

041477

COMMON COUNCIL
CITY OF MILWAUKEE

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Recommendation of the Utilities and Licenses Committee,
Renewal with a 20-day suspension of the Class "B" Tavern
License of Jason Metke for the premises at 332 North
Milwaukee Street, "Metke's on Milwaukee"

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Proceedings had in the above-entitled
matter, March 16, 2005, in the Common Council
Chambers, 200 East Wells Street, Milwaukee, Wisconsin,
reported by Donna Gulczynski of Milwaukee Reporters
Associated, Inc.

A P P E A R A N C E S

BRIAN MULARSKI, Suite 220, 2505 North 124th
Street, Brookfield, Wisconsin, 53005, appeared on
behalf of the Licensee.

BRUCE SCHRIMPF, Assistant City Attorney,
200 East Wells Street, Milwaukee, Wisconsin, 53202,
appeared on behalf of the City of Milwaukee.

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P R O C E E D I N G S

PRESIDENT HINES: We're on Item Number 5
now.

CITY CLERK: Item number five, the Utilities
and Licenses Committee recommends approval of File
Number 041471, motion to approve recommendations of
renewal with a 20-day suspension of the Class "B"
Tavern license of Jason Metke for the premises located
at 332 North Milwaukee Street, Metke's on Milwaukee,
in the 4th aldermanic district. No written exceptions
have been filed.

PRESIDENT HINES: Have the members of the
Common Council read the Report and Recommendations of
the Utilities and Licenses Committee, and any written
exceptions, if filed on this matter? City Clerk,
please call the roll.

CITY CLERK: Alderman Hamilton?

ALDERMAN HAMILTON: Aye.

CITY CLERK: Davis?

ALDERMAN DAVIS: Aye.

CITY CLERK: D'Amato?

ALDERMAN D'AMATO: Aye.

CITY CLERK: Bauman?

ALDERMAN BAUMAN: Aye.

CITY CLERK: Bohl?

1 ALDERMAN BOHL: Aye.
2 CITY CLERK: McGee?
3 ALDERMAN MCGEE: Aye.
4 CITY CLERK: Wade?
5 ALDERMAN WADE: Aye.
6 CITY CLERK: Donovan?
7 ALDERMAN DONOVAN: Aye.
8 CITY CLERK: Puente?
9 ALDERMAN PUENTE: Aye.
10 CITY CLERK: Murphy?
11 ALDERMAN MURPHY: Aye.
12 CITY CLERK: Dudzik?
13 ALDERMAN DUDZIK: Aye.
14 CITY CLERK: Witkowiak?
15 ALDERMAN WITKOWIAK: Aye.
16 CITY CLERK: Witkowski?
17 ALDERMAN WITKOWSKI: Aye.
18 CITY CLERK: Zielinski?
19 ALDERMAN ZIELINSKI: Aye.
20 CITY CLERK: Mr. President?
21 PRESIDENT HINES: Aye.
22 CITY CLERK: Fifteen ayes.
23 PRESIDENT HINES: Fifteen ayes.
24 CITY CLERK: Is Jason Metke or counsel
25 present and wish to address the Council?

1 PRESIDENT HINES: Alderman Witkowiak moves
2 that we go into the Committee of the Whole to hear
3 oral arguments on behalf of the licensee in opposition
4 to the Report and Recommendations and a statement
5 presented by the City Attorney. Is there any
6 objection? Hearing none, we are now in the Committee
7 of the Whole.

8 Please identify yourself for the council,
9 and you have five minutes to address the body.

10 MR. MULARSKI: Good morning. My name is
11 Attorney Brian Mularski. I'm appearing on behalf of
12 Jason Metke and Metke's on Milwaukee. I appeared
13 before the committee a number of weeks ago on this
14 matter.

15 This was initially set for a renewal of
16 Mr. Metke's license for Metke's on Milwaukee. It
17 was ultimately determined that there should be a
18 20-day suspension of his license because of a number
19 of underage drinking citations and a citation for
20 operating after hours. He had a number of individuals
21 in his establishment late in the evening. He also has
22 a number of other criminal matters which are all
23 contained in the report.

24 There were Finding of Facts issued by the
25 Committee dated back on February 11th that supported

1 that 20-day suspension. It was then sent back to
2 Committee because it was alleged that Mr. Metke had
3 his establishment open after that suspension. In
4 fact, there are some items contained in that report
5 Mr. Metke was open serving hamburgers and serving soft
6 drinks over the noon hour during that suspension.

7 He was visited by the Milwaukee Police on
8 a number of occasions. The police on all three
9 occasions established that there was no alcohol being
10 served, and they let him go. There was no problems.

11 Mr. Metke, in fact, had a representative
12 from the Health Department in his establishment to
13 inform him that he was not violating any laws or any
14 rules at that time by serving soft drinks and
15 sandwiches over the noon hour.

16 It was sent back to committee, and at that
17 committee it was established that -- my assumption,
18 based on the Findings of Fact dated March 3rd, that
19 there were no major problems with that because it was
20 the same recommendation that was made. However, it
21 was written in that there would be an additional
22 20-day or a new 20-day suspension starting from
23 today's hearing date.

24 Mr. Metke has been closed for approximately
25 36 days thus far. Another 20 days would put him into

1 early April, which would shut him down for effectively
2 50 some odd days. We are asking the Council at this
3 point to put some favor on Mr. Metke here. He has
4 done everything that the Council has asked. He has
5 cleaned up, with the assistance of myself and some
6 other attorneys, his life in pretty much all respects.

7 All of the outstanding warrants, all of the
8 criminal matters, everything, has been addressed. He
9 is putting his life back together the best that he
10 can. He's asking simply that his license be renewed,
11 and he's asking that it be renewed immediately, since
12 he has already served the initial 20-day suspension.

