



MINUTES OF A REGULAR MEETING OF THE **LEGISLATIVE & LICENSING COMMITTEE** HELD ON TUESDAY, **NOVEMBER 5, 2019** AT **7:00 P.M.** IN THE SELIGENSTADT (MAIN) CONFERENCE ROOM, 2000 NORTH CALHOUN ROAD, BROOKFIELD, WISCONSIN

ALDERMAN GARY MAHKORN PRESIDING

5 MEMBERS PRESENT: Alderman Brad Blumer, Alderman Bill Carnell, Alderman Buck Jurken, Alderman Gary Mahkorn, Alderman Jeff McCarthy

OTHERS PRESENT: City Attorney Jenna Merten, City Clerk Kelly Michaels, Director of Parks, Recreation and Forestry John Kelliher, and license applicant Loren Watson

1. Chairman Mahkorn noted a quorum was present and called the Legislative & Licensing Committee to order at 7:01 pm.
2. Announcements:
  - a. The next regularly scheduled meeting is Tuesday, November 19, 2019.
3. Minutes
  - a. Minutes of the October 15, 2019 meeting.

**Motion by Alderman Carnell, second by Alderman Jurken to approve the October 15, 2019 meeting minutes as presented. Motion carried 5-0.**

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4. New Business
  - a. Resolution regarding an Original Bartender/Operator's License for an applicant with a record less than 18 months.

Watson, Loren M.

Loren Watson appeared before the committee and introductions were made.

Alderman Mahkorn asked Mr. Loren to explain the circumstances surrounding his OWI violation. Mr. Watson stated he went to a karaoke bar with a couple of friends. Had a couple of shots and drove home. He made a mistake that he has not made since and will not make again. It was a very tough and expensive mistake for him. Alderman Mahkorn asked Mr. Watson how many shots or drinks he had that night. Mr. Watson stated they were drinking cherry bombs. He felt he had three or four. Alderman Mahkorn asked how he was stopped by the police. Mr. Watson said it was during the April snowstorm. He was on I-41 South when a truck cut him off, he tried to brake and squealed off to the side, then hit the median. The car was totaled. He added that his friend, Joe was in the car with him; neither he nor Joe were injured. Mr. Watson indicated his friend received a ride home. Mr. Watson was taken to the police station where blood was drawn. There was some problems with fingerprinting and he was locked up for the night. He was picked up at 6:00 a.m., the next morning.

Alderman Mahkorn asked if the police did field sobriety tests at the scene. Mr. Watson stated no. He was asked what the BAC was. He replied it was .15. Clerk Michaels commented that this violation is 'straddling' their 18 month criteria time period noting he was charged in April 2018, which was 19 months ago. However, the conviction date was June, which is 17 months ago putting him under the threshold.

Attorney Merten stated that the criteria was changed to look back 5 years. Therefore, any applicant with a record within 5 years would be placed on the agenda as 'applicant with a record'. Alderman Mahkorn noted that they have not changed standards but are inviting applicants to come forward to discuss anything they want the committee to take into consideration; however, our guidelines are viewed differently when the violation is less than 18 months. He felt the standard of review should be the same as the time of violation as it is within the same 'ballpark'. Attorney Merten stated the committee should not just look at whether it is an 18-month violation but the totality of the circumstances.

Alderman Mahkorn asked Mr. Watson what happened since his violation. Mr. Watson explained he paid the fines and took a ten-week alcohol assessment class noting he learned a lot. Alderman Mahkorn asked about the assessment summary. Mr. Watson said the assessment summary stated he had abused alcohol occasionally, which he did not agree with. He stated this was an isolated incident. Alderman Mahkorn said the assessments are self-reporting. Mr. Watson stated he only drinks one day a week. If he goes out, he gets a ride or Uber. He does not go out with friends that would influence him to drink and has made many lifestyle changes. Alderman Mahkorn asked what his job is at the Sharon Lynne Wilson Center. Mr. Watson replied he had been doing technical work for the past few years, along with security on the building. He will now be bartending as the center wants to get away from catering and have in-house staff for bartending. He will be working during some of the theater shows. He added he has a license with Brown Deer and bartends at the University Club.

Alderman Mahkorn noted if a license was granted, the license could be used anywhere in the city. The Sharon Lynne Wilson Center is a different type of establishment than, for example, Saloon on Calhoun. However, the committee takes granting of licenses very seriously.

Alderman Carnell felt Mr. Watson was not taking ownership of the incident when he indicated his car was totaled due to weather conditions and not because he was drinking. Mr. Watson agreed his drinking was a big factor. Alderman Mahkorn noted a BAC of .15 is more than a few shots or drinks. Most likely, if he had not been drinking, he would not have that type of accident.

