



# 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*

*Staff Assistant, Tobie Black (414) 286-3790*

*Fax: (414) 286-3456, E-mail: tblack@milwaukee.gov*

*File Specialist, Joanna Polanco, 286-3926, E-mail: jpolan@milwaukee.gov*

---

Monday, March 16, 2009

9:30 AM

Room 301-B, City Hall

---

*Meeting convened at 9:39 a.m.*

**Present** 8 - Schrimpf, Grill, Brennan, Ulickey, Butler, Ferguson, Lump and Nowak

**Excused** 1 - Morics

**1) Review and approval of the minutes of the February 23, 2009 meeting**

*Minutes were approved as written.*

**2) Discussion of the written recommendations submitted by the Alcohol Beverage Licensing Task Force members**

*Mr. Butler said that a reminder should be sent to City Attorney Grant Langley regarding his written recommendations to the task force.*

*Regarding whether the Licenses Committee should institute a three-minute time limit on neighbor testimony and make sure that the testimony be limited to the license issues at hand.*

*Mr. Butler asked Sgt. Ulickey if the task force should be making specific recommendations to the Common Council.*

*Sgt. Ulickey said that there could be a perception that someone is being favored if that person is given more latitude when testifying at committee. He also said that he is not opposed to letting the Common Council set the specific time limit as long as there is a time limit set to ensure consistency.*

*Mr. Schrimpf said that the Chair of the committee has the discretion to limit the time that people are allowed to testify and that objectors to the license usually have to present proof as to their observations of things that have occurred, including written dates and times. He also said that the testimony of supporters tends to be somewhat limited. He also pointed out that representatives of neighborhood associations are sometimes given latitude with regards to how long they speak on behalf of neighbors.*

*Sgt. Ulickey said that the time limit would alleviate the perception that some speakers are allowed to go on while others are limited. Mr. Butler asked if the recommendation could be presented to the Common Council without a specific time limit. Sgt. Ulickey said that it would be fine as long as a reasonable time limit is implemented.*

*The recommendation was amended. Therefore;*

*\*Regarding whether the Licenses Committee should institute a reasonable uniform time limit on neighbor testimony to be applied equally to all witnesses:*

*The task force voted unanimously in favor of the amended recommendation. (Mr. Morics excused)*

*\*Regarding whether the timeline on notice of hearing (for renewals) may be too short and whether time should be allowed for either rescheduling the hearing of the notice or whether the committee needs to take into account that the license holder may be out of town or have other conflicts:*

*Mr. Schrimpf said that the timeline for notice of hearing for renewals is set by state statute.*

*Mr. Lump said that he would withdraw the recommendation based on a previous discussion of notice times.*

*The recommendation was withdrawn.*

*\*Regarding eliminating a provision that dictates that council members decide whether there is an issue of concentration with a new application and putting in place a specific policy to outline who receives neighborhood notification:*

*Mr. Brennan narrowed his recommendation to deal with the issue of council members deciding whether there is an issue with concentration and how it affects whether neighbors are notified of a new application.*

*Ms. Grill said that there has been discussion with a council member of the concentration of alcohol beverage outlets being considered by the committee for all new applications and the issue raised being consistency across the board. Ms. Grill also said that the issue of land use in neighborhoods to determine whether an alcohol beverage outlet is a good use of a property is also being discussed.*

*Mr. Butler questioned how much concentration is a factor when it comes to use of the land in a neighborhood.*

*Mr. Schrimpf said that the issue of land use is usually taken into account when there is an area with new development. He said that the council members tend to factor in concentration when dealing with an older, existing neighborhood, not an area of new development.*

*Mr. Brennan said that he made the recommendation in order to eliminate the ambiguity that is present if a council member can make the determination of whether concentration is or is not an issue.*

*Mr. Ferguson said that council members use concentration of alcohol beverage outlets to recommend that some licenses be denied by the Licenses Committee, but then ignore concentration when recommending the approval of other licenses.*

*Sgt. Ulickey said that neighborhood concerns should take priority to the issue of concentration because of the different types of neighborhoods in the city. Mr. Brennan said that perhaps the recommendation should be that concentration not be used to deny licenses.*

*Mr. Schrimpf said that there is some validity to the issue of concentration but he also*

*acknowledged that the determination of overconcentration can be abused by council members. He also said that there should be specific criteria for evaluating when an area is overconcentrated and when it is not.*

*Ms. Grill said that there needs to be a focus on consistency with regards to when a council member is considering concentration as an issue.*

