



## MINUTES OF AN OFFICIAL MEETING:

Regular / Special Meeting: Legislative & Licensing Committee  
Date and Time: Tuesday, May 19, 2020 @ 6:30 pm  
Location: Council Chambers at City Hall, 2000 N Calhoun Road, Brookfield or via Zoom (optional)

Members Present: Alderman Gary Mahkorn\*, Alderman Brad Blumer, Alderman Bill Carnell, Alderman Mark Nelson, Alderman Rick Owen (\*Designates Chair)  
Others Present: Attorney Jenna Merten, City Clerk Kelly Michaels, Julie Schmidt

### 1. Roll Call

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

### 2. Announcements

There will be a Special Legislative & Licensing Committee meeting on Tuesday, May 26, 2020 at 6:00 p.m. to consider applicants for the vacancy in the 3<sup>rd</sup> Aldermanic District.

The next regularly scheduled meeting is June 2, 2020 at 7:15 pm.

### 3. Minutes of the March 17, 2020 meeting

***Motion by Alderman Owen, second by Alderman Blumer to approve the minutes of the March 17, 2020 meeting. Motion carried 5-0.***

### 4. Unfinished Business

#### **a) Postponed Legislative Referral: Revisions to Sign Code Chapter 15.16.**

Alderman Nelson noted due to the Supreme Court case, there will be a significant change to how the city will be looking at sign going forward. The city has no choice; we must be consistent with the law and this revision will do that. Attorney Merten stated anything content based cannot be regulated. Alderman Owen questioned inconsistencies in signage between districts, can signage be regulated. Attorney Merten replied that the type of sign can be regulated in regards to sign content.

Alderman Blumer noted that this revision solves the issue of his legislative referral regarding permitting sub lessees the ability to apply for signage.

Alderman Mahkorn felt that trade dress is subject to interpretation in regards to whether it is content or not. Attorney Merten said the definition of trade dress is 'the commercial look and feel of a product or service that distinguishes the source of it'. If the sign is conveying a message, it would be considered content based. Alderman Mahkorn feels it does not have to be one way or

the other; it is the interpretation of what trade dress is. He added that in certain circumstances the committee feels there are examples of trade dress that the city can deny. Attorney Merten said the city could deny a sign based on colors or shapes but not based on sign content or message.

Alderman Owen indicated he has a problem with sign code as it treats applicants differently. We get these comments all the time, particularly from businesses in Stonewood Village. The city wanted higher quality signs for the city. Alderman Nelson noted to have the PEDD's in the city be subject to the sign code would be a step down. The whole purpose of a PEDD was to 'carve out' something special for this area.

***Motion by Alderman Blumer, second by Alderman Owen to approve the ordinance regarding sign code, Chapter 15.16. Motion carried 5-0.***

## **5. New Business**

**a) Resolution regarding an applicant for an Original Bartender/Operator License with a record – Mott C. Abrams.**

Clerk Michaels indicated the city clerk's office staff received a call from Mr. Abrams earlier in the day to request a postponement to the next Legislative & Licensing Committee meeting on June 2, 2020, as he was unexpectedly called into work.

***Motion by Alderman Owen, second by Alderman Blumer to postpone consideration of an Original Bartender/Operator License for Mott C. Abrams to the June 2, 2020 Legislative & Licensing Committee meeting. Motion carried 5-0.***

**b) Resolution regarding an applicant for an Original Bartender/Operator License with a record – Julie A. Schmidt.**

Julie Schmidt appeared before the committee and introductions were made.

Alderman Mahkorn explained why Ms. Schmidt was asked to appear before the committee noting she had quite a few traffic violations.

Ms. Schmidt indicated she was a beginner driver in 2015 with a new used car that had bald tires causing her to lose control. Regarding the 2017 'No Proof of Insurance' violation, she said her insurance had just expired 1 month prior.

Alderman Mahkorn noted that one of the areas the committee members consider is whether the license applicant has a respect for authority. Ms. Schmidt explained she had been living on her own and bills were piling up at that time. She felt she had more time to pay her fines but then she found out her license was suspended. She noted she had never received the suspension letter and would have paid the fine had she known. Further she noted that her insurance company had changed their procedures regarding sending insurance cards. In the past, the insurance card was mailed to her but now cards have to be ordered and there is a \$2.00 fee so she was unaware that her insurance had expired. Regarding the 'failure to fasten seat belt' violation, Ms. Schmidt indicated she lived five minutes from work and stopped to have a quick lunch. A police officer was in the area of the restaurant checking on drivers who were not wearing seat belts and as luck would have it, she was not.

Alderman Mahkorn commented the reason Ms. Schmidt's record of violations is before the committee is due to the number of times she has been ticketed. He asked what Ms. Schmidt's job

is at Slim McGinn's. Ms. Schmidt stated she is a server and bartender. Alderman Mahkorn asked what Slim McGinn's policy on serving alcohol is. Ms. Schmidt said employees use their discretion, however normally, anyone who looks under 35 is carded.

