

**MINUTES OF THE PUBLIC HEARING HELD BY THE BOARD OF TRUSTEES OF THE
VILLAGE OF RIVERVIEW, ST. LOUIS COUNTY, MISSOURI, HELD ON
AUGUST 11, 2011.**

BE IT REMEMBERED THAT the Board of Trustees of the Village of Riverview, St. Louis County, Missouri, met at City Hall, 9699 Lilac Drive at 6:00 p.m. on August 11, 2011.

At the time and place, upon roll being called, there were found to be present the following named officers and members of the Board.

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| Trustee Howard Pierce | Present |
| Trustee Craig W. Boehmer | Present |
| Trustee Phyllis Paro | Present |
| Trustee Bruce Stocker | Present |
| Chairman Steve Paro | Present |

Village Attorney Chris Graville and Village Clerk Madonna Forrest were also present.

There being a quorum present, the meeting was called to order by Chairman Steve Paro in order to discuss the possible revocation of the liquor license at North County Liquor located at 9948 Diamond Drive.

Attorney Graville reported that the meeting had been called to discuss the liquor license for S & H Incorporated doing business as North County Liquor at 9948 Diamond Drive. He was present representing the Village of Riverview. He noted that Andrea Weiss was present representing S & H Incorporated.

Attorney Graville asked that the records indicate that the proper postings were made at the location of the business regarding this hearing concerning the possible revocation of the liquor license. Also he asked that the entire file for North County Liquor be made a part of the record, along with their application for a liquor license, as well as previous public hearings regarding this business. He also asked that a copy of the Village Code Section 605 be made a part of the record, specifically Section 605.100 regarding business licenses in the Village of Riverview.

Attorney Graville called his first witness: Officer John Maddock. Officer Maddock was sworn in by the Village Clerk.

Attorney Graville: Were you at S & H Incorporated, known as North County Liquor, recently and did you observe an intoxicated person there.

Officer Maddock: Yes.

Attorney Graville: Please tell the Board of Trustees what occurred specifically and on what day that occurred.

Officer Maddock: This was July 22, 2011 at approximately 11:00 am. I was assisting another officer near the intersection of Chambers and Diamond. At that time, I observed a black male exit the store at the intersection of Chambers and Diamond and proceed to lay down in the middle of the intersection.

Attorney Graville: Were you on call at that location or just parked at that location.

Officer Maddock: Parked.

Attorney Graville: Did you see anything in the individual's hands?

Officer Maddock: A white plastic bag.

Attorney Graville: Did you observe anything about his gait or his demeanor when he first caught your eye.

Officer Maddock: Stumbling, almost falling.

Attorney Graville: Now are you trained as a law enforcement officer in observing and detecting intoxicated individuals.

Officer Maddock: Yes.

Attorney Graville: And what training do you have in regard to that type of observation.

Officer Maddock: Through the Department of Health we are certified by the State, and also I have dealt with this particular individual a few times in the past.

Attorney Graville: So this is someone you know and someone who you have observed in the past as being drunk.

Officer Maddock: I have taken him home twice before.

Attorney Graville: So on this particular day. . . What is this gentleman's name.

Officer Maddock: David Edwards.

Attorney Graville: Okay, so you have observed Mr. Edwards at prior times intoxicated.

Officer Maddock: Yes.

Attorney Graville: When you saw him walk stumbling out of the liquor store, you saw him actually lay down in the middle of the street? Did I understand you testimony correctly?

Officer Maddock: Yes. He lay down in the middle of the street.

Attorney Graville: Okay, what street is that?

Officer Maddock: Chambers.

Attorney Graville: Is that a busy road within the Village limits?

Officer Maddock: Yes.

Attorney Graville: What did you do when you observed him lay down in the middle of the road?

Officer Maddock: I proceeded to cover his body with my patrol car so that no accident would occur.

Attorney Graville: So you actually pulled your patrol car into the middle of Chambers.”

Officer Maddock: Yes.

Attorney Graville: To basically provide protection.

Officer Maddock: Yes.

Attorney Graville: Did you then make contact with him?

Officer Maddock: Yes.

Attorney Graville: What did Mr. Edwards say?

Officer Maddock: He was just trying to walk home from the liquor store (UNINTELLIGIBLE).

Attorney Graville: Was there anything that occurred with regard to his speech or any odor coming from his breath.

Officer Maddock: His speech was slurred and he had a high alcoholic aroma emanating from his breath.

Attorney Graville: Did you call an ambulance or did you try to help him up or did you do something else.

Officer Maddock: I asked him if he wanted the paramedics to respond, and he stated no.

Attorney Graville: What did he say to you at that point?

Officer Maddock: He said he was fine and he was walking home.

Attorney Graville: Did you point out that he was lying in the middle of Chambers Road?

Officer Maddock: Yes, and he said he wasn't.

Attorney Graville: He said he was not lying in the middle of Chambers?

Officer Maddock: Yes.

Attorney Graville: What was the next thing you then did?

Officer Maddock: Helped him to his feet.

Attorney Graville: Was he able to steady himself by himself?
Officer Maddock: No. At which time he was taken into custody.
Attorney Graville: He was taken into custody for what reason?
Officer Maddock: Disorderly conduct and public intoxication.
Attorney Graville: And you did that because he was lying in the middle of the road?
Officer Maddock: Yes.
Attorney Graville: Did you observe any other signs of intoxication besides an inability to stand or having no knowledge of where he was.
Officer Maddock: The white plastic bag he was carrying contained two more beers. And we attempted to determine his blood alcohol content in which (UNINTELLIGIBLE). And he stated that he only had two beers.
Attorney Graville: But did he appear to have drunk more beers based on your observations?
Officer Maddock: Yes.
Attorney Graville: Is it typical, based on your experience when people are intoxicated that they will say that they only had two beers? Pretty standard?
Officer Maddock: Yes.
Attorney Graville: So you brought him back to the station. Did you have any incidents with him or any additional observations with regard to his intoxication.
Officer Maddock: We had no problems.
Attorney Graville: He was pretty drunk (UNINTELLIGIBLE)?
Officer Maddock: He basically fell asleep in the cell.
Attorney Graville: Did he say anything to you with regard to where he purchased the alcohol?
Officer Maddock: Yes.
Attorney Graville: What did he say?
Officer Maddock: He said the liquor store and pointed to (UNINTELLIGIBLE) North County Liquor.
Attorney Graville: Did you go back after you dealt with Mr. Edwards and investigate the liquor that had been sold to Mr. Edwards?
Officer Maddock: Yes.
Attorney Graville: And what did they say to you?
Officer Maddock: We approached Mr. Singh and asked if a medium height, slender built, black male had come into the store and purchased alcohol, basically two beers. And Mr. Singh said yes he did and that he was a regular customer.
Attorney Graville: Did you ask him if he had just purchased those two beers?
Officer Maddock: Yes.
Attorney Graville: What did Mr. Singh say.
Officer Maddock: That he was a regular customer.
Attorney Graville: Did you ask him if he observed him to be intoxicated at all.
Officer Maddock: Yes.
Attorney Graville: What was his response?
Officer Maddock: That he didn't believe he was intoxicated.
Attorney Graville: At that point did you do anything else?
Officer Maddock: Placed Singh into custody for selling liquor to an intoxicated person.
Attorney Graville: And that all occurred within the corporate limits of the Village of Riverview?
Officer Maddock: Yes.
Attorney Graville: Is there anything else you would like to add regarding your observations regarding Mr. Edwards.
Officer Maddock: No.

