



JAMES N. WITKOWIAK
ALDERMAN, 12TH DISTRICT

March 3, 2005

To the Honorable, the Common Council

Dear Members:

Re: Common Council File 041471

Recommendation of renewal with a 20-day suspension based on the police report of the Class "B" Tavern license of Jason Metke for the premises located at 332 N. Milwaukee St. ("Metke's on Milwaukee") in the 4th aldermanic district. (Committee vote: Ayes: 4, Noes: 1)

With regard to the items listed above, the Utilities and Licenses Committee held an evidentiary hearing on March 1st, 2005.

Pursuant to section 90-11, Milwaukee Code of Ordinances, and section 125.12(12), Wis. Stats., the Committee is transmitting a copy of its Report and Recommendations, regarding the above matters to your Honorable Body.

Pursuant to City Ordinances, prior to the time the Common Council acts on the Committee's Report, **a roll call vote will be taken** to confirm that all members present and voting have read the Committee's Report and any objections that have been filed by the Licensee.

These matters have been scheduled for a hearing before the full Common Council at its meeting on **Wednesday, March 16, 2005** at 9:00 A.M. in the Common Council Chambers.

Respectfully,

A handwritten signature in black ink that reads "JAMES N. WITKOWIAK". The signature is written in a cursive style and is positioned above the typed name.

James N. Witkowiak, Chair
Utilities & Licenses Committee

cc: All Council Members
File No. 041471



Office of the City Clerk
Council Services Division

Ronald D. Leonhardt
City Clerk

Anthony J. Zielinski
Manager

March 3, 2005

Jason R. Metke
646 South 66th Street
Milwaukee, WI 53214

Attorney Brian P. Mularski
12730 North Lake Shore Drive
Mequon, WI 53092

Dear Mr. Metke and Attorney Mularski:

You are hereby notified that the Milwaukee Common Council will hold a hearing on March 16, 2005 commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council Chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202 to consider your Class "B" Tavern License Renewal Application for the premises at 332 North Milwaukee Street in the City and County of Milwaukee, Wisconsin ("Metke's on Milwaukee").

Attached you will find a copy of the Report of the Utilities and Licenses Committee which includes their Findings of Fact, Conclusions of Law and Recommendation, recommending renewal with a twenty (20) day suspension of the Class "B" Tavern License. The recommendation is the result of a public hearing before the Committee held on March 1, 2005 and the police report.

You may file a written objection to the Report of the Utilities and Licenses Committee and shall have the opportunity to present arguments in writing supporting that objection to the Common Council. Any written objections to the Committee's Report must be filed with the City Clerk at least two (2) days prior to the above-mentioned date set for hearing by the Common Council. You or a legal representative may also appear at the Common Council meeting and request an opportunity to address the Common Council for approximately five (5) minutes to present an oral argument on your own behalf.

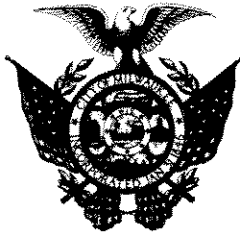
Respectfully,



RONALD D. LEONHARDT
City Clerk

Enclosure

c: License Division
CCF 041471



JAMES N. WITKOWIAK
ALDERMAN, 12TH DISTRICT

Date: March 3, 2005

To: All Members of the Milwaukee Common Council

From: Utilities and Licenses Committee

Re: Report on the Renewal Application of the Class "B" Tavern License of Jason R. Metke for the license premises at 332 North Milwaukee Street in the City and County of Milwaukee, Wisconsin ("Metke's On Milwaukee").

