



MINUTES OF AN OFFICIAL MEETING:

Regular Meeting of: Legislative & Licensing Committee

Date and Time: Tuesday, January 21, 2020 at 6:30 pm

Location: City Hall, 2000 N. Calhoun Road – Main (Seligenstadt)

Members Present: Alderman Gary Mahkorn (Chair), Alderman Brad Blumer, Alderman Bill Carnell, Alderman Jeff McCarthy, Alderman Buck Jurken

Members Excused: Alderman Brad Blumer

Others Present: City Attorney Jenna Merten, City Clerk Kelly Michaels, Fire Chief Charlie Myers, Alderman Mark Nelson, Alderman Scott Berg, Alderman Dan Sutton, Alderman Renee Lowerr, Alderman Christopher Blackburn, Andrea Fowler (resident)

1. ROLL CALL

Alderman Mahkorn noted a quorum present and called the Legislative & Licensing Committee to order at 6:30 pm.

2. ANNOUNCEMENTS

The Next Regularly Scheduled meeting will be held on Tuesday, February 4, 2020 at 7:15 pm.

3. MINUTES OF THE DECEMBER 17, 2019 MEETING

Motion by Alderman Carnell, second by Alderman McCarthy to approve the minutes of the December 17, 2019 Legislative & Licensing Committee Meeting. Motion carried, Yes 4 No 0.

4. UNFINISHED BUSINESS

- a. Ordinance repealing and recreating Chapter 8.36 of the Brookfield Municipal Code regarding Open Burning and Recreational Fires.

Attorney Merten noted she had worked with staff and council members to develop a new ordinance to address various issues. She indicated there are many avenues to take, including banning burning, modifying the current ordinance, keeping the current ordinance but she stated there are areas that are not enforceable.

Chief Myers noted his memo stressed the hazards of burning and stated it is the Fire Department's job to save lives and property. In certain cases, burning should be allowed, however, we want to prevent fires.

Alderman Carnell appreciated the memo outlining the defects making the old ordinance unenforceable. He felt the public would disagree with the hours for open burning. He questioned page 3, 2b that states, 'In-ground fire pits shall be lined with dirt or a non-combustible material such as steel or masonry; have a screen enclosure; and a covered top. The maximum size shall be thirty-six (36) inches in diameter or seven (7) square feet and the in-ground fire pit shall extend a minimum of twelve (12) inches above ground'. The 'minimum of twelve (12) inches above ground' did not make sense to him. Chief Myers explained that the idea is to keep the fire from spreading outward.

Alderman Mahkorn agreed that the memo regarding the ordinance was very informative. He asked whether anyone had an opinion on the hours of open burning. Alderman Carnell questioned the difference between the ordinances with regard to hours. Attorney Merten noted the new hours for open burning are 12:00 p.m. to 5:00 p.m. on Tuesdays, Thursdays and Saturdays in the months of April, May, October and November. Alderman Carnell noted his district has quite a bit of burning, as the lots are quite large. He also felt there is a problem with people not extinguishing the fires properly causing them to smolder all night. He wondered if the new hours would help that, but commented there will be people who will ignore the new hours altogether. Alderman Mahkorn wanted to see more flexibility for people who do burn; especially those with large properties. He noted he was fortunate to live close to the recycling center to dispose of his leaves. Alderman Jurken commented the hours 12:00 noon to 5:00 p.m. sounds good in theory, but would be difficult for people who work weekly during the day. Saturday would be the only option for them and felt residents would be unhappy with these restrictions. Alderman Carnell was surprised to see no burning during June, July and August in the new ordinance as currently, burning is all year around on Saturdays and April to November on Tuesdays and Thursdays.

Alderman Berg noted the hours of burning is an issue. The alternative would be for the city to provide pickup with a couple of options; however, this would be quite expensive and a severe budget issue as the expense could be six figures. The outlook regarding the budget for the next few years is that it will be tighter. He indicated he would like to see burning banned, however, whatever the city does there will be limits. Just limiting the hours, as in anything else, you will not make everyone happy. He stated we have to make a policy that is reasonably accommodating but feels this is a generational issue. The older population will have a hard time taking items to the recycling center; they would rather burn.

Alderman Mahkorn appreciated the comments from Alderman Berg as he serves on the Board of Public Works. He state the topic needs a lot of thoughtful deliberation, as there is no easy solution. From a practical standpoint, we cannot look at banning burning altogether. It is important to look at all factors, such as hours, days and time of year so we can limit the discomfort of some people.

Alderman Jurken expressed concern with the enforceability of the current ordinance but making more restrictions may be a police and fire stress dealing with more complaints. Alderman Carnell reported he has only received one complaint from someone who has asthma. He noted he too, likes to open his windows in the summertime and has had only one bad experience with someone who was burning.

Andrea Fowler, resident, noted she lives in a neighborhood where there is quite a bit of burning. There are people who burn three days a week during spring, summer and fall. She complained she could not open her windows. There is a neighbor who regularly burns in an oversized burning pit, not being enforced. This neighbor also takes debris from the rest of the neighborhood and burns 3 days a week for 9 months out of the year. It is extremely annoying.

