



MINUTES OF AN OFFICIAL MEETING

Regular Meeting of: Legislative & Licensing Committee

Date and Time: Tuesday, May 4, 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, Economic Development Coordinator Todd Willis, Fire Chief Charlie Myers, Alderman Christopher Blackburn, Kayla Burk, Victor Hernandez, Nona Pyant

1) ROLL CALL

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

2) ANNOUNCEMENTS

The Next Regularly Scheduled meeting will be held on Tuesday, May 18, 2021.

3) MINUTES

Motion by Alderman Carnell, seconded by Alderman Nelson to approve the minutes of the April 20, 2021 Legislative & Licensing Committee meeting with corrections. Motion carried 5-0.

4) OLD BUSINESS

a. Consideration of an Ordinance amending dates and times for Open Burning and Prohibiting Burning on Fire Danger Days.

Alderman Blumer noted a long-term solution would not be discussed until sometime later in the year however he has received feedback from residents in his district. He proposed adding the month of December and extending the time of burning during the day as it is not practical for people who work until 5:00 p.m. He realizes that this looks like back tracking from where everyone wants to go but he also feels the committee is open to looking at the impacts of the ordinance and making some 'tweaks' if needed. He also appreciated the email sent by Chief Myers regarding prohibition of fires when fire dangers are high.

Alderman Carnell stated he was surprised when the city ended burning at 5:00 p.m. He realizes the burning issue is quite controversial but noted it is unclear to him, why the committee decided on the 5:00 p.m., cut-off

time. Alderman Blumer thought it was to allow staff to find or monitor smoldering fires before sunset. Alderman Carnell noted he has experienced smoldering fires early on a Sunday morning and there have been times when his house has filled with smoke at night from someone who is burning. He explained that he went to the resident's home, two blocks away, and told them they cannot burn at that time of night; however, they were rude to him. He noted that when he called the fire department to complain, he told them it was not in need of a full response but they proceeded to send multiple fire apparatus to the residence. He questioned how they could get away from having a full fire department staff from showing up to a smoldering fire.

Chief Myers noted that in this case, they should use the phone number on the website for the Police Department's non-emergency number. Alderman Mahkorn agreed that it would be the responsibility of the police department to go to the residence and enforce the ordinance.

Alderman Nelson noted many people do not want to call or confront their neighbors and the police do not want to be involved in the issue of burning either. When the first legislative referral came, it was to look at burning in general; basically, do we want burning or not. The current ordinance is a compromise to restrict burning. He noted he is comfortable with the current ordinance and added that his district wants to ban burning altogether. He is not convinced that it is the city's responsibility to come up with an option for people who insist on burning however they do have the recycling center. He indicated this could pose problems, especially with older residents. He stated he prefers to leave the ordinance as is and have the Board of Public Works address it and offer options with the contract renewal process.

Alderman Carnell noted that since he has moved to the city in the 70's, people have become much more reasonable about burning. He would not be opposed to changing the hours from 12:00 p.m., to 6:00 p.m.; felt there was no need to burn in December. He felt that by December the leaves are completely down from the trees. Alderman Blumer said those hours are reasonable to him acknowledging that the residents in his district are split on the burning issue. Alderman Meza stated she was "on the fence" regarding expanding burning into December. Alderman Blumer agreed that leaves would be down by December.

Motion by Alderman Carnell, seconded by Alderman Nelson to approve an ordinance for open burning subject to amending the hours of burning to be between noon and 6:00 p.m. on Tuesdays, Thursdays and Saturdays during the months of April, May, October and November, all fires to be completely extinguished by 6:00 p.m. and prohibition of open burning/recreational fires when the danger is high, very high or extreme, as determined by the Wisconsin Department of Natural Resources Motion carried 5-0.

5) NEW BUSINESS

a. Resolution regarding an applicant for a Temporary Premise Extension – Event for a Class B Beer & Liquor licensed premise.

ANDYRAD, INC.; D/B/A: SALOON ON CALHOUN
17000 W. CAPITOL DRIVE
SALOONFEST 2
JUNE 24 THRU JULY 3, 2021
SUNDAY THRU THURSDAY – 4:00 P.M. TO 9:00 P.M.
FRIDAY THRU SATURDAY – 4:00 P.M. TO 10:00 P.M.
PREMISE TO INCLUDE FENCED IN GRASS AREA ON SOUTH SIDE OF BUILDING
CONTACT: DAVE OR JENNINE DAYLER

Alderman Carnell requested clarification on the timeline noting the item was on the Common Council agenda for today as well. Alderman Mahkorn stated the item appeared before the Plan Review Board for review of the event, however the Legislative and Licensing Committee is to decide if the applicant may extend the “premise” for alcohol service during the event. Alderman Carnell noted he was questioning the timing, as the proposal will go to the Council tonight before it goes to the Plan Commission on May 10th. Economic Development Coordinator Todd Willis stated he wrote the staff report under the premise of the usual order of business that the item goes to the Plan Review Board, then Plan Commission then Common Council for full approval.

Attorney Merten stated generally, a Temporary Premise Extension (TPE), would go as Council as a Whole and as there is a timing issue, all TPE’s regarding alcohol go to Legislative & Licensing as well. She said the committee could make a recommendation on the item or move to postpone to the Common Council on May 18, 2021 and both items could be considered as Council as a Whole item. Attorney Merten explained that typically TPE requests for outdoor storage, seating or a temporary premise extension go straight to council due to when the ordinance was first passed, there was a timing issue when business were starting to open. This is an unusual item as it is a TPE and a TPE-Event. The alcohol license portion of the TPE-Event is the reason it is before the Legislative & Licensing Committee tonight.

