



# City of Milwaukee

200 E. Wells Street  
Milwaukee, Wisconsin  
53202

## Meeting Minutes - Final ALCOHOL BEVERAGE LICENSING TASK FORCE

**JUSTICE LOUIS BUTLER, CHAIR**

**Joel Brennan, Sallie Ferguson, Rebecca Grill, Edward J. Lump, Comptroller Wally Morics,  
Sharon Nowak, Bruce Schrimpf, Chet Ulickey**

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Friday, October 24, 2008

10:00 AM

Room 301-A, City Hall

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*Meeting commenced at 10:07 a.m.*

**Present** 7 - Schrimpf, Grill, Brennan, Ulickey, Butler, Lump and Nowak

**Excused** 2 - Morics and Ferguson

**1. Review and approval of the minutes of the October 10, 2008 Meeting**

*Minutes approved with no corrections or additions.*

**2. Appearance by Alderman James Bohl, Chairman of the Licenses Committee, which will include discussion of the issues and concerns leading to the creation of the Alcohol Beverage Licensing Task Force**

*Ald. Bohl, Chairman of the Licenses Committee, at the table.*

*He said that there are ways in which the process can be exploited, but it is exploited by individuals and not by a system. He said that the system is not rife with corruption, and he pointed out that there are examples of corruption in different areas in the country that have processes that differ from that of Milwaukee.*

*Ald. Bohl said that the License Committee is an independent body that does not act at the request of an individual council member.*

*According to Ald. Bohl, the system is most ripe for abuse when a new license application is considered. Concentration maps, which are used to demonstrate over-concentration of alcohol beverage outlets in areas, police reports and neighborhood testimony are three things that the Licenses Committee uses to consider whether a new application should be approved. A council member has a choice as whether he or she will bring a concentration map to the attention of the Licenses Committee.*

*A renewal of a license means there is a vested property right. When applications are new, there is no such right.*

*Council Members are sometimes aware of problems with an establishment, but these things may not show up on a police report. Neighbors have to appear at meetings and items have to appear on police reports to be considered by the committee.*

*According to Ald. Bohl, applications not being scheduled in a timely manner is a problem. When an applicant puts in an application, he or she deserves to have that application heard in a timely manner. Otherwise, a council member can hold an application "hostage". This is not for monetary gain, but the council member probably knows that the application will be for an establishment that the council member believes will be a problem.*

*Issues with the alcohol beverage licensing process that Ald. Bohl sees:*

*1) Individuals, largely not from this country, were naive to the process. Applicants not being informed about the process is a problem. Ald. Bohl said that he believes applicants from foreign countries are used to dealing with situations in which things are moved through government through payment.*

*2) A local council member can control the number of individuals in the neighborhood, especially with new applications, who show up for a Licenses Committee meeting. If the local council member does not request that the License Division notify neighbors or if the local council member chooses not to notify neighbors that there is a new application, they neighbors may not know about the application.*

*If a council member wants to favor the license, he can make sure that the applicant has less opposition.*

*3) Requesting or not requesting a concentration map. Concentration is very often used as a factor when considering new license applications. Ald. Bohl said he has seen a few instances in which a map has been used to argue against one license application, but not presented to the committee when discussing a different license in the same area. There are grey areas when it comes to concentration (is it a restaurant, a nightclub, etc.) when the application is up for a renewal. Those grey areas are not considered as much when the application is new.*

*4) When the committee rules on an existing license and there is a sanction (e.g. a ten day suspension), the licensee has appeal rights. On some occasions, a local alderman does not agree with the sanction and starts lobbying among other council members to change the suspension at Common Council. Council Members receive Findings of Fact and Conclusions of Law for applications heard at committee, but it is a summary of that happened at the Licenses Committee. Some council members only read the Findings and Conclusions and try to change the minds of other council members.*

*Ald. Bohl said that if there is an example of aldermanic influence, this is one of them.*

*5) When licenses for renewal are applied for, the License Division staff reviews the matter with the local council member. The council member can deem an item on the police report minor and not needing to be addressed at the committee. A warning letter can then be issued and the applicant does not have to appear at the Licenses Committee. The chair of the committee does not see the item, only the individual council member. That allows a single council member to have discretion with regards to scheduling.*

*Ald. Bohl said he believes that creating an independent board that is not beholden to the constituency is not needed. The current system just needs a tune up.*

*Recommendations for changes:*

1) New licenses should be heard in a specific time frame, no more than 60 days or two full council cycles, whichever is longer.

