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CITY OF MILWAUKEE

LICENSES COMMITTEE

In the Matter of:

The Class "B" Tavern and Tavern Amusement
renewal applications with change of entertainment,
Buckhead Saloon,
1044 North Old World 3rd Street.

Excerpt from the Meeting of the Licenses Committee

Wednesday, September 9, 2009

4:33 p.m.

at

MILWAUKEE CITY HALL
200 East Wells Street, Room 301-B
Milwaukee, Wisconsin

Reported by Lindsay DeWaide, RPR

1 A P P E A R A N C E S :

2 COMMITTEE MEMBERS:

3 Ald. James A. Bohl, Jr., Chair
4 Ald. Milele A. Coggs, Vice Chair
5 Ald. Ashanti Hamilton
6 Ald. T. Anthony Zielinski
7 Ald. Nik Kovac

8 Ms. Tobie Black, Staff Assistant
9 Ms. Rebecca Grill, Licenses Division
10 Mr. Bruce Schrimpf, Assistant City Attorney
11 Sgt. Paul MacGillis, Milwaukee Police Department
12 Mr. Andrew Arena appeared as agent for Old World, LLC.

13 KOHLER & HART, LLP, by
14 Mr. Michael Hart
15 First National Bank Building
16 735 North Water Street, Suite 1212
17 Milwaukee, Wisconsin 53202
18 appeared on behalf of Old World, LLC
19 and Mr. Andrew Arena.

20 ALSO PRESENT: Ald. Robert J. Bauman
21 Mr. Bob Durkin
22
23
24
25

1 TRANSCRIPT OF PROCEEDINGS

2 CHAIRMAN BOHL: The last item is for
3 Andy Arena, agent for Old World, LLC, Class "B"
4 Tavern and Tavern Amusement renewal applications
5 with change of entertainment for Buckhead Saloon
6 at 1044 North Old World 3rd Street.

7 Good afternoon, gentlemen. Mr. Arena,
8 can I ask you, do you have counsel representing
9 you here?

10 MR. ARENA: Yes, I do.

11 CHAIRMAN BOHL: Counsel, if you could
12 state your appearance then, please.

13 MR. HART: Mr. Chairman, Michael Hart
14 appears on behalf of Old World, LLC, and Andrew
15 Arena, agent for Buckhead Saloon. Good afternoon.

16 CHAIRMAN BOHL: And that is H-A-R-T?

17 MR. HART: Yes.

18 CHAIRMAN BOHL: Thank you. And
19 otherwise, would the other individuals present who
20 intend to provide testimony raise their right hand
21 and we'll swear you in.

22 (Witnesses Andrew Arena and Bob Durkin are sworn.)

23 CHAIRMAN BOHL: And for Mr. Arena, as
24 the agent, do you acknowledge receiving notice of
25 today's meeting with the possibility your

1 application could be denied?

2 There was an attached police report as
3 well as a complaint dated August 11, 2008, that
4 should have been part of your notice, as well as
5 an assortment of neighborhood objections.

6 MR. ARENA: Yes, I do.

7 CHAIRMAN BOHL: This is a renewal.
8 Mr. Schrimpf, do you just want to -- I know that
9 it was part of the notice, Judge Lamelas'
10 decision. If you just want to take 60 seconds
11 here and provide a summary.

12 MR. SCHRIMPF: Basically, the committee
13 earlier approved this license with the issuance of
14 a ten-day suspension.

15 Mr. Arena, by Mr. Hart, appealed that
16 matter to the Circuit Court of Milwaukee County.
17 Judge Lamelas heard the case and after hearing the
18 case determined that based on the police report,
19 as it existed at that time, at the time the
20 committee heard the case, there really was
21 insufficient facts to warrant a ten-day
22 suspension.

23 Part of the consideration of that
24 involved the review of documents that Mr. Arena
25 supplied to the common council when it took this

1 matter up, which was basically -- I think she was,
2 more than anything, impressed by a letter from the
3 operators of the Edelweiss Cruise Line that upon
4 further investigation, they were not able to
5 determine that the beer that Mr. Lipscomb
6 complained about, which was spilled upon one of
7 his relatives, necessarily came from the Buckhead
8 Saloon.

9 And I think Mr. Hart would agree with me
10 that Judge Lamelas took some cognizance of that
11 particular letter. And basically, it was decided
12 that it should be remanded for a new hearing.

13 CHAIRMAN BOHL: Thank you. There were a
14 number of items in the police report, but Judge
15 Lamelas determined that in, I guess, the bulk of
16 the circumstances that were indicated here, that
17 the establishment acted properly and that they
18 were not necessarily items she felt the committee
19 nor the council should adversely take action on
20 against the establishment.

21 MR. SCHRIMPF: I think that's a fair
22 summary.

23 CHAIRMAN BOHL: And what I'll just say
24 is, is we have this remanded back. I'm going to
25 guess that the judge, in doing so -- and it just

1 would be an educated guess on my part -- did not
2 want to take action to legislatively approve this
3 matter.

4 At the same point, it's always, I think,
5 sort of with a nod of a direction when you're
6 handing it back that there's a ten-day suspension
7 of saying, it doesn't meet muster for that.

8 There's really two other options, and
9 that is to renew and/or renew with the issuance of
10 a warning letter unless there is new additional
11 testimony.

12 MR. SCHRIMPF: Right. I think the judge
13 was clear about the fact that in remand, the
14 committee and the council can take up further
15 information so long, of course, as it's properly
16 noticed and those things.