Attorney Graville: Now, is Mr. Edwards someone who is known in the community as a drunk.

Officer Maddock: Yes.

Attorney Graville: Why do you say that? What do you base that on?

Officer Maddock: Prior to these incidents I had with Mr. Edwards, one call was actually to respond to a DOA. Someone found him dead lying in the church grass. He had medics and myself there. The medics pronounced him severely intoxicated, but after ten minutes he still did not want to go, at which time I transported him home.

Attorney Graville: Any other times when you observed him to be intoxicated?

Officer Maddock: No.

Attorney Graville: There was only one prior time when you had seen him intoxicated.

Officer Maddock: Yes.

Attorney Graville: I have nothing further at this time.

Attorney Andrea Weiss: Where were you parked on that day?

Officer Maddock: Chambers and Diamond.

Attorney Weiss: How long had you been there?

Officer Maddock: Probably 10 to 15 minutes.

Attorney Weiss: So you did not actually see Mr. Edwards enter North County Liquor, right?

Officer Maddock: No.

Attorney Weiss: Did you actually see him leave the premises?

Officer Maddock: Yes.

Attorney Weiss: That was about 11:00 am?

Officer Maddock: 11:06.

Attorney Weiss: You said you tried to test him?

Officer Maddock: Yes.

Attorney Weiss: For intoxication?

Officer Maddock: Gaze nystagmus, walk and turn, but he did not do any of that.

Attorney Weiss: Did you ever witness Mr. Edwards walking when you didn't believe he was intoxicated?

Officer Maddock: No.

Attorney Weiss: You don't know what type of gait he has or whether he has any type of physical disabilities?

Officer Maddock: No.

Attorney Weiss: What was the temperature out that day?

Officer Maddock: I do not know.

Attorney Weiss: Was it one of the 100+ degree days that we had?

Officer Maddock: I don't know.

Attorney Weiss: How close were you to Mr. Edwards when you (UNINTELLIGIBLE).

Officer Maddock: I picked him up off the street, so about one foot.

Attorney Weiss: And this individual (UNINTELLIGIBLE) intoxicated.

Officer Maddock: Correct.

Attorney Weiss: He couldn't stand and it didn't occur to you that he couldn't stand possibly because of the heat, even after he had drunk only two beers?

Officer Maddock: (UNINTELLIGIBLE).

Attorney Weiss: Is this individual homeless?

Officer Maddock: He lives on Shepley in Glasgow Village.

Attorney Weiss: You said that he was (UNINTELLIGIBLE) known in the community as a drunk; however, you then responded that you had only had an incident with him once before.

Officer Maddock: I have driven him home twice.

Attorney Weiss: Driven him home, but you did not prove that he was intoxicated.

Officer Maddock: Both times.

Attorney Weiss: He appeared to be intoxicated.

Officer Maddock: And stumbled.

Attorney Weiss: But you could have taken him to the hospital by ambulance

Officer Maddock: We called 911 that time.

Attorney Weiss: But isn't that your option to have him tested at the hospital?

Officer Maddock: It is.

Attorney Weiss: So you decided not to do it; so diagnostically you don't know what his intoxication level at that time was.

Officer Maddock: Correct.

Attorney Weiss: Or whether he was even intoxicated.

Officer Maddock: Correct.

Attorney Weiss: Or whether he was suffering from heat stroke.

Officer Maddock: Correct.

Attorney Weiss: Or whether he was just dehydrated.

Officer Maddock: Correct.

Attorney Weiss: Or whether he had any other physical disabilities that would cause him to slur his speech. Isn't that true?

Officer Maddock: Correct.

Attorney Weiss stated that she had nothing further to ask at this time.

Attorney Graville: Officer, you've made DWI arrests before?

Officer Maddock: Correct.

Attorney Graville: Were these arrests based on the fact that you believed that the individual was intoxicated?

Officer Maddock: Yes.

Attorney Graville: Now probably when you arrested somebody for driving while intoxicated or (UNINTELLIGIBLE) DWI arrests, that person could have some medical issues or whatnot, but based on your training and experience, it is more probable, based on your expertise, that that person was intoxicated. Correct?

Officer Maddock: Correct.

Attorney Graville: Now Ms. Weiss asked about the odor of intoxicating beverages, how do you describe that odor of intoxicating beverages – minor, overwhelming, or something else?

Officer Maddock: Extremely moderate; it was not overwhelming, but it was more than average.

Attorney Graville: In your training on DWI detection and enforcement, which is what you are observing in intoxicated people and what you base your decision in situations on--is one of the things that you observe and one of the clues of intoxication an inability to perform tests?

Officer Maddock: Yes.

Attorney Graville: Would you say that there was an inability of Mr. Edwards to perform the field sobriety test which you attempted to administer?

Officer Maddock: Yes.

Attorney Graville: Is that something you would designate as a clue with regard to those tests?

Officer Maddock: Yes.

Attorney Graville: Part of the NHTSA manual, which sets forth the protocol for these standardized field sobriety tests--does it also set forth in that protocol that you must ask the individual if they have any needs or anything like that prior to administering the tests?

Officer Maddock: Yes.

Attorney Graville: Now, when you asked Mr. Edwards whether or not he would perform the sobriety test, didn't he agree to do so?

Officer Maddock: Yes.

Attorney Graville: Did he attempt to do so, or did he say, 'I physically cannot perform the test'.

Officer Maddock: He attempted to stand up, at which time he fell backwards.

Attorney Graville: How would you grade that (UNINTELLIGIBLE)--would that be a clue to intoxication, or would that be a clue to a disability?

Officer Maddock: A clue to intoxication.

Attorney Graville: Did Mr. Edwards ever state to you that he was having heat stroke?

Officer Maddock: No.

Attorney Graville: Did he ever state to you that he has a disability that would cause him to lay down in the middle of the road?

Officer Maddock: No.

Attorney Graville: In fact the only thing Mr. Edwards said to you with regard to being in the middle of the road was, "I am not in the road. Correct?

Officer Maddock: Correct.

Attorney Graville: He didn't know where he was, correct?

Officer Maddock: Correct.

Attorney Graville: Also a clue to intoxication, correct?

Officer Maddock: Correct.

Attorney Graville: Ms. Weiss asked you a series of questions. It could have been a difficult decision, correct

Officer Maddock: Correct.

Attorney Graville: Based on your training and experience, did you believe it was a physical disability, or did you believe he was intoxicated?

Officer Maddock: Intoxicated.

Attorney Graville: She asked if you thought he had heat stroke. Based on your training and experience, could it have been a heat stroke?

Officer Maddock: No.

Attorney Graville: So based on your training and experience, you believe he was intoxicated.

Officer Maddock: Yes.

Attorney Graville: All these things she asked you may have been possible, but not probable. Correct?

Officer Maddock: Correct.

Attorney Graville: And you based that on your expertise as a law enforcement official, correct?

Officer Maddock: Yes.

Attorney Graville: Based on your training, correct?

Officer Maddock: Yes.

Attorney Graville: Now, you've seen drunks in your normal everyday life, haven't you?

Officer Maddock: Yes.

Attorney Graville: Now in your normal everyday life, have you ever run into a situation where someone has fallen down or can't stand or what not?

Officer Maddock: Yes.

Attorney Graville: Has that person imbibed alcohol as well?

Officer Maddock: Yes.

