



City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Minutes - Final ALCOHOL BEVERAGE LICENSING TASK FORCE

JUSTICE LOUIS BUTLER, CHAIR

*Joel Brennan, Sallie Ferguson, Rebecca Grill, Edward J. Lump, Comptroller Wally Morics,
Sharon Nowak, Bruce Schrimpf, Chet Ulickey*

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Monday, February 9, 2009

10:00 AM

Room 301-B, City Hall

Meeting commenced at 10:09 a.m.

Present 7 - Schrimpf, Grill, Brennan, Ulickey, Butler, Lump and Nowak

Excused 2 - Morics and Ferguson

1) **Review and approval of the minutes of the January 23, 2009 meeting**

Changes to the minutes of the January 23, 2009 meeting:

On page four of the minutes under the remarks attributed to Bruce Schrimpf, "generated by the officer" should be "generated by the person calling it in and the alarm telecommunicator writing it down"

and

The statement that the CAD report is not a police report attributed to Mr. Schrimpf should be "the CAD is a police report but it is not an investigative report."

Changes to the minutes were adopted.

The minutes were then approved as presented.

2) **Discussion of the written recommendations submitted by the Alcohol Beverage Licensing Task Force members**

The task force members decided to consider and vote on each item one by one. All recommendations from members were put into a compilation with different categories.

The Pre-Application Process:

Regarding the creation of a pamphlet by the City Clerk's License Division that contains the process for new license applications or license renewals, including the applicant's rights and obligations during the process, all seven members voted "aye".

Regarding the publishing of materials for new applicants in several languages:

Mr. Lump asked whether the materials provided to applicants would be provided in any

other languages besides English.

Mr. Schrimpf said that while it is a practical idea for the materials to be published in various languages, there could be problems when there is an applicant that speaks a language in which material is not available. He also said an applicant, if he or she receives a license, will not always have an interpreter available when dealing with other city departments, such as the police department or the Department of Neighborhood Services. The licensee will be expected to know the law, which is printed in English.

Mr. Lump said that a person who does not speak English may not know the legal system and may be taken advantage of when he or she does not have information in his or her own language.

Ms. Grill said that there would be administrative difficulties in providing application materials in various languages. She said information is not collected with regards to what language an applicant speaks, and that all license applications, not just those for alcohol beverage licenses, would then have to be put into various languages as well.

Sgt. Ulickey said that there have been previous problems with printing police material in more than one language because people complained about their languages not being represented.

Mr. Lump said that there should be some language in preliminary paperwork that lets the applicant know that an interpreter should be obtained by him or her if needed and the rest of the services provided by the city and requirements of the license would be in English.

Mr. Lump requested to withdraw the recommendation that application materials, such as a road map and a "Bill of Rights" for new applicants, be made available in various languages.

The Application Process:

Mr. Brennan said that there should be a definition of a fair and reasonable amount of time for notification of applicants when they are required to appear at a Licenses Committee meeting. He also mentioned previous complaints from applicants about a lack of specificity on notices with regards to what issues concerning their establishment will be addressed at the Licenses Committee.

Mr. Schrimpf said that licenses are renewed at any time during the year because of the volume of taverns in the city. The timing of the notices is in conformance with Chapter 125.12(2), Wis. Stats., which allows notice of no less than three and no more than ten days notice for the revocation of a license. Chapter 125.12(3) and 125.12(3m), Wis. Stats., specifically state that the notification time frame for renewals should conform to the time frame set forth in Chapter 125.12(2).

Mr. Schrimpf said that it should be suggested to licensees that they stay in the city around the time of their renewal, that the licensee should go around to talk to neighbors if they know that there are neighborhood objections against the issuance of their license and that they should go to the police for copies of police reports if they know that there will be objections based on a police report at the committee meeting.

Mr. Butler said that the Common Council is held to the requirements of the state statutes, so there is not an ability to change notice times. Mr. Butler asked if Mr.

Brennan would like to withdraw the recommendation regarding the timeliness of notices, but he would keep the recommendation to specify complaints in the notice to renewal applicants. Mr. Brennan agreed.

Ms. Grill said that the ability of the neighbors to testify has to be weighed when a notice is generated, so there are many general complaints, such as littering and loitering, that are listed on the notice so complaints of neighbors can be addressed at the committee.

Mr. Butler asked Ms. Nowak and Mr. Lump if the notice is considered to be sufficient by members of the Tavern League and the Wisconsin Restaurant Association. Neither Mr. Lump nor Ms. Nowak said that there had been any members that had expressed concern about the time frame of notices. However, Mr. Lump said that there should be some movement towards requiring longer notice time for applicants, although he thinks that it is prudent to mention to applicants at the time of application that they should stay in the area around the time that their application will be renewed.

