



MINUTES OF AN OFFICIAL MEETING

Regular Meeting of: Legislative & Licensing Committee

Date and Time: Tuesday, March 2, 2021 at 7:00 pm

Location: Council Chambers, City Hall, 2000 N. Calhoun Road, Brookfield WI 53005

Members Present: Alderman Gary Mahkorn (Chair), Alderman Brad Blumer, Alderman Bill Carnell, Alderman Jenna Meza, Alderman Mark Nelson

Members Excused: None

Others Present: City Attorney Jenna Merten, City Clerk Kelly Michaels, Georgina Gonzales - applicant

1) ROLL CALL

Alderman Mahkorn noted a quorum present and called the Legislative & Licensing Committee to order at 7:00 p.m.

2) ANNOUNCEMENTS

The Next Regularly Scheduled meeting will be held on Tuesday, March 16, 2021.

3) MINUTES

Motion by Alderman Nelson, seconded by Alderman Meza, to approve the minutes of the February 16, 2021, Legislative & Licensing Committee meeting. Motion carried 5-0.

4) NEW BUSINESS

[a. Resolution regarding an applicant for an Original Bartender/Operator License with violations.](#)
Gonzales, Georgina C.

Georgina Gonzales appeared before the committee and introductions were made.

Alderman Mahkorn asked Ms. Gonzales to explain her violations. Ms. Gonzales stated she had gone through a bad relationship and did not have a job for a while. She was dependent on her boyfriend for help but he was not a nice person. When she did gain employment, she had forgotten about her violations, which was her fault. She had to get to work and did not want to lose her job. Many things were going on. That is no excuse, but just a rough time in her life. She had to go through a lot to get her license back, including, \$2000 worth of fines, waiting two years to get her license back. It was just a vicious cycle. Once she received a job, she had no other means to get to work other than driving herself. Alderman Mahkorn noted the 'no proof of insurance' violations. Ms. Gonzales said she could not afford the insurance. Every quote she received was over \$400 per month, which she could not afford. Alderman Mahkorn appreciated Ms. Gonzales' honesty. The committee wants to make sure she is being responsible in serving alcohol.

Ms. Gonzales indicated she is in training to be the front desk manager and learning management responsibilities. There is a full-time bartender on site, but want to have another licensed individual for backup. Alderman Mahkorn

asked Ms. Gonzales why she answered 'no' to question 5 on the application, which states *'Have you been charged, ticketed, cited, or arrested for any violation of state, federal or local laws within the past five years (including crimes, forfeitures, military violations, traffic violations and all tickets, except parking tickets?)* Ms. Gonzales stated her answer was not intentional. She made a mistake in answering the question correctly. She felt nothing would show up on her record as everything was done and paid for.

Alderman Nelson asked if Ms. Gonzales has taken any responsible beverage courses. Ms. Gonzales noted she had taken a course online and passed. This is the only course she has taken as her goal was to work in management, not become a bartender. Ms. Gonzales produced a letter from her employer, which was distributed to the members. Alderman Nelson noted it has been a year and a half since her last violation. He asked what the circumstances were surrounding her 2014 violation. Ms. Gonzales said she lost her license for 5 years due to unpaid tickets and not having a job. She moved in with a family member. Family members were taking her to work and she able to take the bus after moving as her previous address was not near the bus line. Once she received a job, she let it slide as she was working to get on top of things. It was her mistake.

Alderman Mahkorn stated he would be in support of a license for Ms. Gonzales stating the property damage violation in 2014 started a vicious cycle. Alderman Blumer asked what the violation was for the damage judgment in 2014. Attorney Merten said it was due to an accident with damage and there is no insurance. The Department of Transportation will suspend a license because there is a judgment against the person.

Motion by Alderman Blumer, seconded by Alderman Carnell, to approve an Original Bartender / Operator License for the above applicant. Motion carried 5-0.

b. Consideration whether to issue a summons and complaint to revoke, suspend, or non-renew.

[Massage Business License: Kerry & Ying LLC; D/b/a: Lily8 Massage, 13810 W. Greenfield Avenue](#)

Alderman Mahkorn stated, in his opinion, this is a clear-cut decision. The committee should issue a summons and complaint. We should not be licensing businesses that proclaim they are a massage business when they are not. The complaint from the Waukesha County District Attorney's office shows what is going on at the business. The Waukesha County DA's office along with the City of Brookfield Police Department have established a strong case. He noted he is in support of issuing Lily8 Massage a summons and complaint to allow them a due process hearing.