Attorney Graville: Now did you come to the conclusion that those people were drunk?

Officer Maddock: Yes.

Attorney Graville: Now as regards Mr. Edwards, both as a professional police officer and as a normal everyday person, who knows when someone is drunk, did you think that Mr. Edwards was drunk.

Officer Maddock: Yes, I did.

Attorney Graville: Now is it your professional opinion that he was intoxicated?

Officer Maddock: Yes.

Attorney Graville: Is it your personal opinion that he was intoxicated?

Officer Maddock: Yes.

Attorney Graville: And you saw him walk directly from the liquor store, stumble out, and lay down in the middle of the road?

Officer Maddock: Yes.

Attorney Graville: Now Ms. Weiss asked you about medical treatment--you could have done this or you could have done that the first time or the second time that you had contact with Mr. Edwards. The first time you had contact with Mr. Edwards, did he commit any criminal offense?

Officer Maddock: No.

Attorney Graville: So you probably would not have probable cause to get a blood draw, do a breathalyzer, or take him into custody, correct?

Officer Maddock: Correct.

Attorney Graville: The second time, did he commit any criminal offense?

Officer Maddock: No.

Attorney Graville: Would you have had any probable cause at that point to require a breathalyzer or blood draw or anything like that?

Officer Maddock: No.

Attorney Graville: You didn't on those particular occasions?

Officer Maddock: No.

Attorney Graville: But on this particular occasion, since he lay down in the street, you cited him for disorderly conduct, correct?

Officer Maddock: Correct.

Attorney Graville: Because his conduct was dangerous, correct?

Officer Maddock: Correct.

Attorney Graville: And because he appeared intoxicated, correct?

Officer Maddock: Correct.

Attorney Graville stated he had nothing further at this point.

Attorney Weiss: (UNINTELLIGIBLE).

Officer Maddock: (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE) thought that Mr. Edwards's breathalyzer was (UNINTELLIGIBLE).

Officer Maddock: (UNINTELLIGIBLE) charges (UNINTELLIGIBLE).

Attorney Weiss: And that is something that you use your discretion (UNINTELLIGIBLE).

Officer Maddock: I'm not sure (UNINTELLIGIBLE) municipal codes. I would have to go back and check (UNINTELLIGIBLE).

Attorney Weiss: And you didn't check?

Officer Maddock: No.

Attorney Weiss: You attempted to go back and arrest Mr. Singh for selling to an intoxicated person. So you (UNINTELLIGIBLE).

Officer Maddock: Correct.

Attorney Weiss: Given that, don't you think it would have been important to (UNINTELLIGIBLE).

Officer Maddock: I was relying on my training to determine his intoxication.

Attorney Weiss: Wouldn't it have been better judgment to have gotten a blood alcohol level on Mr. Edwards?

Officer Maddock: With just my personal training I think I can determine if someone's been drinking.

Attorney Weiss: (UNINTELLIGIBLE) certainly acquired (UNINTELLIGIBLE) that somebody is (UNINTELLIGIBLE).

Officer Maddock: Yes

Attorney Weiss: You agree that it would have been safer to have a blood alcohol (UNINTELLIGIBLE).

Officer Maddock: I don't know.

Attorney Weiss: You have some (UNINTELLIGIBLE) proof (UNINTELLIGIBLE).

Officer Maddock: (UNINTELLIGIBLE)

Attorney Weiss: You said that you smelled alcohol on Mr. Edward's body.

Officer Maddock: Moderate.

Attorney Weiss: How do you rate that?

Officer Maddock: With previous DWIs (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE).

Officer Maddock: The alcohol on his breath was extremely noticeable. It wasn't like he just took a drink. It was (UNINTELLIGIBLE). Myself and my partner detected it.

Attorney Weiss: (UNINTELLIGIBLE) combination (UNINTELLIGIBLE) weather.

Officer Maddock: Every person I have ever written a DWI on had some sort of (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE) Mr. Edwards (UNINTELLIGIBLE).

Officer Maddock: Yes. Like I said, he went to the cell, and he seemed to fall asleep.

Attorney Weiss: Did you ever ask Mr. Edwards if he (UNINTELLIGIBLE).

Officer Maddock: No.

Attorney Weiss: What do you do when you administer the (UNINTELLIGIBLE)?

Officer Maddock: Test the eyes.

Attorney Weiss: How?

Officer Maddock: Left to right, nystagmus creates onset at 45 degrees.

Attorney Weiss: Can you explain what you do—put your finger up and they have to follow your (UNINTELLIGIBLE)?

Officer Maddock: Either a finger or a pen or some sort of object (UNINTELLIGIBLE) in front of the face. Go from left to right; hold at 45 degrees; see if nystagmus is present.

Attorney Weiss: (UNINTELLIGIBLE).

Officer Maddock: The eye twitches to where (UNINTELLIGIBLE) assuming alcohol (UNINTELLIGIBLE).

Attorney Weiss: The eye will twitch?

Officer Maddock: Yes.

Attorney Weiss: What happened when you tried to test Mr. Edwards for gaze nystagmus?

Officer Maddock: He said no.

Attorney Weiss: So he didn't participate; not that he failed. (UNINTELLIGIBLE).

Officer Maddock: After three trials I consider them to have failed.

Attorney Weiss: But he didn't try.

Officer Maddock: I held his face to where he would look at me. (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE).

Officer Maddock: (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE).

Officer Maddock: He didn't want (UNINTELLIGIBLE).

Attorney Weiss: But that's not failing the test. It's not like his eyes twitched.

Officer Maddock: Walk and turn he failed; he couldn't stand up.

Attorney Weiss: (UNINTELLIGIBLE) gait, correct?

Officer Maddock: Correct.

Attorney Weiss: He didn't do what you (UNINTELLIGIBLE).

Attorney Graville: (UNINTELLIGIBLE). (UNINTELLIGIBLE) set forth in the field sobriety test, correct?

Officer Maddock: Correct.

Attorney Graville: What are the (UNINTELLIGIBLE) field sobriety tests? What are they put forth to detect?

Officer Maddock: Alcohol.

Attorney Graville: (UNINTELLIGIBLE) .08, which is the legal limit in Missouri, correct?

Officer Maddock: Correct.

Attorney Graville: And it designates certain clues that are indicative of intoxication.

Officer Maddock: Yes.

Attorney Graville: So when Ms. Weiss talks about testing, you actually (UNINTELLIGIBLE), correct?

Officer Maddock: Correct.

Attorney Graville: (UNINTELLIGIBLE), correct?

Officer Maddock: Correct.

Attorney Graville: Now Ms. Weiss wants to make an argument with her questions (UNINTELLIGIBLE) with regard to his participation (UNINTELLIGIBLE), correct?

Officer Maddock: Correct.

Attorney Graville: Let's talk about the (UNINTELLIGIBLE) you observed associated with (UNINTELLIGIBLE) intoxicated person: an inability to perform tests. Is that considered a significant clue to intoxication?

Officer Maddock: Yes.

Attorney Graville: So it's not just the observations you make or the manner in which you administer the test, but also the manner in which the participant responds to the test, correct?

Officer Maddock: Correct.

Attorney Graville: That is the whole picture with him, correct?

Officer Maddock: Yes.

Attorney Graville: And those are the clues or indications of intoxication.

Officer Maddock: Yes.

Attorney Graville: So he agreed to take (UNINTELLIGIBLE), but he couldn't keep his head up (UNINTELLIGIBLE).

