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CITY OF MILWAUKEE

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UTILITIES & LICENSES COMMITTEE

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In the Matter of the Tavern Renewal  
Application for:

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JASON METKE  
METKE'S ON MILWAUKEE  
332 North Milwaukee Street

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COMMITTEE MEMBERS

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- ALD. JAMES WITKOWIAK - Chair
- ALD. JAMES BOHL, JR., - Vice-Chairman
- ALD. JOSEPH A. DUDZIK
- ALD. ROBERT PUTENTE
- ALD. WILLIE WADE

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- LICENSING DIVISION by REBECCA BARRON
- NEIGHBORHOOD SERVICES by PANDORA BENDER
- HEALTH DEPARTMENT by PAUL ZEMKE
- POLICE DEPARTMENT by SEARGENT JOHN HOGAN
- OFFICE OF THE CITY ATTORNEY by ATTORNEY BRUCE SCHRIMPF

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Proceedings had and testimony given in  
the above-entitled matter, before the UTILITIES &  
LICENSES COMMITTEE OF THE CITY OF MILWAUKEE, on  
the 1st day of March, 2005.

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P R O C E E D I N G S

CHAIRMAN WITKOWIAK: In the 4th District, Jason Metke, Class "B" Tavern renewal application for Metke's on Milwaukee at 332 North Milwaukee Street.

CHAIRMAN WITKOWIAK: Good afternoon. Would you raise your right hand and be sworn in, please?

(Witness sworn.)

THE APPLICANT: Yes, I do.

CHAIRMAN WITKOWIAK: Your name and address for the record.

THE APPLICANT: Jason Metke. 646 South 66th Street in Milwaukee.

CHAIRMAN WITKOWIAK: Please state your appearance, please.

MR. MULARSKI: Attorney Brian Mularski on behalf of Jason Metke and Metke's on Milwaukee.

CHAIRMAN WITKOWIAK: Thank you.

MR. SCHRIMPF: Do you have a card, sir?

CHAIRMAN WITKOWIAK: Do you admit to receiving a notice that there's a possibility that your application - - your renewal application could be denied because of items

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1 contained on the police report and neighborhood  
2 objections to operation of the premises in  
3 violation of Chapter 296-303 of the Milwaukee  
4 Code of Ordinances which states, "It shall be  
5 unlawful to occupy or use any building structure,  
6 premises, unless a certificate of occupancy or  
7 certificate of zoning has been issued by the  
8 Commissioner of City Development. A separate  
9 certificate shall be obtained for each occupancy  
10 or use." In violation of Chapter 90-3-1 of the  
11 Milwaukee Code of ordinances which states, "It  
12 shall be unlawful for any person to sell or offer  
13 for sale, barter or give away in the city any  
14 intoxicating liquors or fermented malt beverages  
15 without having obtained a license as provided for  
16 in this chapter or to be in violation of the  
17 terms of such license."

18 THE APPLICANT: Yes.

19 CHAIRMAN WITKOWIAK: Thank you.

20 Sergeant Hogan.

21 SERGEANT HOGAN: This matter was before  
22 this committee on the 8th of February. One item  
23 has been added to the police report, and that's  
24 item number 17. That Mr. Metke, when his license  
25 expired on February the 9th, remained open

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1 serving food and soft drinks. No alcohol was  
2 being served. On three occasions Alderman  
3 Bauman's office called the police requesting that  
4 they go over there, because he was operating  
5 after his license had expired. The officers, as  
6 well as their supervisors, were unaware that he  
7 could not remain open after expiration of his  
8 tavern license, because he was not a restaurant  
9 serving - - permitted to serve alcohol. He was a  
10 tavern permitted to serve food. That came to my  
11 attention on the afternoon of the 16th of  
12 February, and at that time I directed the  
13 officers to go back to the premises and order it  
14 be closed.

15 CHAIRMAN WITKOWIAK: So - - But there's  
16 nothing on the police report saying that he was  
17 serving alcohol during that period of time.

