

★ Roll Call Number

Agenda Item Number

5

Date October 22, 2007

Informal Hearing

Be it resolved by the City Council of the City of Des Moines, Iowa.

That the following application is hereby submitted for consideration to the Iowa Alcoholic Beverages Division of the Iowa Department of Commerce:

Plaza Pantry, 300 Walnut Street Ste. 150, Class E Liquor License with Class B Wine and Class C Beer privileges. (Continued from the January 8, 2007 Council meeting pending report from state auditor.)

Recommendation of the Community Development Director to deny the application due to a lack of moral character in that applicant does not have the good reputation to follow all liquor laws, ordinances, and regulations since applicant has failed to maintain the required financial records as agreed to with zoning enforcement for monitoring compliance with city zoning ordinances set out in chapter 134 of the Municipal Code.

Moved by _____ to deny the license.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

City Clerk

October 19, 2007

The Honorable Mayor
and
Members of the City Council
City of Des Moines, Iowa

Re: Agenda Item 5 – Plaza Pantry Liquor License Renewal

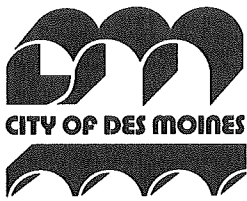
The October 22, 2007 City Council agenda contains an informal hearing on the renewal of the liquor license for Plaza Pantry. On January 8, 2007, the City Council voted to continue the consideration of renewal of the Plaza Pantry Class E Liquor License with Class B and Class C Beer privileges, pending an audit of the applicant's books by the State Auditor's Office. The state audit has now been completed and released. Significant findings in the audit support our recommendation regarding action on this item.

State Auditor David Vaudt reported the following:

- 1) Plaza Pantry did not maintain the required documentation to support alcohol sales as required by its agreement with the City of Des Moines. In fact, the records provided to the City were in disarray, such that the Auditor's Office had to reconstruct records in order to determine the sales of alcohol.
- 2) Plaza Pantry did not exceed the alcohol sales limitation imposed by the agreement with the City of Des Moines.
- 3) Although Plaza Pantry did not exceed the alcohol sales limitation in the agreement, it did underreport alcohol sales. The misclassification of sales was such that the state auditor referred this information to officials at the Iowa Department of Revenue.
- 4) The information regarding food stamp transactions by the applicant was such that the percentage of food purchased with food stamps exceeded 100% in two of four months tested. That information was referred to officials at the Iowa Department of Human Services.

The state auditor made the following recommendations:

- 1) The applicant must separate alcohol sales and tobacco sales;
- 2) The applicant must organize its accounting records. Specific suggestions were made for improvement;
- 3) The applicant must document promotional pricing and terms; and
- 4) The applicant must separate personal purchases from inventory purchases.



OFFICE OF THE CITY MANAGER
CITY HALL
400 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1891
(515) 283-4141

ALL AMERICAN CITY
1949, 1976, 1981
2003

The Honorable Mayor
Members of the City Council
October 19, 2007
Page Two

The state auditor recommended that the City of Des Moines request documentation from Plaza Pantry that verifies the sales amounts reported to the City to show compliance with license requirements.

Based on the state auditor's report, I have concluded that it is unclear whether the Plaza Pantry is willing to abide by state laws (including sales tax and food stamp law requirements) and its written agreement with the City of Des Moines. Since the state auditor has made recommendations to the applicant and the City of Des Moines, I recommend the following: Continue the consideration of the renewal of the applicant's liquor licenses for a period of 60 days. At that time, the City Council can examine the efforts that the applicant has made to comply with every recommendation made by the state auditor, and every term and condition of the agreement with the City of Des Moines. In the event there is insufficient evidence that the required documentation is being properly maintained, I will recommend that the City Council not renew the liquor licenses.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Clark". The signature is written in a cursive style with a large, sweeping initial "R".

Richard A. Clark
City Manager

★ Roll Call Number
07-014

Agenda Item Number
5

Date January 8, 2007

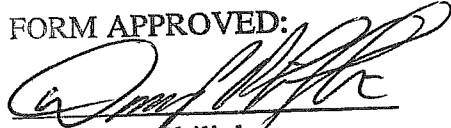
Be it resolved by the City Council of the City of Des Moines, Iowa.

That the following application is hereby submitted for consideration to the Iowa Alcoholic Beverages Division of the Iowa Department of Commerce:

Plaza Pantry, 300 Walnut Street Ste. 150, Class E Liquor License with Class B Wine and Class C Beer privileges. (Deferred from the December 18, 2006 Council meeting).