Alderman Mahkorn asked about the policy for over serving. Ms. Schmidt noted she has been a bartender in other establishments outside of Brookfield, and has not seen anyone over inebriated as they are friends or friends of a family.

Alderman Owen noted he is back on the committee and noticed differences in processes from his prior service to the Legislative & Licensing Committee in the area of types of violations appearing before the committee. He noted that in the past, they would only see offenses pertaining to alcohol or drugs and only those that occurred within the past 6 months. He noted the committee is seeing more applicants with multiple violations.

Clerk Michaels noted the council adopted an ordinance that changed the criteria the committee looks at. Alderman Mahkorn noted the committee has had multiple conversations regarding the criteria to be considered, as we were constantly trying to 'fine tune' the why and what we should be looking at. The guidelines were pretty broad. We started to ask 'what would trigger certain information to be viewed by the committee'. The committee took the stance that they wanted to see as much as possible to get the full picture. He agreed with Alderman Owen, in that the committee doesn't typically see records like the present one.

Alderman Mahkorn indicated he is willing to show his support for approval of a license to Ms. Schmidt, however he is only one member of the committee. Alderman Blumer questioned why Ms. Schmidt answered 'no' to question #5 on the application, which asks *'have you been charged, ticketed, cited, or arrested for any violation of state, federal or local laws within the past five (5) years (including crimes, forfeitures, military violations, traffic violations and all tickets, except parking tickets'*. Ms. Schmidt answered that when she applied for a license in Sussex, they only asked for violations within the past 2 years so she assume the application was the same. She explained it was a bad assumption on her part. Alderman Blumer noted that some of her violations were under two years and conceivably, should have been disclosed. Alderman Blumer questioned if we had not changed our rules in regards to licensing, and the applicant answered 'yes' would we be seeing this item now. Clerk Michaels replied that under the previous criteria we would have looked at the record and since the violations did not substantially relate to serving alcohol it would not have been a factor. However, in this case, we would have still had the applicant appear before you to consider the applicant's untruthful response on question #5 which is a reason for denial in and of itself.

Alderman Owen noted he was appreciative of the explanation and stated he is in support of a license after hearing how the committee looks at the licensing criteria.

***Motion by Alderman Nelson, second by Alderman Owen to approve an Original Bartender/Operator License for Julie A. Schmidt. Motion carried 5-0.***

**c) Legislative Referral: Creating an ordinance pursuant to Wisconsin Act 166 which allows a municipal government body to authorize a designated municipal official to issue operator's (bartender) licenses.**

Clerk Michaels indicated the Wisconsin legislature passed Act 166 on March 3, 2020 which allows a municipality to delegate the issuance of bartender's licenses to a municipal official. She indicated

the plan would be to delegate the authority to the City Clerk for applicants with 'no record' so we could provide a quicker more efficient process for applicants. Typically these applicants appear on the agenda but there is really nothing for the committee to review. She noted the committee will still see applicants who do have violations or who are untruthful on their application responses.

Alderman Mahkorn stated this makes sense. It speeds up the process for the applicant. Clerk Michaels pointed out that they will see the legislative referral made at the council meeting tonight as timing is tight. We are currently in the bartender renewal period and we want to stream-line the process for the hundreds of bartenders without a record as soon as possible. The ordinance will then appear on the June 2nd Common Council meeting.

***Motion by Alderman Blumer, second by Alderman Carnell to direct staff to create an ordinance pursuant to Wisconsin Act 166 which allows a municipal government body to authorize a designated municipal official to issue operator's (bartender) licenses for the June 2, 2020 Common Council meeting. Motion carried 5-0.***

**d) Appointment of a citizen member to the Ethics Board – Monica Riederer.**

***Motion by Alderman Nelson, second by Alderman Blumer to approve appointment of a citizen member to the Ethics Board – Monica Riederer. Motion carried 5-0.***

**e) Resolution regarding applicants for Original Bartender/Operators Licenses.**

Balistreri, Ashley M.  
Herkowski, Jenna L.  
Paider, Jourdan M.

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

**f) Resolution regarding applicants for Renewal Bartender/Operator Licenses.**

Blake, Timothy P.	Lechman, John A.
Bodden, Steven R.	Lichter, Joyce L.
Checkai, Kenneth L.	Manning, Kevin M.
Dufek, Christine M.	Nichols, Jessica L.
Johnson, Paul T.	Schmidt, Marcia J.
Jones, Alicia J.	Urpanil, Elizabeth A.
Jones, Alissa A.	Will, Carol L.
Jung, Ryan S.	Williams, Mareana C.
Krause, Mark J.	