Officer Maddock: Yes

Attorney Graville: Clues of intoxication?

Officer Maddock: Yes.

Attorney Graville: He attempted to stand up to be able to perform the test. He did not want to (UNINTELLIGIBLE) perform the test.

Officer Maddock: After three (UNINTELLIGIBLE).

Attorney Graville: (UNINTELLIGIBLE) all these tests, (UNINTELLIGIBLE) even attempted to hold his head so you could administer (UNINTELLIGIBLE). Based on all the observations, what (UNINTELLIGIBLE) that this individual was intoxicated.

Officer Maddock: (UNINTELLIGIBLE).

Attorney Graville: Do you think (UNINTELLIGIBLE) anyone (UNINTELLIGIBLE) this individual was intoxicated considering that he lay down in the middle of the, he couldn't even stand, and he fell asleep when he was back in the cell?

Officer Maddock: Yes.

Attorney Graville: Do you believe he was heavily intoxicated?

Officer Maddock: Yes.

Attorney Graville stated that he had nothing further at this time. The Village has no further (UNINTELLIGIBLE).

Attorney Weiss at this time called witness Terry Dempsey. He was sworn in by the Village Clerk.

Attorney Weiss: Please state your name.

Terry Dempsey: My name is Terry Dempsey, Terry Joseph Dempsey.

Attorney Weiss: What do you do?

Terry Dempsey: I do heating and cooling and cooler repairs.

Attorney Weiss: (UNINTELLIGIBLE) North County Liquor?

Terry Dempsey: Yes.

Attorney Weiss: For repairs?

Terry Dempsey: Yes.

Attorney Weiss: And do you know Mr. Singh?

Terry Dempsey: No, not at (UNINTELLIGIBLE).

Attorney Weiss: And on July 22, 2011, you were dispatched to a job at this location?

Terry Dempsey: Yes. He called me the night before and said that his air conditioner wasn't cooling very well and that he had a cooler that was bad. I got there.

Attorney Weiss: What time did you get there?

Terry Dempsey: I got there at 8:30.

Attorney Weiss: What time does the store open?

Terry Dempsey: 9:00.

Attorney Weiss: You were there when (UNINTELLIGIBLE) at 8:30 until about (UNINTELLIGIBLE).

Terry Dempsey: I was there until the police officer asked me to leave. I was up on the roof when Singh got there (UNINTELLIGIBLE). I was checking the air conditioner on the roof, and as he pulled up, then I came around front and met Mr. Singh so that I could get in. And at that point the inside the store was 112 degrees. Outside on the roof, while I was up on the roof, I continued to work on that for about another 30 minutes, and then I came down. I was so hot and exhausted that I could barely stand to be on the roof anymore.

Attorney Weiss: And about what time was that? (UNINTELLIGIBLE)?

Terry Dempsey: Oh, the temperature out that day was well over 102.

Attorney Weiss: (UNINTELLIGIBLE).

Terry Dempsey: Yes.

Attorney Weiss: And where in the store were you located (UNINTELLIGIBLE)?

Terry Dempsey: I was working on the cooler maybe about 15 feet from the front door, so I could see everything.

Attorney Weiss: You could see all the customers and patrons coming in and out of the store that morning.

Terry Dempsey: Yes, I could.

Attorney Weiss: Where were you in relation to the where they check out (UNINTELLIGIBLE)?

Terry Dempsey: Maybe 10 feet.

Attorney Weiss: Have you had occasion to observe people who (UNINTELLIGIBLE)?

Terry Dempsey: Yes, my parents used to own a bar and restaurant since I was about (UNINTELLIGIBLE). I grew up in that area—in that society. Until I was about 35 they owned a restaurant (UNINTELLIGIBLE).

Attorney Weiss: And so you've seen a number of intoxicated individuals.

Terry Dempsey: Yes, I have.

Attorney Weiss: Approximately how many people did you see coming in and out of the building.

Terry Dempsey: When he first opened, there was a line of people that were coming in. They (UNINTELLIGIBLE). And I would have to say there was about 10-12 people standing at the door. They came in, got their stuff, and I would have to say about every 10 minutes, 5 to 10 minutes, (UNINTELLIGIBLE).

Attorney Weiss: Do you know this individual named Mr. Edwards.

Terry Dempsey: No, I never heard his name.

Attorney Weiss: You wouldn't know him if you saw him on the street?

Terry Dempsey: No.

Attorney Weiss: Did you see anybody while you were there working, (UNINTELLIGIBLE), who came in and appeared to be intoxicated

Terry Dempsey: No.

Attorney Weiss: (UNINTELLIGIBLE).

Terry Dempsey: No, I didn't see anybody who appeared to be intoxicated at all, and I was not that far from the door.

Attorney Weiss: So you saw them all come in (UNINTELLIGIBLE).

Terry Dempsey: Yes, I did.

Attorney Weiss: (UNINTELLIGIBLE).

Terry Dempsey: (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE) hear (UNINTELLIGIBLE),

Terry Dempsey: I could hear someone, but I was more concentrating on the sound waiting for the compressor to kick on.

Attorney Weiss: You didn't hear anybody slurring their speech?

Terry Dempsey: No.

Attorney Weiss: Did you see anybody do anything that seemed to be out of the ordinary for a customer buying (UNINTELLIGIBLE)?

Terry Dempsey: No.

Attorney Weiss: Were there customers buying beer that morning?

Terry Dempsey: (UNINTELLIGIBLE).

Attorney Weiss: What was your first indication that (UNINTELLIGIBLE)?

Terry Dempsey: It was a little bit later on when the officer came up to me and said that Singh was going to be arrested and I had to (UNINTELLIGIBLE) my stuff and get out of the store.

Attorney Weiss: Did that surprise you?

Terry Dempsey: Very much so.

Attorney Weiss: Did he say why he was being arrested?

Terry Dempsey: First he didn't, but I kept asking him and he said that he sold beer to an intoxicated person, and I asked him, and I said I didn't see anybody come in here intoxicated. And he was like well (UNINTELLIGIBLE) this guy lying out in the street (UNINTELLIGIBLE).

Attorney Weiss: There is nothing that you saw (UNINTELLIGIBLE).

Terry Dempsey: (UNINTELLIGIBLE) by any means.

Attorney Graville: Mr. Dempsey, it is correct that you saw everybody that (UNINTELLIGIBLE).

Terry Dempsey: Yes.

Attorney Graville: How many men came into the store that time?

Terry Dempsey: I didn't count how many men, but every 5 or 10 minutes somebody came in or out.

Attorney Graville: How many customers came in and out of that store that time.

Terry Dempsey: I would have to guess

Attorney Graville: I'm not asking you to guess; you saw everything (UNINTELLIGIBLE).

Terry Dempsey: (UNINTELLIGIBLE).

Attorney Graville: How many came in (UNINTELLIGIBLE).

Terry Dempsey: I wasn't there to do a head count. I was there to fix the cooler. And I was paying attention to (UNINTELLIGIBLE) and check my van on a regular basis to make sure nobody messed with my van.

Attorney Graville: It would be very difficult when you're doing a repair in a 112 degree environment to see everybody that comes in or out of the store (UNINTELLIGIBLE).

Terry Dempsey: I pretty much paid attention to what's coming in and out of the store because I don't want to get (UNINTELLIGIBLE).

Attorney Graville: So you saw everybody that came in and out of the store.

Terry Dempsey: Correct.

