



MINUTES OF AN OFFICIAL MEETING

Regular Meeting of: Legislative & Licensing Committee

Date and Time: Tuesday, November 17, 2020 at 6:30 pm

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

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, Alderman Christopher Blackburn, Alderman David Christianson

1. ROLL CALL

Alderman Mahkorn noted a quorum present and called the Legislative & Licensing Committee to order at 6:35 p.m.

2. ANNOUNCEMENTS

The Next Regularly Scheduled meeting will be held on Tuesday, December 1, 2020.

3. MINUTES

Motion by Alderman Nelson, seconded by Alderman Blumer, to approve the minutes of the October 20, 2020, Legislative & Licensing Committee meeting. Motion carried 4-0.

4. NEW BUSINESS

a. RESOLUTION REGARDING AN APPLICANT FOR AN ORIGINAL BARTENDER/OPERATOR LICENSE WITH VIOLATIONS – ALAINA N. JACOBSON.

The applicant did not appear to at the committee at this time. Alderman Mahkorn summarized the applicant's violation history and recommended denial of a bartender license.

Motion by Alderman Carnell, seconded by Alderman Nelson, to deny an Original Bartender/Operator Licenses for Alaina N. Jacobson. Motion carried 4-0.

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

Banaszynski, Molly M.

Schulteis, Molly M.

Motion by Alderman Nelson, seconded by Alderman Carnell, to approve Original Bartender/Operator Licenses for the above applicants. Motion carried 4-0.

NEW BUSINESS (continued)

- c. Resolution regarding an applicant for a transfer of a Class B Beer and Liquor License from one premise to another premise.

Hanbai, Inc.; D/b/a: Wasabi Sushi & Lounge

15455 W. Bluemound Road, Suite 290 to 95 N. Moorland Road, Unit D66

Agent: Jay Han

Motion by Alderman Carnell, seconded by Alderman Nelson, to approve a transfer of a Class B Beer and Liquor License from one premise to another premise – Wasabi Sushi & Lounge. Motion carried 4-0.

- d. Legislative Referral: Ordinance amending residency for sex offenders to 1,400 feet. (Mayor Ponto)

Alderman Mahkorn noted this is a ‘housekeeping’ issue. The city must be consistent with case law. Attorney Merten stated we will in compliance with state law ‘allowing offenders to live in areas comprising 25% of its residential area’ by amending our ordinance to 1,400 feet.

Alderman Blumer noted for the record that there is no member on the committee that wants to reduce the restrictions on this, but have no choice due to established case law.

Motion by Alderman Nelson, seconded by Alderman Carnell, to approve an ordinance amending residency for sex offenders to 1,400 feet. Motion carried 4-0.

- e. Ordinance amending Section 2.16.030.6 regarding moving a polling location from Swanson Elementary School to the Brookfield Conference Center.

City Clerk Kelly Michaels noted the city has been considering security concerns from parents with reference to the Swanson Elementary School which is used as one of the our polling locations. This particular site has challenges not seen in the other school locations used whereby the gym is centrally located, so voters and students must cross paths. In other locations the voting area can easily be separated from the student population. In the course of discussion, the City had committed to moving this poll location to the nearby Conference Center when it was built and the School Board had adjusted their calendar to accommodate Election Day as a non-student day in the interim. The Conference Center opened in March of 2020, however a decision was made to delay the move until after the Presidential Election so as not to confuse voters during the highest turn out election. As we’ve done in the past, the polling location change will be noted on the city’s website, published notices, as well as a postcard will be mailed to each residential unit in the voting district. On Election Day, signage will be placed at Swanson Elementary School noting the change of the poll site location to the Brookfield Conference Center so as to reroute voters who have developed a habit of going to Swanson to vote.

Motion by Alderman Blumer, seconded by Alderman Nelson to approve an ordinance amending Section 2.16.030.6 moving a polling location from Swanson Elementary School to the Brookfield Conference Center. Motion carried 4-0.

Alaina Jacobson (Item 4a) arrived at the Legislative & Licensing Committee at 6:45 p.m.

Motion by Alderman Carnell, seconded by Alderman Nelson, to reconsider Item 4a, an application for an Original Bartender/Operator License for an applicant with violations – Alaina Jacobson. Motion carried 4-0.

Alderman Jenna Meza arrived at the Legislative & Licensing Committee meeting. Alaina Jacobson was invited to the committee table and introductions were made.

Alderman Mahkorn asked Ms. Jacobson to explain why she believes she would be a good candidate for a bartender license. He noted her lengthy police record and asked her to explain her recent OWI violation. Ms. Jacobson stated she was out with friends and had stopped drinking prior to taking a friend home. She felt she was fine to drive, but was not. She was given a breathalyzer test and blew a .13. She stated she was drinking Cherry Bombs and beer, but was unsure of how many of each she had consumed.

Alderman Mahkorn asked why Ms. Jacobson was stopped in New Berlin. Ms. Jacobson indicated the Officer had told her he stopped her because her license plate was expired, as she did not have an emissions test on her car. She stated she had passed the field sobriety tests but had to have a breathalyzer test also.

Alderman Mahkorn noted Ms. Jacobson answered untruthfully on the application regarding if the applicant has any pending violations of any type. Ms. Jacobson said she was unsure of the process, if an OWI affected whether she received a bartender license. Alderman Mahkorn noted the question is a straight forward yes or no question of fact, and does not ask the applicant to make a determination as to whether it applies to anything.

Alderman Mahkorn asked Ms. Jacobson to summarize all the traffic violations she has had over the past 5 years. Ms. Jacobson stated some were accident related and she has been trying to work at not speeding as much.