17 CHAIRMAN BOHL: And I just want to ask
18 this here. We have no additional items on the
19 police report; is that correct?

20 SERGEANT MACGILLIS: That is correct.

21 CHAIRMAN BOHL: Rather than read the
22 police report here at this time, I will just ask
23 if it would be acceptable to have Alderman Kovac
24 move to make the entire police report part of our
25 official record in this proceeding. Are there any

1 objections to doing that?

2 That way, it becomes fair game if there
3 are individual questions but we have nothing new,
4 and reading it again would be redundant.

5 Alderman Zielinski.

6 ALDERMAN ZIELINSKI: Mr. Chairman, I
7 have a question for the city attorney with respect
8 to the ruling handed down by Judge Lamelas.

9 Am I to understand that if a particular
10 establishment has to call the police, for example,
11 say 50 times in one year, okay, because there's a
12 patron that's disorderly and they need help
13 removing the patron and so it appears on the
14 surface that the business, the establishment is
15 doing everything within their power to remedy the
16 situation, that circumstances such as possibly
17 creating an environment that creates that type of
18 behavior cannot be taken into consideration?

19 Because we have many, many, many, many
20 bars that don't have any incidents whatsoever, and
21 the concern I have is if there's so many police
22 calls to a particular establishment, what's going
23 on in that particular environment that that's
24 creating that type of situation?

25 MR. SCHRIMPF: I think the record that

1 was before Judge Lamelas tended to demonstrate
2 that the police were in the area already.

3 An episode occurred, the personnel,
4 particularly security personnel at the tavern,
5 handled it apparently appropriately, and then
6 waved the police officers over to say, hey, we've
7 got somebody here.

8 She was very impressed with the fact,
9 for example, that when they discovered fake IDs,
10 you know, not only did they stop the person from
11 coming in, but then they confiscated the ID and
12 contacted the police and turned the matter over to
13 the police, which she thought was an appropriate
14 action.

15 ALDERMAN ZIELINSKI: Right. But what
16 I'm saying is -- and I understand that. What I'm
17 saying is, you know, a hypothetical, you take that
18 argument to the next logical extension and just
19 say, hey, you know, for some reason -- you know,
20 let's say there's 20 phone calls within one year
21 to the police.

22 If she feels that that's warranted based
23 on the circumstances, we're not to consider the
24 fact that, hey, what's going on here when there's
25 this many police calls?

1 MR. SCHRIMPF: Judge Lamelas was very
2 careful to confine her ruling to the facts that
3 were before her, and she was not engaging in any
4 hypothetical which is, for example, where your
5 question would go. She was looking at the case as
6 it came before her.

7 CHAIRMAN BOHL: The specific incidents,
8 Alderman. And I think that when you look at
9 specific incidents -- now, it's one thing to say
10 that some people are fighting in a bar and they
11 call police because a couple people got busted
12 chins and blood in the place versus somebody who
13 tries to get into a place, you deny them and say,
14 no, we're not letting you in, we think you're
15 drunk already, and the guy creates a scene
16 outside.

17 Are you to ignore that scene, have them
18 create a greater ruckus, or is it appropriate to
19 say, look, I'm not even trying to let them come in
20 and they're still creating a ruckus, I'm calling
21 the police?

22 One thing is more on you than another in
23 terms of when appropriate contact is made of the
24 police department versus those actions that are
25 more adverse.

1 MR. HART: Mr. Chairman, can I be heard
2 just briefly?

3 CHAIRMAN BOHL: No. I'll get to you in
4 a moment.

5 ALDERMAN ZIELINSKI: So for further
6 clarification, are we to consider all the items on
7 the police report since the last hearing?

8 CHAIRMAN BOHL: Each individual
9 alderperson on the committee can weigh that
10 appropriately to their own determination.

11 ALDERMAN ZIELINSKI: And this is my last
12 question here because there's, you know, incidents
13 where disputes about coat checking issues where
14 the individual is in the bar, and again, that
15 results in police calls.

16 So I'm not to infer from her ruling that
17 that cannot -- or the totality of those incidents
18 can't be considered?

19 MR. SCHRIMPF: Well, you can consider
20 those incidents, but you have to consider them
21 fully for what they were.

22 One of the things that Judge Lamelas
23 pointed out is that she is used more to hearing
24 cases where there was some act of violence that
25 took place.

1 In this particular case, I think there
2 were two acts that would rise to that. One was
3 the broken door which was later found out to be
4 really a patron, and he agreed to pay for it, and
5 that sort of took care of that. And the other one
6 was -- I think there was some individual who was
7 accosting females on the dance floor, and the
8 person who owned the bar stopped the individual
9 from doing that, put him out of the bar, the
10 police happened to be in the area, and they made a
11 report to the police department, which she
12 thought, again, was very appropriate under the
13 circumstances.

14 ALDERMAN ZIELINSKI: Thank you.

15 CHAIRMAN BOHL: Mr. Hart.

16 MR. HART: Thank you, Mr. Chairman.

17 I just want to respond briefly to
18 Alderman Zielinski's inquiries. And so that it's
19 clear, the police department stations a certain
20 number of man and woman hours on Old World 3rd
21 Street on a regular patrol.

22 They have been in regular contact with
23 our upper management, and the discussion is,
24 listen, if there's even a hint of an incident,
25 rather than handling it yourself, just flag us

1 down. We're already in the area. We're the
2 persons who are more well equipped to deal with
3 these issues than you. And rather than become
4 confrontational with your patrons, just flag us
5 down and we'll get involved.