FINDINGS OF FACT

1. Jason R. Metke (hereinafter the "Licensee") is the holder of a Class "B" Tavern License in the City and County of Milwaukee, Wisconsin. Said license expired at midnight, February 9, 2005.
2. An application to renew said license was untimely filed with the Office of the City Clerk on January 10, 2005.
3. Pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes, the matter was referred to the Milwaukee Police Department for investigation. On January 11, 2005, the Milwaukee Police Department responded with a police report that could form a basis for non-renewal or suspension of said license.
4. On January 28, 2005, the City Clerk's Office provided timely notice to the Licensee pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes of the report of the Milwaukee Police Department and included therewith a copy of the Milwaukee Police Department report. The matter was first scheduled for a hearing on the Police Department report on February 8, 2005, commencing at 10:30 a.m. in Room 301B of City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202. At said date, time and place, the licensee appeared and admitted receipt of the police report. He and was not represented by counsel. As a result of the hearing before the Utilities and Licenses Committee, a recommendation of renewal with a twenty (20) day suspension was issued by the Utilities and Licenses Committee on February 11, 2005. That recommendation was heard by the Milwaukee Common Council on

February 22, 2005. On February 22, 2005 the Common Council, after hearing that the licensee was allegedly operating during and after the expiration of his license, returned the matter to the Utilities and Licenses Committee for further proceedings.

5. On February 22, 2005, the City Clerk again issued a notice to the licensee and included a copy of the Milwaukee Police Department report. Additionally, the licensee was notified that the premises was operating in violation of Chapter 296-303 of the Milwaukee Code of Ordinances assertedly because the premises was not operating under an occupancy certificate of a certificate of zoning issued by the Commission of City Development. The licensee was also notified that there was a possible violation of Section 90-3-1 of the Milwaukee Code of Ordinances by selling intoxicating liquors or fermented malt beverages without having obtained a license as provided for in Chapter 90 of the Milwaukee Code of Ordinances. The matter was scheduled for another hearing on March 1, 2005 at 2:30 p.m. The licensee appeared and admitted receipt of the notice of hearing and police report. The licensee was now represented by Attorney Brian P. Mularski, 12730 North Lake Shore Drive, Mequon, WI 53092.
6. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. On December 15, 1994 Jason Metke was arrested in Winnebago County for issue of worthless checks. On September 13, 1995 he was found guilty in Winnebago County Circuit Court.
 - B. On March 4, 1995 Jason Metke was arrested in Winnebago County for possession of a controlled substance (2 counts). On November 27, 1995 he was found guilty as to both counts and fined.
 - C. On May 18, 1997 Jason Metke was arrested in Winnebago County for disorderly conduct. On July 9, 1997 he was found guilty and fined.
 - D. On July 28, 1997 Jason Metke was arrested in Oshkosh for theft. On August 20, 1997 he was found guilty of petty theft and fined.
 - E. On January 15, 1998 Jason Metke was arrested in Fond du Lac County for possession of a controlled substance. On February 2, 1998 he was found guilty and fined.
 - F. On March 5, 1999 Jason Metke was stopped and arrested for operating an auto while intoxicated in the City of Waukesha. On June 4, 1999 he was found guilty and incurred a 7 month suspension of his driver's license and fined.

