

Meeting Minutes

Public Protection Committee

Monday, October 10, 2005, 6:20 P.M.

City Water Department, 300 Bliss Avenue Present: Ald. Sevenich, Stroik, Hanson, Trzebiatowski, Barber.

Also Present: Mayor Wescott, C/T Schlice, Clerk Moe, City Attorney Molepske, Ald. Wiza, Robinson, Barr, Molski, Moore, Walther, Capt. Dowling, Capt. Ruder, Chief Barnes, Director Schrader, Director Gardner, Director Halverson, Director Euclide, Assessor Kuehn, Jami Gebert, Bruce Woboril, Reid Rocheleau, Kent Hall, Nancy Schultz, Doug Henderson, Randy Bradley, Faye Tetzloff, Ed Flatoff, Gene Kemmeter (Gazette), Heather Clark (Journal).

Index to these minutes:

1. Recommendation on license list.
2. Introduction/Discussion on Keg Registration.
3. Introduction/Discussion on prohibition of smoking in public places.
4. Recommendation of the September 2005 Inspection Report:
  - A. Construction Starts.
  - B. Violations.
5. Adjournment.
  1. Recommendation on License List.

Ald. Stroik moved, Ald. Barber seconded, approval of the license list. Ayes, all; nays, none. Motion carried.

2. Introduction/Discussion on Keg Registration.

Ald. Hanson stated that just before school started there were some big parties in his district and some of the residents had called him. This is not to eliminate parties, but those that wish to have parties are going to be held responsible for the actions of the people attending. He said that he also spoke with the Chancellor of UW-SP and they are supportive of the proposed ordinance.

Ald. Trzebiatowski stated that speaking with some beer distributors the tide has shifted away from kegs to cans and bottles. He raised the point that this proposal does not address this shift. He also raised concern over the requirement of identification as it did not specify one to be a photo ID. He also stated that the proposal did not prohibit an individual from purchasing a keg outside the city but then having a keg in the city that is not registered that person is breaking the law.

Ald. Robinson stated that he feels the intent of this proposal is fabulous and that it has great potential but it is a work in progress and asked that the city work with surrounding communities on this.

Mayor Wescott asked for an assessment from Capt. Dowling whether there is a shift to cans and bottles. He also commended Ald. Hanson for his work and that this proposal was a good start.

Capt. Dowling replied that one thing this proposal is aimed at addressing unlicensed premises. There are a number of students out there trying to work their way through school by running an unlicensed tavern and that is where we run into the half barrels.

Capt. Ruder concurred with Capt. Dowling's statement, and then stated that one major part of the proposal is the declaration where the buyer declares they will not be selling to anyone underage and when they affix their signature, at the very least brings it to their awareness that they are being monitored in regards to that aspect.

Mayor Wescott asked City Attn. Molepske why the proposal did not specify that one of the forms of identification have a picture ID.

City Attn. Molepske stated that there is a provision in the proposal that allows the Chief to provide additional requirements.

Ald. Hanson reiterated that the University was in favor of this proposal and that they sent a letter to the Chief recommending it.

Ald. Robinson asked if there was a cost assessment for this proposal and what was the process for kegs that are purchased outside the city.

Mayor Wescott stated that is part of the next phase of this committee. He encouraged all alderpersons with input to provide it the City Attorney and the Clerk's office.

Ald. Wiza raised one concern with section 7(a) prohibiting the sale of more than two kegs within a 48 hour period. He felt that there are occasions such as graduation and wedding parties that might need more than two kegs. He questioned how the city could consider an ordinance that restricts where someone could buy any product.

City Attn. Molepske stated that all they would have to do is pick up a registration. The reason that it was limited to two was due to the amount available for consumption. As for weddings and graduation parties that may need more than two kegs are usually held at such places as parks and there is a provision in the proposal for that. This is not set in stone.

Ald. Stroik stated that we need to look at this as a good start and in thirty days bring it back for another look.