Alderman Carnell expressed concern about the Saloonfest 2 festival, which would be held for 10 days and have a potential attendance of over 800 people. He requested clear-cut understanding of what this event entails. He noted he was not prepared to approve the alcohol license expansion until he received clear-cut details on the event. He planned on attending the Plan Commission meeting to get those details so was in favor of postponing the item to the May 18, 2021 Common Council meeting in order to get the details before the approval.

Motion by Alderman Carnell, seconded by Alderman Blumer to postpone the matter to the May 18, 2021 Common Council meeting. Motion carried 5-0.

b. Resolution regarding an applicant for an Original Bartender/Operator License with violations – Kayla C. Burk.

Kayla Burk appeared before the committee and introductions were made. Alderman Mahkorn expressed concern the Ms. Burk had a problem with speeding and lack of follow through in paying her fines. He stated the committee is concerned with the applicant making responsible judgement calls and asked her to explain how “The Jar” operates. Ms. Burk explained that Tami Swanto is the owner of Azana Salon & Spa and wanted another business within the salon called “The Jar”, in which they serve wine and beer to their customers along with catering events.

Alderman Mahkorn asked Ms. Burk to explain her violations and the reasons for the lack of follow through. Ms. Burk stated she did not realize she had a forfeiture and the day she was going to pay the fine, she got arrested for not paying the fine. Ms. Burk was stopped in New Berlin for speeding and indicated she had marijuana in the car. Alderman Mahkorn appreciated Ms. Burk’s honesty and asked her to explain the marijuana. Ms. Burk stated her possession of marijuana charge was changed to disorderly conduct.

Alderman Nelson noted if the police had found other violations when they stopped Ms. Burk for speeding, they would have been indicated in the police reports. He was not too concerned with the speeding tickets, as there were only a few, but was more concerned with the forfeitures not being paid. Despite that, he noted he would be voting in favor of a license.

Motion by Alderman Carnell, seconded by Alderman Nelson to approve an Original Bartender/Operators License to Kayla C. Burk. Motion carried 5-0.

c. Resolution regarding an applicant for an Original Bartender/Operator License with violations
– *Victor de Jesus Hernandez.*

Victor Hernandez appeared before the committee and introductions were made. Alderman Mahkorn applauded Mr. Hernandez for coming back to reapply for a license after appearing two years ago. He summarized that Mr. Hernandez was denied a license two years ago and was told he could reapply after six months. He stated he was pleased that Mr. Hernandez had a clean record since his violation in 2017. Two years ago, the committee had suggested that Mr. Hernandez bring letters of recommendation when he reapplied for a license and he did provide those letters for tonight's meeting. Alderman Mahkorn indicated he would be in support of a license for Mr. Hernandez.

Motion by Alderman Carnell, seconded by Alderman Blumer to approve an Original Bartender/Operators License to Victor de Jesus Hernandez. Motion carried 5-0.

d. Resolution regarding an applicant for an Original Bartender/Operator License with violations
– *Jennifer L. Modesto.*

Jennifer Modesto did not appear before the committee. The committee discussed options regarding the application and members agreed to postpone the matter to the next meeting.

Motion by Alderman Blumer, seconded by Alderman Nelson to postpone the application for an Original Bartender/Operator License for Jennifer L. Modesto to the May 18, 2021 Legislative & Licensing Committee meeting. Motion carried 5-0.

e. Resolution regarding an applicant for an Original Bartender/Operator License with violations
– *Nona C. Pyant.*

Nona Pyant appeared before the committee. Alderman Mahkorn explained why she needed to appear and asked her to explain her violations.

Ms. Pyant stated the violation happened in December. She was speeding and was pulled over and she had marijuana in the car. The police searched her car and found less than a gram of marijuana. She noted they also found an open bottle of Mike's Hard Lemonade, which had been in the vehicle for a while. She stated she did not drink anything that night and passed all the alcohol sobriety tests the police had given her. The charges were for the items that were found inside her car.

Alderman Mahkorn stated most of the violations were the result of her 'lead foot'. He stressed that speeding and reckless driving is irresponsible behavior but when you add in alcohol, it comes close to what you will be doing in your job with serving/selling alcohol. While she is working at a grocery store, the license could be used anywhere in the city.

Alderman Mahkorn asked what Ms. Pyant's job at Metro Market was. Mr. Pyant responded she is a floor supervisor and cashier and with a license, she would be able to sell alcohol. Metro Market has a great policy in carding every customer who purchases alcohol.

Motion by Alderman Carnell, seconded by Alderman Blumer to approve an Original Bartender/Operator License to Nona C. Pyant. Motion carried 5-0.

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

Aures, Elizabeth E.
Hill, Scott A.

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

g. Resolution regarding an applicant for a Fireworks User Permit – *Spielbauer Fireworks Co.*

BROOKFIELD EAST HIGH SCHOOL - GRADUATION
3305 LILLY ROAD
FRIDAY, JUNE 11, 2021
8:30 – 9:00 P.M.
PYROTECHNIANS: SPIELBAUER FIREWORKS CO.
CONTACT: STEVE NORBY

Motion by Alderman Nelson, seconded by Alderman Carnell to approve a Fireworks User Permit for Spielbauer Fireworks Co. for an event at Brookfield East High School, 3305 Lilly Road. Motion carried 5-0.

6. ADJOURNMENT

Motion by Alderman Carnell, second by Alderman Blumer to adjourn the meeting. Motion carried 5-0. Meeting adjourned at 7:30 p.m.

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