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CITY OF MILWAUKEE
COMMON COUNCIL

In the Matter of:

MITCHELL'S TAVERN
10433 West Appleton Avenue 5th DISTRICT

Proceedings held in the above-entitled matter, commencing at 9:30 a.m., May 9th, 2006, in the Common Council Chambers, 200 East Wells Street, Milwaukee, Wisconsin, before the Common Council, reported by Terese M. Schiebenes of Milwaukee Reporters Associated, Inc.

A-P-P-E-A-R-A-N-C-E-S

ANDREW ARENA, Attorney at Law, 1110 North Old World Third Street, Milwaukee, Wisconsin, appeared on behalf of the Applicant.

OFFICE OF THE CITY ATTORNEY, By BRUCE SCHRIMPF, 200 East Wells Street Milwaukee, Wisconsin, 53202, appeared on behalf of the Common Council.

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PROCEEDINGS

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PRESIDENT HINES: Alderman Witkowiak moves to go into committee of a whole to hear oral arguments on behalf of the report and recommendations put forth by the committee and to hear a statement presented by the city attorney. Is there any objections? Hearing none, we are in committee of the whole.

Each case will have each individual come to the mike, both sides will be given five minutes to present their matter. And with that being the case, Mr. City, why don't you proceed.

THE CLERK: The first item is the recommendation of renewal with a 10-day suspension of the Class B Tavern Billiard Hall and Videogame Center license of Brent Rock for the premises at 10433 West Appleton Avenue, known as Mitchell's Tavern in the 5th Aldermanic District.

MR. ARENA: Thank you, Mr. President, honorable members of the Common Council. My name is Andrew Arena, I'm an attorney in Milwaukee. I'm retained to represent Brent Rock, and I have filed written objections. I intend to be somewhat brief this morning because I believe there's only a few points that are really important and worthy of consideration by this Council.

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1 The first thing I'm going to point out is
2 that I will be asking for a motion to issue the
3 license with a strict warning letter rather than a
4 10-day suspension. Mr. Rock was originally noticed
5 with a neighborhood objection to the renewal of his
6 license based on loud music, cars, et cetera, et
7 cetera, which everybody is familiar with that
8 language. It comes in the notice. And I would first
9 like to point out that there were no neighbors that
10 testified at the committee against his license or
11 complaints that were really known about concerning
12 those types of items in the police report.

13 There was an item in regard to some cars
14 that were doing some burnouts. Mr. Rock has a car
15 show Memorial Day and Labor Day weekend. That issue
16 was addressed through the alderman's office. He has
17 had two car shows since then without any similar
18 incidents, so it appears to me that Mr. Rock has
19 demonstrated that he is capable of being in control of
20 his business and conforming to the requests of people
21 in the neighborhood through the police department and
22 through the alderman's office.

23 Mr. Rock has been in business and has had
24 the license at that location for approximately six
25 years. He is active in fundraising for the

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1 Make-a-Wish Foundation. As I have mentioned, he does
2 sponsor a car show that is greatly attended, and I
3 think it's a benefit to the neighborhood and the area.
4 Part of the problem here is that this business being
5 his sole means of support for himself, the car show is
6 a profitable commercial endeavor as well as a service
7 to the community, and the 10-day suspension would fall
8 directly -- the 10th day falls directly during the
9 first car show. When he does have the car show, he's
10 in contact with the alderman's office, he's not
11 allowed to have another car show until that's approved
12 by the alderman's office, based on the behavior of the
13 people that attend the show.

14 The show is run very smoothly. There are
15 specific rules, and those rules seem to be followed,
16 and there are announcements made, and people know that
17 if they do a burnout with their car, the license plate
18 will be recorded and they will be reported to the
19 police department through the aid of the
20 establishment.

21 There were some other issues that I did
22 address in my written objections. One issue, there
23 was an incident with a person under the age of 21 that
24 was carded, but their card did indicate they were
25 under 21. The City Attorney's Office did not issue a

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1 charge on that case, and there was never a finding of
2 guilt. Therefore, I think it somewhat inappropriate
3 for this Council to consider it, other than the fact
4 is that the event did occur. And I will speak in a
5 moment about what steps are being taken to avoid that
6 again.