Attorney Graville: How many men came in and out of the store – the exact number that particular day.

Terry Dempsey: I couldn't tell you.

Attorney Graville: How many females came in and out of the store (UNINTELLIGIBLE).

The tape ran out here. I am paraphrasing in general terms. Attorney Graville continued to question Terry Dempsey about how many men and how many women came into and left the store. Mr. Dempsey replied that he was there to do a job. He could not state with 100% certainty how many men and how many women came and went from the store. Mr. Graville felt it was very amazing that Mr. Dempsey could keep track of people coming and going and do his job, all in a very hot and noisy environment.

Attorney Weiss objected that Attorney Graville was badgering the witness. The question regarding how many men and how many women came and went had been asked and answered.

Attorney Graville made the point that at times Mr. Dempsey's back was to the customers. He asked if Mr. Dempsey had spoken with any of the customers. He further wanted Mr. Dempsey's observations, not the officer's.

Attorney Graville questioned the relationship of Mr. Dempsey to Mr. Singh and North County Liquor. Mr. Dempsey mentioned that he worked for North County Liquor here and also the store in Fenton. He had worked for them for about one year.

Attorney Weiss questioned Mr. Dempsey's observations of customers. He said that his back was to the customers for only a few seconds at a time. People were pretty much running in, getting their merchandise, paying, and running out.

Attorney Graville: You didn't know you were going to have to come in here and tell us (UNINTELLIGIBLE) like that, correct? (UNINTELLIGIBLE).

Terry Dempsey: (UNINTELLIGIBLE)

Attorney Graville: But you knew you were going to come here to testify tonight that nobody in the store was intoxicated, didn't you.

Terry Dempsey: Correct.

Attorney Graville: You talked to them about it, and you talked to Ms. Weiss about it, didn't you?

Terry Dempsey: Correct.

Attorney Graville: We need you to come here and participate in this hearing because we need you to testify that nobody was intoxicated in the store.

Terry Dempsey: They asked me if I had seen anybody that was intoxicated, and I said no I did not see anybody.

Attorney Graville: Your client asked you to do that, so you are here tonight, correct?

Terry Dempsey: Correct.

Attorney Weiss: When did this conversation occur?

Terry Dempsey: That was this morning. He called me for a couple minutes, and I called you

Attorney Weiss: Did he talk to you about this any time prior to this?

Terry Dempsey: No, never.

Attorney Weiss: In fact, he did not even remember that you had been there.

Terry Dempsey: Exactly.

Attorney Weiss: When you talked to him, did he promise you anything.

Terry Dempsey: No, not at all.

Attorney Weiss: You have been serving him as a customer, right? But you're here to tell the truth tonight, aren't you?

Terry Dempsey: Yes I am.

Attorney Weiss: You're under oath.

Terry Dempsey: I understand, and I have told the truth.

Attorney Weiss: Okay. Very good. Thank you, sir.

The Chairman dismissed this witness. The Clerk swore in the next witness.

Attorney Weiss: Please state your name.

Singh: (UNINTELLIGIBLE) Singh.

Attorney Weiss: What is your relationship to North County Liquor.

Singh: My wife owns (UNINTELLIGIBLE).

Attorney Weiss: And were you working there on the morning of July 22, 2011?

Singh: Yes, I was.

Attorney Weiss: What time did you open the store?

Singh: 9:00.

Attorney Weiss: And was there a line of people outside?

Singh: Yes, every morning.

Attorney Weiss: Was business brisk that morning?

Singh: Yes.

Attorney Weiss: Do you count the number of customers coming and going.

Singh: No.

Attorney Weiss: So if somebody asked you, even though you were serving every one of them, how many people came in and out of the store, could you answer that question.

Singh: No (UNINTELLIGIBLE).

Attorney Weiss: What did you see when you sold beer to (UNINTELLIGIBLE).

Singh: (UNINTELLIGIBLE).

Attorney Weiss: With regard to selling to somebody--you know that you are not allowed to sell to somebody who appears intoxicated.

Singh: I do.

Attorney Weiss: How do you go about determining whether the person is intoxicated.

Singh: I (UNINTELLIGIBLE) watch (UNINTELLIGIBLE).

Attorney Weiss: I am asking you in general if someone comes into the store, what do you look for to determine whether the person is drunk.

Singh: You can see the eyes, very glassy, (UNINTELLIGIBLE).

Attorney Weiss: Because you have had occasion to have people in the store who are drunk.

Singh: Sometimes, yes.

Attorney Weiss: And do you sell to them?

Singh: No.

Attorney Weiss: So on this particular morning, an individual you later learned was allegedly intoxicated, purchased liquor in your store, correct?

Singh: (UNINTELLIGIBLE).

Attorney Weiss: Is he a regular customer of yours?

Singh: A regular customer.

Attorney Weiss: Did you ever observe his gait when he is walking in and out of the store?

Singh: Yes, I keep an eye on them.

Attorney Weiss: I'm sorry?

Singh: I keep an eye on people.

Attorney Weiss: So you observed the way he walked?

Singh: Yes.

Attorney Weiss: He had a normal walk.

Singh: Normal walk.

Attorney Weiss: And on that morning, did he have the normal walk?

Singh: Yes.

Attorney Weiss: So he walked in your store. Tell us what happened. Tell us what took place.

Singh: He walked into the store. He picked up a couple of beers. And (UNINTELLIGIBLE) to the counter. He counted his change. He paid with the change. Then he walked outside. (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE). Did he have trouble coming up with the amount of money that you asked him for?

Singh: No.

Attorney Weiss: Now he does this regularly? He buys beer in your store.

Singh: Yes.

Attorney Weiss: Did he look any different this day than he did any prior days when he came into the store.

Singh: (UNINTELLIGIBLE).

Attorney Weiss: And do you remember? What did he pay you with--a bill?

Singh: No. He counted change.

Attorney Weiss: Okay, so not counting change you gave him back, he counted change in his hand.

Singh: Yes. Whatever (UNINTELLIGIBLE).

Attorney Weiss: So he didn't appear to be a man who had a bunch of big bills.

Singh: No.

Attorney Weiss: And is that the way he usually purchased his beer, with change?

Singh: Yes, most of the time

Attorney Weiss: So how much did the beer cost?

Singh: It cost like \$2.23.

Attorney Weiss: Okay, so he stood there, pulled out some change from his pocket, and counted \$2.23 exactly.

Singh: Yes.

Attorney Weiss: And he didn't have trouble coming up, you checked it, he didn't have trouble coming up with the right amount of money.

Singh: No.

Attorney Weiss: Did you have any conversation with him?

Singh: All he did (UNINTELLIGIBLE) say (UNINTELLIGIBLE).

Attorney Weiss: Did you smell any odor of alcohol on him?

Singh: No.

Attorney Weiss: Did you see glassy eyes?

Singh: No.

Attorney Weiss: Did he slur his speech?

Singh: No.

Attorney Weiss: About what time was this, do you remember?

Singh: I think it was 10:00 (UNINTELLIGIBLE).

Attorney Weiss: Did he come back in the store at any later time?

Singh: No.

Attorney Weiss: So the police said, the police officer said that is was 11:00 that he was there. How long after this individual left your store did the officer show up?

Singh: It was a little after 10:00, and he walked into the street and he wasn't lying in front of the store. The officer (UNINTELLIGIBLE).

Attorney Weiss: How long after he purchased the beer did the officer come to your store.

