



MINUTES OF AN OFFICIAL MEETING

Regular Meeting of: Legislative & Licensing Committee

Date and Time: Tuesday, April 20, 2021 at 6:30 pm

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

4 Members Present

And 1 by Phone: Alderman Gary Mahkorn (Chair), Alderman Brad Blumer, Alderman Bill Carnell, Alderman Jenna Meza (telephone participation), Alderman Mark Nelson

Members Excused: N/A

Others Present: City Attorney Jenna Merten, City Clerk Kelly Michaels, Matthew Grams, James Harman, Charles Lens, Janine Dayler, Alderman Rick Owen, Economic Development Coordinator Todd Willis, Director of Public Works Tom Grisa

1) ROLL CALL

Alderman Mahkorn noted a quorum present and called the Legislative & Licensing Committee to order at 6:31 p.m.

2) ANNOUNCEMENTS

The Next Regularly Scheduled meeting will be held on Tuesday, May 4, 2021.

3) MINUTES

Motion by Alderman Carnell, seconded by Alderman Blumer to approve the minutes of the March 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 – *Kayla C. Burk*.

Clerk Michaels stated Ms. Burk is unable to attend tonight's meeting as she is sick. She asked that the matter be rescheduled to the May 4, 2021 Legislative & Licensing Committee meeting.

Motion by Alderman Nelson, seconded by Alderman Carnell to postpone the request for an Original Bartender/Operators license for Kayla C. Burk to the May 4, 2021 Legislative & Licensing Committee meeting. Motion carried 5-0.

b. Resolution regarding an applicant for an Original Bartender/Operator License with violations – *Matthew A. Grams.*

Matthew Grams appeared before the committee and introductions were made. Mr. Grams stated he was in college and working for a beer distributor at the time of the OWI violation. He was immature and irresponsible. After the violation, he obtained his special education license and started coaching football and power lifting in addition to being a special education instructor for Oak Creek High School. He started to work at the bar to see how a bar operates and to pay off some of his debts. This shed a light on how to be more responsible. It helped him to decide that he wanted to become a special educator and coach.

Mr. Grams said he was driving home around 3:00 a.m., and had started to fall asleep behind the wheel so he pulled over to the side of the road versus driving unsafely. When he woke up the Greenfield Police were behind him. He blew a .12 and was taken to the police department. Alderman Mahkorn asked what the outcome was of the OWI. Mr. Grams stated he pleaded guilty, enrolled in alcohol assessment classes and paid the fines. He learned that he was irresponsible and selfish in his decisions. He was thinking of himself, not other people. There is a smart and responsible way to do things, which he admitted, he was not doing. He stated he now has a different mindset and is giving back to the community by coaching and helping younger kids.

Alderman Mahkorn noted that Saloon on Calhoun has a mixed crowd and questioned their policy for serving alcohol to patrons. Mr. Grams replied that when in doubt, they must card people. Anyone who looks under the age of 40 gets carded. They make sure the patron can verify their name, address, age, etc. The bartenders must realize that errors in serving alcohol can affect other people such as family and other drivers on the road. Alderman Mahkorn questioned if there are any rules for overserving. Mr. Grams replied he has only been at Saloon on Calhoun for one month and has not been serving, however, in his experience as a bartender at a Milwaukee job, he has observed patrons who are slurring words, not making eye contact, body language, etc. He added he had to take action multiple times at his prior job in Milwaukee.

Janine Dayler, co-owner Saloon on Calhoun, was present in the audience and noted her support of the two applicants appearing before the committee. Ms. Dayler stated their policy is actually carding anyone who appears 30 and under. She noted their crowd is typically older. She stated Mr. Grams currently works as a host, busser and food runner, however they do want to cross train him to be a bartender eventually. She added that they pay for all the staff bartender licenses. Ms. Dayler indicated that Mr. Grams is a hard worker and team player. He is an asset to their business and community in regards to safety control and properly serving. He is learning quickly and moving up the ranks at the business.

Alderman Blumer stated Mr. Grams is very forth coming and honest with his answers. Therefore, he is in support of a license for him. Alderman Nelson asked if the bartending job would be full-time for him. Mr. Grams stated that his job in Oak Creek is his full-time job but has the summer off and enjoys working at the Saloon on Calhoun. Alderman Nelson had hoped Mr. Grams continued his job at Oak Creek High School.

Alderman Meza praised the Saloon on Calhoun for supporting Mr. Grams in person. The restaurant industry struggles to find and maintain good, responsible employees, especially during these times. It is good to see the establishment taking this matter seriously, as well as Mr. Grams.

