

Meeting Minutes

Public Protection Committee Minutes

Monday, November 10, 2003 - 6:05 P. M.

City Water Department - 300 Bliss Avenue Present: Chairman Phillips, Alderpersons Sevenich, Seiser, Sowieja, Stroik

Also Present: Mayor Wescott, City Attorney Molepske, Comptroller-Treasurer Schlice, Clerk Zdroik, Directors Disher, Euclide, Gardner, Schrader; Alderpersons Walther, Markham, Barr, Rackow, Molski, Moore; Fire Chief Barnes, Police Captain McCulley, Street Superintendent Krieski, Mayoral Assistant Gebert, Kate Garsombke (Journal), Gene Kemmeter (Portage County Gazette)

Index of these Minutes:

1. Recommendation on License list.

A. New Operator's (Bartender's) Licenses.

B. Transfer of "Class B" Beer and Liquor License from Craig Allen Zimmerman, for Water Street Grille, 1410 Third Street to 3 C's Stevens Point Inc., 3156 Dan's Drive, Wen Yan Chen, agent, for Water Street Grille, 1410 Third Street, Stevens Point, WI, effective November 18, 2003.

C. Transfer of "Class B" Beer and Liquor license from Pai-Tsung Wang 306 Center Street, Lake Geneva, WI, formerly Isamu-Sushi at 1312 Church Street, Stevens Point, to El Mezcal Inc., 3006 Mann Road, Marshfield, WI 54449, at 5720 Windy Drive, Suite D, Stevens Point, WI, Victor M. Ceron, agent, effective November 18, 2003.

D. Application for a Class "A"/"Class A" Beer/Intoxicating Liquor License - Terry A. Eichmann, 9289 Pavelski Road, Nelsonville, WI 54458, for Glacier Bay, 5600 Woodland Street, Stevens Point, WI, effective November 18, 2003.

2. Request to amend ordinance - Section 12.14 (4) - Building Requirements for Sale of Class A Fermented Malt Beverage and Class A Liquor.

3. Review of floor plan - The Store - 708 Division Street.

4. Amendment to Section 21.15 - Repairs and Other Corrective Action - providing for additional curative action on building violations.

5. Request to keep homing/racing pigeons - 1829 Illinois Avenue.

6. Recommendation on Inspection Report.

7. Adjournment.

1. Recommendation on License list.

A. New Operator's (Bartender's) Licenses.

Ald. Stroik moved, Ald. Seiser seconded, to approve the New Operator's (Bartender's) License.

Ayes, all; nays, none. Motion carried.

B. Transfer of "Class B" Beer and Liquor License from Craig Allen Zimmerman for Water Street Grille, 1410 Third Street, Stevens Point, WI, to 3 C's Stevens Point Inc., 3156 Dan's Drive, Stevens Point, WI, Wen Yen Cheng, agent, for Water Street Grille, 1410 Third Street, Stevens Point, WI, effective November 18, 2003.

Ald. Seiser moved, Ald. Sowieja seconded, for approval of the Transfer of the "Class B" Beer and Liquor License to 3 Cs Stevens Point Inc., 3156 Dan's Drive, Stevens Point, WI, for the Water Street Grille, 1410 Third Street, Stevens Point, WI, effective November 18, 2003.

Ayes, all; nays, none. Motion carried.

C. Transfer of "Class B" Beer and Liquor License from Pai-Tsung Wang, 306 Center Street, Lake Geneva, WI, formerly Isamu-Sushi at 1312 Church Street, Stevens Point, to El Mezcal Inc., 3006 Mann Road, Marshfield, WI 54449, at 5720 Windy Drive, Suite D, Stevens Point, WI, Victor M. Ceron, agent, effective November 18, 2003.

Ald. Sevenich moved, Ald. Stroik, to approve the Transfer of the "Class B" Beer and Liquor License from Pai-Tsung Wang, 306 Center Street, Lake Geneva, WI, formerly Isamu-Sushi at 1312 Church Street, Stevens Point, to El Mezcal Inc., 3006 Mann Road, Marshfield, WI 54449, at 5720 Windy Drive, Suite D, Stevens Point, WI, Victor M. Ceron, agent, effective November 18, 2003.

