

MINUTES
PROTECTION & WELFARE COMMITTEE
Monday, March 9, 2015
City Hall, Room 207
5:30 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.

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. Scannell to approve the agenda. Motion carried.

3. Approval of the minutes from the February 23, 2015 meeting.

A motion was made by Ald. Scannell and seconded by Ald. Tim De Wane to approve the minutes from the February 23, 2015 meeting. Motion carried.

4. Request by the owners of Pearly Gates, 3551 Finger Road, to hold an outdoor event on July 11 and to allow music until midnight.

Atty. Leigl stated he doesn't have any objections; however he would like to ask a few questions regarding security.

Capt. Bongle stated no problems ever occurred during these events; therefore the GBPD has no objections.

Jeff Fonferek, 3551 Finger Road, appeared and stated he applied for a street block permit to shut down the street from 9:00 a.m. until 1:00 p.m. due to the amount of people that attend this fundraising event for veterans. Mr. Fonferek stated the area is fenced in and after identification is checked at the entrance individuals receive a wristband to get in. He has his own security in place which includes two off-duty police officers. Alcohol can only be consumed on the premises, not on the street.

Ald. Scannell opined that this is a great fundraiser for the veterans and thanked Mr. Fonferek for hosting this event.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to approve the request by the owners of Pearly Gates, 3551 Finger Road, to hold an outdoor event on July 11 and to allow music until midnight. The approval of the request is subject to complaint. Motion carried.

5. Notice of the change of agent for El Patron Entertainment, LLC at 1464 University Avenue.

There were no objections by the City Attorney's Office or the GBPD.

Ald. Wery opened the floor without objection.

Francisco Valdivia appeared and inquired if he is responsible for any problems that would occur at this establishment.

Atty. Leigl stated that he would be and gave an example that if an underage individual was caught drinking at the establishment, that individual and Mr. Valdivia would both receive citations. Atty. Leigl informed Mr. Valdivia that he would be responsible for the overall alcohol license if he is approved.

Mr. Valdivia declared he was unsure of his duties as an agent and was informed that he should read and become familiar with the business' security plan and to contact the community officer for any questions he has as well as the City Attorney's Office or his Alderman. Mr. Valdivia replied that he would follow through with this.

Ald. Wery returned to regular order of business.

A motion was made by Ald. Steuer and seconded by Ald. Scannell to approve the notice of the change of agent for El Patron Entertainment, LLC at 1464 University Avenue. Motion carried.

6. Appeal by William Daniels III to the denial of his Public Vehicle Operator License application.

Mr. Daniels III did not attend tonight's meeting.

Discussion that followed opined that Mr. Daniels III has the right to appeal before the Common Council meeting if he is denied tonight, and if he appears at that time and the decision is to deny he would not be able to apply for this license for a year.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to deny the appeal by William Daniels III to the denial of his Public Vehicle Operator License application. Motion carried.

7. Appeal by Timothy Lafferty Jr. to the denial of his Operator License application.

Atty. Leigl stated the City Attorney's Office recommends denial based on the applicant's arrest and conviction record as it substantially relates to the licensing activity. Mr. Lafferty Jr. has three underage drinking tickets, three OWI arrests and two felony charges for possession of THC.

Atty. Leigl informed the Committee by State law an operating license cannot be issued to Mr. Lafferty Jr. due to his two felonies that substantially relate to the licensed activity as well as the fact that Mr. Lafferty Jr. is a habitual criminal offender.

Capt. Bongle stated the GBPD concurs and for the above stated reasons. They denied the license to this applicant specifically for the alcohol offences and delivery charges. The GBPD is extremely concerned that this applicant would be a high risk if approved, and according to State law he should be prohibited from obtaining this license.

Ald. Wery opened the floor without objection.

Daniel Shandor, 1649 Birchwood Drive, appeared and stated that Mr. Lafferty is a well spoken, polite individual who informed him about his criminal history. Most of the problems occurred while he was attending college. He has a history of drug abuse in his family, so he decided to remove himself from that situation and relocated to Green Bay and has been sober for two months. Mr. Shandor stated that he is very surprised Mr. Lafferty isn't here tonight because he received a phone call from him this morning to remind him to attend to give his support. Mr. Shandor also stated that he wants Mr. Lafferty to work for him a couple nights a week at the Packers Stadium Lounge, and that he believes Mr. Lafferty regrets his past and is trying very hard to turn his life around.

