



# 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, November 21, 2008

10:00 AM

Room 301-A, City Hall

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*Meeting commenced at 10:06 a.m.*

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

**Excused** 1 - Ulickey

**1. Review and Approval of the Minutes of the October 24, 2008 Meeting**

*Meeting minutes approved with no changes.*

**2. Review and discussion of suggestions and comments from Council Members and City Attorney Grant Langley about the Alcohol Beverage Licensing process**

*Chair Butler said that a formal letter should be sent from the Task Force to the council members requesting input on the alcohol beverage licensing process.*

*Justice Butler said that it is better to get input from council members before any changes in the process are suggested or implemented.*

*Bruce Schrimpf gave an oral presentation on behalf of the City Attorney's office, including suggestions for improvement. The presentation has been reviewed and edited by City Attorney Grant Langley.*

*The issue of new licenses and renewal licenses:*

*Concerning new licenses, Mr. Schrimpf said that it is clear that there can be inappropriate influences on the part of a council member when it comes to scheduling by council members of license applications for hearing at the Licenses Committee.*

*Concerning the concentration of alcohol beverage outlets: Mr. Schrimpf said it is good planning to control the number of alcohol establishments in areas. However, there are times when a license might be desired for economic development, such as new restaurants coming to the area.*

*Mr. Schrimpf mentioned an example of an area that was deemed overconcentrated by a council member when the council member was objecting to one license, but the issue of concentration was not mentioned when the council member was in support of a different license in the same area.*

*When a renewal application is concerned, a council member has had experience with the establishment, and certain issues that a location has will have come to the attention of the council member. Neighbors sometimes appear at the Licenses Committee to object to a license being renewed, but some do not appear for various reasons, including being unable to attend the meeting during the workday.*

*There is no vehicle in the statutes for allowing temporary extensions of licenses if all processing of the renewal application is not done by the expiration date of the license. Therefore, Mr. Schrimpf approves of a "drop-dead" date by which all processing of a renewal application must be done for the license to be approved and issued.*

*Mr. Schrimpf says there is a remonstrance provision in Chapter 125.05 of Wisconsin State Statutes that would allow citizens to prohibit alcohol sales in an area by a vote in the spring. This would make void any liquor licenses in the area despite any ruling by the Licenses Committee or the Common Council.*

*State statutes also prohibit alcohol beverage licenses within 300 feet of places such as schools and churches of liquor licenses, but only for new licenses. The committee can always make exceptions to this and approve the licenses. Mr. Schrimpf advised that if the committee makes an exception to the 300 foot rule, a reason why should always be given. He also said that the type of entertainment that an establishment chooses to have can also affect whether there is an objection or recommendation for approval.*

*Mr. Schrimpf mentioned that sometimes applicants present a need for an alcohol beverage license to stay in business, which would affect the economy of an area if the business failed.*

*Mr. Schrimpf said that he doesn't think anyone would question the need for council members to have input on the approval of licenses. He did not think that council members' involvement in the alcohol beverage licensing process constitutes undue aldermanic influence.*

*Mr. Schrimpf discussed Chapter 227 of Wisconsin State Statutes:*

*Chapter 227.44 deals with agency memoranda in the hands of a hearing examiner. It allows that person to put a matter in the file, not in the record. Parties in the case can comment on things in the file that are not in the official record.*

*Chapter 227.50 deals with communication between the hearing examiner and the applicants in the case.*

*For renewal applications, Mr. Schrimpf said that a good practice of a council member would be communicating with the licensee in writing and producing those communications to the committee and to the License Division so they are sent to the Licensee when they are noticed to appear.*

*For both types of applications, new and renewal, Mr. Schrimpf said that communication between council members and applicants should be put in a record.*

*Mr. Schrimpf also said that the local council members should not be able to lobby other council members with regards to a license of which they approve or of which they oppose. Any issues a council member has with the action of the Licenses Committee should be aired on the floor of the Common Council meeting only.*

