

**Devens Enterprise Commission (DEC)
Public Hearing and Regular Meeting
Minutes December 20, 2022**

Members Present: Duncan Chapman, Dix Davis, James DeZutter, Melissa Fetterhoff, Robert Gardner, Christopher Lilly, William Marshall, Martin Poutry, Paul Routhier, Deborah Seeley

Staff: Peter Lowitt, Neil Angus, Beth Suedmeyer, Dawn Babcock

Guests: Peter Garrett (President/Director MPG Corporation), Sandy Mehrtens (Manager of Rapid Refill), Lt. Bagley (State Police), Phil Fama (Resident), Michael Alves (Resident)

Members Absent: Debra Rivera, Jim Pinard

(6:45 PM) Chairman William Marshall called the meeting to order and did a roll call

Mr. Marshall read that the Devens Enterprise Commission Regular Meeting and Public Hearing is being held virtually in accordance with the Act (Senate Bill #2475) relative to extending certain COVID-19 measures adopted during the state of emergency. Interested individuals can listen in and participate by phone and/or on-line by. Persons with disabilities or requiring interpretation wishing to listen or participate should contact 978.772.8831 x3334. In accordance with the State's Open Meeting Law, Mr. Angus informed all attendees that the Devens Enterprise Commission is recording this meeting.

(6:50 PM) Mr. Marshall reviewed the Agenda of this evening's meeting

(6:52 PM) Review Minutes:

- **December 8th Minutes** were discussed. Mr. Marshall asked if anyone had any edits or concerns, none were noted. Mr. Marshall then asked for a motion to accept the minutes as written and the motion was made by Mr. Davis and seconded by Ms. Seeley. The Motion to approve the December 8th minutes was **Approved by a roll call vote. Mr. DeZutter abstained from voting as he was not present for the December 8th meeting.**

(6:53 PM) Public Hearings:

- An application for a new Off-Premises/Package Store Wine and Malt Beverages License pursuant to Chapter 222 of the Acts of 2022. Property located at **4 Andrews Parkway (Rapid Refill), Devens, MA (Parcel ID#020.0-0003-0300.F)**. Mr. Marshall read the public notice of this hearing then handed it over to Mr. Angus who gave a brief summary and then introduced Mr. Garrett the President for MPG Corporation and Ms. Mehrtens the Manager of Rapid Refill. Mr. Garrett gave a brief overview of his company and the fact that they have been operating Rapid Refill here in Devens for 15 years and currently have 28 convenience stores in NH and MA. They have found that about 15% of the sales in the other convenience stores have been beer and wine sales. This convenience store is a 3,800 square foot store with low shelving which allows for a clear view throughout the entire store. Mr. Garrett also noted that there really isn't a carry home option for Devens Residents as the nearest liquor store is 2 to 3 miles away, so this application is based on the multiple requests the store has received from residents in the past 5 to 6 years. They are planning to have 6 of the 15 cooler doors allotted for beer and wine only, which is located in the back of the store. There will also be a table set up to display beer and wine as well as a 12-foot-long shelving unit to hold warm wine and beer. In front of the building there will be a designated area for bulk beer (warm and by the case) to be displayed. The State has regulations as to the hours to sell beer and wine which are Monday – Saturday 8:00 AM – 11:00 PM and Sunday 10:00 AM – 10:00 PM which will be followed. There are locks on the 6 cooler doors and they will have covers for the shelving unit, table and bulk sale areas that will be in place during the off hours. The retail employees will go through training prior to being able to sell beer and wine. They will also have mystery shoppers go into the store twice a month to ensure required processes are being followed. All Associates are over the age of 18, which is a state requirement for selling beer and wine. Mr. Garrett then introduced Ms. Mehrtens, the Manager of the Devens location, he also noted that she has worked in their Westford location which sells beer and wine, so she is seasoned in the process and has gone through the training already. Ms. Mehrtens did note that she was the manager of the Westford location so she is knowledgeable of the training the employees will need to go through and will ensure the process in place. Mr. Marshall noted there was a question on the Chat: What are the towns in MA