7 There are not, unlike many establishments
8 that you hear about in these Council Chambers, there
9 are not a large amount of events that involve
10 violence, guns, weapons, or drugs in this
11 establishment. There is one event that there was a
12 fight. It was handled poorly, admittedly so. The
13 employees that were there and present at the time were
14 suspended for three days. That event, when I look at
15 the facts concerning the event, shows me that there
16 isn't enough staff managing what's going on in the
17 location during busier times. We've addressed that in
18 a plan of operation to the alderman's office. There
19 will be three additional staff members that will be
20 hired on those days, and if there's a greater problem,
21 as determined by the owner, he will hire more.

22 Concerning issues of underage people on the
23 premises, he will have a door person. That makes a
24 big difference, I believe, and a deterrent effect to
25 people coming in that are underage, ensuring the

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1 people are carded and an overall visual presence to
2 the patrons that come in. It relieves the pressure
3 off of one or two bartenders to be in control of
4 everything, and that's the problem. He's aware of
5 what the issue is, and he's more than willing to
6 address it.

7 His plan is to be in greater contact with
8 the alderman of the district, who is Alderman Bohl.
9 We've had lengthy discussions, and I've been to the
10 locations myself several times, and I believe that,
11 given the fact that he has been in business for six
12 years, he recognizes there are some mistakes that he's
13 made, but at this point where he's at, he has no
14 intention of making any more mistakes, and he's taking
15 it seriously to address these issues --

16 PRESIDENT HINES: One minute.

17 MR. ARENA: -- and through the help of my
18 office. I'll wrap up, and I will ask for a motion,
19 and I'll ask for support on that motion to issue the
20 license, and if anybody has any questions, I'm also
21 happy to answer them at this time.

22 PRESIDENT HINES: Thank you, Attorney. Are
23 there any questions by the Council to the attorney?
24 Seeing and hearing none, thank you. We will now hear
25 from the assistant city attorney.

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1 MR. SCHRIMPF: Good morning, Mr. President,
2 members. Bruce Schrimpf from the City Attorney's
3 Office.

4 Getting right to the issue of the request by
5 counsel, as this body well knows, whether or not you
6 renew this license and renew it with a warning letter
7 or impose a suspension of some reasonable length is
8 repose to your sound discretion. That is not a matter
9 that I can get into, that is your business entirely.

10 With respect to the Findings of Fact, it is
11 certainly true this body is well familiar with the
12 rules regarding this stuff, but this body has
13 indicated in the past that you certainly are
14 interested in seeing the entire record of a location.

15 And with respect to the incident of January
16 13th, the Findings of Fact -- of 2005 -- the Findings
17 of Fact clearly point out that the underage citation
18 was not issued and that on August 31st there was a
19 second underage involving the same bartender,
20 apparently. That was issued, and the individual was
21 found guilty. In neither case, however, was the bar
22 itself nor the licensee cited, nor was the licensee
23 found guilty. So you have to take that into
24 consideration under Chapter 125. Basically, that does
25 not go to the issue of the tavern itself.

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1 I think the committee was very concerned
2 about the incident of July 30th involving Mr. Rock.
3 For the sensibilities of our viewing audience, I won't
4 get into all the facts. The members have it, you may
5 read it. And I stand ready to answer any questions
6 you may have.

7 PRESIDENT HINES: Thank you, Attorney
8 Schrimpf. Are there any questions by the Council?
9 Hearing none, thank you.

10 (Other matters heard.)

11 ALDERMAN WITKOWIAK: And the chair now
12 recognizes Alderman Jim Bohl.

13 ALDERMAN BOHL: Thank you, Mr. Chairman. At
14 this time, I would move to change the License
15 Committee recommendation of renewal of the Class B
16 Tavern Billiard Hall Videogaming Center license for
17 Brent Rock at the premises at 10433 West Appleton
18 Avenue from renewal with a 10-day suspension to
19 renewal with the issuance of a warning letter.

20 At the committee, I had indicated that this
21 was one of the items that I was on the fence between
22 issuance of a warning letter to that of a 10-day
23 suspension, that I would not make the recommendation.
24 The recommendation was made by Alderman Dudzik, who
25 similarly indicated that it was a matter that could

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1 go either way.

2 Subsequent to that particular motion passing
3 in committee, it was determined that the 10th day of
4 the suspension, if it were to be upheld by the Common
5 Council, would coincide with a previously advertised
6 car show which Mitchell's Tavern conducts as a charity
7 benefit every Memorial Day weekend and Labor Day
8 weekend. These particular shows have not been a
9 problem in the past year. Prior to that, there were
10 some incidents, but they have made changes.