Ayes, all; nays, none. Motion carried.

D. Application for a Class "A"/"Class A" Beer/Intoxicating Liquor License -

Terry A. Eichmann, 9289 Pavelski Road, Nelsonville, WI 54458, for Glacier Bay, 5600 Woodland Street, Stevens Point, WI, effective November 18, 2003.

Ald. Sevenich moved, Ald. Seiser, seconded for approval of the Application for a Class "A"/"Class A" Beer/Intoxicating Liquor License for Terry A. Eichmann, 9289 Pavelski Road, Nelsonville, WI 54458, for Glacier Bay, 5600 Woodland Street, Stevens Point, WI, effective November 18, 2003.

Ald. Sowieja asked if this meets the requirements for selling liquor?

Director Gardner said this is similar to the one approved for the Stevens Point Co-op a couple months ago in that it has a separate room and has separate doors. The alcoholic beverage will be displayed on shelves in the coffee cabin and cooking school area and can be rung up at the cash register in this same area.

Ayes, all; nays, none. Motion carried.

2. Request to amend ordinance - Section 12.14 (4) - Building Requirements for Sale of Class A Fermented Malt Beverage and Class A Liquor.

Fritz Schierl, Co-CEO, Schierl Companies, 2201 Madison Street, read a prepared statement in support of his request to amend the ordinance, copy attached.

Mr. Schierl went on to say that of the other convenience stores operated by Schierl Companies in the State, Stevens Point is the only city that requires a separate room. He stated that convenience stores as well as grocery stores have a separate room that is usually unstaffed. He does not feel having a separate room deters underage people from entering the room. The deterrent is checking IDs when customers check out.

Police Captain McCulley said the Police Department believes the separate room is working. Upon checking the shoplifting and theft reports from the Schierl stores on West Clark Street and Division Street, shoplifting and theft are not of alcohol. It is candies, cigarettes, cool-aid, food, lighters, etc. She also addressed the consistency for enforcement. She feels the policy is working so why change it now. The City required other establishments to put in time and money to comply with the ordinance. So in fairness to these establishments, the City should not change the ordinance based on one request. Another concern of the Police Department is changing the ordinance might open the sale of alcohol at every

gas station. The Police Department does not believe this is the direction the Committee would like to go.

Director Gardner said the ordinance must be reviewed. The intent of the ordinance should be addressed and could be cleaned up.

Ald. Rackow reviewed action taken by a previous Council on the sale of alcohol at convenience stores as well a grocery stores, how much change the establishments have to make to comply with the ordinance. He did not feel there were problems with convenience stores adhering to the requirements for the sale of alcohol.

Terry Eichman, Glacier Bay, 5600 Woodland Street, asked what the reason is for requiring a separate room for the sale of alcohol.

City Attorney Molepske explained that a separate room is meant to control the sale and dispensing of alcohol products to minors. The Police Department indicated it never received a theft or shoplifting request for charges from proprietors with separate rooms for the sale of liquor. The Police Department is of the opinion that the ordinance is working well and would like to follow the current procedure.

Ald. Rackow said the times of sale for alcoholic beverages is set by State statutes with the City having a little control after that. The grocery stores that are open 24 hours as a whole is open all day but cannot sell liquor part of the day so the locked door was put there to prevent sales when not permitted. On the other hand, convenience stores sell gasoline well beyond the time limits that alcoholic beverage can be sold. Therefore, customers who come to buy other items can do so but they cannot buy alcohol unless it is within the time specified by law.

Mr. Schierl voiced his concern on the separate requirement for cash registers for the sale of gasoline and alcohol within two feet apart operated by the same individual on duty. He does not think there is a value for having two cash registers. It is an inconvenience to the customers and retailers.

Chairman Phillips noted that he had reviewed Council minutes from late 1993 and the early part of 1994. The Council at that time had some concerns about impulse sales. There were a multitude of reasons for having the separate room. If the ordinance is changed, every gas station in town will be selling beer in coolers because they do not have to meet the requirements of the ordinance.