Ms. Grill said that if the notice time to an applicant is reduced to three days, it is generally because the applicant has not filed the renewal application in a timely manner.

Mr. Butler asked for a vote on whether the Task Force should recommend to the council that the time frame for notice to applicant be at the upper end of the three to ten day range. He also asked for a vote on increasing the specificity of complaints on notices sent to applicants.

City Clerk Ron Leonhardt at the table. He clarified that an establishment would be required to close if the renewal application was not heard before the Licenses Committee and the Common Council met, so the three day notice is sometimes necessary to prevent this from happening. Mr. Schrimpf said that when the application is not reviewed in time, applicants then request an injunction through the court system to prevent the city from closing down their establishments until there can be a hearing on the requested injunction, which could be months later.

All members voted "no" on recommending a required notice time that is on the upper end of the required time frame.

With regards to the issue of increased specificity in the complaint process with respect to the notice, Mr. Brennan said he would withdraw the recommendation if the issue will be addressed in the materials distributed to the applicants at the beginning of the licensing process.

Regarding the recommendation that legal requirements for operation of an alcohol beverage outlet be given to applicants, in Spanish and English, at the start of the licensing process, Ms. Grill said that all materials issued by the License Division are in English for reasons that were previously discussed. Ms. Nowak said that she would withdraw the part of the recommendation that refers to the requirements being printed in Spanish. She said if materials are distributed to the applicants that makes the application easier to complete and spells out legal requirements for applicants, there won't be a need for the recommendation. Mr. Schrimpf pointed out that the applications for an alcohol beverage license are provided to the city by the state.

Regarding the waiting period of three years required for submission of an application for a location that has been deemed unsuitable by the Common Council, Ms. Grill said

that there is an opportunity for applicants to be heard in less than three years if an applicant presents a change in circumstances that relates to the unsuitability of the location.

Mr. Butler said that in the absence of an appeal right for the applicant in the case of an unsuitable location, there is a question of whether the waiting period should be shortened.

Ms. Grill said that before there was a three-year waiting period, applicants continued applying for the license numerous times. Neighbors would appear at the License Committee each time the application was scheduled, but eventually the neighbors would tire of appearing, and the applicant would be able to receive a license without opposition from neighbors.

Sgt. Ulickey said that he thinks the three-year period is reasonable since applicants can bring forth a change in circumstances. Mr. Schrimpf said that the committee and the council usually have considered an enormous factual record that demonstrates that the location has generated an excessive amount of police calls and has been a problem for the neighbors and that warrants a declaration of a location as unfit.

The task force members voted one "aye" to six "noes" against shortening the three-year waiting period. (Mr. Butler voting "aye", Sgt. Ulickey, Mr. Schrimpf, Ms. Grill, Mr. Brennan, Mr. Lump and Ms. Nowak voting "no", Mr. Morics and Ms. Ferguson excused)

Regarding music and age questions on the license applications, Mr. Butler said that there were concerns raised by applicants at the public hearing about questions regarding the type of music that would be played and the ages of proposed clientele.

Ms. Grill said that the questions are on the application so that the neighbors and the local council member can get an idea of what kind of operation is being proposed. For instance, in a residential neighborhood, the neighbors might be more comfortable with an establishment that is more like a corner bar than a full club.

Mr. Lump said that the questions regarding age of patrons and type of music are relevant and the more questions that are asked regarding the business plan of an establishment the better, particularly for the neighborhood. He said the neighborhood should have a certain security in relying on a business plan proposed by an establishment and the more information asked for, the better off the city and the neighborhood might be.

Ms. Nowak said that with newer Internet jukeboxes, there is a variety of songs available from which patrons can choose, although some of it can be blocked. She asked who makes the determination of which songs fits which music categories.

Mr. Butler said that he did not want to raise the legal issue of whether or not there is a constitutional bar against asking about music selections; he said that is not part of the role of the task force. Mr. Butler said that there had been concerns raised at the public hearing regarding the potential or actual likelihood of aldermanic abuse with council members using type of music as a means of keeping certain applicants from opening businesses in certain areas.

Sgt. Ulickey said that it should be kept in mind that an Alcohol Beverage License is a privilege. He said that the Common Council as a whole has a duty to provide for the

safety of a neighborhood as well as the enjoyment of the neighborhood by residents. He also said that an applicant could take advantage of a neighborhood if the intentions of an applicant are not made part of the application. He said that the questions should remain part of the application.

The task force members voted unanimously against taking the age distinction and music questions off of the application.

Certification and Scheduling of License Applications:

Regarding whether the Common Council should adopt a uniform process for giving notice of license hearings, the question should be split into two parts:

1) Should there be a uniform process for notifying neighbors that a license application has been scheduled?

2) What should the process look like?

Mr. Brennan clarified that the previous discussions made clear that the process of notifying neighbors and whether neighbors were notified was dependent on the opinion of the local council member.