6 In more than half of these incidents,
7 that's precisely what happened. With respect to a
8 number of the 25, 26, 27 --

9 ALDERMAN BAUMAN: Mr. Chair, we're
10 getting into the merits. I have some procedural
11 questions I would like to have answered first,
12 please.

13 CHAIRMAN BOHL: Please proceed. Just go
14 ahead.

15 MR. HART: Thank you. These were not
16 instances --

17 ALDERMAN BAUMAN: Mr. Chair, we're
18 getting into the merits of attorney testimony as
19 to what happened in these incidents.

20 CHAIRMAN BOHL: If it's going to come
21 up, just -- we'll ask you to be brief. Go ahead.
22 Go ahead.

23 MR. HART: And I'm happy to move on.
24 I'm trying to respond to the question.

25 These are instances where the

1 establishment followed the requested protocol of
2 the police department, so to the extent that there
3 is some suggestion that this is a drain on police
4 resources, to the contrary, this is responsible,
5 proactive use of the police resources there for
6 that purpose.

7 With respect to the ruling of Judge
8 Lamelas, what she said, aside from the incident
9 involving Commissioner Lipscomb, was, let me put
10 aside the incident involving the county
11 supervisor. With respect to all of the other
12 incidents, I note that only one involved physical
13 injury, and that physical injury appears to have
14 been sufficiently slight that the two victims
15 declined medical attention. The establishment
16 generally appears to be reacting in a responsible
17 manner to each of these incidents, and at least
18 with respect to the fake IDs, I think little more
19 could be asked of the establishment than to take
20 the action with respect to those IDs. And so it
21 does appear as if some of the comments that were
22 made regarding the police calls that were made
23 with respect to this establishment appeared to be
24 unfounded.

25 She then, in talking about the

1 incidents, indicated, it does not appear to me --
2 this is Judge Lamelas talking -- that the
3 incidents that I have described are consistent
4 with the notion of a persistent consumption of
5 police resources, and I don't think that it's fair
6 to assign responsibility for the persistent
7 consumption of police resources to this particular
8 establishment based upon those incidents that are
9 described and set forth in Exhibit A.

10 ALDERWOMAN COGGS: Mr. Chair?

11 CHAIRMAN BOHL: Alderwoman Coggs.

12 ALDERWOMAN COGGS: A question for the
13 city attorney.

14 There is not at this time a
15 requirement -- when we decide what level and
16 degree of action we're going to take, ten days,
17 three days, and all that, there's not a
18 requirement of physical harm in a police report,
19 right?

20 MR. SCHRIMPF: No.

21 ALDERWOMAN COGGS: This is more a
22 statement than a question.

23 This situation, to me, bears some
24 difficulty, and the reason is -- and to be fair to
25 the licensee, it's not even so much your fault.

1 We see licenses every day that, when we
2 include the total police record, don't have 23
3 different items, but this location does. It's not
4 as if, oh, we forget what Supervisor Lipscomb
5 says, everything looks great. It doesn't.

6 And if we say, well, the consumption of
7 police services is just fine, our problem with the
8 fact that, well, police just happen to be on 3rd
9 Street -- well, I wish they would just happen to
10 be on 27th Street, I wish they would happen to be
11 on Kinnickinnic, and all that.

12 I personally don't care if you waved
13 them down or how they got there. I care more
14 about the situation as to why they're there
15 because it's actually a privilege that they happen
16 to be in the area.

17 So to not still look at the situation
18 itself would be unfair to all those other areas
19 throughout the city that don't have this
20 privilege.

21 So as I, as a decision maker, weigh it,
22 I'm not looking at it like it's the greatest thing
23 because you waved them down. It's not fair to
24 everybody else who can't just walk outside their
25 establishment and wave down the police, who have

1 to make the call, who have to request the
2 services, and all of that kind of thing. So
3 that's number one, as we talk about fairness.

4 The other is this. We've chosen the
5 ten-day suspension, and each of us may have chosen
6 it for different reasons, but still, it's 23 total
7 incidents. That is a lot.

8 And I know it wasn't all in one year,
9 but if we look at totality, it is a lot. And it
10 does make you question the management style of an
11 institution that so many interventions on the part
12 of the police would happen to be there.

13 And there's this. In all fairness, I
14 believe in the year and a half that I have been on
15 this committee that we have given ten-day
16 suspensions to places that have had less.

17 So again, I'm waiting until we're done
18 with this whole thing to figure out where I'm
19 going to land on this. This is not on any
20 preconceived -- anything.

21 This could be a whole different club or
22 tavern or something. It's not anything against
23 this establishment itself. I'm just saying the
24 position that even this being pushed back to us by
25 the judge puts us in if you look at all fairness

1 and the types of issues that we have to deal with
2 on a regular basis through this committee. Thank
3 you.

4 CHAIRMAN BOHL: If I may, I want to just
5 try to impart a couple thoughts, and I appreciate
6 the comments made, and I don't disagree with some
7 of the concerns that have been raised.

8 As a very young alderman at one point
9 when I was on this committee during my first term,
10 I remember sitting here at the committee when we
11 had a few items on the police report from another
12 establishment, very large establishment, The Rave.

13 And I remember saying, oh, my goodness.
14 There were four items or something like that, four
15 items in a given year, and that's a whole lot.
16 And then actually, it was shared with me,
17 perspective. The Rave in a given year has 300,000
18 people that will come through there.