Ald. Steuer stated that making their decision tonight will be very difficult since Mr. Lafferty isn't here to speak on his own behalf, especially since there is an extensive history that has happened in the past few years. Ald. Steuer stated he isn't comfortable approving this tonight and suggested that Mr. Lafferty appear at the Common Council meeting.

Ald. Scannell stated there are a lot of questions he would have liked answered and doesn't even want this item to go to the Common Council, instead he would rather have it come back before this Committee in two weeks in order for Mr. Lafferty to appear.

Ald. Wery replied that according to what this Committee heard today about the State law Mr. Lafferty's felony relates to the licensed activity and this would eliminate him from consideration.

Atty. Leigl explained that according to State statutes and case law, if there is a felony that substantially relates to the licensed activity, it mandates a City, it's Committees and it's Common Council to deny an alcohol license. This is the statutory interpretation of the City Attorney's Office and the League of Wisconsin Municipality concurs. Case law states that Mr. Lafferty's drug felonies and alcohol charges substantially relate to the licensed activity.

Mr. Shandor asked if consideration could apply to an individual who is trying to change their lives. Atty. Leigl replied that an example for approval would be if an individual's last conviction happened in the 1980's, the Committee could look at time of the last offence and rehabilitation of the individual's life. Atty. Leigl

reported that Mr. Lafferty has numerous recent criminal activities from 2008 through 2014 which would prohibit him from consideration at this time.

Mr. Shandor inquired if Mr. Lafferty could still bartend if there is a licensed bartender working at the same time. Atty. Leigl confirmed he could as long as the owner of the bar or a licensed bartender is working alongside of him.

Discussion that followed included Mr. Lafferty bringing letters of support and documentation of any alcohol related classes he may have attended to provide at the next meeting.

Ald. Wery returned to regular order of business.

Ald. Scannell stated that if Mr. Lafferty had appeared tonight he would have denied him due to the State statutes and Mr. Lafferty's recent crimes. Ald. Scannell stated he does believe in second chances and even if Mr. Lafferty is denied this license he still has the ability to continue bartending provided there's another licensed bartender with him.

A motion was made by Ald. Scannell and seconded by Ald. Steuer to deny the appeal by Timothy Lafferty Jr. to the denial of his Operator License application. Motion carried.

8. Request by Ald. Tim DeWane to review and discuss the noise ordinance as it relates to snow removal, with possible action.

Ald. Tim De Wane stated he was approached by individuals who remove the snow from St. Mary's church and St. Thomas school. They used high decibel blowers to remove the snow before 7:00 a.m. which is against the City noise ordinance. These individuals have other jobs they have to be at and have no choice but to remove the snow before 7:00 a.m. A neighbor filed a complaint with the GBPD. Ald. Tim De Wane stated he would like the noise ordinance changed to 5:00 a.m. or 6:00 a.m. for snow removal.

Atty. Leigl stated that the City ordinance currently states that no party can produce unreasonable noise above 80 decibels between the hours of 10:00 p.m. and 7:00 a.m. The GBPD has the discretion to cite an individual who is creating noise between these hours. If an individual receives a citation they can contest it in court, and it would be up to the court to make the finding if the noise was reasonable as the ordinance reads. Atty. Leigl gave an example that if an individual was cited for blowing snow at 4:00 a.m. he could explain to the judge that in order to get to work by 5:00 a.m. he needed to remove the snow from the driveway in order to get his car out of the garage.

Ald. Scannell stated adding an exemption during snow emergencies to the time frame for churches, schools and businesses since they need to have the snow removed in order to operate. Atty. Leigl replied if we did that then the business could operate very loud machinery at 3:00 a.m. and recommended not making any exemption for any establishment.

Ald. Wery stated that he often hears neighbors blowing snow around 6:00 a.m. but nobody complains about it.

Ald. Steuer agrees with Ald. Scannell to adjust the time to 6:00 a.m. without using the stipulation of an announced snow emergency.

Discussion that followed included amending the noise ordinance to change the time from 7:00 a.m. to 6:00 a.m. for snow removal only and leave the 10:00 p.m. hour in place.

A motion was made by Ald. Steuer and seconded by Ald. Tim De Wane to refer to staff the request by Ald. Tim DeWane to review and discuss the noise ordinance as it relates to snow removal, to amend Ordinance 27.203 exempting snow removal for day and nighttime hours to 6:00 a.m. Motion carried.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to adjourn the meeting at 6:30 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