Alderman Mahkorn summarized the duties of the committee, especially making sure applicants take their duties and responsibilities seriously, as they are serving alcohol. Ms. Jacobson indicated she does take her duties seriously. She had held a bartender license for seven years. She added this is her full time job and just bought a house this past August.

Alderman Mahkorn noted he would not be supporting a license for Ms. Jacobson due to the guidelines and criteria the committee follows. Alderman Blumer agreed with Alderman Mahkorn stating the committee does have some leniency towards a pattern of corrective behavior. However, due to the OWI violation being so recent and the history of the committee's decisions, he cannot support a license at this time.

Alderman Nelson asked where Ms. Jacobson holds a bartender license. She stated she has held a City of Brookfield License for about 4 years, but let the last license lapse, therefore, she had to apply for an Original license. Alderman Mahkorn indicated if she would have applied in a timely manner, the license would have been for a Renewal Bartender License which comes with property rights, however, a renewal license does not give the applicant the freedom to do whatever they want.

Alderman Nelson noted the committee puts different 'weight' on the types of violations. Alderman Mahkorn stressed that Ms. Jacobson has an extensive traffic history. Some of the violations involve reckless driving and a disregard for the courts. He was concerned whether someone with these types and frequency of violations, would have respect for dispensing alcohol when they do not have respect for the courts.

Alderman Meza stated she has worked as a bartender for many years and understands that this is Ms. Jacobson's livelihood and how important it can be. However, she felt she could not support a license at this time either.

Attorney Merten stated Ms. Jacobson can only work under the direct supervision of a licensed bartender and she could not reapply for at least one year from the denial.

Motion by Alderman Carnell, seconded by Alderman Nelson, to deny an Original Bartender/Operator Licenses for Alaina N. Jacobson. Motion carried 5-0.

Alderman Christianson exited the Legislative & Licensing Committee meeting.

5. UNFINISHED BUSINESS

- a. Legislative Referral: Second draft to amend Section 15.04.340 Fences, to permit installation of netting at fenced playfields to preclude balls from leaving the field of play when the fenced playfield is proximate to streets, ponds or storm water basins.

Alderman Mahkorn noted this is the second time this is appearing before the committee. He thanked Assistant Attorney Julie Aquavia for the work she has done on this issue.

Alderman Carnell was concerned that the committee is taking up an issue due to the request or convenience of one business. In the past, the committee has found ways of solving issues without creating an ordinance for one exception and felt we were not following good practice in supporting it. We are encumbering ourselves with many ordinances for exceptions. He felt the business was asking for the netting as a convenience when they could retrieve the balls from the pond.

Alderman Mahkorn agreed, in general, with Alderman Carnell stating the city cannot be antidotal with changing or adopting ordinances. However, there are times when it is not just one person or one exception. Alderman Carnell stated the property in question has extensive fencing. He does not like properties with netting and questioned whether the netting would be taken down at night. He explained the netting could cause an impact to birds who would end up caught or injured by the netting. Alderman Meza indicated she spoke to the property owner and the netting would remain permanently up, year round. Alderman Carnell questioned why the owner could not take the netting down, when not in use.

Alderman Blumer noted that he understands Alderman Carnell's viewpoint, but sometimes this is the only way an issue comes to the council's attention. There is a limited number of business that are in certain circumstances to warrant special exceptions. He also addressed the convenience aspect noting this particular request is coming from a childcare business and he didn't believe they could just leave the area to retrieve the balls. There are rules whereby the staff must have a certain number present with the children at all times.

Motion by Alderman Nelson, seconded by Alderman Meza, to approve an ordinance amending Section 15.04.340 Fences, to permit installation of netting at fenced playfields to preclude balls from leaving the field of play when the fenced playfield is proximate to streets, ponds or storm water basins. Motion carried 4-1, with Alderman Carnell casting the dissenting vote.

- b. Legislative Referral: Creating Chapter 6.11 of the Brookfield Municipal Code regarding possession of wild animals. (Alderman Nelson)

Alderman Nelson indicated a resident in his district has quite a large parcel of land and wants to own goats. The city allows some animals. Attorney Merten noted the resident would not be allow to have goats. Attorney Merten stated the parcel zoning must be R-1 and have at least 3 acres of land to have certain animals. As the code is written, 'fur bearing animals, domestic livestock including goats' would not be allowed. In R-1 zoning districts, you are 'allowed to keep poultry, domestic livestock, including

horses but not hogs, goats or fur bearing animals; provided that not more than one head of livestock or more than 20 fowl are kept for each acre of lot area. Minimum size of lots is 3 acres’.

Alderman Carnell noted that he has a resident who wants to have goats temporary to rid the property of invasive species. He has seen a few other communities that allow this.

Alderman Blumer stated he does not have a problem with goats, sheep, alpacas or llamas, but to allow these type of animals, the ordinance would have to be changed. Attorney Merten said it would be a zoning issue under Chapter 17 and would need to be referred to the Planning Department. Alderman Blumer suggested the ordinance stand as it is and if the Plan Commission changes Chapter 17, then this ordinance is still acceptable. Attorney Merten indicated that if the Zoning Code were to be amended, a public hearing would be needed along with a neighborhood informational meeting.

Attorney Merten reported she had contact Natalie Hoskins, Humane Officer for the Elmbrook Humane Society who indicated it was an appropriate ordinance and good for the city adding she wished other municipalities would have a similar ordinance.

Motion by Alderman Blumer, seconded by Alderman Meza, to approve an ordinance creating Chapter 6.11 of the Brookfield Municipal Code regarding possession of wild animals. Motion carried 5-0.

6. ADJOURNMENT

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

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