19 Four incidents at The Rave versus we had
20 one particular -- the Wardski's place, had a
21 capacity of 24. On a given night, they may have
22 12, 13 customers. In a given year, they may have
23 a few hundred.

24 The perspective, if you had four items
25 at Wardski's with a capacity of 24 is very

1 different than necessarily talking about a place
2 like The Rave which is bringing in thousands on a
3 given night. And that's one thing that, frankly,
4 committee members I think should factor in.

5 The other thing -- and it is a
6 frustration of mine, too, and I will share it.
7 The fact is downtown Water Street is a destination
8 location for the police department. That's a call
9 of the police department, and maybe, collectively,
10 aldermen should share their thoughts if they
11 believe that otherwise that's not a good use of
12 resources.

13 But that is the police department's call
14 based through the chief and through the individual
15 district commander as to where they're sending
16 resources.

17 The chief of police, if he chose --
18 statutorily, the chief of police has the right to
19 determine where the police resources go. It's not
20 the local alderperson. We can offer suggestions
21 to the captains, suggestions to the chief, but the
22 police department is making that call.

23 I, frankly, support Alderman Wade's
24 suggestion earlier that some of these locations,
25 frankly, ought to pony up some money for the

1 benefit of having those resources sitting there.

2 We've taken that and I suggest we pass
3 it on as a resolution and send it to the chief to
4 make our wishes known because it is -- you know
5 what? If they want the additional resource, they
6 have to pay for it like the Brewers have to on a
7 basis -- or the Milwaukee Bucks at the Bradley
8 Center pay for it on a basis of overtime to have
9 the benefit of having that there, and then maybe
10 that will free up officers.

11 But the fact is the determination is
12 being made by the district and by the chief, not
13 necessarily by this particular establishment or
14 any other place that's on Water Street. I share
15 that frustration.

16 But you know, the last thing that I will
17 just say is, if we wanted to be fair on the basis
18 of even at times where I think that it's
19 beneficial to make those calls if you're an
20 establishment like this, the last thing that I
21 will say is we somehow get very selective police
22 reports, in that we get them from places like
23 this. And I'll say that I can appreciate the
24 cause for concern because, frankly, when you
25 involve alcohol, people make dumb choices, period,

1 and you get people that act stupid.

2 And I always shy on the concern of
3 sometimes you get places that don't call the
4 police and things escalate. So really, we're
5 caught between a rock and a hard place.

6 I've often heard individuals say, we'd
7 rather have you call the police and have a police
8 report done -- the police department is supposed
9 to file a report when they have to show up, when
10 there is an incident, no matter minor or not.
11 With citation or not, it's an incident report --
12 but we'd rather have you shy on the side of
13 caution.

14 I don't want to get to the point where
15 it looks like we're acting punitively for
16 encouraging bars to do what they're doing and then
17 turn around -- because the retort is, from a lot
18 of places, they don't want to call police. They
19 avoid calling police. The guy who's a little
20 irate that they're holding and want to hold for
21 police now becomes more violent, and then we have
22 more statistics on the street. So there's a rock
23 and a hard place on that.

24 But the last thing that I will say is if
25 we actually are talking about incidents -- and,

1 you know, you're correct, over the course of
2 years. But I think that this place, among others,
3 has called proactively more often than others.

4 You're correct in terms of all the
5 numbers, but if we were to talk about numbers,
6 then frankly, we would be denying Summerfest, we
7 would be denying Miller Park, we would be denying
8 a liquor license to the Bradley Center. Because I
9 can assure you that there's a bunch of morons that
10 get arrested every day that the Brewers are
11 playing at Miller Park, people who are drunk,
12 people who are given citations, people who are in
13 fights. This is happening over and over again.
14 There's people who get disorderly conducts.

15 Frankly, as a licensed location, the
16 Milwaukee Brewers ought to be called here, and we
17 ought to be able to have this list of a thousand
18 pages because I'm certain that the police
19 department was actually filing P-33s because it is
20 a licensed location.

21 You'd sit there and say, look at all
22 these police resources. There's a thousand people
23 that have been arrested for drunk driving over the
24 last year here. Miller Park ought to sell no
25 beer.

1 ALDERWOMAN COGGS: They pay for those
2 resources.

3 ALDERMAN ZIELINSKI: Exactly.

4 CHAIRMAN BOHL: That may be that they
5 pay for the police resources, but if you're going
6 to actually point the finger to the number of
7 incidents, police incidents, you'd say, this is a
8 travesty.

9 So as I said, I mean, if you're going to
10 draw consistency across the board, there's a lot
11 that we actually could do.

12 But I concur with your position and
13 concern about the amount of police resources that
14 we see here versus what we see in the district.
15 Frankly, I wish this chief would make that change.

16 ALDERMAN BAUMAN: Mr. Chair?

17 CHAIRMAN BOHL: Alderman Bauman.

18 ALDERMAN BAUMAN: I have some questions
19 for the city attorney.

20 Is it your understanding that the
21 court's decision held that based on the facts of
22 record, any suspension is improper as a matter of
23 law?

24 MR. SCHRIMPF: No. The court was
25 dealing with the specific issue of a ten-day

1 suspension that was issued based upon the police
2 record that was before it.

3 ALDERMAN BAUMAN: Ten days is the
4 minimum we can grant, so there's no lesser
5 punishment to be meted out by this committee,
6 correct?