Singh: About an hour.

Attorney Weiss: An hour later?

Singh: Yes.

Attorney Weiss: Do you know where those officers were sitting in their patrol car.

Singh: I don't. (UNINTELLIGIBLE) on Chambers (UNINTELLIGIBLE) Diamond Drive.

Attorney Weiss: What you're saying is that they couldn't have seen him leaving your store because he left around 10:00.

Attorney Graville: Objection. Calls for speculation.

Attorney Weiss: They didn't come into your store until around 11:00.

Singh: Yes.

Attorney Weiss: So it was sometime after this individual left your store that the officers showed up.

Singh: Yes.

Attorney Weiss: Did you witness Mr. Edwards leaving your store? Did you actually see him walk out the door?

Singh: Yes.

Attorney Weiss: Did you hear him fall or do anything? Is there a step outside your door?

Singh: No.

Attorney Weiss: So he just walked straight out?

Singh: Yes.

Attorney Weiss: And he wasn't lying outside your door that you know of?

Singh: No.

Attorney Weiss: Did other people come in in that hour's time?

Singh: Yes.

Attorney Weiss: Did anybody say there is an individual lying outside your door or lying in the street?

Singh: No.

Attorney Weiss: Did you have any indication that there was anything wrong before the officer came in about an hour later?

Singh: I was surprised that he walked in. He said that he was (UNINTELLIGIBLE).

Attorney Weiss: Was there anyone else in the store other than you and Mr. Dempsey at the time that Mr. Edwards (UNINTELLIGIBLE).

Singh: There were customers at the time (UNINTELLIGIBLE).

Attorney Weiss: Did anybody come up to you and indicate that this individual was acting inappropriately in any way.

Singh: (UNINTELLIGIBLE).

Attorney Graville: Mr. Singh, do you work at that place a lot, North County Liquor?

Singh: Most of the time.

Attorney Graville: Do you remember in our original hearing when we talked about who was going to be employed there—is your testimony here tonight that you are there most of the time?

Singh: Yes.

Attorney Graville: You're the one that works there?

Singh: Most of the time.

Attorney Graville: Okay. Mr. Singh, you apparently know Mr. Edward pretty well, don't you.

Singh: (UNINTELLIGIBLE) a customer.

Attorney Graville: He comes in every day, doesn't he.

Singh: Yes.

Attorney Graville: He comes in every day, and every day he buys beer with change, correct.

Singh: Yes.

Attorney Graville: Does he usually come this early in the morning to buy beer with change?

Singh: Yes.

Attorney Graville: So on this particular day he came in, according to your testimony, at 10:00 in the morning and bought two beers, correct?

Singh: Correct.

Attorney Graville: How big are those beers?

Singh: One bottle was 24 ounce and the other one was 32.

Attorney Graville: Okay. That's a lot of beer for 10:00 in the morning, correct?

Singh: Yes.

Attorney Graville: And that's what he (UNINTELLIGIBLE) almost every day.

Singh: Yes.

Attorney Graville: Do you ever see him drink that beer?

Singh: I have not seen him drink that beer because we don't allow anybody to open cans or bottles in the store.

Attorney Graville: The officer testified that he saw him walking out of your establishment and lay down in the middle of the street. Is it your testimony that he didn't do that?

Singh: (UNINTELLIGIBLE)

Attorney Graville: How do you not know?

Singh: I didn't see him drinking beer.

Attorney Graville: I'm asking about what you saw with regard to him walk out of your store and lay down in the middle of the street.

Singh: That's what I said, but I think he (UNINTELLIGIBLE).

Attorney Graville: You think he what?

Singh: I think he (UNINTELLIGIBLE).

Attorney Graville: You think (UNINTELLIGIBLE)? Could it have been the liquor?

Singh: No.

Attorney Graville: It couldn't have been.

Attorney Weiss: (UNINTELLIGIBLE) speculation.

Attorney Graville: Objection is noted for the record.

Attorney Graville: Do you know with 100% certainty that he didn't lay down in the middle of the street because he was drunk?

Singh: No.

Attorney: No, you don't know or yes, you do know with 100% certainty?

Singh: (UNINTELLIGIBLE) was 102 (UNINTELLIGIBLE) beer in his hand.

(UNINTELLIGIBLE) walked home; (UNINTELLIGIBLE) not in front of the store. At the time (UNINTELLIGIBLE).

Attorney Graville: Your testimony is that he bought the beer at 10:00.

Singh: Yes. (UNINTELLIGIBLE).

Attorney Graville: Is that what time it was? You were busy that morning. And it was (UNINTELLIGIBLE) 112 degrees, wasn't it?

Singh: Yes.

Attorney Graville: You know exactly what time he came in and out of the store.

Singh: He came in at 10:00.

Attorney Graville: You know that with certainty?

Singh: He comes every single day at that time, at 10:00. (UNINTELLIGIBLE).

Attorney Graville: Well you testified earlier during Ms. Weiss' direct examination that you didn't even know it was about Mr. Edwards until the police came to the store, right?

Singh: Yes.

Attorney Graville: And you still remember what time he came to the store on that specific day?

Singh: He came up at 10:00. (UNINTELLIGIBLE).

Attorney Graville: After 10:00. Could it have been 11:00?

Singh: No.

Attorney Graville: You (UNINTELLIGIBLE).

Singh: (UNINTELLIGIBLE) after one hour. (UNINTELLIGIBLE). And he came about 11:00 (UNINTELLIGIBLE).

Attorney Graville: So you have never observed this man, who every single morning at 10:00 buys 56 ounces of beer every morning--you never observed him intoxicated.

Singh: In the morning (UNINTELLIGIBLE).

Attorney Graville: You never observed him intoxicated.

Singh: (UNINTELLIGIBLE).

Attorney Weiss: Lots of people buy alcohol in your store.

Singh: Yes.

Attorney Weiss: Mostly beer.

Singh: Yes.

Attorney Weiss: And they come early in the morning to buy beer?

Singh: Yes.

Attorney Weiss: A lot of them?

Singh: (UNINTELLIGIBLE).

Attorney Weiss: And you know Mr. Edwards comes in (UNINTELLIGIBLE).

Singh: (UNINTELLIGIBLE)

Attorney Weiss: And we know that people don't come stumbling in. And yet they come in and buy (UNINTELLIGIBLE).

Singh: Yes

Attorney Weiss: You don't (UNINTELLIGIBLE).

Singh: No.

Attorney Weiss: You know that it was a long time after Mr. Edwards (UNINTELLIGIBLE), and that is why (UNINTELLIGIBLE) when they described (UNINTELLIGIBLE).

Singh: Sure.

Attorney Weiss: You are still serving (UNINTELLIGIBLE).

Singh: (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE) count money or (UNINTELLIGIBLE).

Singh: Yes.

Attorney Weiss: So (UNINTELLIGIBLE) uncomfortable. (UNINTELLIGIBLE).

Singh: (UNINTELLIGIBLE)

Attorney Weiss: And how far away from you was Mr. Dempsey?

Singh: The store is not that big. (UNINTELLIGIBLE).

Attorney Weiss: So he could see where he was standing (UNINTELLIGIBLE). He could see (UNINTELLIGIBLE).

Singh: (UNINTELLIGIBLE).

Attorney Weiss: (UNINTELLIGIBLE).

The witness was excused.