11 At my request, Mitchell's Tavern put
12 together a very extensive plan of operation that
13 includes the hiring of additional bartenders, having
14 staff security on Fridays and Saturdays, they have one
15 of these ID card machines that will be fully employed
16 to remedy the undesirable effect of underage drinking,
17 and they have passed out and will require every
18 employee to sign a no-tolerance policy, where
19 immediate termination would result of any individuals
20 who would serve those underage.

21 That does meet to my satisfaction. I
22 believe that they have made some concerted efforts to
23 ensure that the few minor incidents that occurred this
24 past year do not repeat, so I would ask this body's
25 support for the issuance of this license, the approval

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1 of this license with the issuance of a warning letter.
2 Thank you.

3 ALDERMAN WITKOWIAK: Thank you, Alderman.
4 The motion by Alderman Bohl is to recommend renewal of
5 this Class B Tavern license with the issuance of a
6 warning letter. And on that motion, the chair
7 recognizes Alderman Willie Wade.

8 ALDERMAN WADE: Thank you, Mr. Chair. I got
9 two questions. One question is I don't have this
10 motion in front of me, and does the motion have to be
11 written and in front of me? That's one question. My
12 other question to Alderman Bohl is has this
13 establishment already received a warning letter in the
14 past?

15 ALDERMAN BOHL: I do have it in writing. I
16 don't know if it's been passed out as such at this
17 point. To my understanding or my belief, the answer
18 is no for the latter of two questions.

19 ALDERMAN WITKOWIAK: The motion is in
20 writing. We're getting a copy, and it will be passed
21 out. You are correct.

22 ALDERMAN WADE: My second question was if
23 this establishment received a warning letter in the
24 past. The reason I asked is I thought that we did
25 issue them a warning letter maybe last year or the

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1 year before for some similar incident, but my recall
2 is not perfect, so that's why I asked the alderman of
3 the district if he recalls them getting a warning
4 letter in the past.

5 ALDERMAN BOHL: I don't have any
6 recollection of that being the case.

7 ALDERMAN WADE: I know he's on the
8 committee, so he may remember, and it's in his
9 district, better than I.

10 ALDERMAN WITKOWIAK: Thank you. Is there
11 any further discussion on the motion? I'll ask at
12 this time -- in writing is on its way -- but at this
13 time, are there any objections to this motion being
14 considered without it being in writing? Alderman
15 McGee.

16 ALDERMAN MCGEE: I object.

17 ALDERMAN WITKOWIAK: It should just be a
18 minute or two. We'll have the copies of the motion in
19 writing. The chair recognizes Alderman Hamilton.

20 ALDERMAN HAMILTON: Can we get a definitive
21 answer on whether they have received a warning
22 letter or not? I know in the interest of progressive
23 discipline, I know that's --

24 ALDERMAN WITKOWIAK: We have a call in to
25 the License Division Office seeking that answer right

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1 now. This motion, incidentally, requires a 3/4ths
2 vote to pass and change the recommendation of the
3 License Committee recommendation, so therefore, it
4 will require 12 votes. Alderman Bohl, any further
5 information on the question?

6 ALDERMAN BOHL: Yeah. My understanding,
7 based on information that was relayed to me, is that
8 in 2005 they were at committee and were issued a
9 warning letter, based on a neighborhood objection
10 where nobody actually showed up to testify. As I
11 indicated here, to me, it's a matter of, when we speak
12 of progressive discipline, they had one incident the
13 year before that resulted from some burnouts that took
14 place regarding one of the car shows. They've
15 sufficiently met my satisfaction with a copy of the
16 plan of operation. I did send that to all members of
17 the committee.

18 It is my hope that this matter be renewed
19 with the issuance of a warning letter at this time.
20 The car show that they've advertised here has been
21 previously advertised, it is an item that does provide
22 for a charity benefit, as well, too, and they would
23 not have the ability to conduct that if this license
24 is not renewed at this time, so I would ask my
25 colleague support.

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1 ALDERMAN WITKOWIAK: Okay. Everyone has the
2 motion in front of them. Motion by Alderman Bohl is
3 to recommend that the Class B Tavern License, 10433
4 West Appleton Avenue, be renewed with the issuance of
5 a warning letter. And on the motion, Alderman Wade.

6 ALDERMAN WADE: In the interest of
7 progressive discipline, I recall hearing this matter
8 last year, and I think some of the same issues that
9 we're talking about this year were discussed the year
10 before, and they were issued a warning letter, and
11 then come 365 days we have the same issues again.
12 Issuing a warning letter, obviously, didn't give him the
13 message, so based on him already receiving that
14 warning letter, I would not agree with a warning
15 letter for this year. Thank you.