7 MR. HART: That's not correct.

8 MR. SCHRIMPF: She ruled that what was
9 contained in the police report and what the
10 committee had before it the last time around did
11 not support a ten-day suspension. That was the
12 extent of her ruling.

13 ALDERMAN BAUMAN: Well, we have nothing
14 else before us, so by definition, that means this
15 body is barred from rendering any suspension.

16 MR. SCHRIMPF: At the point that she was
17 making that ruling, she didn't know what else was
18 going to come up.

19 ALDERMAN BAUMAN: That's my question.
20 Nothing new has come up, so based on your
21 understanding of the decision, this committee is
22 basically barred from taking any disciplinary
23 action other than a warning letter?

24 MR. SCHRIMPF: I'm not going to go that
25 far.

1 ALDERMAN BAUMAN: Well, then the
2 committee is permitted to reinstitute the ten-day
3 suspension, correct?

4 MR. SCHRIMPF: Well, based on the same
5 evidence, that would result in a reversal and
6 probably the court would then order --

7 ALDERMAN BAUMAN: Then we're done here.
8 What's the point of wasting any more time of the
9 public and of this committee? This is a complete
10 waste of time.

11 And Alderman Bohl, with all due respect,
12 you might as well come over here and sit on the
13 side of the applicant. That speech was biased.
14 That speech was not fair. That speech was not
15 appropriate. You might as well be in their
16 employ. And I don't quite understand it. You've
17 been very fair and honest and decent in how you
18 handle these matters, but those comments were
19 frankly out of line.

20 Alderwoman Coggs was right on the money
21 with her comments. It is a problem in this
22 particular situation.

23 I read the judge's opinion. For
24 example, there's no evidence in this case that
25 there is a police protocol. That's all hearsay.

1 He says so, Attorney Hart. Where's the police to
2 say that?

3 That's basic rules of evidence which
4 this committee is always throwing out when poor
5 little citizens come in here and want to testify
6 about what they saw. Hearsay. Or send them a
7 letter. Hearsay.

8 Mr. Schrimpf said the court relied on a
9 letter from the Edelweiss owners. A letter? We
10 throw those out at this committee. That's
11 hearsay. What he's saying is that the court
12 relied on hearsay in reversing a decision of this
13 body.

14 Let's look at the facts before we side
15 up with the applicants in these cases, because
16 they're a big bar, and find out what is the police
17 protocol.

18 Where's the captain for the 1st
19 District? I don't see him here to testify that
20 yes, indeed, this establishment was following
21 police protocol when they made all these 23 calls.
22 There's no testimony to that effect in the record.

23 It's Attorney Hart saying so, and he has
24 no personal knowledge to that effect. He's an
25 advocate. He's making an argument, as I make

1 arguments. I don't have personal knowledge of
2 that either.

3 Get the 1st District captain here --
4 adjourn this proceeding, and let's get the captain
5 in here, and let's hash out what the protocol is
6 or is not and why are there 10 to 15 squads on 3rd
7 Street and not on Teutonia and 27th Street and
8 Keefe Avenue.

9 Those are very good questions. I'd like
10 to know some of those protocols myself. I don't
11 know what they are.

12 So yes, indeed, let's adjourn this
13 matter, and if the new facts is responding to the
14 protocol of the police, then we'll put those
15 protocols at issue, and we'll have a trial --
16 evidentiary hearing right here on what those
17 protocols are and whether they complied with them
18 or not.

19 And based on the results of that
20 hearing, we can again consider any suspension or
21 disciplinary actions, and the court can review
22 them accordingly.

23 But right now is a waste of time. There
24 are no new facts. What's the point of going on?

25 MR. SCHRIMPF: Mr. Chairman, if I may

1 say, number one, the court remanded it to this
2 body precisely to have that other hearing and
3 precisely to see if there are other facts.

4 Number two, the issue regarding the
5 statement of the owners of the Edelweiss came in
6 because what happened was that in the objections
7 that were filed to the recommendation of the
8 committee report, the statement of the Edelweiss
9 owners was included by the licensee.

10 At the time that the lawsuit gets filed,
11 I'm under an obligation to file with the court the
12 complete record. The complete record includes the
13 objections that were filed to the committee report
14 which included the letter from the owners of the
15 Edelweiss, and that's how the court got that
16 letter.

17 ALDERMAN BAUMAN: And you agree,
18 Mr. Schrimpf, that that letter came in not under
19 oath and without the benefit of cross-examination.

20 MR. SCHRIMPF: All that is true, but it
21 came in.

22 ALDERMAN ZIELINSKI: Mr. Chairman?

23 CHAIRMAN BOHL: Alderman Zielinski.

24 ALDERMAN ZIELINSKI: I just want to get
25 one final piece of clarification from our city

1 attorney, but I just have to make one quick
2 comment before I do that.

3 And I know it has no direct specific
4 bearing on this case, but I can't tell you how
5 many times my constituents have called for police
6 services and said we don't have any police
7 services available because they're hanging out
8 right over there. And the question arises, why
9 are they hanging out over there? Because there's
10 continual problems.

11 MR. HART: That's not fair.

12 MR. SCHRIMPF: Well, the allocation of
13 the city resources, although the police chief
14 dictates -- I don't want to use that word,
15 necessarily -- but the chief of police determines
16 under 62.50 the allocation of the police
17 resources.

18 It is the common council, ultimately,
19 that retains control over city property and the
20 city personnel in all cases. You do that through
21 your budget power. And if you wish reallocations,
22 the common council can do it.