Moved by Hensley to continue this item until the State Auditors' Office has completed an audit.

FORM APPROVED:


Douglas P. Philip
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
KIERNAN	✓			
HENSLEY	✓			
MAHAFFEY	✓			
VLASSIS	✓			
TOTAL	6			

CERTIFICATE

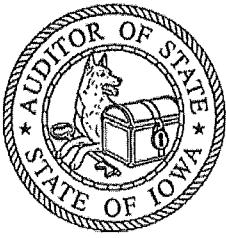
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED
T. M. Franklin Mayor

Diane Rauh City Clerk

5



OFFICE OF AUDITOR OF STATE
STATE OF IOWA

David A. Vaudt, CPA
Auditor of State

State Capitol Building
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

City of Des Moines
Office of the City Manager
City Hall
400 Robert D. Ray Drive
Des Moines, IA 50309-1891

To the Des Moines City Council:

The City Manager's office contacted the Office of Auditor of State on behalf of the Des Moines City Council regarding compliance by Snehi Yavanam (owner of Plaza Pantry) with the terms specified in an "agreement to hold a liquor license or beer permit" (the agreement.) The agreement is for operation of a business in a C-3 zoned district, as defined by Chapter 134 of the City of Des Moines Municipal Code. According to the agreement, at least half of Plaza Pantry's gross income must be derived from the sale of merchandise other than liquor, wine or beer (alcohol). The agreement also specified Plaza Pantry must submit, upon request, a certified financial statement prepared and verified by a Certified Public Accountant including:

- Financial statements including gross receipts, beer sales receipts, wine and liquor sales receipts, other sales and services receipts, beer, wine and liquor purchases, and any other purchases. The financial statement must be supported by itemized invoices and receipts.
- Itemized invoices and receipts used to prepare the financial statements.
- Itemized list of selling prices for all types of items sold during the statement period, as well as an explanation of specialized terms, such as "happy hour."

The City expressed concern Plaza Pantry had not accurately reported the store's alcohol sales as a percentage of total sales. As a result, the City requested assistance to determine the percentage of Plaza Pantry's sales derived from alcohol.

The Plaza Pantry records provided to the City were in disarray. As we reviewed records from Plaza Pantry, it became apparent the receipts and invoices provided did not represent a complete population of purchases from the store's suppliers. In addition, we determined the sales recorded on Plaza Pantry's cash register tapes could not be verified. Because sales are manually recorded on the cash register, it is possible the operator may not record all sales on the cash register tapes, may record sales that did not occur, may record sales at a different amount or record the sale in an incorrect Department. As a result, we were unable to rely solely on the information provided by Plaza Pantry.

Based on our discussions with representatives of the City Manager's office and the Police Department, we performed the following procedures to determine the store's alcohol sales as a percentage of total sales.

- (1) Reviewed the agreement to obtain an understanding of its requirements and limitations.
- (2) Reviewed documentation from Plaza Pantry, including its cash register tapes, receipts and invoices from suppliers, price lists, bank statements and 2006 tax return.

- (3) Visited Plaza Pantry to test price lists provided, observe inventory levels and discuss cash register operation and general business practices with the owner of Plaza Pantry, Snehi Yavanam.
- (4) Compared invoices obtained from the Iowa Alcoholic Beverages Division of the Department of Commerce for the purchase of liquor and electronic bank payments made to Marshall Iga, Inc. for tobacco products to records obtained from Plaza Pantry to determine the completeness of the documentation provided by Plaza Pantry.
- (5) Used the records provided by Plaza Pantry and the Iowa Alcoholic Beverages Division to estimate the amount of Plaza Pantry's alcohol sales as a percentage of total sales for 4 judgmentally selected months during 2006.

As a result of the procedures performed, we determined Plaza Pantry did not exceed the alcohol sales limitation imposed by its agreement during the 4 months tested. Based on our review of records available for the other 8 months of 2006, it appears the 4 months selected were representative of activity throughout the year and there is no indication any of the remaining months' sales activity would exceed the alcohol sales limitation. However, we identified recommendations to improve documentation maintained by the owner of Plaza Pantry to comply with certain requirements of the agreement. Our procedures and the resulting findings are described in the following paragraphs.

(A) Compliance with License Requirements Regarding Sales of Alcohol – If detailed sales records by Department were available and reliable, we would normally divide the amount of alcohol sales by the store's total sales to determine the ratio of alcohol sales to Plaza Pantry's total sales. However, Plaza Pantry was not able to identify the amount of alcohol sales because when sales are recorded on the store's single cash register, they are categorized in 1 of the 5 Departments listed below.