16 ALDERMAN WITKOWIAK: Seeing no further
17 discussion on this, I'll ask the City Clerk to call
18 the roll on this, please. An aye vote indicates that
19 you support this motion by Alderman Bohl, a no vote
20 means you do not.

21 THE CLERK: And on the vote, since Alderman
22 Davis has to be recorded as absent for these
23 proceedings because he was not present at the
24 beginning, it's a 3/4 vote of those present and
25 voting, so it will require 11 votes instead of 12.

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1 Alderman Hamilton.
2 ALDERMAN HAMILTON: No.
3 THE CLERK: Alderman D'Amato.
4 ALDERMAN D'AMATO: No.
5 THE CLERK: Alderman Bauman.
6 ALDERMAN BAUMAN: Aye.
7 THE CLERK: Alderman Bohl.
8 ALDERMAN BOHL: Aye.
9 THE CLERK: Alderman McGee.
10 ALDERMAN McGee: No.
11 THE CLERK: Alderman Wade.
12 ALDERMAN WADE: No.
13 THE CLERK: Alderman Donovan.
14 ALDERMAN DONOVAN: Aye.
15 THE CLERK: Alderman Puente.
16 ALDERMAN PUENTE: Aye.
17 THE CLERK: Alderman Murphy.
18 ALDERMAN MURPHY: Aye.
19 THE CLERK: Alderman Dudzik.
20 ALDERMAN DUDZIK: No.
21 THE CLERK: Alderman Witkowiak.
22 ALDERMAN Witkowiak: Aye.
23 THE CLERK: Alderman Witkowski.
24 ALDERMAN WITKOWSKI: Aye.
25 THE CLERK: Alderman Zielinski.

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1 ALDERMAN ZIELINSKI: Aye.
2 THE CLERK: Mr. President.
3 PRESIDENT HINES: Aye.
4 THE CLERK: Nine ayes, five nos, one
5 excused.
6 ALDERMAN WITKOWIAK: 9 ayes, 5 nos, 1
7 excused. The motion fails. If there's no further
8 discussions, I would request a vote of the Council
9 members present to approve the recommendations of the
10 License Committee pertaining to items contained in
11 File No. 051652. Will the City Clerk please call the
12 roll.
13 THE CLERK: Alderman Hamilton.
14 ALDERMAN HAMILTON: Aye.
15 THE CLERK: Alderman D'Amato.
16 ALDERMAN D'AMATO: Aye.
17 THE CLERK: Alderman Bauman.
18 ALDERMAN BAUMAN: Aye.
19 THE CLERK: Alderman Bohl.
20 ALDERMAN BOHL: No.
21 THE CLERK: Alderman McGee.
22 ALDERMAN McGee: Aye.
23 THE CLERK: Alderman Wade.
24 ALDERMAN WADE: Aye.
25 THE CLERK: Alderman Donovan.

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1 ALDERMAN DONOVAN: Aye.
2 THE CLERK: Alderman Puente.
3 ALDERMAN PUENTE: Aye.
4 THE CLERK: Alderman Murphy.
5 ALDERMAN MURPHY: Aye.
6 THE CLERK: Alderman Dudzik.
7 ALDERMAN DUDZIK: Aye.
8 THE CLERK: Alderman Witkowiak.
9 ALDERMAN Witkowiak: Aye.
10 THE CLERK: Alderman Witkowski.
11 ALDERMAN WITKOWSKI: Aye.
12 THE CLERK: Alderman Zielinski.
13 ALDERMAN ZIELINSKI: Aye.
14 THE CLERK: Mr. President.
15 PRESIDENT HINES: Aye.
16 THE CLERK: 13 ayes, 1 no, 1 excused.
17 ALDERMAN WITKOWIAK: 13 ayes, 1 no, 1
18 excused.
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1 STATE OF WISCONSIN)
2)
3 MILWAUKEE COUNTY)

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5 I, TERESE M. SCHIEBENES, of Milwaukee
6 Reporters Associated, Inc., 5120 West Blue Mound Road,
7 Milwaukee, Wisconsin 53208, certify that the
8 foregoing proceedings is a full and complete
9 transcript of my stenographic notes taken in the
10 foregoing proceedings.

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TERESE M. SCHIEBENES
Certified Shorthand Reporter

Dated this day of , 2006.