*Mr. Butler recommended having the council establish criteria for determining whether concentration is an issue based on the land use for that neighborhood. Therefore;*

*\*Regarding whether the Common Council should establish criteria for determining whether concentration is an issue based on the land use for that particular neighborhood:*

*The task force voted unanimously in favor of the amended recommendation. (Mr. Morics excused)*

*\*Regarding whether objections from Common Council members should be accompanied by some form of substantiation and whether acceptable forms of substantiation should be identified:*

*The task force voted unanimously in favor of the recommendation. (Mr. Morics excused)*

*\*Regarding whether council members should be restricted from recommending any penalties and to the extent possible should standardize punishments and suspensions:*

*Mr. Schrimpf said that standardizing punishment would be very difficult.*

*Mr. Butler said that the recommendation should be split up into two parts. Therefore;*

*\*Regarding whether council members should be restricted from recommending any penalties:*

*Mr. Butler asked if the recommendation is worded too broadly and if the recommendation should be at the Licenses Committee stage, not the council stage. Mr. Brennan approved of the addition of "to the Licenses Committee". Therefore;*

*\*Regarding whether council members should be restricted from recommending any penalties to the Licenses Committee:*

*Mr. Schrimpf said that he is not comfortable with council members making recommendations of penalties to the committee because it interferes with the discretion of the committee and could be interpreted as some form of aldermanic influence if the recommendation is adopted by the committee.*

*Ms. Grill asked if the restriction should apply to council members that are on the other side of the table or if the restriction should apply to all council members, even if the council member is serving on the Licenses Committee.*

*Mr. Schrimpf said that the City Attorney's office is of the opinion that a council member serving on the Licenses Committee has an obligation to move to the other side of the table and act as a witness if he or she has already formed an opinion on an application before hearing testimony at committee.*

*The task force voted unanimously in favor of the recommendation (Mr. Morics excused)*

*\*Regarding, when possible, if there should be a standardizing of punishments and suspensions:*

*Mr. Brennan withdrew the recommendation due to previous discussion.*

*\*Regarding council members knowing that many of the complaints with the Licenses Committee stem from unprofessional behavior or lack of decorum on the part of the members:*

*Mr. Brennan withdrew the recommendation due to previous discussion.*

*\*Regarding there being a city-appointed interpreter for some of the license applications or renewals:*

*Ms. Nowak withdrew the recommendation due to previous discussion.*

*\*Regarding the necessity of personal comments when the committee is dealing with one's means of making a living:*

*Ms. Nowak withdrew the recommendation due to previous discussion.*

*\*Regarding whether witnesses making comments should be limited to two minutes:*

*Ms. Nowak withdrew the recommendation due to previous discussion and recommendation.*

*\*Regarding whether there should be a "pre-signup" sheet outside the committee room with names and addresses of those prepared to speak for or against the license and whether only legal representatives or law enforcement should be allowed at the table while others stand at the microphone:*

*The task force voted unanimously in favor of the recommendation. (Mr. Morics excused)*

*\*Regarding whether the method by which the BOZA 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 the applications:*

*Ms. Grill explained that the agenda for the Licenses Committee is scheduled by aldermanic district, which means applicants for non-contested items are required to wait for hours to have their non-contested applications heard after contested items that may require a lengthy amount of testimony. Additionally, if items that are expected to have neighborhood testimony are scheduled earlier in the day, it is more difficult for neighbors to attend the meeting.*

*Mr. Butler said that the issue of time limits had already been discussed. He also asked if this area is potentially subject to abuse and whether it should be considered by the task force.*

*Ms. Grill said that if the focus is to be taken off the local council member making their recommendations in relation to applications it is also necessary to give neighbors more ability to weigh in on applications, so it is indirectly related to the goal of the*

*task force.*

*The language of the recommendation was amended. Therefore;*

*\*Regarding whether the method by which the BOZA schedules and conducts hearings should be explored by the licenses committee with special attention given to the scheduling of contested versus non-contested items, and the time the meetings begin:*

*The task force voted unanimously in favor of the amended recommendation. (Mr. Morics excused)*

#### SUBSTANTIVE ISSUES

*\*Regarding whether PA-33s are good or bad tool for the committee:*

*Ms. Nowak withdrew the recommendation due to previous discussion.*

*\*Regarding whether the council should develop a uniform procedure for the consideration of various types of police reports, police summaries, and PA-33s, including verification of the items contained within the reports, and access of the reports by the applicant prior to the hearing:*

