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COMMON COUNCIL

CITY OF MILWAUKEE

MARCH 24, 2010

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Proceedings had and testimony given in
the above-entitled matter before the COMMON COUNCIL
CITY OF MILWAUKEE on the 24th day of March, 2010

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I N D E X

Examination:	Page
Attorney Gerin.....	6
Attorney Schrimpf.....	10

Exhibit Identified: (None)

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1 TRANSCRIPT OF PROCEEDINGS

2 PRESIDENT HINES: For the next several
3 items, we will use the services of the court
4 reporter. Let the record reflect that the court
5 reporter has been sworn in. Will the city clerk
6 please identify the next items before the Council?

7 CITY CLERK: Item No. 2: The Licenses
8 Committee recommends approval of File No. 091260,
9 motion to approve the recommendations of the
10 Licenses Committee relative to licenses. Included
11 in the file are the following recommendations:

12 Renewal with a ten-day suspension based
13 on a police report of the Class B Tavern and
14 Tavern Amusement Licenses of Hussein P. Govani,
15 agent for Homestyle Restaurant Group, for the
16 premises at 721 South Cesar Chavez Drive known as
17 Club International in the 12th Aldermanic
18 District. No written objections have been filed.

19 Nonrenewal based on a police report and

20 testimony from the local alderman and neighbors of
21 the Tavern Amusement License of Samer L. Asad,
22 agent for Lounging Around Incorporated, for the
23 premises at 715-717 South 5th Street known as Envy
24 Lounge and Nightclub in the 12th Aldermanic
25 District. Written objections have been filed.

1 Nonrenewal based on nonappearance of the
2 Class D Bartender License of Christopher L.
3 Sidling. No written objections have been filed.

4 Nonrenewal based on nonappearance of the
5 Class D Bartender License of Kevin M. Schwabe.
6 Written objections have been filed.

7 Nonrenewal based on nonappearance of the
8 Class D Bartender License of Roger C. Gordon. No
9 written objections have been filed.

10 Nonrenewal based on nonappearance of the
11 Class D Bartender License of Benjamin J. Fetters.
12 No written objections have been filed.

13 And renewal with a 25-day suspension
14 based on a police report of the Class D Bartender
15 License of Nicholas J. Moyles. No written
16 objections have been filed.

17 PRESIDENT HINES: Have the members of
18 the Common Council read the reports and the
19 recommendations of the Licenses Committee and

20 exceptions filed in this matter? Will the city

21 clerk please call the roll?

22 CITY CLERK: Alderman Hamilton.

23 ALDERMAN HAMILTON: Aye.

24 CITY CLERK: Kovac.

25 ALDERMAN KOVAC: Aye

1 CITY CLERK: Bauman.

2 ALDERMAN BAUMAN: Aye.

3 CITY CLERK: Bohl.

4 ALDERMAN BOHL: Aye.

5 CITY CLERK: Coggs.

6 ALDERWOMAN COGGS: Aye.

7 CITY CLERK: Wade.

8 ALDERMAN WADE: Aye.

9 CITY CLERK: Donovan.

10 ALDERMAN DONOVAN: Aye.

11 CITY CLERK: Puente.

12 ALDERMAN PUENTE: Aye.

13 CITY CLERK: Murphy.

14 ALDERMAN MURPHY: Aye.

15 CITY CLERK: Dudzik.

16 ALDERMAN DUDZIK: Aye.

17 CITY CLERK: Witkowiak.

18 ALDERMAN WITKOWIAK: Aye.

19 CITY CLERK: Witkowski

20 ALDERMAN WITKOWSKI: Aye.

21 CITY CLERK: Zielinski.

22 ALDERMAN ZIELINSKI: Aye.

23 CITY CLERK: Mr. President.

24 PRESIDENT HINES: Aye.

25 CITY CLERK: 14 ayes, 1 excused.

1 PRESIDENT HINES: 14 ayes, 1 excused.

2 CITY CLERK: Are either of the following
3 or their counsels present, and if so, do they wish
4 to address the Common Council: Samer L. Asad?
5 Counsel is present; Kevin M. Schwabe? Not
6 present.