Faye Tetzloff, Health Officer for Portage County, said she was excited about this proposal. The ADA coalition has been working on issues like this that effect our communities. She was pleased to see the City moving forward with this. It is not unrealistic to think other communities in Portage County are willing to take similar action because there are people working towards this and she commended the committee for its efforts.

3. Introduction/Discussion on prohibition of smoking in public places.

Ald. Sevenich read a memorandum that all the members of the Council received from the Mayor regarding the revised ordinance proposal.

Bruce Woboril from BeFair and the Tavern League stated that the groups that he represents endorse what has been proposed and stand behind it.

Tom Barrett from the Stevens Point Convention and Visitors Bureau said that from his standpoint as it relates to being able to attract conventions to Stevens Point, he feels this ordinance is not encumbering and he supports it in its current form.

Doug Henderson from Breathe Free said this proposal was a true compromise in that none of the committee members that put this proposal together are completely happy with what has been produced, but they all can live with it. He then requested if possible, that this be forwarded to the City Council for action at the October meeting.

Randy Bradley from Breathe Free said that there was a lot of compromising. We had the referendum in April which was a comprehensive and although ideally they would like to see that. He said they see the continued controversies in Madison and Appleton with theirs and they feel that this has the ability to go through without any controversy because of the compromises made by the people working together to produce this.

Faye Tetzloff, Health Officer for Portage County, stated that this is policy that truly makes a difference. It is not a policy that is an activist piece of paper so there is something on the books.

Reid Rocheleau asked how this proposal compares to Plover and if it is different shouldn't we work with them.

Ald. Sevenich responded that they are different and the City is hoping that its proposal will be the premier ordinance in the area and that surrounding communities will follow our lead.

Faye Tetzloff stated that this ordinance is different from Plover's but she as the County Health Officer, it is her intention to go forward to all the municipalities with Stevens Point's language and ask them to adopt it. She will also approach the Village of Plover and ask them to strengthen their ordinance to bring it up to this ordinance.

Ed Flatoff, owner of the South Point Restaurant, asked about a provision in a previous version that a supper club type business such as the Olympic, the dining area would be nonsmoking, but in the tavern section smoking would be allowed. He did not see this in the current version and wondered if it should be considered.

City Attorney Molepske provided Country Springs as an example, saying that assuming the restaurant was separate from the bar area, the bar area would be considered a tavern. The restaurant area would be nonsmoking.

Ald. Hanson asked about Guu's and the Hill Top. He said that Guu's serves food and yet it is a tavern and the Hill Top is similar.

City Attorney Molepske stated that somewhere down the line there needs to be a determination of whether it is a restaurant or a tavern. If 51% of the proceeds come from liquor sales than it is a tavern and exempt.

Mayor Wescott stated that Scott Gulan was a member of the committee that put this proposal together so he is aware of its provisions.

Ald. Hanson asked if it could be possible to have a provision added that stipulates that when the kitchen is open than it would be smoke free and when the kitchen is closed than smoking would be permitted.

Mayor Wescott stated he wanted to emphasize an important point for all the alderman. It is absolutely impossible to bring together in a quick summary all the hard work and labor that these people put into this proposal. They have clearly debated, analyzed, and discussed every issue and have gone back and forth. When you look around the state and you see what is going on in Madison, Appleton, Wausau and other communities, what is different in Stevens Point is the key stakeholders from every interest group is represented at the table and talking with each other. Now, as we have learned throughout the summer, is this ordinance perfect? No, but it is a wonderful compromise. The time is really right, with this compromise offered. These people do not want to see another divisive public confrontation. This is unlike anything else going on anywhere else in the State of Wisconsin. They have recognized in the greater good of the community, that compromise is going to be required and all the stakeholders have given significantly. It is time to advance it. He said that he was going to support the work of this compromise. Fundamentally, this is a sound compromise and he was very proud of those that put it together.