23 ALDERMAN ZIELINSKI: We can add money or
24 take money for police officers, but if the police
25 chief still wants to put them in front of this

1 bar, he can still do so, and there's nothing we
2 can do to stop him. And he's not putting them in
3 front of this location over here because he wants
4 them to listen to music. There's issues going on.

5 MR. SCHRIMPF: That's a matter between
6 the common council and the chief of police.

7 ALDERMAN ZIELINSKI: Going back to my
8 clarification --

9 CHAIRMAN BOHL: That was my point.

10 ALDERMAN ZIELINSKI: Going back to my
11 clarification, Attorney Schrimpf.

12 So if I understand you correctly and
13 we're perfectly clear on this, if we were to make
14 a motion and approve a motion for a ten-day
15 suspension, what is the most likely occurrence?

16 MR. SCHRIMPF: It would be appealed. It
17 would probably be reversed.

18 ALDERMAN ZIELINSKI: And if it's
19 reversed, then what happens?

20 MR. SCHRIMPF: Well, I wouldn't want to
21 try the patience of the court.

22 There could come a point in time when,
23 if a body is sufficiently recalcitrant, that the
24 court could simply order something. I've never
25 seen it happen in the case of a common council.

1 There is a famous Green Bay case where
2 it happened in the case of a firing of a police
3 commissioner.

4 ALDERMAN ZIELINSKI: I mean, I could
5 understand if it was the third or fourth time
6 where it rises to that level, but would the second
7 time rise to that level?

8 MR. SCHRIMPF: Well, the question is, if
9 you already have a judicial determination that the
10 record, as it stands, is insufficient for a
11 ten-day suspension, then where are you going to
12 go?

13 ALDERMAN ZIELINSKI: Well, thank you for
14 answering my question.

15 ALDERWOMAN COGGS: Mr. Chair?

16 CHAIRMAN BOHL: Alderwoman Coggs.

17 ALDERWOMAN COGGS: This is for the city
18 attorney.

19 I'm taking into account all the comments
20 that have been made, and I think Alderman Bauman
21 kind of said it. But pretty much, a warning
22 letter and the next step being ten days, there's
23 nothing in between that, right?

24 MR. SCHRIMPF: No.

25 ALDERWOMAN COGGS: So by the judge

1 sending this back saying that the record was
2 insufficient and there not being any additional
3 record made between when this was first decided
4 and a ten-day was chosen versus now, essentially,
5 she is saying we have no option other than a
6 warning letter since ten days is the lowest --

7 MR. SCHRIMPF: That would be your view
8 of it. I think the court's view of it might be
9 you don't have enough for a ten-day suspension.
10 If you have some level of punishment between the
11 ten-day suspension and a renewal, I'll consider
12 that.

13 ALDERWOMAN COGGS: Which is only a
14 warning letter, right?

15 MR. SCHRIMPF: That would be only a
16 warning letter, right.

17 ALDERWOMAN COGGS: So it's basically
18 telling us all we can give is a warning letter.
19 I'm just really interested in knowing, why are we
20 even hearing this?

21 ALDERMAN BAUMAN: That's right.

22 ALDERWOMAN COGGS: I could see if we did
23 90 days or 60 days or 30 days because you have
24 some other options lower than, but what we're left
25 with is two options. Do what we did in the first

1 place, which we know is going to be shot back, or
2 a warning letter.

3 So when you take that away, all we're
4 left with is the one option. And if that's the
5 case, it could have saved us a lot of time and I'm
6 sure them a lot of money for the judge just to
7 have made that decision.

8 Was that argument made in court?

9 MR. SCHRIMPF: First of all, a judge is
10 going to be very careful because of the separation
11 of powers from intruding into what is essentially
12 a legislative decision, and the renewal of an
13 alcohol beverage license is legislative in nature.

14 ALDERWOMAN COGGS: But we don't really
15 have a decision.

16 MR. SCHRIMPF: Well, the judge remanded
17 it because the judge obviously knew there were
18 various interests at play in this thing, and that
19 if it came to a new hearing before the committee,
20 the local alderman or the local citizenry or the
21 local licensee might have more evidence that they
22 wanted to present to the committee for the
23 committee's consideration, and that's why it's
24 back here.

25 CHAIRMAN BOHL: In other words, you have

1 neighbors who didn't show the last time and
2 decided that they had objections. You have the
3 ability of new neighbors to show up and provide
4 new testimony that wasn't there before. You have
5 a duration of time between that and that time, and
6 when it comes back again, there may be the
7 addition of additional police items that show up
8 which could be considered.

9 ALDERWOMAN COGGS: But you also have a
10 judge's ruling that pretty much says absent
11 violence or harm brought to customers, it would be
12 difficult for her to see why it has risen to the
13 level of ten days.

14 MR. SCHRIMPF: She was, again, careful
15 to point out -- and she was using that not as a
16 ruling as such but as an illustrative example of
17 what she normally sees in one of these cases,
18 given the fact that the record itself was
19 relatively light and there had been no serious
20 injuries. So she was giving that as an
21 illustrative answer.

22 ALDERMAN ZIELINSKI: Just one quick
23 question, the last question I have.

24 CHAIRMAN BOHL: Last question.

25 ALDERMAN ZIELINSKI: Is there an option

1 for the committee that we can approve the renewal
2 of this license without taking into consideration
3 all the previous incidents that have occurred?

