



MINUTES OF A REGULAR MEETING OF THE **LEGISLATIVE & LICENSING COMMITTEE** HELD ON TUESDAY, **FEBRUARY 19, 2019 AT 7:15 P.M.** IN THE SELIGENSTADT (MAIN) CONFERENCE ROOM, 2000 NORTH CALHOUN ROAD, BROOKFIELD, WISCONSIN

ALDERMAN GARY MAHKORN PRESIDING

MEMBERS PRESENT: Alderman Gary Mahkorn (Chair), Alderman Brad Blumer, Alderman Bill Carnell, Alderman Buck Jurken

OTHERS PRESENT: City Attorney Jenna Merten, City Clerk Kelly Michaels

ABSENT & EXCUSED: Alderman Jeff McCarthy

1. Chairman Mahkorn noted a quorum was present and called the Legislative & Licensing Committee to order at 7:15 p.m.
2. Announcements/Reports:
  - a. The next regularly scheduled meeting is Tuesday, March 5, 2019.
3. Minutes
  - a. Minutes of the February 5, 2019 meeting.

**Motion by Alderman Carnell second by Alderman Jurken to approve the February 5, 2019 meeting minutes as presented. Motion carried 4-0.**

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4. Old Business
  - a. Legislative Referral: Ordinance amending Subsections 2.08.040B and 2.08010C *et al.* of the Brookfield Municipal Code regarding the duties of the Plan Commission and certain Common Council committees.

Attorney Merten noted she spoke to other department heads and clarifications were added to the ordinance language for the committee to review. She summarized that the Mayor is identified as the Chairman of the Committee as a Whole. If something is not specifically listed under the committee's duties the Mayor can decide which committee, if any, should hear the matter at hand.

Alderman Carnell questioned a recent referral regarding the burning ordinance that was assigned to two different committees. He commented that being that any

changed would require an amendment you would think it would go before the Legislative & Licensing Committee. Attorney Merten noted that open burning comes under Section 8.30 of the Municipal Code which would mean the burning code would come before the Legislative & Licensing Committee. Attorney Merten explained that the L&L Committee currently has the duty to review every ordinance, however there are plenty of examples where ordinances are coming out of specific committees where the area of expertise lies. She mentioned Finance Committee reviewing fee schedule ordinances and Plan Commission reviewing zoning ordinances just to cite a few. Alderman Mahkorn agreed and indicated the ordinance cleans up the language and provides clarity as to what the ordinance review duties are for the L&L Committee and others.

Alderman Blumer felt it was not beneficial for an item to have to go to two different committees that meet only once or twice a month. He stated that type of process would cause a two-month delay or longer, in any decisions being made.

**Motion by Alderman Jurken, second by Alderman Carnell to approve an Ordinance amending Subsections 2.08.040B and 2.08010C et al. of the Brookfield Municipal Code regarding the duties of the Plan Commission and certain Common Council committees. Motion carried 4-0.**

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## 5. New Business

- a. Consideration of an Original Bartender License for an applicant with a police record between 19 months and 5 years – *Shannon M Miller*.

Attorney Merten explained that there is a new law regarding employment discrimination. She noted that when someone applies for a license and something is triggering a review by the committee, we must consider the seriousness and nature of the offense; circumstances relating to the event; litigation such as treatment taken; community service; age at time of offense; length of time elapse since the time the offense occurred; letters of reference; and any other circumstances that would factor into the committee's decision on whether the individual should be recommended for a license. Each time an applicant comes before the committee, the committee must take into consideration these issues.

Alderman Blumer questioned whether there is any information the city can request ahead of time. Attorney Merten responded yes. She noted she is drafting an ordinance that would note what documents and information the applicant would need to submit prior to the committee meeting. Alderman Mahkorn pointed out that the current applicant's violation occurred a little over two years ago. He noted that the application indicated a violation date of January 2016, but it was actually January 2017.

Alderman Mahkorn stated the committee currently gets the history of the offense in a memo format. Attorney Merten replied yes, the committee has been receiving it that way, and the new law specifically states it is employment discrimination if we do not follow the considerations as stated. Alderman Mahkorn questioned whether Attorney Merten felt they were doing a good job of reviewing applicants with violations and suggested perhaps the members should receive the police reports. Attorney Merten stated, the reports could be provided. City Clerk noted that the Clerk's office was instructed by the previous City Attorney to provide just the applicable violation information in the form of a memo to the committee. She noted that to receive the police record, some information would probably need to be redacted and they could be quite lengthy.

Shannon Miller appeared before the committee and introductions were made.

Attorney Mahkorn explained the committee's responsibilities in licensing and why the applicant was appearing before the committee. He questioned the circumstances surrounding the violation.

Ms. Miller explained that she drank too much at a friend's house and at the time she felt she was okay to drive. She stated she now knows she was not okay and that she made a poor decision to get on the road. She explained she was involved in a car accident and she received an OWI as a result. She indicated how lucky and thankful she was that no one was injured. She stated she realized she made a horrible mistake and that it was all her fault.