- Department 2 – Alcohol and tobacco
- Department 3 – Miscellaneous personal items
- Department 11 – Food and non-alcoholic beverages
- Department 12 – Iowa recycling refunds for cans and bottles
- Department 16 – Lottery sales

As illustrated, sales recorded for Department 2 are to include both alcohol and tobacco products. When we spoke with Mr. Yavanam, he stated he did not have further itemized sales records for Department 2 to distinguish the amount of alcohol sales from tobacco sales. In addition, as stated previously, because sales are manually recorded on the cash register they may not be properly recorded. As a result, we are unable to use the sales recorded on Plaza Pantry's cash register to determine the amount of alcohol sold.

Because we could not obtain the necessary records to analyze actual sales by Department, we used information obtained from Plaza Pantry's suppliers, when possible, to estimate the amount of alcohol sales. To estimate the amount of sales by Department, we performed the following steps:

- For 4 judgmentally selected months in 2006 (February, May, September and November), we reviewed inventory purchases from Plaza Pantry's major distributors listed in **Table 1**:

5

Table 1

Supplier	Category
Amcon Distributing	Food and tobacco
Coca-Cola	Food
Dr. Pepper/7-Up Bottling	Food
Farner-Bocken	Food and tobacco
Fred Nesbit Distributing	Alcohol
Iowa Alcoholic Beverages Division	Alcohol
Marshall Iga, Inc.	Tobacco
Pepsi	Food
Sam's Club	Food and non-food
Wal-Mart	Food and non-food

We summarized purchases from each supplier by month and separated the purchases into 4 categories: food (includes food and non-alcoholic drinks), non-food (includes miscellaneous personal and paper items), tobacco and alcohol. For the purposes of our calculations, we assumed purchases from suppliers were sold to Plaza Pantry customers during the same month. Since we could not rely on Plaza Pantry sales summaries by Department to determine product sales, this was a reasonable method to estimate Plaza Pantry sales by category.

- To determine alcohol sales as a percentage of Plaza Pantry's total sales, it was necessary to determine total gross sales, including alcohol, tobacco, food and non-food items.

We obtained Plaza Pantry's product price list and determined it was reasonable by tracing the prices of a judgmentally selected sample of products from the price list to the products on the shelves at Plaza Pantry. We then judgmentally selected a sample of products to determine the difference between the price Plaza Pantry paid the supplier and Plaza Pantry's sales price. This difference is the calculated mark-up. To determine the average mark-up percentage, the difference is divided by the purchase price. For example, if Plaza Pantry purchased a case of soda from a supplier for \$2.50 and sold it for \$3.00 per case, the mark-up percentage would be 20% ($$.50 \div \$2.50 = 20\%$).

We calculated an average mark-up percentage for each supplier by product category. By applying the average mark-up percentage to total inventory purchases during the 4 selected months, we determined the estimated sales for each supplier by month.

- Because Plaza Pantry also sells Lottery tickets, it was necessary to include the amount of Lottery sales in the total sales amount. Because Plaza Pantry electronically settles with the Lottery, we were able to obtain Lottery sales data from Plaza Pantry's bank records. We calculated total gross sales for each of the 4 months by adding total Lottery sales by month to the estimated product sales.
- We totaled sales by category for the 4 months tested and divided total sales for each category by the gross sales to determine the percentage of gross sales each category represented.

Based on the available receipts and invoices and our estimated sales amounts, we were able to determine the following:

1. Amount of Alcohol Sales - As illustrated by **Table 2**, the percentage of estimated alcohol sales for the 4 months ranged from 22.7% to 33.8% of gross sales. The weighted average percentage of alcohol sales estimated for the 4 months is approximately 28%. As stated previously, the 4 months selected for testing were dispersed throughout the period January 1, 2006 through December 31, 2006. Based on available documentation, the activity in the 4 months appears representative of activity throughout the rest of the year. As a result, we have no reason to believe the amount of alcohol sales in any of the untested months would exceed the 50% limitation established by Plaza Pantry's agreement.

Table 2

Category	February	May	September	November	Total	Total Percent
Food	\$ 4,399.37	7,211.51	7,128.12	6,496.34	25,235.34	28.1%
Non-Food	309.58	256.37	301.96	335.03	1,202.94	1.3%
Lottery	2,064.20	745.14	1,853.67	11.10	4,674.11	5.2%
Tobacco	9,197.50	12,299.20	3,117.45	8,675.30	33,289.45	37.1%
Alcohol	5,698.08	6,023.30	6,324.03	7,377.86	25,423.27	28.3%
Total	\$ 21,670.94	26,537.34	18,727.38	22,898.02	89,833.68	100.0%
Alcohol Sales Percentage	26.3%	22.7%	33.8%	32.2%	28.3%	

While this analysis does not adjust for prior store inventory levels, inventory theft, owner usage and/or specific product mark-up variations, it represents a reasonable estimate of alcohol sales to determine compliance with the requirements of the agreement given the lack of reliable sales records.