Attorney Graville: (UNINTELLIGIBLE). I think it comes down to credibility. I think what we have here is a situation, part of the record is the entire file for the Village. If you go back and think about the original hearing we had to grant the liquor license, there were issues with selling liquor to minors, and some statements that were made at the original hearing when they weren't represented. You all resolved that (UNINTELLIGIBLE) and gave them an opportunity to have a liquor license in your community.

Officer Maddock's testimony is very clear. He said he saw this guy walking out of North County Liquor with a bag and he lay down in the middle of Chambers Road. Those of us familiar with the community know how dangerous that is to lay down in the middle of Chambers. You just can't do it. It was so severe that Officer Maddock pulled his car in front of him to shield him from traffic because he was afraid of imminent risk to Mr. Edwards. He made contact with (UNINTELLIGIBLE) he knows Mr. Edwards has (UNINTELLIGIBLE) church grounds, in which paramedics were called. At times, he had to drive him home because he was so intoxicated. He's a drunkard; that's what he does. He goes every day to North County Liquor and buys 54 or 52 ounces of beer to begin the day. On this particular day, Officer Maddock saw him walk out of there so drunk that he fell down; went over and made contact with him; made observations of intoxication; and at that point, puts him under arrest for disorderly conduct because he is literally laying in the middle of one of the busiest roads in the community; takes him back to the police station and tries to run a standardized field sobriety test, which Officer Maddock testified that (UNINTELLIGIBLE) whether or not he was intoxicated. So even beyond his regular observations, he goes through the rigmarole of doing a trained observation. This man was so intoxicated that he can't even participate. Then at that point, he puts him back in the cell; and the guy is so intoxicated that he falls asleep. That's what we do when we get too drunk; we pass out.

You know, Board of Trustees, the problem we have here is that we have Mr. Dempsey who comes up here and wants to say, "I saw every single person I observed, and I know every thing that was going on." I appreciate Mr. Dempsey, and I'm sure his clients appreciate that he is here on their behalf advocating for them tonight. But it just doesn't make sense. He is in a 112 degree store, fixing a cooler, and (UNINTELLIGIBLE) in an environment where the AC doesn't work, and he is here to tell us that he saw every single person walk in and walk out with 100% certainty no one was intoxicated. It doesn't make sense. He's working. He's

watching his truck, and he knows everybody that walks in and out. I know I pestered him a little bit about how many men, how many women, how many adults. But if you're that observant, if you're that good as he said, as he testified to being that good and that observant, if he can multitask that well, you would know those details. You would know how many men, you would know how many people came and went.

"I know with 100% certainty that know one came in or out of that store that was intoxicated. But I can't tell you how many men, how many women, how many people were in and out of that store. It is just not credible. I appreciate Mr. Dempsey being here, but it is just not credible. And that is what it comes down to is credibility. Do you believe what he says? I don't. It's up to you guys to decide if you believe what he said, but it just doesn't make sense. You're in the pressure cooker, and you're trying to get one of your customer's coolers fixed, and you're there for 5, 6, 7 hours, and there's customers going in and out, and you're business is selling cold items, and you got time to look at every single customer and decide whether or not they're intoxicated going in or going out. It doesn't make sense. It's not credible testimony.

Mr. Singh obviously has a desire to protect his interests. He's got customers coming in every day (UNINTELLIGIBLE), Mr. Edwards every single day, comes in and buys that much booze. Every single day Mr. Singh sells that alcohol to him--10:00 in the morning; 11:00 in the morning. I think it is pretty evident that the guy is probably a habitual drunkard—drinking that much every single morning. Mr. Singh wants to say, "I didn't know when he was drunk, or he was not drunk.

Let's weigh the evidence in front of you, Board of Trustees. You have a trained professional police officer, specifically trained at detecting intoxicated individuals. You have Mr. Singh who sells to drunks and want to keep his business afloat. We've already had previous issues with him and (UNINTELLIGIBLE). Which one is more correct? I think you have to take Officer Maddock's, who stated, "I saw him walk from their building, stumble down, and lay down in the middle of the street." We're lucky he was there in the area that day; because if he wasn't, Mr. Edwards probably wouldn't be here with us today. The reality of it is, Board of Trustees, that you have a business that is selling to individual drunkards to begin with. The evidence is incontrovertible as to that fact. Yes, these people want to protect their interests, and Mr. Dempsey wants to protect his client. But at the end of the day, one of the things that we're here for is to find out whether or not they sold to an individual drunkard on this particular day, whether or not they sold to an intoxicated person. And there is just no question.

I think it would be different if they came to you, Board of Trustees, and said, "(UNINTELLIGIBLE), we made a mistake. It probably wasn't the best decision, but we want to work with you to try to get this straightened out (UNINTELLIGIBLE)." But from the get-go as we have dealt with them (and the file will reflect that and the records from the previous hearings will reflect that) pulling the truth out of them is nearly impossible. Trying to find out what happened is nearly impossible. But for the fact that we had an officer there, we would have somebody laying in the middle of the street in traffic over on Chambers Road in the middle of the afternoon. I think at this point, Board of Trustees, we have no other option but to suspend or revoke the liquor license of these people. I think the ordinance is clear; I think the evidence is uncontroverted. And I think the most incredible evidence is Officer Maddock saying, "I saw him walk out of there, and he was intoxicated." Anyone should have known he was intoxicated, but they served/sold beers to him.

Attorney Weiss: (UNINTELLIGIBLE). The burden of proof is on the Village of Riverview. The burden of proof is not on my client. All Officer Maddock had to do was to see that this gentleman was tested. He would have had in black and white a breathalyzer analysis, a chemical analysis indicating his blood alcohol level. He chose not to do that. Now, my client says this happened an hour after the individual left the store. Officer Maddock says this guy stumbled out of the store. Mr. Dempsey says he never witnessed anybody who was intoxicated that morning in the store. If somebody is intoxicated, generally they're loud and boisterous, acting inappropriately. This is a small store. He didn't have to be paying full attention. He was listening most of the time waiting for the compressor to see if the compressor would come on. It was very easy for him to see what was going on. He is not here, as Mr. Graville said, (UNINTELLIGIBLE). He is here to tell the truth. He was sworn to tell the truth. This man has no vested interest in this. He has taken time out of his own day to be here. And this didn't even (UNINTELLIGIBLE) Mr. Singh contacted him the day all this happened. He said he didn't even remember that Mr. Dempsey had been there till he contacted him this morning when he realized that Mr. Dempsey had been there fixing the cooler.

And I asked him if there were any witnesses, and he told me there was nobody here who was intoxicated. And this guy wasn't slurring his speech. He counted his change. He told me over and over and over that he counted his change. Now somebody who is intoxicated doesn't stand there and count his change. Now you can ask anybody of any given day, that if Mr. Singh doesn't count the number of people coming in and out, you're certainly not going to expect a repair person to be counting the number of people who are walking in and out of the store that morning. That is ridiculous. It makes no sense. It doesn't mean that he wasn't there; it doesn't mean that he didn't see what was going on. And nobody is going to sit and count how many men and how many women, and nobody knows anything for 100% certainty. And the question is did Officer Maddock (did they) carry their burden of proof. Did Officer Maddock prove pretty much beyond a reasonable doubt that this individual was intoxicated. (UNINTELLIGIBLE).

Attorney Graville: Strike that that is not the burden of proof for this administrative hearing. (UNINTELLIGIBLE) record.