that you currently have Rapid Refill stores in, and are they also called Rapid Refill? Mr. Garrett noted that they are called Rapid Refill, but they are in the process of changing their company name to Garrett Family Market and 4 of the MA stores have already been changed to the new name. The stores in MA are located in Mashpee, Falmouth, Westford, Taunton, Barnstable, and Plymouth. Mr. Mashall asked for any questions none were asked so he turned the call back over to Mr. Angus to go over the staff report. Mr. Angus noted that the applicant has modified their store layout plans since their original submission of the application. The new layout is what Mr. Garrett just spoke to and has signed, dated, and submitted the new layout design for us to include. Devens was granted an additional license from the legislature, this being our first and only retail license in Devens, and like the one-day license they need to identify where the alcohol will be stored as well as how it will be secured when not being sold. With this being the first license of this type for Devens we have no issues to report at this time. Lt. Bagley asked if the sale of single serve items be restricted. He also asked about the beer located at the front of the building during off hours. Mr. Garrett noted that it will be covered. Lt. Bagley suggested the bulk beer be moved away from the front of the store to decrease the temptation of theft during off hours of alcohol sales and when the convenience store is closed. Lt. Bagley also requested this application not be approved as there are 4 other liquor stores within minutes from our town lines. One being right over the line in Ayer on Barnum Road. Mr. Marshall asked the public if they had any questions and noted that he agrees with giving additional thought based on Lt. Bagley's comments. Mr. Alves noted that he is new in Devens and feels he could go either way. Mr. Chapman wanted to hear from more residents. Mr. Angus noted that this meeting was publicized, and the Abutters had been notified of the meeting ahead of time. Mr. Angus then went over the 7 Recommended Actions:

The Applicant has submitted all the required paperwork. If the Commission is satisfied that all concerns have been adequately addressed, Staff would recommend the granting of the license subject to the following conditions:

1. Sandra Mehrtens is the license manager and has full responsibility for the proper operation of the licensed premises, whether present or not.
2. The sale of wines and malt beverages shall be limited to the five (5) doors on the right side of the existing 15-door cooler areas as depicted on the floor plan titled: "Floor Plan Layout for Beer and Wine Sales, MPG Corp. (dba Rapid Refill, 4 Andrews Parkway, Devens, MA 01434" signed by Peter Garrett and Melina Behnke on December 20, 2022 – with the exception of the 12-foot display area shown along the front inside wall of the store which is to be replaced by converting the proposed 4' x 2'x2' beer and wine table to a 8'x 2'x2' table/display area. Submitted with the application.
3. The hours during which wines and malt beverages may be sold are from 8AM to 11PM Monday through Saturday, and 10AM to 11PM on Sunday. Outside of these times, the area where wines and malt beverages are permitted to be located shall be secured to prevent access by the public.
4. No-onsite consumption of alcohol is permitted.
5. Licensee shall not sell or distribute or offer for sale or distribution single serve alcoholic beverages.
6. The licensee shall control prohibit the sale of wines and malt beverages to persons not under the age of twenty-one (21) and shall not sell wines and malt beverages to individuals who are under the influence of drugs, or to an intoxicated person. Prior to any wines and malt beverages sales, the manager and all employees who sell wines and malt beverages shall undertake Beverage Alcohol Training (BAT) for package stores. A copy of the BAT certification for each employee shall be maintained on the licensed premises at all times.
7. The licensee shall, in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules and regulations of the Devens Enterprise Commission.

After reviewing the actions Mr. Davis had some questions/concerns regarding #6 and other commissioners and Lt. Bagley had some concerns about the layout in the store, so the 7 actions were modified during the meeting to update the wording of the actions

Mr. Fama, a Devens resident, noted that he is opposed to this due to the current littering of small liquor bottles on Hospital Road, he felt that allowing this license would open a flood gate of litter. Mr. Marshall stated with this license being issued by the legislator and not allowing single serve items the increase of litter is unlikely. Mr. Marshall asked if there were any more questions, none were asked. Mr. Marshall then noted with the modifications to the actions and the relocation of the Bulk Sale he would like to ask for a motion to close the public hearing. The motion was made by Mr. Davis and seconded by Mr. Lilly. The closing of the hearing was **Approved by a roll call vote.**

Mr. Angus then showed the updated **Recommended Action**: The Applicant has submitted all the required paperwork. If the Commission is satisfied that all concerns have been adequately addressed, Staff would recommend the granting of the license subject to the following conditions:

1. Sandra Mehrtens is the license manager and has full responsibility for the proper operation of the licensed premises, whether present or not.
2. The sale of wines and malt beverages shall be limited to the five (5) doors on the right side of the existing 15-door cooler as depicted on the floor plan submitted with the application.
3. The hours during which wines and malt beverages may be sold are from 8AM to 11PM Monday through Saturday, and 10AM to 11PM on Sunday. Outside of these times, the area where wines and malt beverages are permitted to be located shall be secured to prevent access by the public.
4. No-onsite consumption of alcohol is permitted.
5. The licensee shall not sell or distribute or offer for sale or distribution single serve alcoholic beverages.
6. The licensee shall control the sale of wines and malt beverages to persons not under the age of twenty-one (21) and shall not sell wines and malt beverages to individuals who are under the influence of drugs, or to an intoxicated person. Prior to any wines and malt beverages sales, the manager and all employees who sell wines and malt beverages shall undertake Beverage Alcohol Training (BAT) for package stores. A copy of the BAT certification for each employee shall be maintained on the licensed premises at all times.
7. The licensee shall, in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules and regulations of the Devens Enterprise Commission.