2. Department Sales Reported by Plaza Pantry - By comparing the estimated sales in **Table 2** to the amount of sales by Department reported to the City by Plaza Pantry, we identified significant variances.

For the period January 1, 2006 through October 31, 2006, Plaza Pantry reported sales of alcohol, tobacco and personal (non-food) items represented 19% of total sales. However, based on our calculations, we estimated the sales for these 3 categories totaled 66.7% of total sales. Underreporting alcohol, tobacco and personal (non-food) items would benefit Plaza Pantry in at least 2 ways. Underreporting alcohol sales provides Plaza Pantry documentation liquor, wine and beer sales do not exceed the limit established by the agreement. In addition, because Iowa sales tax applies to the sale of alcohol, tobacco and personal (non-food) items but not the sale of Lottery tickets or food items, misclassification of the sales for these 3 categories may result in underreporting of Plaza Pantry's sales tax obligation and/or sales tax collections being less than required by law. We have referred this information to officials at the Department of Revenue.

We also identified concerns related to the amount of estimated food sales. During our visit to Plaza Pantry, Mr. Yavanam described the transaction steps for both the cash register and the food stamp machine, which resembles a point-of-sale key pad for debit cards. We observed the cashier does not itemize products paid for with food stamp benefits using the Department of Human Services' (DHS) electronic benefits card. In addition, the sales entry at both the cash register and food stamp machine is done

5

manually. Manual operation of the cash register allows the operator to decide the Department in which to record the sale.

Mr. Yavanam reported each food stamp transaction is processed like a credit card transaction. For each sale paid for with a DHS electronic benefits card, an electronic deposit is made to Plaza Pantry's bank account. We reviewed Plaza Pantry's bank statements for the period January 1, 2006 through December 31, 2006 and summarized all electronic deposits from DHS. We compared the deposits for the 4 months tested to the estimated food sales for those months. As illustrated by **Table 3**, the deposits ranged from 92% to 122% of the estimated sales. We have referred this information to officials at the Department of Human Services.

Table 3

Description	February	May	September	November	Total
Estimated food sales	\$ 4,399.37	7,211.51	7,128.12	6,496.34	25,235.34
Food stamp deposits	4,029.88	6,909.96	7,314.56	7,955.80	26,210.20
Difference	\$ 369.49	301.55	(186.44)	(1,459.46)	(974.86)
Percent of food purchased with food stamps	92%	96%	103%	122%	104%

Our estimate of food sales is based on inventory purchases from major distributors plus Plaza Pantry's average mark-up. Factors that could impact this estimate include prior month inventory levels, specific product mark-up variations, promotional sales prices, purchase of personal items with Plaza Pantry's business receipts and additional food purchased from distributors and vendors we did not analyze. As a result, while **Table 3** illustrates Plaza Pantry accepted electronic deposits for food stamps in excess of food sales for 2 months, we realize the analysis could be affected by other factors.

- (B) Compliance with Other Agreement Requirements – In addition to complying with limitations on the amount of alcohol sold, Mr. Yavanam agreed to maintain records to support sales levels when he signed the agreement. He also agreed to provide, upon request, documentation to demonstrate Plaza Pantry's alcohol sales volume complies with agreement's limitations.

Plaza Pantry was not in compliance with documentation requirements established by the agreement. Specifically, Plaza Pantry has not maintained cash register receipts or other documentation which itemize or summarize sales in sufficient detail to determine what portion of sales were composed of alcohol.

Plaza Pantry was able to provide the following:

- Monthly Cash Register Sales Summaries by Department – Total cash register sales reconciled to Plaza Pantry's tax return. However, as previously stated, sales by Department were significantly different than inventory purchases during the time periods tested. For example, Plaza Pantry reported combined tobacco and alcohol sales totaled 18% of gross sales. Our estimate for the 4 months tested supported alcohol and tobacco sales percentages of 28% and 37%, respectively. We believe Plaza Pantry's sales by department are not reliable.
- Price List – The price list provided did not appear to be inclusive of all items purchased by Plaza Pantry. However, we were able to compare a sample of items from supplier invoices to Plaza Pantry's price list to develop average mark-up percentages by vendor and Department.