7 PRESIDENT HINES: Alderman Bohl moves
8 that the Common Council resolve itself into the
9 Committee of the Whole for the purposes of hearing
10 licenses and oral arguments on behalf of the
11 licenses in opposition to the report and
12 recommendations and a statement presented by the
13 city attorney. Are there any objections? Hearing
14 none, we are now in the Committee of the Whole.

15 Each side shall be limited to five
16 minutes, and the arguments shall be limited to the
17 subject matter of the report and the
18 recommendations and the written exceptions.

19 With that being the case, please

20 approach the microphone and identify yourself and
21 go into your presentation, please.

22 ATTORNEY GERIN: Thank you, Mr. Chair,
23 members of the Common Council. Thank you for
24 taking the time to hear me. I am, my name is
25 Michael Gerin, G-E-R-I-N. I'm a lawyer with the

1 law firm of Gimbel, Reilly, Gerin & Brown. And I
2 am here on behalf of on March 8th the Common
3 Council, the Committee denied the Tavern Dance
4 Renewal License for the premises at 5th and
5 National Avenue. Mr. Asad, the licensee, is
6 present. But on March 8th the Committee approved
7 the renewal of the Class B License but denied the
8 Tavern Dance License.

9 Our office filed the appropriate
10 objections. And without belaboring the objections
11 that are set forth in there, I am respectfully
12 requesting that the Committee as a Whole consider
13 sending this back to the Committee because a
14 review of the transcript by me and my office, and
15 I believe a fair reading of it, is that there were
16 several items that were not considered.

17 One of the things that was discussed at
18 some length was whether or not Mr. Asad had made
19 an appropriate representation as to the type of

20 business he had. He represented that he had a
21 business plan that he had submitted to the
22 alderperson and to the Committee. For some
23 reason, that was not available either by the
24 Committee, not available to the Committee, and Mr.
25 Asad and his counsel did not have that at the

1 present time, at that particular time. I reviewed
2 it, it seems pretty consistent with the way it
3 operated. I think even if he sat down and visited
4 with the alderperson, there may be a different
5 view on that particular issue. I realize there
6 are some other issues that are confronting it, but
7 if you look through the objections, three or four
8 of them are stolen purses. The man has cameras
9 all over the place, nobody ever told him when the
10 purses got stolen in the place. He would have
11 been able to find that out. He has a purse check
12 in the operation.

13 It's a very responsive -- well, in any
14 event, should the Committee, should the Committee
15 as a Whole, Common Council, agree to send this
16 back to committee, you have a licensee who has
17 been in business for three years, and who I think
18 under anybody's version, has done his best to run
19 a decent operation. He is concerned about guests'

20 safety. He didn't implement some things that
21 should have been implemented prior to that
22 committee meeting. Since that time, he has done
23 an awful lot because he is going to continue in
24 operation with just a Class B. But, if you were
25 to send it back, clearly, he would not have a

1 license for at least 30 days. He would -- it
2 would, in fact, be a revocation. He has never had
3 a warning of any of these items that were in here
4 before. We objected to the -- or counsel didn't
5 object, but there was some testimony that was
6 brought in that was clearly hearsay. There was no
7 substantiation that some of these things occurred.
8 The one fight involves a party bus parked outside.
9 Another objection was a fight broke out by two
10 women over a man; it wasn't the guy. But there
11 was just a lot of little, several of these things
12 that really never were pinned precisely to the
13 operation of the club.

14 The Committee voted 4 to 1 to deny the
15 renewal. I ask respectfully, suggesting if the
16 Committee as the Whole has any questions of Mr.
17 Asad, he's here to answer those. He does have an
18 interest in being a responsible owner.

19 I, as a city of Milwaukee resident,

20 agree that economic development is important in
21 our community as long as we have responsible
22 business leaders. To allow places to just die
23 makes no sense to me. I think he should have been
24 given the opportunity to have a warning about
25 this, or a progressive discipline is something

1 that I thought the Committee followed. In this
2 particular case, it was not.

3 So that's my request. If anybody has
4 any questions, I'll be pleased to answer any of
5 those questions. Mr. Asad is also present, and he
6 would be happy to answer any of the questions.