Ms. Grill said that she would recommend a standard for notifying neighbors within 250 feet of the establishment for all applications scheduled. She also said that businesses in the area could be affected adversely by a proposed establishment in the area and should be notified as well, not just the residents.

Mr. Lump asked if Ms. Grill would recommend extending the radius. Ms. Grill said that she would not change the radius of notification, but that opinion would be due to budgetary concerns versus notification concerns, since a wider radius would create a significant increase in notices sent by the License Division. She said that 250 feet seems to be working well.

Ms. Grill said that the current guideline for notification of neighbors is either 250 feet or 100 people. Whatever the proposed notification guidelines will be, there should be a set radius and a set number of people, not a range, so there is consistency among all neighborhoods.

Sgt. Ulickey said that the radius should be extended to 500 feet from the location and the 100-person limit should be discarded since every neighborhood is different and those guidelines can exclude many people depending on how the neighborhood is populated.

Mr. Schrimpf said that he agrees that the notice process should be standardized, but the debate over the radius should be left to the Common Council as part of the political process.

Mr. Lump said it makes sense to expand the radius to 500 feet and to make that radius uniform for all applications.

Ms. Grill said that when the 250 foot radius is used, rarely is the result only a few people noticed. If that happens, Ms. Grill said that she would usually increase the radius to include more neighbors. However, in some areas of the city, over 800 people have been noticed when the 250 feet radius is used. But she also said that she

understands the desire is to notify people and that she believes the number of neighbors noticed should be consistent and should be an exact number.

Mr. Schrimpf said that he wants to give the license office the discretion and the ability to notify more people than the guidelines allow.

Mr. Brennan asked how the council members notify their constituents of neighborhood meetings. Ms. Grill said that she is not completely sure of how the council members notify neighbors of those meetings since the License Division is not involved in that process, but the council members get addresses from the same source as the License Division and they often use a radius of more than 250 feet.

The task force members voted six "ayes", zero "noes" and one "abstain" in favor of notifying all addressees within 500 feet when a new or renewal application is scheduled for a Licenses Committee meeting. (Mr. Butler, Sgt. Ulickey, Mr. Schrimpf, Ms. Grill, Mr. Brennan, Mr. Lump and Ms. Nowak voting "aye", Mr. Schrimpf abstaining, and Mr. Morics and Ms. Ferguson excused)

Regarding whether a reasonable maximum amount of time should be set for a hearing of a new license:

Some task force members proposed different time frames, such as 60 days from the submission of the application or two council cycles.

Ms. Grill said that an application can be certified once all the application materials and requirements needed by the License Division have been received. Ms. Grill said that using a specific number of days for a scheduling time frame is difficult because of the recess from meetings in August and other occurrences, such as election days. She suggested that scheduling by the third regularly scheduled committee meeting after the application is certified would avoid this problem.

Mr. Butler said that the task force has to decide when the time period is to start, be it the date of fingerprinting, application or certification. He also said that he liked the idea of mixing cycles with days because of the problems previously mentioned by Ms. Grill as long as there is a definite start date.

Mr. Schrimpf said that the scheduling time frame should start when the License Division says that the application is ready to be scheduled.

Sgt. Ulickey said that he is in favor of two cycles of time if it does not propose a problem. Ms. Grill says that a two-cycle time frame is possible in most cases, but there are exceptions.

Mr. Schrimpf said that he is opposed to putting too strict a limit on the scheduling time frame.

The task force members voted five "ayes" to two "noes" in favor of the Common Council adopting scheduling periods following the completion of an application for a new license of sixty days or two council cycles. (Mr. Butler, Sgt. Ulickey, Mr. Brennan, Mr. Lump and Ms. Nowak voting "aye", Mr. Schrimpf and Ms. Grill voting "no", Mr. Morics and Ms. Ferguson excused)

Mr. Butler said that the remaining recommendations will be discussed during the next task force meeting.

3) Discussion of the request by the Community Prosecution Unit of the City Attorney's office to make a presentation on its role in the alcohol beverage licensing process

Mr. Butler said that he is not opposed to the Community Prosecution Unit of the City Attorney's office addressing the task force at a future meeting.

No task force members objected.

4) Set-up of the agenda for the next public evening hearing

The set-up of the agenda for the public meeting will be moved to the February 23rd meeting.

5) Set-up of the next regular meeting's agenda

Mr. Butler proposed that the next meeting be for the discussion of the items that were not discussed today. Also, the City Attorney's office will make a presentation at the February 23rd meeting.

The start time for the February 23rd meeting was changed to 9:30 a.m.

6) Scheduling of the next meeting (time and date)

The next regular meeting is scheduled for February 23rd at 9:30 a.m.

Meeting adjourned at 11:58 a.m.

Staff Assistant Tobie Black