



**City
of
Milwaukee**

INTERDEPARTMENTAL

CORRESPONDENCE

LEGISLATIVE REFERENCE BUREAU

Memorandum

To: Justice Louis Butler, Chair
City of Milwaukee Alcohol Beverage Licensing Task Force

From: Richard Withers, Legislative Fiscal Analyst
Legislative Reference Bureau

Date: February 6, 2009

Re: Compilation of Committee Member Recommendations and Questions

This memorandum provides a compilation of the recommendations submitted by members of the Alcohol Beverage Licensing Task Force prior to 4:00 p.m. on Thursday, February 5, 2009.

To assist discussion at the meeting scheduled for Monday, February 9, 2009, I have organized the recommendations in groupings that generally reflect the chronological stages of the licensing process. These groupings include: Pre-Application, Application, Certification and Scheduling, Committee Hearing, Common Council Meeting, Renewal, and Revocation. The initials of the member making a recommendation appear at the end of each recommendation.

You have also proposed a number of issues the Task Force may wish to consider. I have included your questions with each grouping.

Some of the submitted recommendations include statements supporting the proposal. Therefore, as we discussed, each member's submission will also be provided to the Task Force separately.

Pre-Application

- Should the Common Council create and make available a pamphlet that contains the process for new license applications or license renewals, including the applicant's rights and obligations during the process? LB
- Publish a road map for new applications (should be available in several languages). EJL
- Publish a "Bill of Rights" for new applications (available in several languages). EJL

Application

- Ensure that applicants know all relevant procedures and timelines and set expectations at a reasonable level.
 - a. New brochure and web update needed to allow applicants to get real-time and correct information.
 - b. Similar to Ald. Murphy's "Bill of Rights."
 - c. Provide a fair amount of time for applicants to prepare for renewal hearing (mail notice at least 14 days prior?) and specify complaints in notice (not a form letter). JB
- Assure that applicants understand the legal requirements for operation including having printed materials in Spanish where appropriate. SN
- Should the time period for submitting a new application after denial [unsuitable location] be shortened from the current 3 year period? LB
- Should type of music and age or proposed clientele be on the application form? LB

Certification and Scheduling

- Should the council adopt a uniform process for giving notice of license hearings (including what is in the notice, and who receives it)? LB
- A minimum number of blocks where residents shall be notified of a hearing should be set. The Council member could expand the area but not diminish it. A suggestion would be at least one block on either side of the location on both sides of the street and behind the location. EJL
- A reasonable maximum amount of time should be set for a hearing on a new license - 60 days. EJL
- Should the council adopt minimum and maximum periods for scheduling a hearing before the licensing committee following the submission of an application for a new license (60 days or 2 council cycles)? LB

- Council members should have to follow the same guidelines for notifying neighbors on renewal hearings as they do on new applications. EJJ
- Provide access to relevant documents
Online access for both applicants and neighborhood to PA-33 or whatever relevant police information exists about a premise seeking approval or renewal. JB
- Set specific timelines and deadlines for application actions
License Division indicated that about 7 weeks was an “ideal” timeline for an application, but that several weeks could be added or subtracted based on conditions. Some of those conditions include a request that an item be held by a Council member.
Set a specific time period for action on an application, such as no more than 60 days from the time that an applicant gets fingerprinted by the Milwaukee Police Department. Define “neighborhood meeting” and outline the needs for when that must happen. JB
- Once applications are certified for scheduling they should be scheduled for a hearing before the licensing committee by the third regularly-scheduled committee meeting after certification. (Certification for scheduling would be the review of the application by staff to determine completion.) RL/RG
- When a new or renewal application is scheduled for a hearing, all addresses within a 250’ radius of the location should receive notice of the hearing. This is intended to provide notice to current occupants, not absentee property owners. RL/RG
- All new applicants should host a neighborhood meeting in conjunction with the local council member’s office. Proof of holding such a meeting must be provided prior to the application being certified for scheduling. RL/RG
- The police records of all applicants for renewal should be reviewed and an administrative determination made as to whether or not a particular applicant is brought before the licensing committee. This determination should be made solely on the police report. This review should be entirely separate from the consideration of any written objections on file with the License Division. RL/RG
- Should a standard form for review be adopted for consideration prior to a hearing, including proof of residence, proof of the existence of a problem, some form of mechanism to prevent repeated annual visits if rulings have been made in favor of license holders? LB

Committee Hearing (initial license application, renewal and revocation)