2) Renewals with current year police reports should still be reviewed by the alderperson, but any applications recommended for the warning letters only should also be reviewed by the chair of the Licenses Committee. If the application is in the chair's district, it should be reviewed by the Common Council president.

3) Individual Licenses Committee members should abstain from decisions or come to the other side of the table and testify when applications for establishments in their neighborhoods are being heard at committee. Licenses Committee members can hear the testimony but the question should be raised of whether a decision can be made arbitrarily if a council member knows the complete history of the application and problems that may not be addressed at the meeting.

4) A pamphlet spelling out the process and the applicant's rights should be distributed to new and renewal applicants. Ald. Bohl said he believes it would be beneficial to applicants to know the process.

5) With new licenses, there should be a notice to the closest neighbors to the location. He would not necessarily recommend it for all renewals. Most council members request it anyway for renewals, but neighbors should be notified of a new application.

Mr. Lump said there is suspicion of the government, with foreign applicants in particular. He asked if there are any other ways besides a pamphlet to let people know about the process.

Ald. Bohl said that coverage of what occurred with Ald. McGee has helped. He also said that other groups like the Tavern League and the Great Lakes Beverage Association, not the City of Milwaukee, might want to work to provide a course of some sort about the licensing process, one that is similar to the Responsible Beverage Service Course.

Ms. Nowak asked if all renewals are reviewed by the License Division and by the alderman of each district. Ald. Bohl said no, that council members are not always notified about an application if there is nothing in the file requiring review by the Licenses Committee.

Ald. Bohl said that a quorum for Licenses Committee is three. A majority is required for recommendations to go forward. If there are two members missing, a recommendation can still go ahead with a three to zero vote on an application.

Justice Butler asked if Ald. Bohl's suggestions come from him personally or if it is the view of the Licenses Committee as a whole.

Ald. Bohl said that his views were largely coming from his personal experience on the Committee, and not from the committee itself.

Justice Butler said that if the Licenses Committee had any additional input or thoughts on how the system can be improved, he would invite the other committee members to share their thoughts in writing before the next Task Force meeting.

**3. Presentation by Rebecca Grill of two examples of the timeline of a processed license application**

*Task Force member Ms. Grill distributed a packet with examples of timelines for the processing of a new application. There was an example of an ideal process and three examples of longer processes in the packet.*

*Regarding the measurement of 250 feet from the premises for neighbor notification, Justice Butler asked how "premises" is defined.*

*Justice Butler asked how the footage is measured. Ms. Grill said she did not know whether the measurement of 250 feet was from the edge of the property, or the center of the property. Sometimes a council member will request notification of 100 people instead of notification by footage. If a very small amount of addresses is generated from a 250 feet request, sometimes the notification area is increased.*

*There is still some discretion on the part of the council member regarding whether the neighbors are notified, and Ms. Grill said that if there is not a change on the application, a new item on the police report, or an objection from a neighbor or the local alderman, the application is just scheduled to be granted and is not presented to the Licenses Committee.*

**4. Presentation by Assistant City Attorney Bruce Schrimpf of different examples of court decisions regarding Alcohol Beverage licensing**

*Task Force member Mr. Schrimpf provided two examples of published court decisions that involve alcohol beverage licensing in the City of Milwaukee.*

*The Court of Appeals ruled in favor of the City of Milwaukee in the Heinemeier case, and against the city in the Assad case.*

*Mr. Schrimpf said that he presented the Heinemeier case as an example because it is a good review by the Court of Appeals of the city's current processes regarding alcohol beverage licenses.*

*In the Assad case, a complaint was filed in the Milwaukee County Circuit Court even though it was a new application and the applicant had no appeal rights with the city. The Circuit Court judge ruled against the city.*