4 MR. SCHRIMPF: You always have that
5 option.

6 CHAIRMAN BOHL: I think you have that
7 option if there is an adjudication that is not
8 complete.

9 I think he's talking about at times
10 where somebody -- either there's a fight that
11 occurred and there was some violence and there's
12 an outstanding investigation still occurring, or
13 they're fighting an incident where they are
14 contesting somebody was underage and it's still
15 pending, we have the ability to include it or to
16 not.

17 I don't know that an incident report on
18 Item No. 11 or 12 or whatever else, that you hold
19 that open.

20 MR. SCHRIMPF: Normally, it is because
21 there's something that's pending. That is true.

22 On the other hand, I suppose it's
23 possible for the committee to say, all right,
24 we're not going to include Item No. so and so and
25 so and so for various reasons. It might be

1 because we want to see if you can clean up your
2 act in the next license year.

3 ALDERMAN ZIELINSKI: Can I finish my
4 line of questioning?

5 MR. HART: I'm going to just object to
6 this. This is outside the notice provision.
7 We're here to decide the renewal issue, and I'm
8 doing my best to be deferential. And I apologize,
9 but I've got --

10 CHAIRMAN BOHL: How do you think I feel?
11 I'm getting insulted by my own colleagues here,
12 all right? I'm trying to be impartial myself, so
13 I'm worse than you. And then I get you objecting
14 to me too. He's objecting to me, you're objecting
15 to me.

16 ALDERMAN ZIELINSKI: I'm not objecting
17 to you, Mr. Chair. I appreciate you recognizing
18 me again. I appreciate your difficult situation.

19 CHAIRMAN BOHL: Sure.

20 ALDERMAN ZIELINSKI: I just want to get
21 clarification because, you know, it's my intention
22 to make a motion to approve this license without
23 taking into account all the previous incidents.

24 And I just want to, before I make that
25 motion, make sure that from the city attorney's

1 perspective, there's no problem with that motion.

2 MR. SCHRIMPF: I think you could do
3 that, but I would urge that you kind of then
4 identify in this police report which items you're
5 not including with some precision because
6 otherwise it's going to become a very murky record
7 later on.

8 ALDERMAN ZIELINSKI: Well, I guess my
9 concern is if you aggregate, you know, these
10 incidents and if it isn't straightened out, that
11 would be establishing a better record to proceed
12 in the future. Is there a problem with that?

13 I mean, if they clean up their act, I'm
14 a happy guy. If we don't have to keep sending
15 police over there, maybe the chief won't allocate
16 officers over there, and some of us can get more
17 of a police presence in our district, and
18 everybody is happy. They're happy, I'm happy, my
19 constituents are happy.

20 MR. SCHRIMPF: Here's the problem that I
21 think you're dealing with. You have, at this
22 juncture, a tavern that attracts a crowd that
23 occasionally engages in this activity.

24 Given the fact that the record is
25 there's 160,000 patrons a year that go through the

1 place, you have in the last license year, I don't
2 know, seven or eight items, and you want to look
3 at that. You know, how bad really is that? I
4 don't know. That's a decision you folks have to
5 make.

6 ALDERMAN ZIELINSKI: I think, you know,
7 based on the testimony and hearing a lot of cases
8 here, I still think that that's a very high
9 number.

10 There's plenty of places that serve a
11 lot of people. We never have them come before the
12 committee. We never have any issues. The cops
13 never go over there.

14 So I think there's other things that can
15 be done proactively to help prevent the
16 incidents -- the number of incidents from
17 occurring. And I just want to make sure that I
18 make that message very loud and clear so that
19 everybody is happy.

20 They can straighten out their act, they
21 take steps to preclude this type of activity from
22 taking place on a regular basis over here, we get
23 more police patrols, everybody is happy.

24 But I want to hold their feet to the
25 fire and be able to use, you know, the police

1 record. If they straighten out their act, we
2 don't have any problems. Then we're all happy.
3 That's all. Thank you.

4 CHAIRMAN BOHL: Mr. Hart?

5 MR. HART: I'd like to set the motion,
6 but before doing that, I just want to say it would
7 be very easy for me to respond in kind to Alderman
8 Bauman's remarks to the chairman, which I think
9 are wholly inappropriate, so I'm going to hold my
10 tongue on that.

11 I want this committee to understand who
12 the licensee is. Bob Durkin is the president and
13 licensee. He traveled here from Charlotte, North
14 Carolina, where he resides to be present and to be
15 heard. These are responsible, reputable people
16 that support the neighborhood.

17 The number of police contacts that are
18 referenced in this notice and have been referred
19 to in this record occurred over a period of seven
20 years, from the year 2002 to the year 2009.

21 If we accept that number at 23 or 24,
22 that's over a seven-year period, fewer than four
23 instances a year. Mr. Schrimpff indicated there
24 are 160,000 people a year that come through the
25 doors of our establishment.

1 With respect to police presence on Old
2 World 3rd Street, there are 30 businesses in that
3 area. There's the Bradley Center. The allocation
4 of police resources that has been mentioned on
5 this record is not something that is subject to
6 any control this particular establishment has.

7 We're operating within the confines of
8 the protocol. We're doing things responsibly as
9 the police have asked.

10 I appreciate Alderwoman Cogg's concerns
11 about the police allocation and her constituency.
12 I nor the licensee can do anything about that.

13 We have moved this body for a resolution
14 permitting us to hire off-duty police officers as
15 security, and I would encourage this body to
16 revisit this issue again.