*Mr. Butler withdrew the recommendation due to previous discussion.*

*\*Regarding whether greater attention should be paid to the "business plan" of the applicant; whether there should be a requirement that the applicant have the resources to follow the plan; and whether the issuance of a license and occupancy permit should be conditional on fulfillment of the business plan:*

*Mr. Lump said that this would be a way of putting some order into the licensing procedure with regards to who get the licenses and what the use of the licensed property is going to be. He said applicants should be held accountable for how the applicant ends up running their businesses.*

*The task force voted unanimously in favor of the recommendation. (Mr. Morics excused)*

*\*Regarding whether the council should adopt a uniform procedure for requesting concentration maps as part of the application process:*

*Mr. Butler withdrew the recommendation due to previous discussion.*

*\*Regarding whether greater weight should be given to police reports on problem buildings and whether there should be greater care exercised in order to determine that the applicant is not "fronting" for the problems of the previous owner:*

*Mr. Lump clarified that the recommendation deals with applicants that act as the face of an establishment while a previous owner that had problems at the establishment acts as the real operator of the business. Mr. Schrimpf said that state and local laws currently prohibit this kind of arrangement.*

*Ms. Grill asked if the recommendation means that the history of an establishment should be considered when a new application is filed for a previously-licensed location. Mr. Butler said that would be part of the intent of the recommendation.*

*Mr. Schrimpf said that if consideration of the premise report by the Licenses Committee is put in the ordinance it would stand up to legal challenges. He said that he would err on more information being provided to the Licenses Committee than less.*

*Mr. Butler said that the second portion of the recommendation is already covered by state law and local ordinances and he proposed changing the language of the recommendation. Therefore;*

*\*Regarding whether police reports on problem buildings should be considered by the Licenses Committee:*

*Mr. Butler said this would take the decision to introduce evidence of past problems at establishments out of the hands of the local council members. The Licenses Committee would then decide how this information would impact a license application.*

*The task force voted unanimously in favor of the amended recommendation. (Mr. Morics excused)*

*\*Regarding whether council members should be able to express objective opinions on licenses to be issued in their district:*

*Mr. Lump withdrew the recommendation due to previous discussion.*

*\*Regarding whether a council member should not be allowed to suggest appropriate action once a hearing is scheduled:*

*Mr. Lump withdrew the recommendation due to previous discussion.*

*\*Regarding whether, in the case of a new license 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 made part of the motion to recommend approval of the license:*

*Ms. Grill withdrew the recommendation due to previous discussion.*

*\*Regarding whether the committee should be allowed to consider the actions of prior owners of a business at that location:*

*Mr. Butler withdrew the recommendation due to previous discussion.*

*\*Regarding what weight should be given to citizen testimony in determining approval or disapproval of a license application:*

*Mr. Schrimpf said that there should be something in place to make sure that all citizen testimony is given equal weight.*

*Mr. Butler withdrew the recommendation due to previous discussion.*

#### COMMON COUNCIL DELIBERATION

*\*Regarding whether council members and applicants should be required to keep records of "behind the scenes" contacts:*

*Mr. Schrimpf said that the recordkeeping of communication between the council member and the applicant for a license that the council member is in opposition to could be presented at committee as evidence of the applicant's cooperation towards resolving issues or lack thereof.*

*Ms. Grill asked whether the recommendation is referring to all communication or just communication relating to the license application. Mr. Butler said that the issue is complicated because there are multiple communications that could take place between an applicant and a council member. The communication may not directly relate to the pending application but based on the nature of the communication that takes place, the net result of that communication could make it easier or more difficult for that application to be processed.*

*The task force members skipped forward to the recommendation by the City Attorney's office regarding this issue because it encompasses what other recommendations on this subject were attempting to address:*

*Regarding whether Chapter 90 should be amended 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, whether consideration should be given to requiring Council members to prepare the same documentation and whether the documentation should be available to the public and the Licenses Committee.*

*Mr. Butler said that documenting every interaction between council member and applicant may not be necessary, but if the interaction relates directly to the status of the application it should be documented.*

*Mr. Lump suggested adding language that refers to communication that is directly related to the license application. Therefore;*

*\*Regarding whether Chapter 90 should be amended to require that applicants (new and renewal) summarize and document any contacts relevant to the license or renewal that they have had with Council members during the time of their initial or renewal application, whether consideration should be given to requiring Council members to prepare the same documentation and whether the documentation should be available to the public and the Licenses Committee.*