7 PRESIDENT HINES: Thank you, Attorney
8 Gerin. Are there any questions at this time of the
9 attorney or the applicant? If not, thank you,
10 sir.

11 We will now hear from the City
12 Attorney's Office, Assistant City Attorney, Bruce
13 Schrimpf.

14 ATTORNEY SCHRIMPF: Thank you, Mr.
15 President. Bruce Schrimpf from the City
16 Attorney's Office.

17 During the course of the hearing in this
18 matter, a number of neighbors came forward to
19 complain about the activities of the patrons,

20 particularly at closing time: noise; litter;

21 public urination; that kind of thing. The

22 Committee considered those matters.

23 There was a great deal of testimony

24 about the change in the plan or change in the

25 format of the entertainment. 90-35-7 requires

1 that if there is an intent to change the
2 entertainment, that notice of that be filed with
3 the city clerk. I do not know, I do not
4 personally have knowledge of what the plan of
5 operation and entertainment was that was filed
6 with the renewal of the license. The license
7 office has those particular documents. And I
8 don't really know if at the time of renewal a
9 change of entertainment was officially filed with
10 the city.

11 Whether or not you adopt this
12 recommendation, of course, is reposed to your
13 sound discretion. As counsel indicated, the
14 recommendation is renewal of the Class B and
15 nonrenewal of the Tavern Dance License.
16 Certainly. I'm satisfied that the record is
17 sufficient to support that particular
18 recommendation. But whether or not you send it
19 back to Committee for further elucidation of the

20 change of entertainment and the change of format
21 that the place wants to put in, that's reposed to
22 your sound discretion. And whether or not you
23 renew the Tavern Entertainment License with a
24 suspension or without a suspension is, again,
25 reposed to your sound discretion.

1 If you have any questions, I'd be happy
2 to try to answer them.

3 PRESIDENT HINES: Thank you, Attorney
4 Schrimpf. Are there any questions of the
5 attorney? The chair recognizes Alderman Puente.

6 ALDERMAN PUENTE: Thank you, Mr.
7 President. Was there a change of operation that
8 they were operating prior to giving notice? Is
9 that what you meant by what you just said?

10 ATTORNEY SCHRIMPF: I am trying to check
11 that. I have ordered the transcript of last
12 year's hearing. And because there was a
13 recollection on the part of at least two
14 individuals, I believe, Alderman Witkowiak, and, I
15 believe, Alderman Kovac, that last year a
16 lounge-type of format was represented to the
17 Committee. And it was pretty evident that what
18 has happened is that it has turned into a
19 club-type of format with a lot of dancing and that

20 kind of thing. And it was the belief of a number
21 of the objecting neighbors, some of whom, by the
22 way, were businesses, that if that feature of it,
23 the dance club feature of it, is what is causing
24 the problems: the noise; the litter; the public
25 urination; disorderly patrons at closing time;

1 that kind of thing. I do not know what was
2 actually reflected in the paper that was filed
3 with the licenses office. Certainly, if there was
4 a Tavern Dance License, then there was an
5 indication of what kind of music they were going
6 to have and that kind of thing, so. And I didn't
7 have a chance to compare the two, and I'm ordering
8 the transcript from last year's hearing to find
9 out what was actually represented to the Committee
10 in terms of what the format was going to be. So
11 that's as best as I can answer that question.

12 ALDERMAN PUENTE: Would that information
13 help you if they contest this? I mean, is that
14 something we should wait to see?

15 ATTORNEY SCHRIMPF: Well, if there was a
16 representation that this was going to be a lounge
17 format and there was a deviation from that, yeah,
18 that might be information that the Council might
19 find helpful. Then again, they obviously applied

20 for a Tavern Dance License. And when you apply
21 for a Tavern Dance License, you have to put down
22 some kind of music that you're going to be
23 playing, and you have to put down basically the
24 hours that you're going to be playing it, and
25 perhaps even the days that you're going to be

1 playing. And all of that is designed to help the
2 Committee and the Council decide whether or not a
3 particular license should be granted or not.

