

**JUDICIARY, LICENSE AND CEMETERY COMMITTEE**  
**MINUTES OF MAY 17, 2005**

Meeting called to order by Chairman Bennington at 5:47 p.m., in the Common Council Chambers, City Hall Plaza.

**PRESENT:** Jerry Bennington, Sr., Don Krueger and Edward Beaudry, Jr.

**ABSENT:** None

**ALSO PRESENT:** City Attorney Hutchinson, Police Chief Stroik, City Clerk Panzer and Christopher Burt (arrived at 5:50 p.m.)

**JLC05-031** Motion by Krueger, second by Beaudry to grant two (2) Beverage Operator Licenses for the 2003-2005 License Year to: Molly Beathard and Michelle Oliver. All Ayes  
**Motion carried**

**JLC05-032** Motion by Krueger, second by Beaudry to grant twenty-one (21) Beverage Operator Licenses for the 2005-2007 License Year to: Gary Alfredson, Molly Beathard, Donald Bloczynski, Twila Bores, Dorothy Drew, Marilyn Eckhart, Michael Feirer, William Feirer, Aaron Hofkes, Virginia Jansen, Jacqueline Kappel, Ryan Luder, Daniel Mueller, Tanya Ponshock, Laura Punke, Melinda Sandley, Jacqueline Shumsky (provisional and regular), Connie Wavrunek, Karen Wavrunek, Isaac Weichelt and Rick Wein. All Ayes  
**Motion carried**

**JLC05-033** Motion by Beaudry, second by Krueger to grant a Temporary Class "B"/"Class B" Retailer's License (Picnic) to the Optimist Club of Marshfield for June 2-5, 2005. All Ayes  
**Motion carried**

**JLC05-034** Motion by Beaudry, second by Krueger to grant a Direct Seller's Permit (Transient Merchant) to Cornellier Fireworks Company (6-month license). All Ayes  
**Motion carried**

**JLC05-035** Motion by Beaudry, second by Krueger to grant a Direct Seller's Permit (Transient Merchant) to T.A.P. Enterprises, Inc (2-day license). All Ayes  
**Motion carried**

**JLC05-036** Motion by Bennington, second by Beaudry to grant a "Class B" Combination Liquor License to Elixir Nite Club, LLC; Agent-Scott Kurzynski; location 500 N. Central Avenue. All Ayes.  
**Motion carried**

Chris Burt representing Asylum Scrap Services at 2304 S. Galvin Avenue gave a presentation regarding Recycling/Junk Dealers/Auto Salvage Dealers.

The City along with a lot of other municipalities initiated mandatory recycling in the early 1990's. What that did to our industry or our business is that it legislated us out of a significant portion of our business base. Obviously, anybody that is on a mandatory recycling route or has curbside recycling, they don't have a lot of incentive to bring their recyclables to our yard. Chapter 12 of the Municipal Code defines what items are recyclables. At that time, the junk dealers basically took that type of material. The state mandated that there be recycling and in

the 1<sup>st</sup> paragraph they put it under the Administrative Code, regarding protection and promotion the public health, safety and welfare. It also says that the purpose of this chapter is to promote recycling, composting and resource recovery. In the last 20 years the nature of recycling has come an awful long way from what it was when this stuff was drafted.

Article 4 in the Municipal Code is very specific. There is very little overlap of items from the junk dealers article versus the section 12 which is the garbage and what was defined as recycling at that time. He believes that the proposed ordinance takes a tremendous step backwards and tries to co-mingle all of these things that were divided out and identified as recyclables 15-20 years ago. Because the new ordinance adds language that includes second hand materials, aluminum, lead, other metals, glass, second hand materials, rubbish, refuse and other material commonly included in the term junk. Many of those things are already inclusive of Section 12, which is defined as recyclables. There are huge improvements in the way that things are recycled and the amount of things that are recycled. Our business for example last year recycled on an average of over 600 tons a month of material. And that is truly recycled material. This is material that ends up at Waupaca Foundry and at Northwestern Steel. This is stuff that goes into new cars and all the heavy machinery. This stuff is not items that end up in the ground in any way, shape or form. The business plan that he alluded to at the last meeting was to expand their involvement in the recycling industry to include construction and demolition debris. That is their medium range goal as far as an organization out there. It's not only to continue with the volume of material in ferrous and nonferrous that we recycle, but to also expand that to include construction and demolition debris.