***Motion by Alderman Carnell, second by Alderman Blumer to approve Renewal Bartender/Operator Licenses for the above named applicants. Motion carried 5-0.***

**g) Resolution regarding applicants for Renewal Alcohol Licenses – 6 months.**

Brookfield Bulldogs/Bluesox Baseball Clubs Inc.; d/b/a: Bulldogs/Bluesox Baseball Clubs  
18875 Wilderness Way (McCoy Field); Agent: Jason A. Booth

Brookfield Jaycees Inc.; d/b/a: Brookfield Jaycees  
2585 Pilgrim Road (Wirth Park); Agent: Alan B. Nosbusch

***Motion by Alderman Blumer, second by Alderman Owen to approve Renewal Alcohol Licenses  
– 6 months for the above named applicants. Motion carried 5-0.***

**h) Resolution regarding applicants for Renewal Alcohol Licenses.**

**CLASS A BEER**

124<sup>th</sup> Street Inc.; d/b/a: Brookfield Place BP  
3075 N. 124<sup>th</sup> Street; Agent: Didar Singh

**CLASS A BEER & LIQUOR**

Bar Stars Bartending Service LLC; d/b/a: Bar Stars Bartending Service  
200 S. Executive Drive, #101; Agent: Janine Y. Rajchel

Wisconsin CVS Pharmacy LLC; d/b/a: CVS Pharmacy #6855  
17165 W. Bluemound Road; Agent: Patrick J. McGrath

Sendik's Market Elmbrook; d/b/a: Piggly Wiggly #118  
2315 N. 124<sup>th</sup> Street; Agent: Anthony B. Sendik

Sendik's Fine Foods Inc.; d/b/a: Sendik's Fine Foods  
18985 W. Capitol Drive; Agent: Thomas Balistreri III

Sukh Corporation; d/b/a: Westbrook Beverage Center  
13430 W. Greenfield Avenue; Agent: Sukhpreet Kaur

**CLASS B BEER**

Metro Cigars Brookfield LLC; d/b/a: Metro Cigars  
13640A W. Capitol Drive; Agent: Jennifer L. Groh

The Ponds of Brookfield LLC; d/b/a: The Ponds of Brookfield  
2810 N. Calhoun Road; Agent: Robert R. Perry

**CLASS B BEER & WINE**

Café Manna LLC; d/b/a: Café Manna  
3815 N. Brookfield Road; Agent: Robin S. Kasch

PHO ONE of Brookfield LLC; d/b/a: PHO ONE24  
3705 N. 124<sup>th</sup> Street, Suite 400; Agent: Nhan N. Tran

**CLASS B BEER & LIQUOR**

Belva L. Bailey; d/b/a: Belle's Castle Inn  
13170 W. Greenfield Avenue; Agent: Belva L. Bailey

Bluemound Bowl & Entertainment Center LLC; d/b/a: Bluemound Bowl  
12935 W. Bluemound Road; Agent; Henry T. Posnanski

Brookfield Hills Golf Course Inc.; d/b/a: Brookfield Hills Golf Course

16075 Pinehurst Drive; Agent: Linda A. Stiloski

Franklynn Development LLC; d/b/a: Brookfield Indoor Soccer Complex  
19485 W. Lisbon Road; Agent: Frank G. O'Connor

Brunch BKD LLC; d/b/a: Brunch  
18895 W. Capitol Drive, Suite 103; Agent: Morgan K. Schnabl

George D. Incorporated; d/b/a: Capitol Café/Grecian Inn Restaurant  
14375 W. Capitol Drive; Agent: George I. Dimitropoulos

Marty's Brookfield Inc.; d/b/a: Marty's Pizza  
16680 W. Bluemound Road; Agent: Edward H. Bautz

Restaurant of Brookfield; d/b/a: Parkside 23  
2300 Pilgrim Square Drive; Agent: George N. Flees

New Taste of India LLC; d/b/a: Taste of India  
17115 W. Bluemound Road, Suite D1; Agent: Manjit Singh

**RESERVE CLASS B BEER & LIQUOR**

Krause Properties LLC; d/b/a: Krause Food Service  
21600 W. Capitol Drive; Agent: Mark J. Krause

**PEDD CLASS B BEER & LIQUOR**

Whirly Brookfield LLC; d/b/a: Whirlyball  
185 S. Moorland Road; Agent: Greg L. Pyburn

***Motion by Alderman Blumer, second by Alderman Owen to approve Renewal Alcohol Licenses for the above named applicants. Motion carried 5-0.***

**6. Adjournment**

***Motion by Alderman Owen, second by Alderman Nelson to adjourn the meeting. Motion carried 5-0. Meeting adjourned at 7:20 pm.***

Respectfully Submitted:

Kelly Michaels, MMC, WCPC  
City Clerk