4 ALDERMAN PUENTE: Refresh my memory, the
5 special permits, what is it, 20 a year?

6 ATTORNEY SCHRIMPF: There are 20 a year.

7 ALDERMAN PUENTE: That does not impact
8 this?

9 ATTORNEY SCHRIMPF: Well, it would
10 impact in this sense: If this council takes away
11 the Tavern Dance License, then there is no
12 eligibility to get those 20 permits for the one
13 year.

14 ALDERMAN PUENTE: Okay. Thank you.
15 Thank you, Mr. President.

16 PRESIDENT HINES: Thank you. Are there
17 any additional questions of Attorney Schrimpf?

18 Thank you. Thank you, Attorney Schrimpf.

19 ATTORNEY SCHRIMPF: Mr. President, may I

20 make one additional?

21 PRESIDENT HINES: You have two minutes

22 left.

23 ATTORNEY SCHRIMPF: I don't think it

24 will take two minutes. Thank you, Mr. President.

25 I was just advised by counsel that there is no

1 change in the license application from last year
2 to this year. So whatever was on the license
3 application last year is on the license
4 application for this year. Counsel asked me to
5 make that comment.

6 PRESIDENT HINES: Yes, thank you. With
7 no subsequent questions or additional information
8 to be provided, Alderman Bohl moves that the
9 Committee now rises. Hearing no objections, so
10 ordered. Are there any motions relative to these
11 matters? First, the chair recognizes Alderman Jim
12 Bohl.

13 ALDERMAN BOHL: Thank you, Mr.
14 President. I have two procedural requests:
15 First, members should have on their desks a
16 procedural motion that is outlined. At this
17 point, Mr. President, I would move to return the
18 Class D Bartender Renewal application for Kevin M.
19 Schwabe to the Licenses Committee. Mr. Schwabe

20 did not attend a hearing, it was his second
21 nonappearance. At the time, I believe he was in
22 court and had outstanding obligations that he did
23 rectify on that day. He has provided further
24 evidence of that to the Licenses Division. And
25 for that reason, we would, I would request this

1 matter be referred back to Committee.

2 PRESIDENT HINES: That is an appropriate
3 motion, quite simple. Is there any objection to
4 the motion put forth by Alderman Bohl? The chair
5 recognizes --

6 ALDERMAN BOHL: Mr. President.

7 PRESIDENT HINES: There is one
8 objection. You wanted to clarify something?

9 ALDERMAN BOHL: No, I just had two
10 requests. I didn't know there was an objection

11 PRESIDENT HINES: There is an objection
12 to the referral back to Committee for Mr. Schwabe.
13 No additional objections? Okay. The chair
14 additionally recognizes Alderman Jim Bohl.

15 ALDERMAN BOHL: Thank you. Mr.
16 President, I would ask on two matters to be listed
17 as a "no" vote. The first matter would be the
18 renewal with the ten-day suspension for the
19 Homestyle Restaurant Group, LLC, for the premises

20 at 721 South Cesar Chavez Drive known as Club
21 International. And also listed as a "no" vote on
22 the renewal with a 25-day suspension based on the
23 police report for the Class D Bartender License of
24 Nicholas J. Moyles. Those requests would be to be
25 consistent with my vote in Committee.

1 PRESIDENT HINES: Thank you. Let the
2 record reflect Alderman Bohl's objection to those
3 two items consistent with his Committee vote. The
4 chair recognizes Alderwoman Coggs.

5 ALDERWOMAN COGGS: To be consistent with
6 my vote in Committee, I would like to be
7 recognized as a "no" vote for what the Committee
8 recommended for Envy.

9 PRESIDENT HINES: Which club was that
10 again?

11 ALDERWOMAN COGGS: Envy.

12 PRESIDENT HINES: Of course. Let the
13 record reflect Alderwoman Coggs' request to be
14 consistent with her vote at the Committee hearing,
15 objection to the Envy outcome.

16 Any additional motions, any additional
17 comments at this time? If there's no further
18 discussion, I'd request a vote of those council
19 members present to approve the recommendations of

20 the Licenses Committee as contained in File No.

21 091260. Will the city clerk please call the roll?