Alderman Mahkorn appreciated Ms. Fowler's comments and noted it is a real sensitive issue. Ms. Fowler indicated she had looked at the materials from twenty years ago and felt the population has changed since then. She stated her two year-old child can't play in the yard three days out of the week so it is difficult hearing the committee is considering broadening the hours.

Alderman Mahkorn noted that the committee is looking to restrict burning not broadening it. He noted they do realize there are families that have medical issues aggravated by burning.

Alderman McCarthy expressed concern with the inconsistency of recreational burning being allowed, however, open burning is allowed but is problematic. He noted he has a neighbor that burns leaves and another that burns recreationally. Most days when the recreational fire is burning, he can't decipher if the smoke is from the recreational fire or leaf burning. He is also concerned with enforceability and felt the committee should make things more consistent. Alderman McCarthy also agreed with Alderman Berg regarding the expense of a city pick up program and noted it was not fiscally possible.

Alderman Blackburn stated he tries not to burn and in past years he has mulched, which was wrecking his grass. He noted this year, he rented a U-Haul and filled it with twelve bags of leaves. He stated "three weeks later, my yard was full of leaves again". He also contacted Advanced Disposal, which is located in Delafield, to pick up yard waste bags. He felt the yard waste bags should be offered or attainable through the city versus having to drive out to Delafield. Ideally, residents could rake leaves to the curb and the city would vacuum them up. Although, again, it is quite expensive. Alderman Carnell indicated some of his neighbors will take leaves from other neighbors to mulch. Mulching is good for the lawn if it is not too thick, however there are many lots where mulching would not be an option. Alderman Blackburn noted a suggestion from a resident that the city pay residents to take leaves from other residents to mulch.

Alderman Nelson indicated this legislative referral came from the fourth district. He questioned whether the disposal of leaves should be a matter of public policy. He questioned what else happens on a resident's private property that falls to the city's responsibility to solve? He felt this was a balancing issue that needs careful consideration. He questioned how much do we want our neighbor to infringe on our rights as a property owner? He felt we should be concerned about our neighbor just as much as the property owner doing the burning. He shared his memory of the Leaf Burning Task Force, where many medical personnel attended the meetings.

The consensus of committee members was that they needed more time to work with the ordinance and consider the issues discussed, noting this topic would not likely be solved in one meeting. Several members suggested the matter be postponed and placed on a special meeting agenda where it is the only topic being discussed at some time convenient for members in the near future.

Motion by Alderman McCarthy, second by Alderman Carnell to postpone consideration of the open burning and recreational fire ordinance to a Special Legislative & Licensing Committee meeting at some time in the near future, perhaps late February 2020. Motion carried 4-0.

5. NEW BUSINESS

a. *Resolution regarding an applicant for an Original Bartender/Operator License – John G. Bossung.*

John Bossung appeared before the committee and introductions were made. Alderman Mahkorn explained the mission and responsibilities of the committee regarding their consideration of bartender/operator licenses. Alderman Mahkorn asked Mr. Bossung to explain the circumstances surrounding his OWI violation on March 17, 2018.

Mr. Bossung stated it was a stupid mistake on his part. He noted he went an Irish bar in downtown Waukesha on St. Patrick's Day. While there, his friend knew Mr. Bossung used to bartend so he asked him to watch the door for his wife, as she needed a break. He explained that he ended up watching the door for 3 hours and was not on the payroll so his friend or the bartender would bring him a drink every so often, in payment for watching the door. He stated, "It was stupid to drive home".

Alderman Mahkorn asked Mr. Bossung why he was stopped. Mr. Bossung replied he drove through a stop sign in the middle of the afternoon. He noted the officer gave him a field sobriety test that he did not do well on. After which, he was taken to the hospital, then to the Waukesha jail where he waited for one of his friends to pick him up. Alderman Mahkorn asked what Mr. Bossung's blood alcohol content was. Mr. Bossung indicated he did not remember; however, it was high, maybe just under .2.

Alderman Mahkorn noted that on question 6, Mr. Bossung wrote 'March 17, 2017' as the violation date, which is 1 year, further removed than the actual offence date of March 17, 2018. He explained it causes a person to think the applicant purposely wrote down a different date to circumvent the application criteria. Mr. Bossung replied it was just an error, he should have written the right date down. Alderman Mahkorn explained that the committee wants to give Mr. Bossung the opportunity to explain himself and, also to present additional character information, if any, for them to consider. Alderman Mahkorn asked why Mr. Bossung did not follow through with the court ordered conditions. Mr. Bossung replied that he had taken the AODA class. Alderman Mahkorn clarified that Mr. Bossung completed the AODA class, but was also charged with Non-Compliance/Driver Safety Plan. Mr. Bossung explained that he completed both classes just not in the time period ordered. He noted that he did not realize he could pay his fines in monthly installments and thought he had to pay the full fine right away. He explained he was not working at the time and was unable to pay. Once he had the money, he took care of all the fines. Alderman Mahkorn stated when he looks at this, he sees a disregard for authority. Alderman Blumer entered the committee meeting.