Motion by Alderman Carnell, seconded by Alderman Nelson to approve an Original Bartender/Operators license to Matthew A. Grams. Motion carried 5-0.

c. Resolution regarding an applicant for an Original Bartender/Operator License with violations –
James M. Harman.

Mr. Harman appeared before the committee. Alderman Mahkorn noted Mr. Harman's OWI violation occurred on January 1, 2017 in Milwaukee County. He asked where Mr. Harman was pulled over. Mr. Harman said he was pulled over on I-94, in a construction area. He explained that he and his girlfriend went out to celebrate with friends and his girlfriend was too intoxicated to drive. Instead of calling an Uber, he decided to drive her home. He carried her to the car as he felt he was fine to drive but half way home, he realized he should be driving. He added that he had been in the military and his girlfriend had two small girls at home. He was irresponsible in not thinking about them and other people on the road. He took the alcohol assessment classes and has learned his lesson.

Alderman Mahkorn asked if Mr. Harman refused a breathalyzer. Mr. Harman stated 'no, he tried the breathalyzer but it did not work properly. He noted that he had asked twice to have blood drawn but they didn't. Attorney Merten said that even if a breathalyzer is unsuccessful, it still is reported as a refusal by the individual.

Alderman Mahkorn questioned the ignition interlock device. Mr. Harman stated he has it now, but did not have a car for a long time as he refused to drive. When he could afford a new car and got insurance, he had the interlock device installed. He was a contractor and had to step down as he could not drive so during Covid, he walked or took the bus to work.

Alderman Mahkorn questioned why Mr. Harman was pulled over. Mr. Harman said it was in a construction area and snowing. It was hard to see where the lane was and he had crossed over the line. Alderman Mahkorn asked what his OWI charge was based on. Mr. Harman stated he failed the BAC and field tests.

Ms. Dayler noted that Mr. Harman had been at Saloon on Calhoun for a few months. He has worked his way up in the ranks with serving and is cross trained for bartender status as well. He notified her right away about the OWI violation prior to his employment with them. She explained that he takes his violation very serious and is over cautious with certain patrons in regards to serving alcohol. She noted he had a situation last week where he told her and fellow staff that a certain patron should be cut off from any more drinks. Ms. Dayler respects these actions from her employees as they are representing her business.

Alderman Mahkorn asked if Mr. Harman had attended alcohol assessment classes. Mr. Harman stated 'yes, they gave him the opportunity to take points off his license by taking a safety course for driving. Alderman Harman noted that Mr. Harman did not take the assessment classes right away. Mr. Harman was confused regarding who gives an assessment interview. Attorney Merten stated WCTC offers classes.

Alderman Mahkorn noted Mr. Harman answered 'no' on the application question regarding if he had any violations of state, federal or local laws within the past 5 years. Mr. Harman replied he made a mistake in reading the question and apologized.

Alderman Blumer noted other violations on Mr. Harman's record. These included: non-compliance with assessment interview, driver's safety plan and ignition interlock device. Mr. Harman stated he tried to comply with these requirements as soon as possible. He realized the delay resulted in being penalized for them. Alderman Blumer stated that the timing of the violation and what was done in the interim is important to the committee. This is all we have to go on which is why it is helpful to speak to the applicant.

Alderman Carnell noted that Mr. Harman's history is different from the previous applicant. He felt the record showed a disregard for following the rules. Mr. Harman noted that four years ago he was having a bad stretch and was confused. He explained he is a different man today. Alderman Nelson noted Mr. Harman's last violation was July 2018. He asked if Mr. Harman had any restrictions on his new vehicle at this time. Mr. Harman stated he has the ignition interlock on his new car for one year. Alderman Nelson indicated support of a license. Alderman

Blumer summarized that the troubling issues stemmed from one bad day in Mr. Harman's life and noted support of a license as well.

Alderman Mahkorn stated the OWI violation was more than four years ago and took a turn to the non-compliance violations. He expressed concern that the committee had to 'pull' information from Mr. Harmon regarding the non-compliance issues. It was irresponsible behavior for court orders, however he indicated he was leaning towards approving a license for Mr. Harman.

Motion by Alderman Nelson, seconded by Alderman Blumer to approve an Original Bartender/Operators license to James M. Harman. Motion carried 5-0.

d. Resolution regarding an applicant for an Original Bartender/Operator License with violations – Charles J. Lens.

Charles Lens appeared before the committee. Alderman Mahkorn asked Mr. Lens to explain his OWI violation from August 2018. Mr. Lens stated he was out celebrating with friends for a belated birthday celebration as his wife was going through cancer treatment at the time. He consumed too many drinks in a short period of time and was pulled over on the highway by a Milwaukee County Sheriff. He had a number of drinks and a few shots at a bar on Greenfield Avenue and his BAC was .16. The Sheriff gave Mr. Lens some sobriety tests, which he failed.