Attorney Merten asked if Mr. Watson had any other evidence of rehabilitation or witnesses to present. Mr. Watson said he looked for documents from the incident and course that followed but due to a recent move he could not locate them. He stated the class taught him a lot and was a big step towards his rehabilitation. Alderman Mahkorn noted he felt the classes are very helpful.

Alderman McCarthy stated he was having a hard time reading Mr. Watson. He said normally there are two different types of people who come to discuss their violations. Those that are shaken or traumatized by what happened; trying to piece their lives back together. Those that are completely flippant about the whole thing and dismissive

about it, expecting the committee to 'rubber stamp' the issue. He stated Mr. Watson is in the middle of the two for him. He felt he was most comfortable with those that have some sense of recognition for what they have done and are changed from it. He noted Mr. Watson said the words but there was no emotion behind them, which is why he was having a hard time reading Mr. Watson. As a person, there must be a realization of the responsibility that goes with a bartender license. He wanted to hear more about how the incident affected Mr. Watson's life. Mr. Watson said the class taught him to look out for his job. He has to be responsible, for not only himself, but also the people he is serving alcohol to. The class taught him to watch for triggers in people that are drinking. He has a lot more respect for serving alcohol and knowing where that line is to cut people off. It made him look for jobs in the 'upper tier' of bartending, such as county clubs and theaters.

Alderman Jurken stated his hesitation is the short time that has lapsed along with Mr. Watson being difficult to read. It is not a clear-cut decision for him. Alderman Mahkorn stated he has a better understanding of Mr. Watson after further discussion. He agreed with Alderman Jurken regarding concern about the timing issue of the violation. He would feel more comfortable as more time passes. Alderman Mahkorn stressed that three or four shots do not get you to a .15 BAC. Mr. Watson added that he had a number of beers as well. He appreciated Mr. Watson being candid but wished he had been more forthright about it earlier in the discussion.

**Motion by Alderman Carnell, second by Alderman Jurken to deny an Original Bartender/Operator License for Loren Watson. Motion carried 4-1 with Alderman Blumer casting the dissenting vote.**

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b. Legislative Referral regarding regulation on electric scooters. (Mayor Ponto)

Attorney Merten indicated the State gave municipalities the authority to regulate four things. One, is to operate electric scooters on roadways in our jurisdiction, having a speed limit of more than 25 mph; two, restrict or prohibit them from sidewalks or bike paths; three, establish requirements or limitations on parking of them; and restrict or prohibit the commercial short-term rental of them. She indicated she had spoken to the city's department heads and they recommend the city restrict electric scooters as much as possible. There is a lot of litigation regarding electric scooters.

John Kelliher, Director of Parks, Recreation and Forestry joined the discussion. Attorney Merten added there has been many lawsuits filed. A main consideration is the American Disabilities Act. Disabled people have a hard time getting around scooters that are left on sidewalks, lawns and parts of the street. For people with mobility or vision issues, these are tripping hazards, turning into lawsuits. Other concerns are how to plow around them or dispatch police to get them out of a hazardous area. She unsure of the need or interest of electric scooter in the city. She noted when she was in Atlanta for a conference, people were riding scooters on the street and on the sidewalks. Pedestrians had to get out of the way and watch out for them.

Alderman Carnell felt there are different issues with different communities; therefore, different needs. Our roadways are not compatible for scooters. If the city has a strict standard, would the city have to post at the entrances to the city, 'no scooters'? Attorney Merten replied the city does not have to post anything, but it is a good idea if

other municipalities are allowing them. Mr. Kelliher, stated the challenges are that people rent them, therefore, dropping them wherever they feel comfortable. They do not always park them where they should or ride them where they should. He has seen people getting hurt by being hit by cars. They are more popular in urban areas; they are more transit. This type of use here would not be as prevalent. There are many unanswered questions regarding them.

Alderman Mahkorn noted it has become political in some jurisdictions. He has been reading a lot about electric scooters. He took an interest in electric scooters to get a sense of the safety issue. He feels the scooters are an introduction to a lot of reckless behavior. Alderman McCarthy was concerned about the safety issue also. Many kids have the electric razor scooters. How does the city distinguish between kid's scooters and electric scooters? Alderman Blumer noted he had used an electric scooter in Houston. It was useful and helpful for the use of the scooter; however, he is not going to defend the entire industry. There is a use for them in some municipalities and noted students from the Herzog University walking down to the Target store on Bluemound Road.