18 SERGEANT HOGAN: The officers all  
19 indicated to me that no alcohol was ever present.

20 CHAIRMAN WITKOWIAK: Okay. Thank you.  
21 Before I forget. Health Department?

22 HEALTH DEPARTMENT: No objections.

23 CHAIRMAN WITKOWIAK: Neighborhood  
24 Services?

25 NEIGHBORHOOD SERVICES: The Department

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1 of Neighborhood Services has no objection as far  
2 as the original license. If Mr. Metke is the - -  
3 original occupancy is for a tavern, his occupancy  
4 is not for a restaurant. If Mr. Metke wishes to  
5 be considered a restaurant, then he would have to  
6 get an occupancy that says it's a restaurant. So  
7 we are - - he's still in violation.  
8 MR. MULARSKI: Mr. Chairman.  
9 CHAIRMAN WITKOWIAK: Yes.  
10 MR. MULARSKI: One additional comment.  
11 The last item on the police attachment Mr. Metke  
12 has taken care of.  
13 CHAIRMAN WITKOWIAK: Yes. Okay.  
14 MR. SCHRIMPF: Mr. Chairman, I have one  
15 question of Sergeant Hogan.  
16 CHAIRMAN WITKOWIAK: Yes, please.  
17 MR. SCHRIMPF: Did the officers issue  
18 any citations?  
19 SERGEANT HOGAN: No.  
20 MR. SCHRIMPF: Okay.  
21 ALDERMAN BOHL: Mr. Chairman.  
22 CHAIRMAN WITKOWIAK: Alderman Bohl.  
23 ALDERMAN BOHL: One other follow-up  
24 matter for Sergeant Hogan. Item 15 on the police  
25 report I be - - I believe that that was the issue

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1 that's still outstanding the last time we met.  
2 Has there been an adjudication on that?

3 SERGEANT HOGAN: I believe that's still  
4 pending in Municipal Court. That's one of the  
5 items he took care. I don't know if - -

6 ALDERMAN BOHL: The sale of the  
7 underage.

8 THE APPLICANT: Yeah, that's taken care  
9 of.

10 MR. MULARSKI: If I might address the  
11 committee, I'm - - My assistance and assistance  
12 of Mr. Metke, parents and other friends and  
13 family, we are on a pretty quick track to  
14 reassemble Mr. Metke's life and his  
15 establishment. I sent Mr. Metke up to Fond du  
16 Lac this morning to resolve one of the two issues  
17 on the report. We made a stop at Municipal Court  
18 before we arrived here today, at which point we  
19 were told there were no outstanding warrants. So  
20 that will be the remainder of our afternoon after  
21 we will leave here will be to - - and insure that  
22 is actually the case and provide whatever  
23 documentation this committee would like to, in  
24 fact, verify that information. But if there is a  
25 pending or an outstanding citation, we are going

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1 to take care of all those, as well.

2 On item 17 I - - Everything is accurate  
3 and Mr. Metke doesn't object. Anything in item  
4 17, the only addition would be that the day prior  
5 to Mr. Metke's license being suspended he had a  
6 member of or - - or someone from the Health  
7 Department at his establishment, and I'm going to  
8 butcher her name, I'm sure, Sonja Denitres, who  
9 Mr. Metke had some discussions with about the  
10 option of staying open and serving just food and  
11 soft drinks. And after a call that she made back  
12 to one of her supervisors, Mr. Metke was assured  
13 that he needed no additional licenses or nothing  
14 else needed to be done for him to simply operate  
15 to sell hamburgers and sandwiches over the noon  
16 hour for the local businesses. It was not until  
17 Sergeant Hogan had asked some police officer to  
18 shut him down, at which time Mr. Metke did with  
19 no objection, whatsoever.

20 He is still closed to this day. He has  
21 not opened for any business, has not sold any  
22 alcohol, food, beverage, anything since that  
23 point in time. He's doing everything he possibly  
24 can to comply with the - - the prior findings of  
25 fact which has the 20 day suspension on it. He'd

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1 like to get it opened up after that time period  
2 has passed, which I believe, according to that  
3 February 11th letter, it would be midnight of  
4 March 13th of 2005.

5 He's doing everything he can, like I  
6 said, with - - with my assistance, the assistance  
7 of some family and friends, I think we've pretty  
8 much covered every item on the police report.