13 PRESIDENT HINES: Thank you. Are there any
14 questions of Attorney Mularski? Thank you. We will
15 now hear from the Assistant City Attorney Bruce
16 Schrimpf.

17 MR. SCHRIMPF: Thank you, Mr. President,
18 members. Bruce Schrimpf from the City Attorney's
19 Office. The factual recitations as recounted by
20 counsel are essentially correct. He has accurately
21 related to you the history of this matter as I
22 understand it.

23 I did ask the maker of the motion at the
24 Utilities and Licenses Committee if it was -- if
25 everybody understood that the way the motion was being

1 made right now, there would be a 20-day suspension of
2 this license starting from today. That was the net
3 effect of it, and the maker of the motion indicated
4 that he understood that, and that was the maker's
5 intent.

6 The fact of the matter is is that this
7 license has been -- not suspended, but it's been in
8 effect lapsed for a period of time from whenever the
9 renewal period was supposed to occur, and I forget
10 where that was exactly right now.

11 To my knowledge, and to the knowledge of the
12 committee, the premises was open for a period of time
13 but only for the purposes of serving food. The
14 Milwaukee Police Department did not observe alcohol
15 being served, although the premises was open. The
16 police department advised the licensee of that
17 problem. The licensee then apparently closed his
18 premises and has apparently not been open.

19 I specifically asked Sergeant Hogan at
20 committee whether or not the Milwaukee Police
21 Department issued any citations to the licensee when
22 they observed it being open, and he indicated that
23 they did not. So that is the status of this matter.

24 Whether or not you impose a suspension is
25 repose to your sound discretion. The suspension

1 cannot be more than 90 days, cannot be less than 10
2 days, and for some period of time the premises was
3 open but apparently not selling alcoholic beverages,
4 so that's the status of this matter.

5 PRESIDENT HINES: Are there any questions of
6 Assistant Attorney Schrimpf? Yes. Chair recognizes
7 Alderman Bauman.

8 ALDERMAN BAUMAN: Attorney Schrimpf, was it
9 not determined at the committee hearing that this was
10 classified as a tavern based on the occupancy permit?

11 MR. SCHRIMPF: Yes. It has an occupancy as
12 a tavern, and as a tavern the premises was supposed to
13 be closed.

14 ALDERMAN BAUMAN: So as a matter of law, it
15 was not a restaurant, but a tavern.

16 MR. SCHRIMPF: Yes, because that's what its
17 occupancy is.

18 ALDERMAN BAUMAN: Thank you.

19 PRESIDENT HINES: Chair recognizes Alderman
20 Jim Bohl.

21 ALDERMAN BOHL: Thank you, Mr. President.
22 Mr. Schrimpf, is it not true that this establishment
23 has only been open for one year?

24 MR. SCHRIMPF: Yes. That was pointed out at
25 committee.

1 ALDERMAN BOHL: And there were a number of
2 underage citations that were issued either for tobacco
3 or alcoholic sales to minors?

4 MR. SCHRIMPF: I don't have the police
5 report right here, Alderman. Honestly, I don't
6 recall. I'm sorry.

7 ALDERMAN BOHL: Well, the answer is that
8 there were, and a track record.

9 PRESIDENT HINES: You know the answers to
10 your own questions, Alderman?

11 ALDERMAN BOHL: I'm playing Perry Mason
12 here.

13 MR. SCHRIMPF: That's the mark of a good
14 lawyer, Mr. President.

15 ALDERMAN BOHL: That's the only question.

16 PRESIDENT HINES: Any other questions of
17 Attorney Schrimpf?

18 MR. SCHRIMPF: That's all I have.

19 PRESIDENT HINES: Okay. Thank you. Did you
20 want to -- Alderman Bauman, did you have an amendment?

21 ALDERMAN BAUMAN: No.

22 PRESIDENT HINES: All right. Alderman
23 Witkowiak moves that the Committee now rise. Is there
24 any further discussion on this license?

25 If there's no further discussion, I would

1 request a vote of the Council members present to
2 approve recommendations of the Utilities and Licenses
3 Committee as contained in File Number 041471. Will
4 the City Clerk please call the roll.

5 CITY CLERK: Alderman Hamilton?

6 ALDERMAN HAMILTON: Aye.

7 CITY CLERK: Davis?

8 ALDERMAN DAVIS: Aye.

9 CITY CLERK: D'Amato?

10 ALDERMAN D'AMATO: Aye.

11 CITY CLERK: Bauman?

12 ALDERMAN BAUMAN: Aye.

13 CITY CLERK: Bohl?

14 ALDERMAN BOHL: Aye.

15 CITY CLERK: McGee?

16 ALDERMAN MCGEE: Aye.

17 CITY CLERK: Wade?

18 ALDERMAN WADE: Aye.

19 CITY CLERK: Donovan?

20 ALDERMAN DONOVAN: Aye.

21 CITY CLERK: Puente?

22 ALDERMAN PUENTE: Aye.

23 CITY CLERK: Murphy?

24 ALDERMAN MURPHY: Aye.

25 CITY CLERK: Dudzik?

1 ALDERMAN DUDZIK: Aye.
2 CITY CLERK: Witkowiak?
3 ALDERMAN WITKOWIAK: Aye.
4 CITY CLERK: Witkowski?
5 ALDERMAN WITKOWSKI: Aye.
6 CITY CLERK: Zielinski?
7 ALDERMAN ZIELINSKI: Aye.
8 CITY CLERK: Mr. President?
9 PRESIDENT HINES: Aye.
10 CITY CLERK: Fifteen ayes.
11 PRESIDENT HINES: Fifteen ayes, zero no's.

12 The file is adopted. The court reporter is now
13 dismissed. Thank you.

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