He thinks that this ordinance by including all of these items and trying to expand the definition of junk is a huge step backwards. What we should be doing is trying to expand what the recycling requirements are and expand the definition of what recyclables are. It is not garbage. It has a value and it can be cost effectively reused. There is no reason to try and define as they did in the 90's to try and put a burden on companies such as us to call that junk rather than recyclables. Because that is what it is, the materials that we handle are 100% recyclable. None of that stuff goes in the ground. And the focus of any ordinance if there is to be an ordinance to be drafted should be to expand recycling and not to put anymore demands upon the industry that is really developing and propagating the cost effectiveness to make this happen. If it weren't for the people in the recycling industries, such as the scrap yards and the bigger companies to include like electronic scrap and some of the other newer type materials this stuff would be going into the ground. It should not be exclusive to the garbage companies.

Beaudry questioned how the passage of the junk dealer/auto salvage dealer ordinance would prevent him from recycling in addition to what this license requires.

Burt responded the expanded definition of junk with the proposed ordinance includes many of the materials that are already listed in section 12 as recyclables. The requirements of the junk dealer license or article 4 are more stringent than the requirements of article 12. If we handle ferrous materials or nonferrous materials which is exactly what Onyx continues to do, they handle those materials to, because they are defined within this article. They are required to handle them per their contract. It is not a substantial portion of their business granted, but they do contract for those recycled items. If we as recyclers of ferrous and nonferrous products as a primary source of our business are required to follow the requirements of article 4, they are more stringent than requirements of article 12.

Beaudry asked again how does this ordinance prevent you from doing any of the recycling which is outside the realm of this ordinance?

Burt responded, first of all currently there is no application for this permit. Second, it doesn't prevent you but it makes it more difficult. It gives a legislative advantage to people that do not recycle as a primary source of their business, ferrous and nonferrous products.

Attorney Hutchinson said that he thinks that part of the problem is Mr. Burt is trying to equate junk with what goes in the ground and recyclables as being something other than junk. Which of course is not the case and the junk yard ordinance has no impact on whether he can recycle any item or all of his items. It doesn't impede his ability to recycle any of it. It is a definition of question.

Mr. Burt asked why is the city trying to amend the current ordinance?

Attorney Hutchinson responded that the current city ordinance as it stands for junk yards only in his opinion is kind of ambiguous in various places, so our intent was to remove some of those ambiguities and clarify it. Second, the current proposed ordinance that you are looking at is for discussion purposes only. We do not actually have a proposed ordinance before the committee tonight that would be addressed, approved or disapproved. He stated that he is pulling it off of the agenda primarily, because we are going to go back and clarify some provisions in it partly in response to the last meeting and also with respect to the auto/salvage dealer issue. It is an item that we may actually do a separate ordinance for.

Police Chief Stroik stated that they have experienced numerous cases of people in residential areas buying, selling, trading, accumulating, collecting, gathering junk. As much as this may impact your business and make it somewhat more difficult, he envisions this helping Mr. Burt's business because you are not going to have these little pockets within the city where junk is being stored. Once this ordinance is approved, these people will be forced to clean this stuff up and they are going to be bringing their materials out to you. So on one respect, it may hinder you slightly, but it's going to clean up our city and that in his estimation is the prime reason for this. To clean up the city and these pockets of junk that are sitting around in neighborhoods.

Bennington said he thinks that we have to look at what the clarification of the new written ordinance is going to be and since we don't have that before us tonight, there is really nothing that we can do about it until we see that particular item.

Attorney Hutchinson said that he intends to have the proposed new ordinance at the next meeting.

### **Appeal of Christopher Burt**

Mr. Burt is appealing the decision made by city staff that he is required to obtain a license for his business. In the current code under the definition of Junk Dealer it reads, "Any person who purchases, sells, trades, or in any way deals in junk, except where merely incidental to another trade of business." As it is defined by the junk definition in the Municipal Code, that is not his business. Their business is in aluminum and iron. That is their primary business. It is like

trying to compare somebody that is going to recycle plastic and somebody that is recycling cardboard. As it is defined currently, they do not fit that definition. Therefore as the current code is written, he feels that they are exempt from that.

Attorney Hutchinson responded that the code does not use the reference of "primary business". What it says is any person that sells junk. It doesn't say what form, whether it has been processed or not processed, recycled or not. If you take in the material and then turn around and sell it to somebody, you are selling junk. It fits within the definition of junk. It is intended to be very broad and inclusive when they put in a phrase of that nature. State Statute 84.31 defines junk. It reads, "Any old or scrap metal, metal alloy, synthetic or organic material, or waste, or any junked, ruined, dismantled or wrecked motor vehicle or machinery, or any part thereof." This is precisely what Mr. Burt's business is doing. He is dealing in junk at this time and is subject to the licensing requirements of the municipal code.

**JLC05-37** Motion by Beaudry, second by Krueger to deny the appeal of Christopher Burt.  
All Ayes.

**Motion carried**

Motion by Krueger, second by Beaudry to adjourn at 6:38 p.m.

**Motion carried**

Lori A. Panzer  
Deputy City Clerk