9 CHAIRMAN WITKOWIAK: Alderman Bauman,  
10 comments?

11 ALDERMAN BAUMAN: Thank you, Mr. Chair.  
12 With respect to item number 15, this item number  
13 15, you say that that was paid. So that now  
14 counts as one more conviction?

15 MR. MULARSKI: I'm not saying it's  
16 paid, Alderman. What I'm saying is as - - as of  
17 this morning when I spoke to a representative  
18 from the Municipal Court, there were no  
19 outstanding warrants. That item has still not  
20 been resolved. That case - -

21 ALDERMAN BAUMAN: So that's another  
22 open case. So as I understand, in the last year  
23 Mr. Metke has suffered one, two, three, four,  
24 five - - four convictions of some sort, either  
25 municipal code violations or misdemeanor state



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1 charges in connection with the Fond du Lac County  
2 matter. That was apparently a misdemeanor  
3 conviction for issuance of worthless checks back  
4 in October of 2004. So we have one, two, three,  
5 four convictions. There's one, two, three open  
6 cites - - open cases, two of which are felony  
7 charges issued in Milwaukee County Circuit Court.  
8 One for felony issuance of a felony theft, which  
9 is scheduled for a plea sentencing hearing on  
10 April 11th, 2005, according to the police report.  
11 And the other felony charge is felony theft,  
12 business setting, special facts unfair trade,  
13 general orders, et cetera, et cetera, also  
14 pending. So three pending matters, two of which  
15 are felony charges, one of which is a municipal  
16 underage charge. And then we have - - Well,  
17 actually, five matters pending. And we also have  
18 the matter on January 8th of this year in which  
19 there were people hiding in the back room and so  
20 on and so forth. And that apparently is still  
21 pending. So there is four matters pending.

22 Plus, we have an individual whose  
23 license was - - was expired and basically never  
24 stopped doing business. Now, there may or may  
25 not have been alcohol being served. I don't

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1 know. I didn't go inside the premise. I  
2 received complaints about this establishment from  
3 - - from neighbors in the area. They alerted me  
4 to it being opened. I observed it being opened  
5 myself. Again, I don't know what was going on in  
6 there. I know the liquor signs were lit, the  
7 beer signs were lit. I don't know if that is - -  
8 indicates one thing or another. But I think with  
9 the record we have in front of us of Mr. Metke's  
10 contact with the legal system, just based on  
11 convictions alone in the last year, in the last  
12 cycle period, and I was not at the last hearing,  
13 unfortunately. My aide had to appear. I was out  
14 of town. I would have requested nonrenewal then.  
15 In light of the new facts that have come before  
16 this body, and I recommend nonrenewal now.

17 MR. MULARSKI: If I might add to that,  
18 Chairman. No disrespect to Alderman Bauman,  
19 every item that's been addressed on the police  
20 report with the exception of item number 17 has  
21 already been addressed, has already been included  
22 in the finding of facts by this particular  
23 committee. The only new information, the only  
24 thing actually noticed for today was the  
25 allegation that Mr. Metke was open without a

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1 license. I think we've thoroughly addressed that  
2 particular issue. He contacted someone from the  
3 Health Department who was on his premises. He  
4 had three unannounced visits from the police  
5 department. No alcohol was being served. He  
6 believes that he was fully within his rights to  
7 operate. He closed down voluntarily when the  
8 police asked him to do so. There's - - Nothing  
9 wrong has been done here. This committee has  
10 already addressed all the criminal matters in Mr.  
11 Metke's past. We're not denying any of those  
12 particular items. The felony theft charges, with  
13 respect to those, all restitution has been paid.  
14 It is set for plea and sentencing. That matter  
15 will be resolved. With respect to the Fond du  
16 Lac County matter, like I said, I sent Mr. Metke  
17 this morning to Fond du Lac. That case has been  
18 reopened. I will appear with him, make some kind  
19 of arrangements to get that paid, and get that  
20 done. With respect to the outstanding citations  
21 that might be in the Municipal Court here in  
22 Milwaukee, we're going to go find out after we  
23 leave here what's going on, what needs to be  
24 taken care of, and we're going to take care of  
25 that. We're doing everything we possibly can to

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1 get Mr. Metke's bar back open pursuant to the  
2 prior finding of facts. The only thing, like I  
3 said, noticed for today was the allegation that  
4 he's been open after his license has been  
5 suspended, which there is absolutely no evidence  
6 to show Mr. Metke has served one drop of alcohol  
7 after his license was suspended.