Mr. Lens stated he did not own a vehicle at the time but is now driving again. He was managing a bar and stopped driving after the OWI so he took an Uber everywhere. Mr. Lens stated he did not take an alcohol assessment course as he was informed by his attorney that he was not required to take any alcohol assessment classes.

Attorney Merten asked if Mr. Lens received an assessment prior to pleading guilty. Mr. Lens replied 'no'. Alderman asked Mr. Lens what caused him to realize his mistakes and not getting any more violations. Mr. Lens said when he was brought to the detaining area at the Milwaukee Police Department, there were a lot of people in the holding cells. Many were from the Racine County jail due to an incident there so he spent 24 hours in the cell as everyone could not be processed right away. A few people in the cells had OWI violations also. He stated it was a very startling and sobering experience.

Alderman Mahkorn asked what has taken place in Mr. Lens life since the violation. He stated he is semi-retired. He is a therapist and does life skill training for autistic young men. He has an eighteen year old son who is autistic who has received a lot of help from the ages, three to ten. He has given back to the community by working at Pace Autism Services in West Allis and currently works at Bobby's Bar on Lisbon Road.

Alderman Nelson appreciated Mr. Len being forthcoming. He asked what his position at the bar is. Mr. Lens stated he is currently a relief manager/bartender for the owner, but there is a possibility he will have more responsibilities as time goes on. He currently is involved in training new employees. He may also work for a prior employer located on Martin Luther Drive, but does not want to work in the business full-time. He was going through some difficult times when his violation occurred including his wife going through cancer treatment and his son's autism.

Mr. Lens noted that Bobby's Bar draws an older clientele so it is easy to spot anyone under the age of 30. He went through extensive training when he worked in Milwaukee. Alderman Mahkorn felt this was a one time lapse in judgement and not a life time behavior and is prepared to support a license.

Motion by Alderman Carnell, seconded by Alderman Blumer to approve an Original Bartender/Operators license to Charles J. Lens. Motion carried 5-0.

e. Resolution regarding applicants for Original Bartender/Operator Licenses.

Bradley, Taylor L.
Castine, Donald M.
Reaves, Violeta
Replogle, Jacob R.
Smith, Michael L.

Motion by Alderman Carnell, seconded by Alderman Blumer to approve Original Bartender/Operator Licenses to the above applicants. Motion carried 5-0.

f. Resolution regarding a Successor of Agent for a Class B Beer and Liquor License.

Cooper's Hawk Brookfield LLC; d/b/a: Copper's Hawk Winery & Restaurant
15 S. Moorland Road; Agent: Michael B. Koszuta

Motion by Alderman Carnell, seconded by Alderman Blumer to approve a Successor of Agent for a Class B Beer and Liquor License at 15 S. Moorland Road. Motion carried 5-0.

g. Resolution regarding a Successor of Agent for a Class B Beer and C Wine License.

Portillo's Hot Dogs LLC; d/b/a: Portillo's Hot Dogs
17685 W. Bluemound Road; Agent: Edward J. Janikowski

Motion by Alderman Carnell, seconded by Alderman Blumer to approve a Successor of Agent for a Class B Beer and C Wine License at 17685 W. Bluemound Road. Motion carried 5-0.

h. Resolution regarding an applicant for an Original Class B Beer and Liquor License – *new owner*.

Bravo Brio Restaurants LLC; d/b/a: Bravo
95 N. Moorland Road, A147, D68; Agent: Kat Parkhurst

Motion by Alderman Carnell, seconded by Alderman Blumer to approve an Original Class B Beer and Liquor License at 95 N. Moorland Road, A147, D68. Motion carried 5-0.

i. Resolution regarding an applicant requesting a contract with the City of Brookfield to hold six (6) Beer Garden events in 2021.

Brookfield Village LTD
Brookfield Beer Garden
18725 Hoffman Avenue (public parking lot)
Thursday – May 27th, June 24th, July 22nd, August 26th,
September 16th, and October 14th - 4:00 p.m. to 9:00 p.m.
Contact: Jeff Hansen

Alderman Mahkorn noted there are 6 events this year, whereas there were 4 events last year. Therefore, the contract was updated to reflect that change. He added that the police department was ok with the application. Todd Willis, Economic Development Coordinator, appeared before the committee on behalf of Brookfield Village LTD. Alderman Mahkorn stated he was happy to see these types of events in the city. Mr. Willis added that these

events have been successful and they wished to have more. He noted other events will be added this year, such as Kids Fest.

