JUDICIARY, LICENSE AND CEMETERY COMMITTEE
MINUTES OF FEBRUARY 17, 2009

Meeting called to order by Chairperson Wagner at 5:00 p.m., in the Common Council Chambers, City Hall Plaza.
PRESENT: Alderpersons Ed Wagner, Alanna Feddick and Donald Krueger
ABSENT: None
ALSO PRESENT: Alderpersons Feirer, Hendler, Buttke, Spiros and Noble, Mayor Meyer, City Administrator Brehm, City Engineer Turchi, Asst. Finance Director Hanson, City Clerk Hall, Gary Gray, Wayne and Kelly Weiler, Rich Weis, Butch and Mary Lou Duerr, Tom Cooper, Duane Schutz and Mike Brown.

JLC09-013 Motion by Feddick, second by Krueger to grant seven (7) Beverage Operator Licenses for the 2007-2009 License Year to: Katie Baumgarten, Courtney Brock, Erik Folz, Shelby Melton, Shaena Stangl, Clayton Walish and Taylor Whetstone. All Ayes
Motion carried

JLC09-014 Motion by Krueger, second by Feddick to deny the Beverage Operator License application of Christopher Lockhart.

Alderperson Feddick understands that Mr. Lockhart has felonies and misdemeanors but she thought that the only way a license could be denied is if they have specific alcohol related charges.

The committee decided to table this until the Police Chief can explain the parameters under which he acts at the next meeting.

Vote on motion **JLC09-014 as amended** to table this issue; All Ayes
Motion carried

Concerns of Tavern Owners

1. Mary Lou Duerr of 1701 W. McMillan Street; owner of the Viaduct Bar. Their main concern is the way tickets are issued for compliance checks in the City of Marshfield. This is just not a concern of the bar owners in Marshfield but it is also a concern of the businesses that sell alcohol for carry-outs as well. They feel that the ticket should be given to the person selling to an underage adult. When a business fails a compliance check the ticket is issued to the owner. This is not right. There is no responsibility on the bartender. If the bartender is fired because they sold alcohol to a minor, that person can go and work for somebody else. They would like the ordinance changed so that the blame is put on the person that is doing the wrong doing. She asked the Police Chief if there was a problem in the City that they keep doing these compliance checks. He responded that there is no real problem in the City but the community thinks there is one. She would be happy if the Police Department at any given time walk through the bars and see if there is an underage person on the premise. She does not have a problem with that but she does have a problem with the Police Department setting them up by sending in an underage person to try and buy alcohol.
2. Frank Baltus from the Baltus Company was unable to attend the meeting but sent a letter that was read into the record by Mary Lou Duerr. He asked the committee to consider levying fines, not only against the business owner, but also against the employee of the business responsible for not doing his or her job when it comes to properly checking the identification of someone attempting to purchase alcohol.

3. Tom Cooper of 619 N. Plum Street. He is a licensed bartender in the City. He agrees with the comments that have already been made. It is wrong for the bar owner to get the fine. This is wrong because one of our basic tenets of law is that there needs to be a guilty act with a guilty mind. It hardly seems fair or legal for a bar owner to be out of state or off site for that person to get a fine for something they didn't do and they didn't have a guilty mind about. A licensed bartender should be responsible for his or her own acts. This can be easily remedied by walk-throughs by uniformed police.
4. Duane Schultz of 107 S. Schmidt. He was representing Nutz Deep II and Postie's Bar. Most of his concerns were already addressed. He and his wife were out of town when the last sting took place. They received a $1,300 ticket in the mail two weeks later. The officer said that the reason the bartender does not receive a ticket is because they are uncollectible and the officers do not have time to come into the bar and issue the ticket. The bartender is certified by the State and licensed by the City. They could be a disgruntled employee knowing that they are going to leave and serve somebody or do whatever needs to be done and they have no responsibility. The owner gets the ticket a couple of weeks later. They take steps to educate their employees on the proper way of selling any of their products. They have an identification scanner. They have over 4,300 scans on it. So it is not like they are trying to serve minors. They don't make money on them.
5. Rich Weis representing the Marshfield Eagle's Club at 1104 S. Oak Avenue. He is in agreement with the comments that have been made. It comes down to the employee because they are the ones serving them. Everyone has to take a Responsible Beverage Service Course and he wonders if the people there are not doing their job in implementing and training and telling these people that they can't be doing this.

Alderperson Feddick doesn't know if State Statutes say to fine the bar owner or if it is our own policy. If it is our own policy than this should be placed on the next agenda and address it.

Alderperson Krueger agreed.

Alderperson Wagner agreed and added that Chief Stroik and the City Attorney should be at that meeting to advise them as to the city's responsibilities. The other question that comes to mind, is it the Common Council or the Fire and Police Commission that sets the policy for how stringently and how actively the city ordinance and codes are enforced. He doesn't recall seeing a proposal for a grant application coming across the Council floor. This most recent compliance check issue is being funded by a grant that the Chief received. Maybe the Fire and Police Commission was told that underage drinking is a problem and that they need to apply for a grant to enforce it. This is a policy issue that should be addressed as to whose responsibility that is and whether or not those kinds of things should flow through the purview of the Common Council or the purview of the Fire and Police Commission.

Barbara Davis filed a claim with the City alleging that she sustained injuries when she tripped and fell on a metal pipe that was protruding from a yard located at 413 S. Cedar Avenue on November 25, 2008. The claim was filed with the City's insurance company, Midwest Claims Service. They have completed their investigation and are recommending that the City of Marshfield deny this claim.

The basis of the denial is that the City of Marshfield has no involvement. The City of Marshfield does not have jurisdiction of the land where this pipe was protruding. The metal pipe was sticking out of the homeowner's property.

JLC09-015 Motion by Feddick, second by Krueger to deny the claim of Barbara Davis as recommended by Midwest Claims Service pursuant to the Wisconsin Statute for disallowance of claim 893.80 (1g). All Ayes
Motion carried

Agenda Preparation
Alderperson Feddick said that one of her concerns when reading the agenda is the phrase recommended action. There seems to be controversy whether the Council or any specific committee can take action on an item based upon what the recommended action states on the specific agenda. In looking at the policy and procedures a change needs to be made. The City Attorney has stated that it doesn't matter what the recommended action is the Council can take whatever action they deem appropriate. However what is the community or public notice telling people. What do they really think they will be doing? Something needs to change regarding that. It is her understanding that this is staff recommended action. She doesn't have a problem if that is put there or a statement that says that the Common Council can take any action that they desire but here is what staff is recommending.

Alderperson Wagner said that he will ask the City Attorney to take a look at this.

Future agenda items:
1. Concerns of Tavern Owners/Fines
2. Agenda Preparation

Motion by Feddick, second by Krueger to adjourn at 5:35 p.m. All Ayes
Motion carried

Deb M. Hall
City Clerk