*Mr. Brennan asked how the communication between council members would be monitored or enforced.*

*Mr. Schrimpf said a record of any violation should be made and be accessible to everyone, including the licensee. But he admitted that monitoring or enforcing any rule regarding council member communication would be difficult to do.*

*Mr. Schrimpf pointed out that if a license applicant has been denied or suspended at committee and he does not file written objections to the committee's decision, he does not have the ability to protest the decision of the Licenses Committee in front of the Common Council.*

*Mr. Lump mentioned that there is a need for council members to be educational to one another regarding applications. Mr. Schrimpf says that a council member can be educational to other council members about a license application, but it should be done on the Council floor.*

*Justice Butler asked if Mr. Schrimpf has an official position on whether the waiting period for a licensee to re-apply for a license when it was previously denied should be changed. Mr. Schrimpf said that if applicants had short waiting periods between applying for licenses, Common Council meetings would be lengthened and he mentioned that the waiting period change would apply to renewal bartender licenses as well as establishment alcohol beverage licenses.*

*Alderman Murphy at the table. Justice Butler said that any recommendations that the Task Force makes may affect the Common Council directly if adopted.*

*Ald. Murphy said that he has been on the Common Council since 1989. He mentioned that the most recent case of aldermanic misconduct has definitely eroded the trust of the public in the licensing process. He said that an alderman is perhaps the closest public official to the people. Ald. Murphy said that council members do have a place in the licensing process and that an independent board could abuse power as well as council members could. An independent board would not remove the possibility of misconduct, but there would be less accountability for board members than there would for council members who work closely with the public.*

*Ald. Murphy suggests a Bill of Rights for applicants that details what should and should not be expected when an application is filed. He also mentions the point system for applicants/applications that is mentioned in his letter to the Task Force.*

*Ald. Murphy also recommended that the police department provide better substantiated police reports for license applications.*

*Justice Butler mentioned new license applications that are denied and do not have appeal rights but have to wait three years to reapply when denied for concentration. Ald. Murphy does not think that the waiting period should be shortened.*

*Mr. Schrimpf said that a change of circumstances within an area could allow an applicant to get a new hearing if the denial was due to over concentration.*

*Ms. Ferguson asked how applicants would know whether "lobbying" amongst council members was occurring before applications reached the Licenses Committee. Ms. Grill said there is no way to know when it is happening, but Licenses Committee*

*members are required to keep an open mind on a license matter before it gets to committee.*

*Mr. Schrimpf said that Licenses Committee members should recuse themselves from voting if they have an existing opinion on a license application. He said that it is clear that the courts regard the license hearings, no matter the outcome, as a quasi-judicial function of the legislature. Therefore, there always has to be evidence supporting any decision. Mr. Brennan asked if council members generally give input on the decision of the Licenses Committee themselves or through their aides. Mr. Schrimpf says that the concern is with council members who are on the Licenses Committee, not all council members. However, no matter what has happened with the Committee's decision, they should be allowed to vote on the matters at Common Council.*

*Justice Butler asked if any discussion amongst council members about applications is prohibited in writing anywhere and Mr. Schrimpf said no.*

*Mr. Morics asks whether requiring an openness about what factors led to a decision would make it easier to appeal the Council's decision in appellate court because the deference given to the Council with regards to rulings is contained in the body of the rules; if one of the rules is violated, it is grounds for overturning the decision. Mr. Schrimpf responds that it is making it easier to attack the decisions of the Licenses Committee or the Council. However, there is a substantial body of law that when a person or a body that exercises discretion has factors that it is to consider, it is perfectly legitimate. Mr. Schrimpf said that the decision maker can point to different substantiated factors involved in the decision, which could actually strengthen the decision.*

*Justice Butler says that the court looks to see if certain factors were considered when a decision was made. If there are factors to be considered and they are not considered at all, something called an erroneous exercise of discretion can occur.*