Motion by Alderman Blumer, seconded by Alderman Carnell to approve a contract with the City of Brookfield to hold six (6) Beer Garden events in 2021 at 18725 Hoffman Avenue. Motion carried 5-0.

j. [Ordinance repealing Chapter 5.40 and Section 3.24.050.GG and amending subsections 8.24.040.C, 8.24.060.A, and 8.24.060.B eliminating Licensed Yard Waste Haulers.](#)

Attorney Merten noted this is a 'clean up' of the municipal code. At one time, the city licensed yard waste haulers. It was repealed by resolution and not an ordinance, therefore, it was never effectively removed from the code. The ordinance corrects the issue with the code. Residents are still free to drop off yard waste at the city's recycling center.

Motion by Alderman Nelson, seconded by Alderman Carnell to approve an ordinance repealing Chapter 5.40 and Section 3.24.050.GG and amending subsections 8.24.040.C, 8.24.060.A, and 8.24.060.B eliminating Licensed Yard Waste Haulers. Motion carried 5-0.

k. [Discussion and possible action on burning requirements and rules.](#)

Attorney Merten stated this item was adjourned from a previous meeting as the Board of Public Works committee was going to consider pick up of waste by haulers. She explained that this would not be considered until Summer, therefore, she questioned whether the Legislative & Licensing Committee wanted to postpone it until a meeting in the Fall. Alderman Mahkorn noted that the committee decided to wait until the city negotiated a new contract to discuss yard waste options along with burning rules.

Alderman Owen, Alderman and Board of Public Works Chairman, stated the board would not have any new information at this time so he suggested they delay the topic until the Fall. The idea being the contract will be expiring at the end of the year and there will be an opportunity to consider other options to handle yard waste and burning regulations in a cost effective way. He summarized that there is a belief that without an option to pick up leaves, residents still have a problem.

Alderman Blumer indicated he had no problem with holding off on future plans for other alternatives, however there have been many comments from residents, especially from District 7, as they wanted to be informed any time the topic of burning was placed on the agenda. In the interim, he questioned whether the committee had any interest in tweaking the ordinance that was approved this past Fall of 2020. He noted the feedback has been from both sides of the burning argument, those who want to burn and those who want it banned. He noted a couple of suggestions are to allow burning in December and to amend the hours from sunrise to sunset.

Alderman Mahkorn felt Alderman Blumer's approach was thoughtful and appreciated the amount of history included in the packet from the Clerk's Office. He recalled former Alderman Dan Sutton's comments stressing the 5:00 p.m., cut off time not working for many residents. He also indicated he had no problem with postponing it to another meeting.

Alderman Nelson felt the city is split fifty-fifty on the burning issue. He also was supportive of postponing it to the next meeting. He noted that burning is currently restricted and to consider tweaking it opens the door to discussions on discontinuing it altogether or tightening up what we already have. He questioned what the focus is at the Board of Public Works. Will they focus on burning or not burning or have yard waste pick up? Alderman Owen replied that the idea is to generate options. Alderman Nelson expressed concern with a complete burning ban. It may not be necessary, if there are other options for yard waste.

Tom Grisa, Director of Public Works, noted the city's contract for garbage and recycling pick-up is due to expire at the end of the year. The contract negotiations will start in June 2021. Alderman Blumer stated he does not want to be discussing this issue for the next eight months which is why he mentioned these two options tonight. Alderman Carnell questioned how the committee should act on this tonight. Attorney Merten replied the committee could postpone the item to a future meeting as this is a continuing discussion.

Motion by Alderman Blumer, seconded by Alderman Nelson to postpone the matter to the May 4, 2021 Legislative & Licensing Committee meeting. Motion carried 5-0.

[I. Ordinance creating provisions for treehouses and roofed playhouses as residential accessory buildings.](#)

Alderman Mahkorn noted this item has been discussed at length by the Plan Commission, which he and Alderman Nelson are members of. When the Plan Commission met, the idea was to allow more flexibility for residents to build treehouses/playhouses.

Motion by Alderman Nelson, seconded by Alderman Carnell to approve/deny an ordinance creating provisions for treehouses and roofed playhouses as residential accessory buildings. Motion carried 5-0.

5. ADJOURNMENT

Motion by Alderman Carnell, second by Alderman Blumer to adjourn the meeting. Motion carried 5-0. Meeting adjourned at 7:58 p.m.

RESPECTFULLY SUBMITTED:
KELLY MICHAELS, MMC, WMPC
BROOKFIELD CITY CLERK