

MINUTES
PROTECTION & WELFARE COMMITTEE
Monday, January 26, 2015
City Hall, Room 207
5:00 p.m.

MEMBERS PRESENT: Ald. Wery, Ald. Tim De Wane, Ald. Steuer, and Ald. Scannell
MEMBERS EXCUSED: None
MEMBERS ABSENT: None
OTHERS PRESENT: Patrick Leigl–Asst. City Attorney, Capt. Bongle, and other interested parties.

NOTE: Items 5 and 6 followed Item 11, Item 9 followed Item 10, and Item 13 before Item 12

1. Roll Call.

Ald. Wery, Ald. Tim De Wane, Ald. Steuer and Ald. Scannell were present.

2. Approval of the Agenda.

A motion was made by Ald. Tim De Wane and seconded by Ald. Steuer to approve the agenda. Motion carried.

3. Approval of the minutes from the January 12, 2015 meeting.

A motion was made by Ald. Scannell and seconded by Ald. Tim De Wane to approve the minutes from the January 12, 2015 meeting. Motion carried.

4. Notice of the change of agent for Kokoro, LLC at 301 N. Adams Street.

A motion was made by Ald. Scannell and seconded by Ald. Steuer to approve the notice of the change of agent for Kokoro, LLC at 301 N. Adams Street. Motion carried.

5. Application for a Class "A" Beverage License by Dousman Fuel, Inc. at 606 Dousman. (Currently Express Convenience)

The City Attorney's Office and the Green Bay Police Department (GBPD) had no objections.

A motion was made to have this item follow Item 12. During discussions of Item 12 it was decided to hold up Item 5 until a decision was made regarding changes to Green Bay Municipal Ordinance 33.08(2) at the Common Council meeting.

A motion was made by Ald. Scannell and seconded by Ald. Steuer to hold until the next meeting the application for a Class "A" Beverage License by Dousman Fuel, Inc. at 606 Dousman. (Currently Express Convenience) Motion carried.

6. Application for a "Class A" Liquor and a Class "A" Beverage License by Thao Pao Lee at 316 S. Broadway.

Atty. Leigl stated the City Attorney's Office objects based on the current ordinance 33.08(2) which restricts businesses from holding a liquor license if they are within 300' of a school, church or hospital. Atty. Leigl stated the business is within 300' of a church.

A motion was made by Ald. Scannell and seconded by Ald. Tim De Wane to hold until the next meeting the application for a "Class A" Liquor and a Class "A" Beverage License by Thao Pao Lee at 316 S. Broadway. Motion carried.

7. Application for a "Class B" Combination License by BeachMe, LLC at 840 S. Broadway. (Currently Richard Craniums, LLC)

The City Attorney's Office and the Green Bay Police Department (GBPD) had no objections.

A motion was made by Ald. Scannell and seconded by Ald. Tim De Wane to approve the application for a "Class B" Combination License by BeachMe, LLC at 840 S. Broadway with the approval of the proper authorities. (Currently Richard Craniums, LLC) Motion carried.

8. Application for one of eight available "Class B" Combination License by Prohibition Spirits, LLC at 159 N. Broadway.

Atty. Leigl stated the City Attorney's Office didn't have any objections; however he did have some questions for the applicant.

Ald. Wery opened the floor without objection.

Glen Sherman, 921 Twilight Drive, appeared. Atty. Leigl stated that he wanted to make sure Mr. Sherman is aware of the State smoking ban which means that cigar smoking isn't allowed in the bar, and that open alcohol containers cannot be carried into the tobacco retail shop.

Mr. Sherman stated according to State law the tobacco retail shop can be considered a novelty shop; therefore open alcohol containers are allowed into the tobacco retail shop as it adjoins the bar. Mr. Sherman further stated that State law supersedes City ordinance, and that his business plan hinges on allowing these containers into the shop. Mr. Sherman stated the bar area is only meant to serve a small amount of individuals.

Tara Gokey, appeared and stated that she is the Executive Director of On Broadway. Ms. Gokey stated this business would be a great fit in their district. They reached out to other businesses to discuss their plans, and are planning to sponsor some of On Broadway's events.

Ald. Wery returned to regular order of business.

Discussion that followed included how smoking in bar would be monitored, if the open carry ordinance could be changed, and if the Common Council could make the decision to consider it a tobacco retail shop and a novelty shop.

A motion was made by Ald. Scannell and seconded by Ald. Tim De Wane to approve the application for one of eight available "Class B" Combination License by Prohibition Spirits, LLC at 159 N. Broadway with the approval of the proper authorities, and to consider the adjoining space a tobacco retail store as well as a novelty shop. Motion carried.