8 CHAIRMAN WITKOWIAK: Thank you.

9 ALDERMAN BAUMAN: Mr. Chair.

10 CHAIRMAN WITKOWIAK: Alderman Bauman.

11 ALDERMAN BAUMAN: Could I inquire of  
12 counsel. So you - - The - - The two felony  
13 charges pending in Milwaukee County you're  
14 telling me that a plea agreement has been arrived  
15 at?

16 MR. MULARSKI: Yes.

17 ALDERMAN BAUMAN: Mr. Metke will be  
18 pleading guilty to felonies?

19 MR. MULARSKI: The plea arrangement  
20 will be that he will be pleading guilty. The  
21 exact charges at this point have not been agreed  
22 to with the assis - - assistant district  
23 attorney, who I believe is Sandy Williams on that  
24 particular case. But restitution has been paid  
25 in full.

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1 ALDERMAN BAUMAN: But you - - You are  
2 not prepared to tell us whether he'll be pleading  
3 guilty to a felony or a misdemeanor in those two  
4 cases.

5 MR. MULARSKI: He'll be pleading guilty  
6 to a misdemeanor. The exact misdemeanor is not  
7 known at this time. But it - -

8 ALDERMAN BAUMAN: So your - - your  
9 testimony is that both these felony charges will  
10 be reduced to two misdemeanor charges.

11 MR. MULARSKI: Yes.

12 ALDERMAN BAUMAN: So then he will have  
13 two additional convictions, misdemeanor  
14 convictions.

15 MR. MULARSKI: All of which have been  
16 addressed by this committee, yes.

17 CHAIRMAN WITKOWIAK: Members, any  
18 questions? Anything to say in closing, before we  
19 take this matter into committee?

20 MR. MULARSKI: I think we've addressed  
21 all the particular issues. Mr. Metke is willing  
22 to comply with whatever request this committee  
23 has. He's learned his lessons very - - the hard  
24 way with respect to opening up this bar. It is a  
25 situation where, upon my advice and the advice of

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1 other, counsel and his family and friends, it's  
2 going to be him from now who is going to be  
3 running this bar. He's going to be the one that  
4 does pretty much 24 hours a day, seven days a  
5 week, once he gets back on his feet, to ensure  
6 that there won't be any violations again. And  
7 what I've told Mr. Metke is that that means that  
8 the police are going to make a weekly stop at the  
9 bar and make sure everyone there is of age, he's  
10 going to do that. And if he doesn't do that, he  
11 understands he's going to lose his license  
12 permanently, no question about it.

13 CHAIRMAN WITKOWIAK: Thank you. This  
14 matter is in committee.

15 ALDERMAN BOHL: Mr. Chairman.

16 CHAIRMAN WITKOWIAK: Alderman Bohl.

17 ALDERMAN BOHL: Would move to go with a  
18 20 day suspension and I will just say that that  
19 was the exact recommendation that came out of  
20 this committee last time. I think that counsel  
21 is correct in pointing out that these matters  
22 heretofore have come before this committee, in  
23 short of the additional finding in item 17, that  
24 we provided that recommendation with all of the  
25 aforementioned evidence before us. The issue on

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1 item number 17 is one where I could easily  
2 understand that a bartender who is beyond his - -  
3 the expiration date on his license, or a bar  
4 owner would contact somebody at the Health  
5 Department and inquire whether or not they can  
6 serve sodas with lunch, and hear from somebody  
7 who they feel is an official capacity at City  
8 Hall would tell them yes. You're not serving  
9 alcohol.

10 I don't know that there was malice.  
11 The police department did go in there on a couple  
12 of occasions. Determined he was not serving  
13 alcohol. By our even sending this back to  
14 committee we added an additional three weeks of  
15 shutdown time on top of the fact that Mr. Metke  
16 was already negligent in his own part in filing  
17 on a timely basis, and therefore, took a - - a  
18 personal hit. I count 21 days on top of 20 days  
19 on top of his own, pardon my French, stupidity.  
20 And we've got probably about a 50 day suspension  
21 or shutdown of his establishment.