Alderman Mahkorn felt if the city starts to restrict the scooters, it would become an enforcement nightmare. He tends to favor prohibition of scooters over restriction of scooters. If there are conditions on them, they will be abused.

Attorney Merten noted the state statutes has a definition of a scooter that kid's typically ride: *' anything that is less than 100 pounds, has handlebars, electric motor, is powered solely by electric motor and human power and has a maximum speed of not more than 20 mph'*. If the city would enact something that would prohibit the electric scooters on the sidewalks, this verbiage would be included as well. Attorney Mahkorn felt that city ordinances already outlawed electric/motorized vehicles. Alderman Jurken questioned whether you can prohibit commercial scooters versus private scooters. Alderman Mahkorn said the arguments are a safety issue and not ownership.

Alderman McCarthy summarized the four areas of electric scooters that the city can regulate. He said we could prohibit the short-term rental and prohibit them from streets posted 25 mph or higher; this allows the kids to ride their toy ones around the neighborhood, but eliminates the commercial scooters. Attorney Merten stated the state statutes say the toy scooter is still an electric scooter. The city ordinance bans mini bikes, go-carts and gasoline powered play vehicles. The state statutes state electric scooters are not play vehicles.

Alderman McCarthy asked if any scooters have been seen in Brookfield. Attorney Merten stated a commercial scooter was abandoned on Sunnyslope Road. Mr. Kelliher stated it has been his experience that these have been commercial scooters. The committee agreed that most of the abuse would be from the commercial scooter use versus private scooter use.

Attorney Merten stated, in regarding the four regulations, the committee could restrict riding the scooters on any road posted 25 mph or higher; leave operation of electric scooters on any sidewalk or bike pathway alone; restrict parking of scooters and restrict or prohibit the short-term rental of commercial scooters.

**Motion by Alderman McCarthy, second by Alderman Jurken to direct Attorney Merten to draft an ordinance to include provisions or regulations #one, #three**

**and #four, which the state allows municipalities to regulate. Motion carried 4-1, with Alderman Blumer casting the dissenting vote.**

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Items 4c thru 4h were taken together.

c. Resolution regarding applicants for Original Bartender/Operator Licenses.

Cleppe, David J.	Kruse, John W.	Plowman, Clinton T.
Crampton, Keldon L.	Kube, Anna E.	Schmid, Ricky
Eckman, JoAnne K.	Lawden-Henderson, Andrea L.	Siegfried, Brandon L.
Ewig, Thomas J.	Marquardt, Shelbi L.	Smith, Landon J.
Flor, Ryan R.	Marshall, David J.	Snodie, Shauna M.
Hillmer, James A.	Minik, Brooke	Yang, Nuducha
Hunsader, Eric T.	Piccione, Sarah E.	Yang, Rattana
Khera, Satnam		

d. Resolution regarding applicants for Temporary Bartender/Operator's Licenses.

Farchmin, Harold J.  
Schimmel, Patti A.

e. Resolution regarding an applicant for a change of agent for a Class B Beer & Liquor licensed premise.

Cudworth-Stenz-Griesell-Smith American Legion Post 449 Inc.  
D/b/a: American Legion Post 449  
3245 N. 124<sup>th</sup> Street; Agent: Darlene L. Baczek

f. Resolution regarding authorizing North Central Management, Inc. to operate the Brookfield Conference Center for the purpose of applying to the State Department of Revenue for a "Class B" License for the retail sale of intoxicating liquor on the premises.

g. Resolution regarding an applicant for an Original Class B Beer & Liquor License.

George D Inc.; d/b/a: Capitol Café/Grecian Inn Restaurant (new owner)  
14375 W. Capitol Drive; Agent: George I. Dimitropoulos

h. Resolution regarding an applicant for a Temporary Class B Beer & Wine License.

Brookfield International Friendship Association  
2000 N. Calhoun Road  
'German Holiday Market & Tree Lighting'  
Saturday, December 7, 2019  
1:00 p.m. to 7:00 p.m.  
City Hall, Civic Plaza and north parking lot  
Beer/Wine sold/served from tent in Civic Plaza  
Bartenders: Harold Farchmin and Patti Schimmel  
Contact: Harold Farchmin

**Motion by Alderman Carnell, second by Alderman McCarthy to approve items 4c through 4h, respectively. Motion carried 5-0.**

**Motion by Alderman McCarthy, second by Alderman Jurken to adjourn the Legislative & Licensing Committee meeting. Motion carried 5-0. Meeting adjourned at 7:45 p.m.**

Minutes respectfully submitted by Kelly Michaels, City Clerk