Ald. Stroik would like to waive the need for having two cash registers on the same counter. It does not make sense, the Alderman said. He agrees that the locked door is a necessity and a deterrent.

Chairman Phillips explained that convenience stores need two registers, one to be used to tally automotive fuel sale and the other register can be used to tally other merchandise. This is not true with grocery stores.

Attorney Molepske noted that the City can place additional restrictions on the sale of alcohol as long as it is not against the statute.

Ald. Sevenich informed the Committee that the Council revisited this issue four or five years ago on a similar situation. There was a request from a grocery store to expand their hours and get rid of the cash register requirement. The Council at that time said no. She went on to say that she visited the Schierl stores on West Clark Street and Division Street. She found out there are two registers on the west side and one on the north side.

Mr. Schierl said there are two registers on the north side.

Ald. Sevenich added that Kwik Trip has two check out people all the time. She suggested that Schierl Companies add a second person during peak times. The Alderman is concerned about the size of the store and feels there is no room for alcohol sale. There is no reason to change the ordinance if it is working because of a request from one store, she said.

Ald.. Sowieja has questions on the number of cash registers being used as a tally for other merchandise except for automotive fuel.

Attorney Molepske explained that this was a compromise with Schierl Companies who was the first one granted permission to sell alcohol from a service station. Prior to that, there was a specific prohibition of granting permission to any filling station to sell alcohol. The establishment that was there prior to the Schierl gas station was the Westgate Supermarket. The Schierl Companies acquired the supermarket. Since that time the City permitted other gas stations to sell alcohol.

Ald.. Seiser commented that Mr. Schierl's arguments about the separate room, where the attendant is not able to see what is going on as well as if it was open. She feels this issue deserves discussion. She also thinks the issue of cash registers should be discussed as this might also affect other small businesses having to have extra expense. It would merit a look again if we could make it better, she added.

Chairman Phillips said the reason why the City would like to leave the ordinance the way it is, is because it will open up the door to anybody that has a cooler to be able to sell beer. The grocery stores will have the alcohol on the shelves. Alcohol products must be placed in a confined area.

Mayor Wescott said in 1993 there was a tremendous amount of dialogue about the question being asked. There were compelling testimonies on record from school officials, students, and City officials to have a separate room to limit the exposure and access of minors to alcohol, including alcohol advertising. We have also heard from other City departments that there are no compelling reasons to change the ordinance. Upon research, the Mayor said Waupaca has the strictest rules. Both Wausau and Marshfield impose strict quotas to issue a license like this. There are a lot of regulations in Central Wisconsin. The intent is to limit access for minors to alcohol. The ordinance is working, the Mayor added.

Ald.. Sowieja moved, Ald.. Stroik seconded, to deny the request to amend the ordinance - Section 14.14 (4) - Building Requirements for Sale of Class A Fermented Malt Beverage and Class A Liquor and that the Committee look into the part of the ordinance that requires separate cash registers to tally merchandise except for automotive fuel.

Ayes, all; nays, none. Motion carried.

### 3. Review of floor plan - The Store - 708 Division Street.

Mr. Schierl said he meets the ordinance. He has spoken with the Inspection Department for an acceptable solution to this issue. There are two sidewalls, the entrance to the area is 10 feet wide and there are four cooler doors that are lockable to sell the beer.

Director Gardner stated the Public Protection Committee has not reviewed the 10' curtain door because it was not constructed. Permission was given to the use of cooler doors to prevent access to alcohol beverage.

City Attorney Molepske said there is no definition in the ordinance for a separate room. A separate room shall be a separate room and a distinct room. Part of an alcove does not meet the definition of the ordinance. It does not conform because it does not have a separate door to close it off.

Mr. Schierl said adding a separate 2 feet gate in front of the coolers can be done. There is no added benefit but only expense and it is unsightly too. He said they invested a lot of money to this store and he feels it is above average compared to other convenience stores. There was no intent to defraud or fool the City on their part, Mr. Schierl said. He does not feel having a gate or five gates will help.