Attorney Weiss: The burden of proof is on the prosecution. The burden of proof is not on (UNINTELLIGIBLE)

Attorney Graville: I object to the mischaracterization of my role. I am not acting as prosecutor for the Village. On behalf of the Village, I am acting as Village attorney.

Attorney Weiss: (UNINTELLIGIBLE). However you want to state it. (UNINTELLIGIBLE) prosecution (UNINTELLIGIBLE), and I don't believe it's a mischaracterization. First of all, they could have brought Mr. Edwards. Why not. Why not bring the man in himself. He could say what happened. We are going on the word of the officer. There were two officers there. Only one officer appeared to testify. I don't know why. Both officers could have been here. And the fact of the matter is that we presented credible evidence from not one, but two, people. Of course Mr. Singh has an interest in keeping his place. Of course he has. But the fact of the matter is: this is the community that you're in. You're in a community where there are a lot of people who drink. A lot of people come in there every single morning and buy beers. Does that mean that you convict them of being drunk? That they're all automatically all drunk, they're all intoxicated, or they're coming in, or that you can even question them about what they're drinking or when they're drinking unless they are obviously intoxicated.

Testimony, the evidence, shows that this individual was not obviously intoxicated. We have not (UNINTELLIGIBLE) intoxicated. There was nobody there who was stumbling that morning. There was nobody there who was slurring their speech. He didn't have glassy eyes. So why Officer Maddock said he saw him stumble out, unless he was stumbling down that pathway (And I don't even know if the officer, from where he was stationed because I'm not that familiar with the area, from where he was stationed, could even see Mr. Singh's store. I don't think he was on the same road. So how he saw a man stumble out of that particular building, but could he have been coming around the corner, or could he have already been drinking, and had it been an hour later, he could have been sitting around, who knows? If he was exposed to heat between 10:00 when he bought the beer and 11:00 am when they saw him collapsing in the roadway, apparently intoxicated; and maybe he was intoxicated by that time. I don't know. All I can tell you is—who knows what happened? He's out in the heat; apparently he was hanging around between 10:00 and 11:00 in that vicinity. Anybody out in 100 degree heat, who may be dehydrated and may be drinking, I would think, would be collapsing (UNINTELLIGIBLE) people who had been drinking who had been out for an hour in that type of heat (UNINTELLIGIBLE).

I'm not a doctor (I can't tell you), and I'm not trained to tell when someone is intoxicated. All I can tell you is common sense would dictate if somebody was truly intoxicated. And I'm not talking about having just one beer. I'm talking about somebody stumbling drunk as this officer has described this man. And I just feel that they have not met their burden of proof. Simply because somebody comes in, as Mr. Graville said, every morning and buys a couple of beers doesn't mean that when he walks through the door he is intoxicated. It doesn't mean he is a habitual drunkard. You can't walk around and call people drunkards just because they are coming in the store and buying something. Just like you can't call him an alcoholic. You can't call somebody else a chain smoker because maybe they bought ten packs of cigarettes every morning. You don't know what they are doing with them. And even if they're smoking them, you can't draw conclusions in a vacuum.

I think we presented credible evidence that the Village of Riverview has not carried its burden of proof. I would venture to guess that these police officers keep a very close eye on this particular lady. Probably were told to do everything they could to monitor very closely this particular business, and I think they are probably doing so to an extreme.

Simply because this individual has been found to be intoxicated on one occasion and driven home on two occasions is not an indication that he is a habitual drunkard. Maybe he is; maybe he isn't; but that certainly doesn't notify the community that this is a habitual drunkard. To me a habitual drunkard is somebody who is out every morning stumbling around and it's pretty clear to the whole community that this guy is a drunkard. And I haven't heard anybody testify to that effect. So I don't believe that it is (UNINTELLIGIBLE) or warranted to revoke the license.

If there is some training that the city wishes for my client to undergo, I'm sure that he would be more than happy to do that. But I think just with his everyday business, he is pretty capable of determining whether an individual is intoxicated. (UNINTELLIGIBLE) amenable to (UNINTELLIGIBLE), but that is the bulk of the business. That's just the way it is. (UNINTELLIGIBLE).

Chairman Steve Paro asked Attorney Graville what the next order of business was. Attorney Graville replied, "The next thing, obviously, you all have to do is make a determination of whether or not tonight you want to take a vote to revoke or suspend the liquor license of their

company. (UNINTELLIGIBLE) for Mr. Singh's and Ms. Weiss' information that I will be listening to the transcript from the original hearing prior to my (UNINTELLIGIBLE).

A discussion ensued regarding the issue at hand.

Do we need the other officer here.

Having the other officer here would only be duplicative.

Discussion regarding the blood alcohol testing procedure. The officer attempted to do the test, but the individual failed. If he felt that there was a medical problem, he would have called an ambulance.

Trustee Bruce Stocker: He had a problem with part of Mr. Dempsey's testimony. The coolers are on one wall and the door is on the other wall. If your back is to the door, how do you see people coming and going?

Trustee Phyllis Paro: She also questioned Mr. Dempsey's testimony. He stated he was on the roof for awhile. Also he was listening for the compressor.

Chairman Paro wondered how many times does the Village have to deal with Mr. Edwards.

Trustee Phyllis Paro also commented that not all drunks are loud and boisterous.

Attorney Weiss: (UNINTELLIGIBLE)

Chairman Paro: I don't think all the people drinking beer are from this community to start with. There are transients from other areas. (UNINTELLIGIBLE)

Attorney Weiss: (UNINTELLIGIBLE)

Chairman Paro: Yeah, I know it does. They have a lot of "out of neighborhood" transients who (UNINTELLIGIBLE).

Attorney Weiss: I know. (UNINTELLIGIBLE).

Chairman Paro: Does anyone have any suggestions as to what they would like to do tonight? Would they like to postpone the decision?

Trustee Howard Pierce: Mr. Chairman, at this time I would like to make a motion that we postpone a decision and consider the evidence and render a decision at a later date, not too much of a later date.

Attorney Graville: One of the things you guys need to do is consider (UNINTELLIGIBLE) a warning (UNINTELLIGIBLE). You can always suspend their liquor license for a period of time. (UNINTELLIGIBLE) state will suspend the liquor license for 7 days or 10 days, or require that they be closed or whatnot. And that is something you may want to consider as well. (UNINTELLIGIBLE) as serious a violation or indicative of a much larger issue. And I think you may want to consider as well. (UNINTELLIGIBLE) but suspension as well. So, something else to think about as well. I'm sure they will be somewhat accepting of the idea of something short of a revocation (UNINTELLIGIBLE).

Chairman Paro: Is that what we should make a decision on later on.

Attorney Graville: Yes.

Chairman Paro: Because we want to make the right decision because this is people's livelihood. We know that. We are taking that into consideration. We also have (UNINTELLIGIBLE). Does someone want to second that for a later decision.

Trustee Craig Boehmer: I will.

Chairman Paro: A motion was made by Trustee Howard Pierce and seconded by Trustee Craig Boehmer. All in favor and all opposed. All trustees voted aye, the motion carried. We will make a decision at a later date, but it will be very soon.

All Trustees voted in the affirmative, the motion carried.

With no further business to discuss, a motion was made by Trustee Howard Pierce and seconded by Trustee Phyllis Paro to adjourn the meeting. All Trustees voted in the affirmative, the motion carried. The meeting was adjourned at 5:25 p.m.

Respectfully Submitted,

Steve Paro, Chairman

ATTEST:

Madonna Forrest, Village Clerk