17 I will also say that on any given night
18 where there are numbers of people in our business,
19 we have 12 security people. We have installed
20 cameras on the back patio to ensure, to the extent
21 that -- the situation complained of by
22 Commissioner Lipscomb, to the extent that we were
23 responsible for it, that we've taken steps to
24 ensure that it never occurs again.

25 Frankly, I have photographs, and I am

1 very dubious about whether that beer came from our
2 patio.

3 That aside, Judge Lamelas ordered this
4 case remanded de novo for this committee to decide
5 what the appropriate licensing renewal decision
6 should be in light of the fact that based on her
7 judicial review of the record, there was
8 insufficient evidence to support a ten-day
9 suspension.

10 While Alderman Zielinski's creative
11 attempt to call the question is interesting, I
12 would urge you to vote on the record as it is.
13 There are no neighborhood complainants here for
14 this de novo review, and I'm asking this body to
15 call the question of the renewal of the license of
16 Old World, LLC, and Andrew Arena, agent for
17 Buckhead Saloon, now.

18 I think, absent any other information,
19 there is ample reason to support the renewal of
20 this responsible, proactive business who employs
21 50 people in this city, contributes approximately
22 \$200,000 in taxes to this city, contributes
23 members of their organization to serve on the Old
24 World 3rd Street Association, and to focus not
25 just on a few incidents per year over an extended

1 stay on Old World 3rd Street, but look at all the
2 good that they do.

3 And if you do that on this record, in
4 spite of Alderman Bauman's protestations to the
5 contrary and suggestions of biasedness, which I
6 find a little bit more than ironic, I'm asking
7 that you renew the license of this establishment
8 without any further restriction. Thank you.

9 CHAIRMAN BOHL: What I'm going to do is,
10 because it's part of the protocol here, I will
11 just ask if any individuals who are present are
12 here to testify in opposition to the license.

13 Let the record reflect that no one does
14 respond to my question here on that.

15 Are there questions by committee members
16 first? No questions by committee members.

17 Alderman Bauman, do you wish to respond?

18 ALDERMAN BAUMAN: Nothing further.

19 CHAIRMAN BOHL: If there are no other
20 questions by committee members, we'll take this
21 into committee.

22 ALDERMAN ZIELINSKI: I would move
23 approval with the exceptions of items 22 -- taking
24 into account the police report with the exceptions
25 of Items 22, 23, 24, 25, and 26.

1 MR. HART: I would --

2 CHAIRMAN BOHL: We're in committee at
3 this point now. Let me just repeat the motion.

4 The motion by Alderman Zielinski is to
5 recommend approval of the renewal of the license
6 but to exclude from the decision Item Nos. 22, 23,
7 24, 25, and 26 within the police report.

8 ALDERMAN ZIELINSKI: That's correct,
9 Mr. Chairman.

10 CHAIRMAN BOHL: On the motion,
11 Alderwoman Coggs?

12 ALDERWOMAN COGGS: I'm going to support
13 the motion. I just wanted to put this on the
14 record because I don't know where this situation
15 might end up.

16 The other thing that we often consider
17 in these decisions that we make, not only in this
18 case but in all of them, and we've said it several
19 times but I just to make sure it's on the record
20 here, and that's this. It's progressive
21 discipline.

22 And since there is nothing between a
23 warning letter and ten days, when you have
24 establishments that have received several or more
25 than one warning letter previously, if we truly

1 are to abide by progressive discipline, the next
 2 thing we have at our hands, according to
 3 ordinances, is the ten-day suspension.

4 So sometimes it may not solely be based
 5 on one incident or a violent act or anything like
 6 that but progressive discipline. So I'm going to
 7 support the motion.

8 CHAIRMAN BOHL: Thank you. Any other
 9 discussion on the motion? No additional
 10 discussion.

11 Again, the motion is to recommend
 12 approval of the renewal of the license but to
 13 exclude Item Nos. 22 through 26 on the police
 14 report and hold those open for the possibility of
 15 future consideration.

16 If we could get a roll call vote on
 17 this, please.

18 MS. GRILL: Alderman Hamilton.

19 ALDERMAN HAMILTON: Aye.

20 MS. GRILL: Alderman Kovac.

21 ALDERMAN KOVAC: Aye.

22 MS. GRILL: Alderwoman Coggs.

23 ALDERWOMAN COGGS: Aye.

24 MS. GRILL: Alderman Zielinski.

25 ALDERMAN ZIELINSKI: Aye.

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MS. GRILL: Mr. Chair.

CHAIRMAN BOHL: Aye. Motion will carry
on a 5 to 0 vote.

(Hearing concluded at 5:19 p.m.)

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

4 I, Lindsay DeWaide, a Registered Professional
5 Reporter and Notary Public in and for the State of
6 Wisconsin, do hereby certify that the preceding hearing
7 was reported by me and reduced to writing under my
8 personal direction.

9 I further certify that said hearing was taken
10 at MILWAUKEE CITY HALL, 200 East Wells Street, Room
11 301-B, Milwaukee, Wisconsin, on the 9th day of
12 September, 2009, commencing at 4:33 p.m.

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

18 In witness whereof, I have hereunto set my hand
19 and affixed my seal of office at Milwaukee, Wisconsin,
20 this 21st day of September, 2009.

21
22
23
24
25

LINDSAY DEWAIDE, RPR
Notary Public, State of Wisconsin

My Commission Expires: January 17, 2013.

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