Procedure

- Once scheduled, a new application may be held only one time at the request of neighbors or the local council member for a specific reason chosen from those enumerated by the code. The motion relating to the hold should include a specific timeline for rescheduling, be made in writing and be presented at the scheduled hearing. The timeline for rescheduling should not exceed 6 regularly-scheduled committee meetings after the date of certification for scheduling, unless special circumstances are presented to committee members at the hearing. RL/RG
- Ensure 5 Council members are present for *all* License Committee meetings. Licensees deserve the diversity of not only the opinion of the entire Committee but also the vote. In the cases where an Alderman cannot be present or is excused for a period of time, an alternate should be appointed. CU
- Should the licensing committee establish rules of decorum for proceedings before it? LB
- Council members on the Committee should refrain from adding personal opinions regarding licensees in their District. Only the facts regarding neighbors' concerns as expressed by the neighbors to the Council members should be expressed. Also, personal comments regarding information not pertinent to a license or licensee should not be made. CU
- Should there be some sort of procedural review created for complainants and their statements prior to any appearance before the committee? LB
- The License Committee should institute a 3-minute time limit on neighbor testimony. This would alleviate the perception of favoritism when some persons are allowed to speak without limits while others are not. Also content of the testimony must *always* be limited to the license issues at hand. CU
- The time line on notice of hearing [for renewals] may be too short. Time should be allowed for either rescheduling the hearing or needs to take into account the license holder may be out of town or have other conflicts. EJJ
- Remove as much ambiguity from the process as possible and eliminate any whiff of "aldermanic privilege"
 - One of the documents provided indicates that "there is no requirement that notice be given" for a new license application and that the Council member decides whether "there is a concentration issue" and "what, if any, neighbors should be notified of the hearing."
 - This provision should be eliminated and a specific policy put in place to outline who receives notification.
 - If possible, "concentration" could be defined (even if definitions are specific to neighborhoods). JB [note: s. 93-9-3-a-6, relating to used car dealers provides a possible template]

- Objections from Common Council members should be accompanied by some form of substantiation. Acceptable forms of substantiation should be identified. RL/RG
- Council members should be restricted from recommending any penalties. To the extent possible, 'standardize' punishments and suspensions. JB
- While nothing can be done in ordinance form, the Council members should know that many of the complaints with the License Committee stem from unprofessional behavior or lack of decorum on the part of members. The public asks for and expects more from the hearings. JB
- I believe [the committee] needs a city appointed interpreter for some of the license applications or renewals. SN
- Some of the personal comments are not needed when the committee is dealing with one's means of making a living. SN
- Witnesses making comments should be limited to, for instance, 2 minutes, and a timer may be of assistance.
- Suggestion of a "pre-signup" sheet outside the committee room with names and addresses of those prepared to speak for or against the license might cut down on time in the committee; only allow legal representatives or law enforcement at the table- everyone else must stand at the microphone. SN
- The method by which the Board of Zoning Appeals schedules and conducts hearings should be explored with special attention given to the scheduling of contested versus non-contested items, the time the meetings begin, and the time limits placed on supporters and opponents of applications. RL/RG

Substantive Issues

- PA 33's are an important tool for the committee – good or bad. SN
- Should the council develop a uniform procedure for the consideration of various types of police reports, police summaries, and PA-33's, including verification of the items contained within the reports, and access of the reports by the applicant prior to the hearing? LB
- Greater attention should be paid to the "business plan" of the applicant. There really should be a requirement that the applicant have the resources to follow the plan. The issuance of a license and occupancy permit should be conditional on fulfillment of the business plan. EJJ

- Should the council adopt a uniform procedure for requesting concentration maps as part of the application process (either always, not at all, or establish criteria for when maps will be requested)? LB
- Police reports on “problem buildings” should be given great weight. There should be greater care exercised in order to determine that the applicant is not “fronting” for the problem of the previous owner. EJJ
- Council members should be able to express opinions on licenses to be issued in their districts. They know the district better than anyone else. However, their opinion should be more objective than subjective. EJJ
- Once a hearing is scheduled the Council member should not be allowed to suggest the appropriate action. This should be left to the committee. EJJ
- If a new license is being granted in an area that has within the past three years been deemed concentrated, specific reasons outlining why the license should be recommended for granting despite being located within the concentrated area, must be presented to the committee and part of the motion to recommend approval of the license. RL/RG
- Should the committee be allowed to consider the actions of prior owners of a business at that location? LB
- What weight should be given to citizen testimony in determining approval/disapproval of a license application? LB

Common Council Deliberation

- Council members and applicants should be required to keep records of “behind the scenes” contacts. EJJ
- Should all communications between any council member and any applicant for a new or renewed license be required to be placed on the record, with outside lobbying of any council member also placed on the record. LB
- When a council member recommends the denial of a new license application, should the council create a right to appeal the denial to the entire council? LB
- If alderman (or family member) submits a license application, should the alderman be precluded from voting on that application? LB

Renewal

- Should renewals where the premises have current year police reports and/or warning letters be reviewed by the chair of the license committee or the entire license committee? LB
- Should tavern owners be held more/less accountable for what happens on and/or near their premises, even if there is no showing of wrongdoing by the businesses? LB

Revocation

- Can a streamlined revocation process be developed? EJJ
- Hearing examiners should be engaged for revocation hearings. RL/RG

General/Miscellaneous

- Amend chapter 90 to require that applicants (new and renewal) summarize and document any contacts that they have had with Council members during the time of their initial or renewal application. Consideration should be given to requiring Council members to prepare the same documentation. The documentation should be available to the public and the Licenses Committee. GL/BS
- Other avenues of reviewing applications such as bartenders, direct sellers, home improvement contractors, and junk collectors should be explored to allow the licensing committee to concentrate on other applications. RL/RG
- Any recommendations selected should be made part of the Milwaukee Code of Ordinances, and as applicable, part of the General Licensing Chapter. RL/RG
- Should the council adopt standardized procedures and guidelines to determine when suspension, revocation or non-renewal is an appropriate sanction? LB
- Should the mayor's office, the city attorney's office, the Fire and Police Commission, and the Department for City Development be part of the formal process for granting or denying a license? LB
- Should the council create a cap on the percentage of sales that alcohol can account for at convenience stores? LB

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