LLC; discrepancy of the dates; filing occurred for an entity that didn't exist; for sake of discussion; we have a table can be voted; update the language; make any other motion and do that as well; Schnetzer said we don't need to amend that this council has an objection is requesting a hearing; Angelou can support this so it can be looked into by the proper officials; Schnetzer said has been provided a document that outlines statutory basis; however; we can use as some proxy to object; procedural standpoint on the LLC standing; another basis to support this objection.

**Motion was made by Renner, seconded by Angelou, that the Motion Resolution be adopted as amended.**

**Yes:** 7 - Larick, Leeseberg, Renner, Schnetzer, McGregor, Metzbower and Angelou

**C. ADJOURNMENT -**

at 6:58 p.m. by Larick.