9. Application for one of eight available "Class B" Combination License by Kim M. VandenBusch at 702 N. Quincy Street.

Atty. Leigl stated the City Attorney's Office didn't have any objections; however he was recently made aware of numerous concerns the GBPD had regarding approval of this license.

Capt. Bongle stated he, and Capt. Laux who is in charge of this district, prepared a brief summary regarding their concerns with the applicant. Capt. Bongle reported the following issues that occurred when the applicant held a liquor license: In February 2007 an individual with warrants was arrested in the parking lot and charged with possession of cocaine; in 2008 there were numerous fights in the bar resulting in arrests of individuals who had multiple warrants. In March 2009 the bar was declared a disorderly house and closed; numerous individuals that had multiple warrants were arrested, the bar staff didn't cooperate with the GBPD and after viewing the security video it was discovered that Ms. VandenBusch lied to the police on where the disturbance actually took place.

Capt. Bongle stated from 2010-2013 the bar failed numerous compliance checks, received outside calls regarding fights inside the bar which were not reported by the staff; an unlicensed bartender serving alcohol to minors; and non-compliance for video surveillance tapes requests. Individuals wearing gang colors, and motorcycle gang members have been observed inside and outside of the premises. Ms. VandenBusch has a history of noncooperation with police and allowing problematic individuals in the premises who create disturbances. A background check revealed tax warrants, numerous suits, workman comp claims and civil judgments against the applicant.

Capt. Bongle reported that other bars that had similar problems are no longer in operation. Capt. Bongle stated for these reasons the GBPD strongly oppose approving the applicant for a liquor license for this business.

Ald. Wery opened the floor without objection.

Kim VandenBusch, 1646 Farlin Avenue, appeared and stated there was a three-year period when her former boyfriend managed the bar while she was managing K2. It was the boyfriend who was friends with bikers and allowed them inside. Ms. VandenBusch stated she is working on payments and cooperating with the state and federal government, and banks.

Ald. Steuer stated that the license was issued to Ms. VandenBusch and it shouldn't matter who was operating the bar when problems were occurring, she is the responsible party.

Catherine Jenquin, 480 Beth Court, appeared and asked the Committee to deny this request. Ms. Jenquin stated that Ms. VandenBusch is an irresponsible property/business owner and landlord who ignored compliance orders from the City and repair requests from the tenant. Ms. VandenBusch allowed smoking in the bar after the State banned it, and was serving alcohol without a liquor license. Ms. VandenBusch illegally evicted her current tenant and refuses to return property to her. Ms. VandenBusch continues these bad business practices and should not be approved.

Amy Stevenson, 244 DeSchane Place, appeared and stated she was the tenant who was evicted without notice or court order in August 2014. Ms. Stevenson said since 2003 there have been over 100 calls to the GBPD regarding this establishment until she took over in 2013. Ms. Stevenson stated that Ms. VandenBusch has had numerous parties at this location since August without a license. Ms. Stevenson believes that Ms. VandenBusch doesn't meet the criteria of a responsible business owner, and for all the reasons mentioned tonight should be denied.

Atty. Ryan Krumrie, 4432 Indian Trail, appeared and stated there is a civil case pending before the court to determine if the eviction was legal. A motion to dismiss the eviction has been filed since Ms. VandenBusch has possession of the property; and that it is not necessary to give a commercial tenant notice to evict. Ms. VandenBusch does realize she has had bad business practices in the past. She has plans to make the bar a successful business, there are a number of investors interested in looking into purchasing portions of the building and the business which will help alleviate current financial difficulties. If this license isn't granted tonight, the property will fall into foreclosure and there will be another empty building in downtown Green Bay.

Ald. Steuer stated this property has had serious problems in the past under the ownership of Ms. VandenBusch and it is their position to protect the welfare of the community. Ald. Steuer stated Ms. VandenBusch has not shown accountability and he doesn't feel comfortable approving the license.

Ms. VandenBusch stated that she has had parties in the building but she didn't serve alcohol, it was bring your own alcohol. Atty. Leigl stated this is not illegal activity.

Ald. Wery returned to regular order of business.

Ald. Tim De Wane stated he doesn't have a problem approving the license, and if Ms. VandenBusch violates law she will be caught by the GBPD. Ms. VandenBusch is the property owner and therefore can have parties, they happen everywhere including private homes and businesses.

Ald. Scannell stated he has concerns since there is a long history of serious problems here.

Ald. Wery stated he also has concerns regarding the history and will vote to deny.

A motion was made by Ald. Steuer and seconded by Ald. Scannell to deny the application for one of eight available "Class B" Combination License by Kim M. VandenBusch at 702 N. Quincy Street. Motion carried, Ald. Tim De Wane opposed the motion.

10. Request by the owners of St. Brendan's Inn, 234 S. Washington Street, to hold an outdoor event March 14-17, 2015.

Atty. Leigl stated the City Attorney's Office had no objections; however he had a few questions regarding the event. Capt. Bongle opinioned the same.