- G. On June 28, 2003 at 11:59 p.m., Jason Metke was observed urinating in public in the alley at 208 East Chicago Street in the City and County of Milwaukee, Wisconsin. He was cited for disorderly conduct and on August 20, 2003 was found guilty and fined \$120.00.
- H. On June 13, 2004 Jason Metke was charged in Milwaukee County Circuit Court for felony theft, more than \$2,500 and less than \$5,000. That matter is pending.
- I. On July 15, 2004 Jason Metke was charged in Fond du Lac Circuit Court with issuance of a worthless check. On October 22, 2004 he was found guilty and fined \$1,985.00.
- J. On July 22, 2004 Jason Metke was charged in Milwaukee County Circuit Court with felony theft, business setting, misdemeanor unfair trade general orders and misdemeanor theft. That matter is pending.
- K. On October 21, 2004 at 12:49 a.m., officers of the Milwaukee Police Department investigated a complaint of underage patrons at the licensed premises at 332 North Milwaukee Street. The applicant was not on the scene, but there were six underage patrons in the bar. That matter is presently pending for February 1, 2005 at a pretrial.
- L. On February 11, 2005 at 8:10 p.m., February 14, 2005 at 4:00 p.m., and February 16, 2005 at 12:15 p.m., a representative from Alderman Robert Bauman's office called the police department and reported that the licensed premises at 332 North Milwaukee Street in the City and County of Milwaukee, Wisconsin ("Metke's on Milwaukee") was operating after its license had expired. Officers checked the premises and spoke with the licensee who informed them that no alcohol was being served and only food and soft drinks were being served. Officers did not observe alcohol being served and the officers left believing the activity was permissible under the applicant's food dealer's license. On February 16, 2005 at approximately 2:15 p.m., a representative of the City Comptroller's Office called the License Investigation Unit and reported receiving an e-mail that Metke's was open for business despite having no alcohol beverage license. Officers were then dispatched to the premises and ordered it to be closed to any business at the direction of the commander of the License Investigation Unit. The closing of the premises was predicated on the fact that less than 50% annual revenue is generated by food sales, the occupancy certificate application has indicated in a box entitled "proposed use," "Tavern (Tavern)." An advertisement on the Historic Third Ward website for Metke's on Milwaukee states: "A Milwaukee tavern with a hearty menu of salads, soups and sandwiches. A touch of Irish Blarney and a dash of sports on TV." In a conversation with the applicant, the License Investigation Unit of the Milwaukee Police Department asked the

applicant what percentage of his business is generated by food and what percentage is generated by alcohol sales. Mr. Metke replied, "It's about 50-50." As a result, the License Investigation Unit took the view that the premise is a tavern licensed to sell food and not a restaurant licensed to sell alcohol. No citations were issued by the officers because alcohol was not observed being served.

- M. Additionally, there are two open warrants for the applicant, a municipal court warrant for sale to an underage (Case No. 05008930) and issue of a worthless check with the Fond du Lac Police Department. Warrant notification letters were sent.

CONCLUSIONS OF LAW

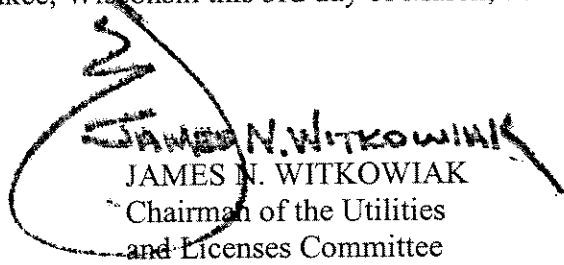
1. The Committee has jurisdiction to hold hearings and provide Findings of Fact, Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapter 125 of the Wisconsin Statutes and Chapter 90 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Committee recommends that the licensee, Jason Metke, has not met the criteria of Chapter 125, Wis. Stats. or Chapter 90 of the Milwaukee Code of Ordinances to allow renewal of the Class "B" Tavern license held by the licensee without undergoing a twenty (20) day suspension. The Committee finds items stated above to be true.
3. The Committee recommends that the full Common Council of the City of Milwaukee exercise its judgment to grant renewal of the Class "B" Tavern license for the licensed premises at 332 North Milwaukee Street in the City and County of Milwaukee, Wisconsin ("Metke's on Milwaukee") held by Jason Metke with a twenty (20) day suspension based upon the danger that his conduct represents to the health, safety and welfare of the citizens of the City of Milwaukee.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of four (4) ayes and one (1) noe, recommends that the Class "B" Tavern License be renewed with a twenty (20) day suspension based on the police report.

Said suspension is to be in effect between the action of the Common Council on March 16, 2005 and midnight, April 4, 2005.

Dated and signed at Milwaukee, Wisconsin this 3rd day of March, 2003.



JAMES N. WITKOWIAK
JAMES N. WITKOWIAK
Chairman of the Utilities
and Licenses Committee

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