Ald. Barber stated that he has fifteen restaurants in his area, one being the Blue Top and they were wondering how this proposal would affect them where the bar is leased by one person and the restaurant is leased by another. In that case, the bar is separate and would be smoking. Now with Kristin's at Middletown, the bar and restaurant are not separate. What do we do here?

City Attorney Molepske stated that in that case they would be considered a bar.

Doug Henderson stated that this is not a legal problem but a health problem and the way to decide depends on the question of whether the air is separate. In the case of the Blue Top, there are two separate rooms.

Ald. Barber replied then in Kristin's case they would need a wall.

Doug Henderson said yes.

Ald. Barber continued saying that he would like to see Stevens Point and Plover work together so both would have the same ordinance. In fact, he'd like to see it for the whole county. He then asked who enforces the ordinance.

City Attorney Molepske stated that the police department would issue the citation and if they contested it, he would represent the City in court.

Ald. Barber requested a final revision be sent to them.

Ald. Trzebiatowski moved, Ald. Stroik seconded, to advance the proposal for action by the Common Council on October 17, 2005.

Ald. Molski asked for clarification on whether we could take action tonight.

Mayor Wescott stated that he had spoken with our parliamentarian who told him that it is appropriate given the agenda items, that if the Public Protection Committee wished to vote to direct this item to be placed before the alderpersons at the October 17th meeting for action, that is an appropriate motion.

Ald. Stroik said the key point of this is that it's a beginning because there wasn't the controversy this time. There are opportunities here because this is an ordinance brought by the city to the Council. The Council can consider this as a work in progress. In two months from now if something

needs to be looked at they can continue to work on it.

Ald. Wiza said he has thought about this and believes that this is pretty good. He is concerned about the need to push this through right away. He believes they should wait until November to allow time to head feedback from the people.

Ald. Robinson raised questions in regards to auditing and eligibility of a tavern.

Mayor Wescott said the definition under the law of a tavern is determined on the percentage of alcohol sales.

Faye Tetzloff said that the litmus test is if you allow minors in your facility unattended by an adult, it is a restaurant.

Ald. Robinson stated that he would like a clear definition of a restaurant and tavern in the proposal.

Ed Flatoff stated that he agreed with Ald. Wiza's recommendation. He felt that most restaurants in Stevens Point had no idea that this discussion was going on tonight and pushing this through this month would be a disservice to the other restaurants and to the other work places that would be covered by this proposal.

Randy Bradley said that if anyone has been reading the newspapers they should be aware of this ongoing process ever since the referendum in April.

Ald. Walther stated he agreed with Ald. Wiza as we are not under any timeline that we need to get this done in October. If we wait until November it would allow more time for public comment. He said he doesn't see what the big purpose is for pushing it ahead to October.

Ald. Molski stated there will be a lot of radio and news coverage of this tomorrow and if anyone in Stevens Point has anything to say about it, they will contact their alderperson right away. They are not going to wait and think about it for a month. So by next Monday if anyone wishes to comment on this issue, they would contact their alderperson and those comments would be reflected in the alderperson's vote.

Mayor Wescott said he disagrees with the argument that most people don't know about this. The reason that he provided a draft of the proposal to the alderpersons last month was due to the buzz in the community about the proposal.

Ald. Barr said lets move on with it.

Reid Rocheleau disagreed with the decision to move the proposal to the Common Council and asked who is the City's parliamentarian.

Mayor Wescott stated the City's parliamentarian is the City Attorney. He said that earlier in the day, he asked the City Attorney if this was an appropriate motion and he said it was.

Call for the Vote: Ayes, all; nays, none. Motion carried.

4. Recommendation of the September 2005 Inspection Report:

A. Construction Starts.

B. Violations.

Ald. Stroik moved, Ald. Hanson seconded, approval of the Inspection Report for September 2005. Ayes, all; nays, none. Motion carried.

Meeting Adjourned at 7:22 p.m.

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Bottom of Form