Alderman Carnell questioned Mr. Bossung's employment. Mr. Bossung indicated he works at Game Show Battle Rooms usually behind the bar, or stocking shelves, etc. Alderman Carnell agreed with Alderman Mahkorn that Mr. Bossung appeared not to care about his violations when he didn't follow up on court orders.

Motion by Alderman Jurken, second by Alderman Carnell to deny an Original Bartender-Operator License for John G. Bossung. Motion carried 4-0 with Alderman Blumer abstaining from the vote, as he was not present for the full discussion.

5. NEW BUSINESS (continued)

b. Ordinance creating Section 2.16.060 of the Brookfield Municipal Code providing for the Canvassing of Absentee Ballots for all Elections in the City of Brookfield by the Municipal Board of Absentee Ballot Canvassers commonly referred to as Central Count.

Clerk Michaels gave a brief history of Central Count noting it was disbanded when she became the City Clerk in 2011. She noted that part of the issue at the time was the fact that our voting equipment did not modem and there was a manual process to add central count absentee votes to poll site votes. Those totals would be emailed from the City to the County on a spreadsheet. My understanding of an issue that occurred with the previous Clerk, was that the counts were emailed, however the County Clerk did not hit 'save', on her computer therefore the Brookfield absentee totals disappeared from the results publicly reported and after being added back in, flipped the race. Since that time, we have upgraded our equipment whereby we modem the cumulative results electronically to the County and that risky manual process was eliminated. Michaels explained that additionally, she is recommending Central Count be re-activated at this time due to the state's plan to utilize an 'A' and 'B' ballot system. Due to an unresolved conflict between state and federal laws, we are required to send an "A" ballot in advance of getting the official ballots printed for April, which will be referred to as the "B" ballot. This is due to the extremely short time between the February and April elections but required due to federal law. The result means voters will receive and return two ballots and poll workers will need to accept the "b" ballot and only process the "a" ballot if no "b" ballot is returned by Election Day. The risk of processing absentees at the poll locations is that it would only take a single processing error at each of the sites to cause systematic failure across all sites in Brookfield. Feeding both an A and B ballot for one voter would throw off the numbers whereby you'd have more ballots than voters putting you into a 'drawn down' process after poll close. This very time consuming process may happen at the same time at seven poll sites and would be very difficult to manage. Activating a Central Count at one location would limit the prospect to one location that could be better supervised and managed by the City Clerk. Michaels requested the Central Count be in place for the February 18, 2020 election in order to train and practice prior to April. She explained due to the short timing, she had provided an advance copy of the operational plan to the State of Wisconsin who has already reviewed and approved the plan contingent on the Brookfield Council approving it.

Motion by Alderman Jurken, second by Alderman Carnell to approve the ordinance creating Section 2.16.060 of the Brookfield Municipal Code providing for the Canvassing of Absentee Ballots for all Elections in the City of Brookfield by the Municipal Board of Absentee Ballot Canvassers commonly referred to as Central Count. Motion carried 5-0.

Items 5c through 5e were taken together:

- c. Resolution regarding applicants for Original Bartender/Operator Licenses.

Barksdale, Keyontis	Federspiel, Steven J.	Sheets, Lisa A.
Beckwith, Matthew B.	Hinkley, Kyle D.	Sommers, Erin M.
Carlson, Skyler K.	Lucas, Jaleesa M.	Sugden, Hannah E.
Constantine, George E.	Powell-Love, Efrem H.	Sullivan, Michael K.
Chen, Xiang G.	Salazar, Janiene M.	Vitucci, Anthony M.
Davis, Stephanie M.	Salberg, Brianna M.	Wall, Rachel C.
Demain, Christine A.	Schultz, Andrew A.	Weisse, Abigail E.

- d. Resolution regarding an applicant for an Original Class A Beer and Liquor License.

Wisconsin CVS Pharmacy LLC; dba: CVS/Pharmacy #6855
17165 W. Bluemound Road; Agent: Patrick McGrath

- e. Resolution regarding an applicant for an Original Class B Beer and C Wine License.

JAB Ventures Inc; dba: Good Land Wing Co.
15455 W. Bluemound Road; Agent: Matthew M. Sellers

Motion by Alderman McCarthy, second by Alderman Carnell to approve the resolutions regarding Original Bartender/Operator Licenses; an Original Class A Beer and Liquor License; and an Original Class B Beer and C Wine License for the above named applicants, respectively. Motion carried 5-0.

6. ADJOURNMENT

Motion by Alderman McCarthy, second by Alderman Carnell to adjourn the meeting. Motion carried 5-0. Meeting adjourned at 7:45 pm.

RESPECTFULLY SUBMITTED:

KELLY MICHAELS

CITY CLERK'S OFFICE / CITY CLERK