*The counsel for the applicant in the case sought temporary injunctive relief against the city requiring it to give the applicant a license to sell alcohol. Mr. Schrimpf said he opposes temporary injunctions against the city that allow establishments to remain open and serve alcohol. He says that a place should only be able to serve alcohol if it has obtained a license to serve alcohol under the provisions of state law.*

*Mr. Schrimpf said that he took the Assad case to the court of appeals, which ruled in favor of the city against the issuance of an injunction. Another court of appeals judge also ruled that the Common Council had enough evidence to deny the license.*

*Justice Butler says that the Assad case is very important because of the ruling of the court of appeals. Once the city's Common Council makes the judicial determination that an establishment cannot have a license to serve alcohol, the court of appeals cannot make a different determination. It is not the place of the judicial branch to go against the determination of another branch of government.*

*Justice Butler also pointed out that the concern of the circuit court judge was the shift in opinion (grant, then deny) of the Licenses Committee between its first and final votes, the latter of which occurred after the Common Council returned the matter to committee. Justice Butler said that if the courts can't look at the specific reasons for the shift in an opinion of council members, it has to be addressed at the aldermanic table.*

*Mr. Schrimpf also mentions Herro vs. City of Milwaukee, Seventh Circuit published opinion. The case dealt with an area concentrated with liquor licenses. The denial of the license was held up by the courts. Mr. Schrimpf said that there are not hard and fast rules when determining whether or not an area is over concentrated.*

**5. Presentation by Richard Withers of the Legislative Reference Bureau of information comparing and contrasting the Alcohol Beverage licensing processes of the Milwaukee and other cities in the state, as well as a comparison of Milwaukee's current and former licensing processes (Time Permitting)**

*Richard Withers from the Legislative Reference Bureau appearing.*

*Eighteen states regulate sales of alcohol. These are called "control states".*

*Thirty-two states are "License" states and are of two types:*

*Type 1) Twenty-three states have "Statewide" licensing, meaning the state issues the license after an investigation.*

*Type 2) Nine states (including Wisconsin) have licenses that are issued on a municipal level.*

*With regard to Milwaukee, Wisconsin places responsibility on the Common Council to issue alcohol beverage licenses.*

*Most states do identify the corner of the premises as the starting point for neighborhood notification areas.*

*Mr. Lump asked specifics about the use of addresses in issuing notifications to neighbors. Ms. Grill stated that some alcohol licenses are located within a large premise (e.g. Grand Avenue mall). For a notification of neighbors, the general address of the premises would be used, not the specific address licensed location. Specific premises are listed on an application, but notices are sent out from a radius of an address only.*

**6. Set next meeting's agenda**

*The next meeting is scheduled for November 21st, 2008.*

*At the next meeting, there should be a review of the input of the other members of the Licenses Committee, including formal suggestions of what should be changed about the process and what works.*

*Before the next meeting, a letter should be sent to the members of the Licenses Committee and to Grant Langley, City Attorney, requesting a formal response to requests for suggestions about the licensing process.*

*City Clerk Ron Leonhardt said that arrangements for a public hearing, possibly in the evening, could be made. Public notification can be done through the newspaper, E-notify, press release and invitations to particular interest groups. He also said that other, more senior members of the Common Council should probably be invited to contribute.*

*Ms. Nowak cautioned against inviting too many people and says that speaking time should be limited. Mr. Lump agreed and said that the subject matter of the meeting with the public should be very narrow.*

*Before the meeting with the public requesting its point of view (critiques, support of the current system, etc.), the Task Force should decide, at the next Task Force meeting, exactly what topics will be addressed at the public meeting.*

*Justice Butler asked: From what other entities should input be requested besides the Licenses Committee and the City Attorney's office? These would be other people who might question the alcohol beverage licensing process.*

*Mr. Brennan suggested that the city's website be used to reach other interested parties, including those who have signed up for e-notify.*

*Sgt. Ulickey mentioned that most of the members of the Licenses Committee are new and inviting other more experienced council members is a good idea. He also asked if the scope of the meeting for the public could be narrowed right on the notice of the meeting.*

*Mr. Leonhardt said that the City Clerk's office can do some research on appropriate groups that may be invited to speak.*

*Meeting adjourned at 12:10 p.m.  
Acting Staff Assistant Tobie Black*