Alderman Carnell questioned whether Lily8 Massage had gone to court or been convicted yet. Attorney Merten replied they have had their preliminary hearing. Ying Wang, owner and Massage Therapist, was bound over for trial as there was probable cause found in the complaint. She has not yet been convicted. Alderman Carnell asked if it was premature to bring the applicants in, prior to conviction. Attorney Merten stated 'no, as this is a different standard of proof. The city has a lesser standard of proof than a criminal court has. Additionally, no action could cause a significant delay. Their original charge was in June 2020. The preliminary trial wasn't held until February 2021 due to issues and a Chinese interpreter was needed. If these allegations are true, we do not want this business to continue to operate in the City of Brookfield as these things could be delayed for years. Alderman Carnell asked if the business is currently closed. Attorney Merten was unsure.

Alderman Nelson questioned what happens if they are found innocent, where the DA cannot prove their case. How would the city proceed? Attorney Merten indicated the committee could still find that the allegations still violate municipal code, even if they were not guilty or not prosecuted by the DA's office. Alderman Mahkorn noted if there is a criminal conviction, then it is a 'slam dunk'. He is in favor of moving forward as this is a strong case. We want to give the applicant every right to due process; but the due process for licensing is different than a criminal case. Alderman Nelson said if we issue a summons and complaint where there is a hearing; the applicants will be allowed

to provide evidence. Attorney Merten replied ‘yes, unless the applicants decide they do not want to contest the hearing, they can also surrender their license as well. Alderman Nelson questioned whether the applicants would even want to come to the city’s hearing, as it is sworn testimony that may be used against them in their criminal case. He theorized, the system works in a way that if the applicants feel they are innocent, and come to our hearing, the testimony they give may hurt them. He questioned the process if they relinquish their massage business license, then have their case go to criminal court and win. Would that put them in a position where they can ask to get their massage business license back? Attorney Merten stated ‘no, as the applicants voluntarily surrendered their license. Alderman Nelson noted we are putting the applicants in a position to surrender their license now and he wanted to be fair to the applicants.

Attorney Merten pointed out that the license holder is an LLC. Kerry and Ying LLC was not charged as an LLC cannot be charged with these types of crimes. Therefore, their registered agent, Kerry Kearns could testify as he is not under any criminal charges. If Ms. Wang chooses to testify, she can deny the allegations. Alderman Mahkorn noted the committee could do nothing. He feels the applicants have a defense counsel and we are not trying to take advantage of that situation in any way. This case could be drawn out for a long time. The city should not be put in a position to ‘wait and see what happens’ either.

Alderman Nelson said the relevant issue is if the applicants are operating now. If they are not, there is no harm in the applicants taking as long as they want in regards to their case. Clerk Kelly Michaels pointed out that there is nothing to prevent the applicants from operating now as the license is valid unless the committee takes action to revoke or suspend it with a due process hearing. The committee discussed whether other applicants in Brookfield have had their licenses revoked or suspended due to violations. Attorney Merten indicated she isn’t aware of having to do this in Brookfield but had experience with this process in her former position at another community.

Alderman Blumer asked if we would coordinate to have a translator available. He felt the city should move swiftly on this issue as this is in his district and the stretch of Greenfield Avenue from West Allis to New Berlin has seen four businesses within the past few years charged with similar violations.

Motion by Alderman Nelson, seconded by Alderman Blumer, to issue a summons and complaint to schedule a hearing to decide whether to suspend/revoke/non-renew a license for Kerry & Ying LLC. Motion carried 5-0.

[c. Resolution regarding an applicant for an Original Class B Beer and Liquor License – New Owner.](#)

Sonesta International Hotels Corporation: D/b/a: Sonesta Select Milwaukee Brookfield
16865 W. Bluemound Road; Agent: Shawn J. Jaremko

Motion by Alderman Carnell, seconded by Alderman Meza, to approve an Original Class B Beer and Liquor License to the above named applicant. Motion carried 5-0.

5. ADJOURNMENT

Motion by Alderman Nelson, second by Alderman Carnell to adjourn the meeting. Motion carried 5-0. Meeting adjourned at 7:35 p.m.

RESPECTFULLY SUBMITTED:
KELLY MICHAELS, MMC, WMPC
CITY CLERK’S OFFICE, CITY CLERK