Mr. Marshall asked for a motion to approve the applicants request for a License to sell wine and Malt Beverages out of the Rapid Refill convenience store at 4 Andrews Parkway. The motion was made by Ms. Fetterhoff and seconded by Mr. Davis. The motion was **Approved by a roll call vote, (9 yes and 1 no)**. Mr. Angus noted that with the Commissioners approval we will send the application onto the ABCC where they will begin their investigation into the applicant and if/when approved they will issue the license.

(7:39 PM) New Business: Mr. Marshall asked if there was any new business and Mr. Angus shared the Social Media posts that have been made and requested everyone to check them out, like the posts and share them with their networks. Mr. Angus also noted there is a read-file for the commissioners to check out.

(7:43 PM) Executive Committee Session (12/8) Report out: Mr. Marshall noted that there were 2 items discussed during the session. The first item was Vacation Time Carry-Over. With the Pandemic it was voted that the staff could carry over an additional 5 days the past two years but with the pandemic going on over a year and a few other events the gentleman had not been able to use the hours carried over. This has caused an issue with the auditors so the Executive Committee would like to recommend that we vote to allow them to continue to carry over the 5 additional days for one more year, buy back the overage of vacation days which will bring them down to their allotted 15 days for 2023 then going forward they will only be able to carry over the 10 days and any days over that will be lost if not used. Mr. Marshall asked for a motion to approve the pay out of overage and allowing 5 additional days for 2023. The motion was made by Ms. Seeley and seconded by Mr. Gardner. **The motion was approved unanimously by a roll call vote.** The second item discussed was the succession planning process with Mr. Lowitt planning to retire this July 2023. Mr. Angus is interested in the position and the Executive Committee feel he is the right person for the position. A number of the Committee Members voiced their approval of this decision as well. Mr. Marshall then noted that in the March/April time frame during a meeting the appointment of Mr. Angus will be made official, and they will be putting out a press release letting everyone know. Mr. Lilly asked if there is a vote required at this time. Mr. Marshall didn't believe so but thought they could take a vote to show their support for the election of Mr. Angus to the position. Mr. Marshall asked for a motion to show the support of Mr. Angus' appointment and the succession plan as laid out during today's meeting. The motion was made by Mr. Routhier and seconded by Mr. Poutry. **The motion was approved unanimously by a roll call vote.** Mr. Angus thanked the commissioners for their support.

(7:50 PM) Old Business:

- Mr. Marshall asked if there was any Old Business, but none was noted.

(7:52 PM) Public Comment – Mr. Marshall asked if there are any questions from the public. Resident Mr. Alves had a question regarding the drought and the increase in development in Devens. Won't this cause more water issues? He is pro- business and

pro-growth, but realizes we need water to survive. Mr. Angus noted that Devens is trying to stay ahead of the water issue, that is why they restrict the time of watering and are pushing for more restrictions on the developers coming into Devens. Mr. Alves asked if there are controls in place to enforce the restrictions. Mr. Angus stated there are controls and he has spoken to a number of the developers once he has heard of infractions. Resident Mr. Fama then noted maybe the wording on the signs should be changed so it has the residents not worried about running out just asking them to use the water smarter. Mr. Lowitt commented that he has invited Mr. Moore, the Director of the Devens Utilities Department, to the February morning meeting and invited the residents to attend that meeting to make their suggestions on the signage. Mr. Fama asked if the Utilities Dept. is part of Devens Enterprise Commission or Mass Development? Mr. Lowitt noted that they are part of Mass Development. Mr. Fama also noted that he attended the event on the Pocket Forrest and really liked the plan of these here in Devens. Mr. Alves asked if Devens Enterprise Commission has a way to ensure the correct contractors are working here in Devens? Mr. Alves is having issues with his house and getting callbacks from the builder of the development. Mr. Angus offered to help get him in contact with the developer. Mr. Alves also asked what the difference is between the DEC Meeting and DEC Public Hearing. Mr. Marshall noted that they are basically the same however we have public hearings at the 6:45 PM Meetings. Mr. Angus explained that the Public Hearings typically have public hearings on Development here in Devens and the public is more than welcome to these meetings and can speak about the public hearing. The Monthly meeting is open to the public as well and normally cover general topics. Mr. Marshall noted that the public is welcome to join and speak and any of the meetings. Mr. Alves thanked DEC for their efforts in everything we do.

Mr. Marshall then noted the upcoming meetings. January 5th 7:30 AM the Monthly Meeting and the January 31st 6:45 PM Public Hearing.

(8:12 PM) Mr. Marshall asked for a motion to adjourn into executive session to discuss personnel issues. The executive session will not return to public hearing. The motion was made by Mr. Seeley and seconded by Mr. DeZutter. Adjournment was concluded unanimously by Roll Call.

List of Exhibits

Agenda

Minutes

- December 8th

Public Hearing

- Rapid Refill
 - Wine and Malt Beverages Retail License Application
 - Staff Report
 - Updated Floor Plan