Mayor Wescott asked the Committee what is the Committee's intent. Does the Schierl convenience store at 708 Division comply with the ordinance?

City Attorney Molepske said no.

Captain McCulley said no.

Mayor Wescott asked if the addition of the gate will bring it into compliance with the ordinance.

City Attorney Molepske said the layout at the present time will not meet the definition of a separate room.

Mr. Schierl asked what is the definition of a separate room? Is 2' x 10' in front of the cooler, a room? What is the minimum square footage required for the room?

Chairman Phillips asked what is behind the cooler. Mr. Schierl said a cold storage room which is not accessible to the general public.

The Mayor said 708 Division Street does not comply with separate and distinct room. The addition of the 2-foot gate will not comply with the ordinance either.

Director Gardner noted it is not deep enough to make a separate room. He suggested extending the wall to the free standing shelving. It creates a separate room but will not be convenient for store circulation.

Mr. Schierl asked for an explanation on the separate and distinct room.

City Attorney Molepske said it does not pertain to square footage, just common sense. He suggested no action be taken and to refer it back to staff to solve the problem. He further suggested to wait until next Monday's meeting to take any formal action.

Chairman Phillips asked if the sale of beer at this location will be suspended until action is taken next Monday.

Captain McCulley said the Police Department cannot allow violations of the law.

Mr. Schierl asked if his convenience store does not comply with the ordinance, what area does not comply?

Chairman Phillips said it is not a separate room, that is why this discussion is taking place.

City Attorney Molepske said the City is not going to render a finding until the next Monday's meeting. Hopefully, we will have a resolution to the problem.

Ald.. Seiser moved, Ald.. Stroik seconded, to postpone action on this matter to allow City staff and the Schierl Companies to have further discussion until the Council's meeting on Monday.

Chairman Phillips once again asked if the sale of beer at 708 Division Street will be suspended until action is taken next Monday?

Ald.. Seiser and Ald.. Stroik said they are not making a statement whether Mr. Schierl is right or wrong at this point regarding compliance with the ordinance.

Ayes, all; nays, none. Motion carried.

4. Amendment to Section 21.15 - Repairs and Other Corrective Action - providing for additional curative action on building violations.

Director Gardner informed the Committee the City Attorney and himself have drafted language that provides the City the power to correct certain violations and assess the cost of those corrections to the property owner. The proposed amendment to the ordinance will provide for additional curative action on building violations. A copy of the proposed ordinance is attached.

Ald.. Sevenich moved, Ald.. Seiser seconded, to approve the amendment to Section 21.15 - Repairs and Other Corrective Action.

Ald.. Sowieja asked if the proposed ordinance applies to Maintenance and Occupancy code violations only.

Director Gardner said yes, that is the intent.

Ald.. Sowieja commented that the ordinance should be used only in extreme situation. He does not want this ordinance to be a policing ordinance in the City.

Ayes: Chairman Phillips, Ald.. Sevenich, Seiser, Stroik.

Nays: Ald.. Sowieja. Motion carried.

5. Request to keep homing/racing pigeons - 1829 Illinois Avenue.

Director Gardner said the requestor, Steve Myszkowski, did not include in his request a site plan of where the pigeons will be kept. He tried contacting Mr. Myszkowski via telephone but was not successful. The Director is asking that this item be pulled from the agenda and reschedule it

for the next month's meeting.

Ald.. Seiser asked if the Committee could spend five minutes for discussion rather than deferring it to next month's meeting.

Ald.. Stroik moved, Ald.. Sowieja seconded, to postpone action on this request until next month.

Ayes: Chairman Phillips, Ald.. Sevenich, Sowieja, Stroik.

Nays: Ald.. Seiser. Motion carried.

6. Recommendation on Inspection Report.

Ald.. Sevenich moved, Ald.. Stroik seconded, to accept the October Inspection Report and place it on file.

Ayes, all; nays, none. Motion carried.

7. Adjournment - 7:15 P.M.

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Bottom of Form