Alderman Mahkorn asked about the circumstances of the accident. Ms. Miller stated she was turning left on a blinking yellow light going about 25 mph as it was snowing and a woman was going straight through the intersection. She stated she misjudged the other car's progress through the intersection and did not brake in time causing her left front tire to hit the other woman's back right tire. The vehicles bounced off each other. She noted the other woman's car was drivable but her car was not. She stated there happen to be a police officer on the other side of the intersection who witnessed the accident and was on the scene right away.

Alderman Mahkorn questioned Ms. Miller's demeanor when the officer showed up. Ms. Miller stated her first response was to ask how the other driver was. Then the officer gave her a few sobriety tests, which she failed. Alderman Mahkorn questioned her BAC level and Ms. Miller indicated it was .214. Ms. Miller stated she was drinking tequila shots and margaritas that night. She indicated she was charged with OWI, underage drinking and prohibited blood alcohol; as she was 20 years old at the time of the incident. She explained that after the incident she became very depressed and upset with herself and began to struggle with school. Ultimately, those problems and the fact that she did not have a car led to her drop out of school. She explained she recently enrolled back at Carroll College in the Physical Therapy program after a 2-½ year break. She also attended Waukesha County Technical College.

Alderman Mahkorn questioned whether she had to complete any court ordered classes. Ms. Miller indicated she had to have an alcohol assessment class which was an eye opener as to how much she was drinking and why. She stated it was helpful hearing other stories and she has been working on herself. She says the experience and classes have changed her drinking habits so that she only drinks at home after work on Friday or Saturday and doesn't drive if she has been drinking. If she goes out with friends, one of them will drive or she will call an Uber to take her home.

Alderman Mahkorn questioned whether she felt she had a dependence on alcohol. Ms. Miller stated she doesn't drink every weekend and feels she is not dependent on alcohol at all. She noted she lives with two roommates and she has a drink to help her relieve stress.

Alderman Mahkorn asked her how long she has worked at Saloon on Calhoun. Ms. Miller responded since December 18, 2019. Alderman Mahkorn questioned the policies at Saloon on Calhoun. She responded that on Fridays and Saturdays the bouncer checks ID's. The bartenders however, must still check all ID's. Employees are told to check all ID's on anyone who looks under 30 however, her own policy is to check anyone who looks under 40. You have to look for signs and if there are problems, then the manager is called over to assist. She stated she has had to cut people off and they became angry which she has no problem with.

Alderman Blumer noted Ms. Miller is currently working under a 60 Day Provisional License. He asked if she has worked as a bartender in any other municipality. Ms. Miller responded that she currently has a license in Oconomowoc and has worked there for the past 3 years. She noted she works on a golf course and their policy is a little different as being a private golf club, it is mostly members who are older. Their policy is to card anyone 40 and under.

Alderman Blumer asked if Ms. Miller drinks while working at her jobs. Ms. Miller stated she does not drink on the job. Alderman Jurken questioned whether not drinking on the job was a personal decision or policy of Saloon on Calhoun. Ms. Miller stated it is policy.

Alderman Blumer indicated he recognizes that people make mistakes and can learn from them. He noted that given the time that has passed, he is willing to support a license. Alderman Jurken stated he is on the fence because of the continued drinking, even though it is on her own time. Alderman Carnell explained that the members of the committee need to know if she would be a responsible bartender in serving alcohol to the community. Alderman Mahkorn agreed and stated he wanted to be consistent in how we treat applicants. He felt she was very credible and sincere in her responses. Alderman Mahkorn stated it was also to her credit that she is back attending college.

**Motion by Alderman Blumer second by Alderman Carnell to approve an Original Bartender License for Shannon M. Miller, subject to a 6 month follow up background check and report back by the Clerk’s Office. Motion carried 3-1, with Alderman Jurken casting the dissenting vote.**

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- b. Consider issuance of a Summons and Complaint to Pizza Vino at 17495 W. Capitol Drive for a revocation hearing to revoke a Class B Beer & Liquor License.

Attorney Merten explained a motion would direct her to prepare a summons and complaint to hold a revocation hearing for Pizza Vino, which has ceased business some time ago.

**Motion by Alderman Jurken, second by Alderman Carnell to direct the City Attorney to prepare a summons and complaint for Pizza Vino. Motion carried 4-0.**

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Items 5c and 5d were taken together.

- c. Resolution regarding applicants for Original Operator’s (Bartender) licenses.

Original

Engdahl, Jennifer A.	Lombardo, Sabrina T.
Gao, Xiao Ting	Montie, Melissa K.
Groh, Robin E.	Saniter, Taylore M.
Hass, Jaycee D.	

- d. Resolution regarding an Original Class B Beer/Liquor License.

Brookfield Bar Inc.; D/b/a: Bar Louie  
95 N. Moorland Road, Suite E7;  
Agent: Jacob L. Schermetzler

**Motion by Alderman Carnell, second by Alderman Blumer moved to approve Original Operator’s Licenses and an Original Class B Beer/Liquor License for the above named applicants. Motion carried 4-0.**

**Motion by Alderman Blumer, second by Alderman Jurken to adjourn the Legislative & Licensing Committee meeting. Motion carried 4-0. Meeting adjourned at 7:55 pm.**

Minutes respectfully submitted by Kelly Michaels, City Clerk