Ald. Wery opened the floor without objection.

Ashley Oates, 1525 Beauchamp Street, appeared and stated the St. Patrick's Day parade ends at St. Brendan's this year and they are planning an event from 10:00 a.m. until 2:00 p.m. Sunday is their St. Baldricks event which will be held from noon until 4:00 p.m. Tuesday is St. Patrick's Day and that event will be from 4:00 p.m. until 10:00 p.m. The area for the outdoor events is enclosed and identification will be checked.

Ald. Wery returned to regular order of business.

A motion was made by Ald. Scannell and seconded by Ald. Steuer to approve the request by the owners of St. Brendan's Inn, 234 S. Washington Street, to hold an outdoor event March 14-17, 2015. The approval of the request is subject to complaint. Motion carried.

11. Request by Ald. Wery to review the UBER 'ride sharing program' to ensure compliance with the City's taxi ordinance and to amend the ordinance as needed to address this type of service.

Atty. Leigl stated he spoke with the UBER general manager and received a short explanation on how their business is operated.

Ald. Steuer inquired if this item can be further discussed at the Special Meeting on February 12 along with the taxi ordinance.

A motion was made by Ald. Steuer and seconded by Ald. Scannell to hold for the Special Meeting on February 12, 2015 the request by Ald. Wery to review the UBER 'ride sharing program' to ensure compliance with the City's taxi ordinance and to amend the ordinance as needed to address this type of service. Motion carried.

12. Request by Ald. Wery to review and discuss with possible action Green Bay Municipal Ordinance 33.08(2), restrictions on alcohol license locations.

Atty. Leigl stated there is currently an ordinance in place that restricts issuing a liquor license to a business that is within 300' of a school, church or hospital. The City Attorney's Office drafted amended language to this ordinance that would allow the Protection & Welfare Committee and Common Council to approve allowing a liquor license that falls into the 300' category on a case-by-case basis. Atty. Leigl also stated this may start a precedence of businesses questioning why a liquor license can be granted to one business and not another.

Discussion that followed included when the ordinance was originally created and creating a check off list stating the applicant notified any nearby church, school or hospital of their intention to obtain a license and sought their input and approval.

Ald. Scannell suggested this form be available for approval at the upcoming Common Council meeting.

Capt. Bongle stated he discussed this item with Capt. Molitor and they and the GBPD are opposed to changing the ordinance as it's already a good alcohol policy for the community.

Ald. Wery opened the floor without objection.

Toni Loch, 1624 Main Street, De Pere, appeared and stated she is the Executive Director of the Howe Neighborhood Family Resource Center which abuts the property of the gas station at 510 S. Monroe. There are over 30 children that enter this building every day for head start class. There is also a dental clinic for there for children. Ms. Loch requested to uphold the original ordinance.

Ann Hartman, 320 S. Jackson Street, appeared and stated the neighborhood doesn't need another location to sell liquor at and requests the ordinance remain the same.

Christine Fabian, (address unintelligible) Wrightstown, appeared and stated she is the principal at Howe School. The school is very opposed to altering the wording of the ordinance for the safety and security of all their students.

Ryan Baenen appeared and stated he is speaking on behalf of the LTB Shell at 510 S. Monroe. Mr. Baenen reported they want to work with the City, they realize citizens are worried about children seeing signs advertising beer so they won't have those signs. They are also willing to sell on a time frame so children won't see people purchasing alcohol. He lives in the neighborhood and his neighbors support allowing this license so they don't have to travel further to purchase beer. Mr. Baenen turned in a petition supporting the sale of alcohol from the Shell station.

Jeff Smith, appeared and stated he is a friend of the Shell Station on Monroe. Mr. Smith stated the owners are very responsible individuals who obey the law and are trying to help the neighborhood community. He would like to be able to

walk down to the convenience store and purchase beer. Mr. Smith suggested that the school have counselors come and speak to the children about alcohol.

Andrea Landwehr, (address unintelligible), De Pere, appeared and stated she is the Executive Director of elementary education for the Green Bay School District. There are many children in the school district who have experienced the effects alcohol has on the family structure. Studies have shown that alcohol related advertising does affect children at a young age. Ms. Landwehr stated that even if there isn't any advertising children would still see people leaving the premises with alcohol because it isn't always bagged. Howe School is often open until 9:00 p.m. due to other school related activities.

Ms. Landwehr stated that when this gas station was being built there were concerns regarding the sale of alcohol so close to the school at that time, and that is how this ordinance came into effect. If there are new owners of the gas station, they should have been notified of the ordinance so they would know they couldn't sell alcohol. The school district requests that the ordinance remain the same. Ms. Landwehr stated the draft ordinance is abstract and if this Committee does decide to change it, then the school district asks that they include specific criteria that needs to be met to help guide their decisions.