To determine the accuracy of the price list, we met with Mr. Yavanam to discuss changes in pricing and compare a sample of current product prices to the price list. We determined differences identified during our reconciliation correspond with general price inflation described by Mr. Yavanam.

- Supplier Invoices for 2005 and 2006 – Plaza Pantry did not adequately organize supplier invoices. The documentation Mr. Yavanam originally provided City of Des Moines’ officials was incomplete. When we compared bank records and confirmations from suppliers to the records from Plaza Pantry, we identified payments without documentation, including one to a major distributor for tobacco. Mr. Yavanam provided this documentation upon request.

We observed purchases which appeared personal in nature and were not included in store inventory when we visited the store. These included items such as baby formula, diapers, photo development and other personal items not included on Plaza Pantry’s product list. We are unable to determine if the purchases which appear personal in nature were included in tax returns prepared for the business. We excluded these items from inventory totals during our analysis. Had we included these items, the alcohol sales percentage would have been smaller.

- Bank Statements for 2005 and 2006 – We used the bank statements to identify payments to vendors, payments to the Iowa Lottery and electronic deposits from DHS for sales made to customers using food stamp benefits.
- Tax Return Prepared by Certified Public Accountant – We used the tax return to reconcile cash register tape totals to gross sales for 2006.

(C) **Recommendations for Plaza Pantry** – To ensure required documentation is maintained in compliance with the agreement, we recommend the following procedures be implemented.

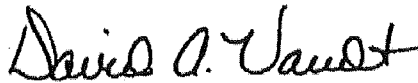
- Separate Alcohol Sales and Tobacco Sales – During our meeting with Mr. Yavanam, he confirmed Plaza Pantry’s alcohol sales could not be distinguished from tobacco sales. We pointed out the agreement requires Plaza Pantry to separately track alcohol sales. Mr. Yavanam stated he was not aware of this requirement and requested a copy of the agreement. Shortly after the meeting, Mr. Yavanam reported he had reprogrammed Plaza Pantry’s cash register to isolate alcohol sales in Department 2. Mr. Yavanam also stated he moved tobacco sales to Department 3 (making Department 3 tobacco and miscellaneous personal care items).
- Organize Accounting Records – Documentation of supplier purchases and other financial records appeared to be incomplete. Plaza Pantry did not organize invoices or post transactions in an accounting journal for easy reference. During our visit to Plaza Pantry, we suggested improvements in this area and believe better record maintenance would help Plaza Pantry ensure compliance with the documentation requirements of the agreement.
- Document Promotional Pricing and Terms – During our review, Mr. Yavanam stated he runs promotional offers several times each year. For example, he holds a “buy one, get one free” promotion in November on selected liquors. We informed Mr. Yavanam the agreement requires him to keep an itemized list of selling prices. As a result, during special promotion periods, he should document the terms of the promotion.
- Separate Personal Purchases from Inventory Purchases – As stated previously, we observed several items purchased, particularly at Sam’s Club and Wal-Mart, which appeared personal in nature and were not listed on Plaza Pantry’s product list. It

appears Mr. Yavanam failed to remove personal item purchases from store inventory purchase records. As a result, Plaza Pantry's tax return may improperly include personal expenses. Since we did not evaluate the documentation provided to Plaza Pantry's CPA, we cannot determine whether the purchases we identified were included in Plaza Pantry's expenditures.

- (D) **Recommendation for the City of Des Moines** – Because of the ability to manipulate the amount of sales recorded and the Department to which sales are recorded on Plaza Pantry's cash register, the City should request documentation from Plaza Pantry that verifies the sales amounts reported to the City to show compliance with license requirements. The verification should be provided by a party independent of Plaza Pantry's operations and should be based on procedures which involve testing of invoices from Plaza Pantry's vendors. Because of the lack of control over the sales recorded on Plaza Pantry's cash register tapes, the verification should not be based on a review of the cash register tapes alone.

The procedures we performed do not constitute an audit of financial statements conducted in accordance with U. S. generally accepted auditing standards. Had we performed additional procedures, or had we performed an audit of financial statements of Plaza Pantry, other matters might have come to our attention that would have been reported to you.

We would like to acknowledge the assistance and many courtesies extended to us by officials and staff of the City of Des Moines and Mr. Yavanam during the course of our review.



DAVID A. VAUDT, CPA
Auditor of State



WARREN G. JENKINS, CPA
Chief Deputy Auditor of State

August 28, 2007

cc: Snehi Yavanam, Owner
Plaza Pantry