22 CITY CLERK: Alderman Hamilton.

23 ALDERMAN HAMILTON: Aye.

24 CITY CLERK: Kovac.

25 ALDERMAN KOVAC: Aye.

1 CITY CLERK: Bauman.

2 ALDERMAN BAUMAN: Aye.

3 CITY CLERK: Bohl.

4 ALDERMAN BOHL: Aye.

5 CITY CLERK: Coggs.

6 ALDERWOMAN COGGS: Aye.

7 CITY CLERK: Wade.

8 ALDERMAN WADE: Aye.

9 CITY CLERK: Donovan.

10 ALDERMAN DONOVAN: Aye.

11 CITY CLERK: Puente.

12 ALDERMAN PUENTE: Aye.

13 CITY CLERK: Murphy.

14 ALDERMAN MURPHY: Aye.

15 CITY CLERK: Dudzik.

16 ALDERMAN DUDZIK: Aye.

17 CITY CLERK: Witkowiak.

18 ALDERMAN WITKOWIAK: Aye.

19 CITY CLERK: Witkowski.

20 ALDERMAN WITKOWSKI: Aye.

21 CITY CLERK: Zielinski.

22 ALDERMAN ZIELINSKI: Aye.

23 CITY CLERK: Mr. President.

24 PRESIDENT HINES: Aye.

25 CITY CLERK: 14 ayes, 1 excused.

1 PRESIDENT HINES: 14 ayes, 1 excused.
2 The file is adopted. Is there any further
3 discussion on the committee report? Any further
4 discussion on the committee report? Seeing and
5 hearing none, I'd like to request a vote of those
6 council members present for the adoption of the
7 recommendations of the Licenses Committee report.
8 Will the city clerk please call the roll?

9 CITY CLERK: Alderman Hamilton.

10 ALDERMAN HAMILTON: Aye.

11 CITY CLERK: Kovac.

12 ALDERMAN KOVAC: Aye.

13 CITY CLERK: Bauman.

14 ALDERMAN BAUMAN: Aye.

15 CITY CLERK: Bohl.

16 ALDERMAN BOHL: Aye.

17 CITY CLERK: Coggs.

18 ALDERWOMAN COGGS: Aye.

19 CITY CLERK: Wade.

- 20 ALDERMAN WADE: Aye.
- 21 CITY CLERK: Donovan.
- 22 ALDERMAN DONOVAN: Aye.
- 23 CITY CLERK: Puente.
- 24 ALDERMAN PUENTE: Aye.
- 25 CITY CLERK: Murphy.

1 ALDERMAN MURPHY: Aye.

2 CITY CLERK: Dudzik.

3 ALDERMAN DUDZIK: Aye.

4 CITY CLERK: Witkowiak.

5 ALDERMAN WITKOWIAK: Aye.

6 CITY CLERK: Witkowski.

7 ALDERMAN WITKOWSKI: Aye.

8 CITY CLERK: Zielinski.

9 ALDERMAN ZIELINSKI: Aye.

10 CITY CLERK: Mr. President.

11 PRESIDENT HINES: Aye.

12 CITY CLERK: 14 ayes, 1 excused.

13 PRESIDENT HINES: 14 ayes, 1 excused.

14 The committee report is adopted. The court
15 reporter is dismissed.

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1 STATE OF WISCONSIN)
) SS:
2 COUNTY OF MILWAUKEE)

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5 I, KAREN RENEE, Court Reporter and
6 Notary Public in and for the State of Wisconsin, do
7 hereby certify that the above proceedings of the City
8 of Milwaukee Common Council was recorded by me on March
9 24, 2010, and reduced to writing under my personal
10 direction.

11 I further certify that I am not a
12 relative or employee or attorney or counsel of any of
13 the parties, or a relative or employee of such attorney
14 or counsel, or financially interested directly or
15 indirectly in this action.

16 In witness whereof I have hereunder set
17 my hand and affixed my seal of office at Milwaukee,
18 Wisconsin, this 30th day of March, 2010.

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Karen Renee
Court Reporter and Notary Public
In and for the State of Wisconsin

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24 My Commission Expires: March 11, 2012.

25