*Ms. Grill asked if an applicant's failure to comply with the documentation requirement would be taken into consideration against his or her license or application. Mr. Schrimpf said that real issue would be public disclosure of this failure, which he did not believe would result in the revocation of an existing license or anything similar. Mr. Butler asked Mr. Schrimpf if a lack of compliance with requirements dictated by Chapter 90 could be grounds for denial or revocation if the Licenses Committee decides to consider it.*

*The task force voted 7-1 in favor of the amended recommendation. (Ms. Grill voting "no", Mr. Morics excused)*

*\*Regarding whether 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:*

*and;*

*\*Regarding whether council members and applicants should be required to keep*

records of "behind the scenes" contacts:

Mr. Lump and Mr. Butler withdrew the recommendations due to previous discussion.

*\*Regarding whether the council should create a right to appeal the denial of a new license application to the entire council when a council member recommends that denial and the Licenses Committee agrees with the recommendation:*

Sgt. Ulickey clarified that there is a one-year wait before re-applying for a license if denial is based on a police report, not fitness of location or overconcentration.

Mr. Lump asked about the practicality of allowing new applicants to make an appeal to the Common Council.

Mr. Schrimpf said that there are different standards for due process when a license is being renewed, which is why an applicant for a renewal of a license is allowed to appeal to the Common Council. Sgt. Ulickey said that since having a license is a privilege, property rights should not hold extra weight.

City Clerk Ron Leonhardt at the table. He asked if the right to appeal to the Common Council is dependent on whether a denial is recommended to the Licenses Committee by a council member. He also asked if the recommendation applied to establishments only.

In consideration of these questions, the recommendation was amended. Therefore;

*\*Regarding whether the Common Council should create a right to appeal the denial of a new licensed establishment application to the entire council when the Licenses Committee makes the recommendation:*

The recommendation was adopted on a 6-2 vote. (Ms. Grill and Mr. Schrimpf voting "no", Mr. Morics excused)

*\*Regarding whether a council member should be precluded from voting on a license application if the council member or a family member submits the application:*

Ms. Grill said that the recommendation should be removed from the entire licensing process, not just the voting. Mr. Butler said that the council member could not be excluded in the process if he or she initiated the process with an application.

Sgt. Ulickey asked if a council member can apply for an alcohol beverage establishment license.

Mr. Leonhardt at the table. He said that the Ethics Code prohibits council members from taking any action as a council member that would benefit them financially. The code also applies to family members of council members or any organization in which a council member has a substantial interest.

Mr. Butler withdrew the recommendation since the issue is addressed by the Code of Ethics.

RENEWAL

*\*Regarding whether renewals where the premises have current year police reports or warning letters should be reviewed by the chair of the Licenses Committee or the entire Licenses Committee:*



*Mr. Butler withdrew the recommendation due to previous discussion.*

*A discussion point was presented to the task force:*

*Should tavern owners be held more or less accountable for what happens on and/or near their premises, even if there is no showing of wrongdoing by the businesses:*

*Mr. Brennan away from the table at 11:50 a.m.*

*Sgt. Ulickey said that the current committee gives the proper weight to those instances in which incidents did not occur inside the establishments and to the reactions of the licensees to the incidents.*

*Mr. Butler is concerned about situations in which a bad element decides that it prefers to patronize a location that is being operated according to the law and responsibly by the licensee.*

*Ms. Ferguson said that her concern is the weight that is given to the actions of patrons that occur after the patrons leave an establishment.*

*Mr. Butler said that this issue is presented as a discussion point to see if the task force had a position as to the accountability of licensees, not as a recommendation.*

#### REVOCATION

*\*Regarding whether a streamlined revocation process could be developed:*

*Mr. Butler withdrew the recommendation due to previous discussion.*

### **3) Set-up of the agenda for the next public evening hearing**

*The next scheduled task force meeting is Wednesday, March 18th at 1:30 p.m. The public hearing will be rescheduled at that time.*

### **4) Set-up of the next regular meeting's agenda**

*The agenda will consist of a completion of the discussion of the recommendations, the scheduling of the evening hearing, and the agenda of the evening hearing.*

### **5) Scheduling of the next meeting (time and date)**

*The next scheduled task force meeting is Wednesday, March 18th at 1:30 p.m.*

*Meeting adjourned at 12:03 p.m.*

*Staff Assistant Tobie Black*