Ald. Wery stated that the original ordinance may have been put in place for one instance which places a blanket across everything and doesn't allow other situations to appeal and that's what we want to discuss is an appeal process.

Ald. Wery returned to regular order of business.

Discussion that followed included stipulating that alcohol purchases be bagged, limiting advertising and sale of alcohol, and academic research of alcohol and children. Also discussed was that every establishment be given a chance to be heard, if they wanted to sell alcohol next to a church perhaps the church wouldn't object as churches sometimes sell alcohol at events they're hosting as well and they may be next door to a school.

Ald. Steuer stated changing this ordinance will be hard to legislate, and there would be a lot of people attending meetings giving their opinions. He believes it would be opening a large can of worms.

Ald. Scannell stated right now nobody can appeal this, and their situation may not be a problem with the neighborhood. He understands this will be a time consuming process but people should be given a chance to be heard. There are businesses that have been grandfathered in, and if they can sell then others should be given a change to sell as well.

Capt. Bongle reiterated the ordinance was established for a good reason and they feel changing it would create a negative impact on the community.

Ald. Wery stated he would like to see no exterior advertising and limited time of sales added on the amended ordinance and on the form notifying effective property owners.

Atty. Leigl stated the Committee would need to vote on this item first before adding any changes due to the fact research would have to be made regarding restricting the advertising Ald. Wery wants in the ordinance.

Ald. Wery asked that the City Attorney's Office to create a form to be included with the packet given to individuals applying for a license that are within 300' feet of a school, church or hospital.

Ald. Wery clarified to individuals in attendance that only the amended language will be going to the Common Council meeting for approval.

Ald. Scannell inquired if Item 5, Dousman Fuel, was already grandfather in. Atty. Leigl stated it was, however it's a nonconforming use and ownership may be changing in which case they would lose their grandfather privilege and he requests that it be held up until the next meeting.

A motion was made by Ald. Scannell and seconded by Ald. Tim De Wane to approve the amended language in §33.08(2)(e) and to refer back to the City Attorney's Office to look into adding restrictions onto the ordinance. Motion carried, with Ald. Steuer opposing the amended language in §33.08(2)(e) and abstaining from the referral to the law department.

13. Appeal by Andrew Fifield to the denial of his Operator License application.

Atty. Leigl stated the City Attorney's Office recommends denial based on the applicant's lengthy arrest and conviction record. Atty. Leigl reminded this Committee that by law no license may be issued to any person who has been convicted of a felony which substantially relates to the licensed activity. Mr. Fifield was convicted of two felony counts in 2013 with intent to deliver THC. Atty. Leigl also stated that there is case law that states drug convictions substantially relate to this licensed activity.

Capt. Bongle states the GBPD also recommends denial based on the same reasons.

Ald. Wery opened the floor without objection.

Andrew Fifield, 1465 Elm Street, appeared and stated he works at Noodles and Co. and recently received a promotion which requires he obtain a liquor license. Mr. Fifield stated he was actually charged in 2011 with delivery, and was convicted in 2013 despite fighting that charge. He is 26 years old now and has two children to support and needs this job. His probation officer is aware of what he does and doesn't have a problem with him serving alcohol. He can continue working without an operator license but won't be able to advance in the company.

Michael Bourbonnais, 331 West Factory Street, Seymour, appeared and stated he is the General Manager of Noodles and Co. He stated that Andy was hired in

August and he's been one of the best employees he's ever hired. He believes that approving the license will help Andy further his career with Noodles and Co.

A motion was made by Ald. Steuer and seconded by Ald. Tim De Wane to approve the appeal by Andrew Fifield to the denial of his Operator License application. Motion carried.

A motion was made by Ald. Tom De Wane and seconded by Ald. Scannell to adjourn the meeting at 7:30 p.m. Motion carried.

For all licensing issues, the Committee may potentially convene in closed session pursuant to §19.85 (1)(b) and/or §19.85 (1)(f) Wisconsin Statutes, for the purpose of considering information with respect to licensing for a person. The applicant has the right to demand that the meeting be held in open session. The applicant may also request that the meeting be held in closed session. The Committee may, thereafter, reconvene in open session pursuant to §19.85(2) Wisconsin Statutes to report any actions taken during the closed session and to consider all other matters on the agenda.

If there are any questions regarding the agenda, please call Dawn, City Clerk's Office, at 448-3010.

ACCESSIBILITY: Any person wishing to attend who, because of a disability, requires special accommodation should contact the City Safety Manager at 448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.

Please take notice that it is possible that additional members of the Council may attend this committee meeting resulting in a majority or quorum of the Common Council. This may constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.

The audio tape and minutes of this meeting will be available at www.greenbaywi.gov