22 I'll just let him know. He's been open  
23 one year. He's on a darn short leash, as far as  
24 I'm concerned. If he does receive approval and  
25 continues to operate another year, he better have

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1 a squeaky clean record next year. I will just  
2 let you know that, without undue warning.

3 MR. SCHRIMPF: Mr. Chairman, I need to  
4 clarify something here.

5 CHAIRMAN WITKOWIAK: Mr. Schrimpf.

6 MR. SCHRIMPF: Okay. Is it the intent  
7 of Alderman Bohl to impose a 20 day suspension  
8 from the time that this matter will be taken up.

9 ALDERMAN BOHL: Correct.

10 MR. SCHRIMPF: By the Council?

11 ALDERMAN BOHL: Correct.

12 MR. SCHRIMPF: Okay. So - - All right.  
13 Just so that he knows, that means that he cannot  
14 operate. That means that when the Council takes  
15 this matter, and if it approves this  
16 recommendation, he will be shut down for 20 days  
17 following the action of the Common Council, not  
18 today's action, the action of the Common Council.

19 MR. MULARSKI: If I might address the  
20 committee, obviously that is devastating to a  
21 business the size of Mr. Metke's who has already  
22 been shut down for some time. We're not really  
23 in a position to ask for that much leniency,  
24 obviously, you know. There's quite a lot out  
25 there, and we're doing everything we can to get



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1 this establishment back - - back running, and  
2 obviously there's - - I don't disagree with  
3 Alderman Bohl at all, that there's going to be a  
4 very short leash, not just from this committee,  
5 but - - but by everyone else in Mr. Metke's life  
6 who has helped him put this back together. So  
7 from that perspective, I would certainly request  
8 something shorter if that is at all possible than  
9 - - than 50 days, because that will likely make  
10 it difficult, if not impossible, to start this  
11 establishment up again. But that is certainly up  
12 to this committee.

13 CHAIRMAN WITKOWIAK: Motion by Alderman  
14 Bohl is to recommend that this renewal be  
15 approved with the issuance of the 20 day  
16 suspension.

17 ALDERMAN BOHL: And, Mr. Chairman, that  
18 is based on matters contained within the police  
19 report.

20 CHAIRMAN WITKOWIAK: Based on matters  
21 contained in the police report. And Alderman  
22 Bohl moves to make the entire police report part  
23 of the record in this matter, and hearing no  
24 objections, so that's ordered.

25 The motion on the table is renewal with

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1 a 20 days suspension.

2 ALDERMAN PUENTE: Mr. Chair.

3 CHAIRMAN WITKOWIAK: On the motion,  
4 Alderman Puente.

5 ALDERMAN PUENTE: Keep consistent with  
6 my vote from the last committee. I'll be against  
7 that.

8 CHAIRMAN WITKOWIAK: Any more  
9 discussion on the motion? Are there any other  
10 objections to the motion besides Alderman  
11 Puente?

12 Then the motion carries on a vote of  
13 four to one.

14 MR. SCHRIMPF: Okay. Counsel, I still  
15 will need that card from you. The committee is  
16 going to be doing findings of fact and  
17 conclusions of law recommending approval of this  
18 license with a 20 day suspension. You'll have an  
19 opportunity to submit written objections to that  
20 recommendation, as well as appear before the  
21 Milwaukee Common Council when it meets on this  
22 matter on March 16th, 2005 in the Common Council  
23 Chambers of this building, which is the same  
24 floor, but the opposite end, at approximately  
25 nine a.m. Understand all that?

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MR. MULARSKI: Thank you, sir.  
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STATE OF WISCONSIN)  
MILWAUKEE COUNTY )

I, JEAN M. BARINA, of Milwaukee Reporters  
Associated, Inc., do certify that the foregoing  
transcript was reduced to writing under my direction  
and that it is a true and accurate transcription of  
the Utilities and Licenses Committee Hearing held on  
March 1, 2005.

JEAN M. BARINA - COURT REPORTER

Dated this            day of April, 2005