**3. Discussion of topics for a public meeting about the Alcohol Beverage Licensing process and a review of the groups and organizations that may be invited to the public meeting**

*Suggestions for public hearing topics:*

*Mr. Morics said he would like to know from the public its knowledge of the process and what the perception of the licensing process is to applicants and to the public. Public input should also include what could be changed and if the process is adequate as it is.*

*Interested groups:*

*Neighborhood associations and organizations should be invited to provide input.*

*Justice Butler said that the public should be asked about potential changes in the process. He also asked Ms. Nowak and Ms. Ferguson about the weight that the actions of patrons should have on the record of the establishment.*

*Ms. Nowak said that there is a fine line because licensees cannot be there 24 hours a day but they are held responsible for what happens with their patrons and in their establishments.*

*Mr. Schrimpf said there is a benefit in making licensees accountable for everything*

*that happens in and surrounding the establishments. However, he also said that licensees are an integral part of the community, are taxpayers and can be victims of their patrons' actions. Mr. Schrimpf said that is why decisions on liquor licenses cannot be overly mechanical and why licensees are called in to the Licenses Committee to provide context for events contained in the police report.*

*Ms. Ferguson said that it is not fair for licensees to be held responsible for what happens with their patrons outside of their establishments. Justice Butler said that the issue is important, but may not be something that can be addressed by the Task Force.*

*Other suggestions for public meeting topics:*

*Mr. Schrimpf said there can be a section for Public Comments, but suggested a time limit for remarks.*

*Mr. Lump said he wants to hear from neighborhood organizations. All of the organizations listed on the handout should be invited as well as several others:*

*Brady Street Organization  
Brewer's Hill Organization  
Harambee Neighborhood  
Water Street Association  
Hispanic Chamber of Commerce  
Airport Gateway Business Association*

*Ms. Grill says that public notice of license hearings is given on a regular basis, but input from business groups like the Tavern League could be even more valuable.*

*Mr. Schrimpf mentioned that there is a group of Arab businesses that has alcohol beverage licenses and extended hours establishments that may have valuable insights.*

*Mr. Lump away from the table at 11:46 a.m.*

*For the meeting location, Ms. Ferguson suggested Room 301-B in City Hall. Mr. Morics said that 301-B could hold at least 100 people.*

*Ms. Grill said that it could be a large meeting.*

*Justice Butler said that specific organizations should be asked for input first, and other time should be allotted for public comments.*

*The date for the next task force meeting has to be moved due to a Licenses Committee meeting, so the next Task Force meeting will be the regularly scheduled one on December 19th.*

*Agenda Items for the public meeting:*

*-Whether the public thinks the process is working or whether there are suggestions for change*

*Justice Butler mentions that the meeting is for outside organizations and the public, not for council members. He also says that specific recommendations must be*

*submitted to the Council, so after the public meeting, the Task Force members should start thinking about what recommendations, if any, they will make.*

*Also, input from the formal organizations represented on the Task Force should be summed up and presented in writing to the Task Force at the public meeting.*

**4. Discussion of the date, time and location of the public meeting**

*December 19th is the next formal Task Force meeting, so the evening meeting should be before that date.*

*Thursday, DECEMBER 11th for the evening public meeting. 7:00 p.m. in Room 301-B and 301-A for overflow. Channel 25 should be available to at least internal broadcasting.*

*Justice Butler asked how notification would be done.*

*-Letter to all organizations*

*-Customary methods by the City Clerk's Office*

*Rules and Guidelines for the meeting:*

*-Three minute limit for public testimony.*

*-Encouragement of invited organizations to present their input in writing to the Task Force and their remarks should be limited to three minutes, but they should be allowed to answer questions.*

*-Public testimony will start at approximately one hour after the meeting starts.*

**5. Set-up of the next meeting's agenda**

*Discussion of the results of the public meeting.*

*Meeting adjourned at 12:07 p.m.*

*Acting Staff Assistant Tobie Black*