# JUDICIARY, LICENSE AND CEMETERY COMMITTEE MINUTES OF OCTOBER 6, 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 (arrived at 5:03 p.m.) and Donald Krueger **ABSENT:** None

**ALSO PRESENT:** Alderpersons Earll and Hendler, Police Chief Stroik, City Clerk Hall, Nicole Meckley and Ivelin Malchev.

#### CITIZEN COMMENTS

None

<u>JLC09-122</u> Motion by Krueger, second by Wagner to grant ten (10) Beverage Operator Licenses for the 2009-2011 License Year to: Katelyne Bargender, Emilie Habeck, Jenkin Howe, Dennis Juncer, Aubrey Mason, Travis Opelt, Benjamin Pickett, Tanya Ponshock, David Przybylinski and Amber Thom. All Ayes

**Motion carried** 

<u>JLC09-123</u> Motion by Wagner, second by Krueger to grant a Temporary Class "B"/Class "B" Retailer's License to the Marshfield Area Catholic Schools for November 6-7, 2009. All Ayes **Motion carried** 

<u>JLC09-124</u> Motion by Krueger, second by Wagner to grant a Secondhand Article Dealer Permit to Kim Lewis; Second Time Around located at 222 S. Central Avenue. All Ayes **Motion carried** 

Alderperson Feddick arrived.

Police Chief Stroik discussed the Beverage Operator's application of Jitra Choowong-In. There are some significant issues that were discovered when running the background check. The main issue is the October 4, 2004 arrest for a felony for arson to property. The other issues are getting somewhat old.

This is a renewal application. Ms. Choowong-In was issued a Beverage Operator's license in 2007 which expired on June 30, 2009.

Police Chief Stroik said that somehow her felony was missed or overlooked when she applied in 2007. He does not know how and can't answer that but at this point he is presenting to the committee that there is a felony. If the committee is comfortable issuing the license because the applicant has been issued a license recently, he doesn't have a problem with that. But under the code, the way it is worded, he wanted to bring this before the committee.

Alderperson Wagner stated that the applicant has had no major problems since October of 2005.

JLC09-000 Motion by Krueger to deny the Beverage Operator Application of Jitra Choowong-In based on her felony conviction/arrest record.

Motion died for lack of a second

Police Chief Stroik pointed out that when Attorney Wolfgram was at one of the meetings, he cited statute 111 as to not being necessarily the sole basis for denial of a license.

Alderperson Feddick agreed based upon the statute 111 which prohibits discrimination in licensing. It seems like her serious issues happened when she was 18 years old and kids make mistakes. In the last two years she has not had anything except for a warning for littering. She is concerned about section 111 with her felony conviction being arson and not reasonably related to the licensed activity.

<u>JLC09-125</u> Motion by Feddick, second by Wagner to grant the Beverage Operator Application of Jitra Choowong-In. Krueger voted Naye, rest Aye.

### **Motion carried**

Police Chief Stroik discussed the Beverage Operator's application of Ivelin Malchev. The arrest for selling alcohol to an underage person on 8/17/07 was a result of a compliance check. In 2006 he was arrested for domestic abuse. He felt an obligation to bring this before the committee. Part of the basis for the suggestion for nonrenewal is he had asked for 25 points to be assessed because of the filing of untrue, incorrect and/or incomplete application. However the City Clerk brought to his attention that on the application the area that was missed was "Have you been arrested for any other offenses?" There is a problem on how people are interpreting arrest. He can understand how people do not think they are arrested if they are simply cited. He asked the Clerk to amend the application to "cited or arrested" so that there is no misunderstanding when completing the application.

The committee did not assess the 25 demerit points for the filing of an untrue, incorrect and/or incomplete application because of the misunderstanding of the word "arrest". But 25 demerit points were assessed for selling to an underage person.

<u>JLC09-126</u> Motion by Feddick, second by Krueger to grant the Beverage Operator Application of Ivelin Malchev with 25 demerit points assessed. All Ayes

#### **Motion carried**

Police Chief Stroik discussed the Beverage Operator's application of Nicole Meckley. In July and November of 2008, she was arrested for operating while intoxicated and found guilty. In November of 2004, she was arrested for burglary. This was a felony arrest however it was amended to misdemeanor theft with two years of probation and fines. Also in November of 2004 there was an arrest for burglary. This was by the Wood County Sheriff's department. He is not sure what happened with this case because he doesn't have a disposition on it. Also in 2004 there was an arrest for possession of drug paraphernalia and found guilty. Those were the bases of his recommendation for not issuing a license to Ms. Meckley.

Alderperson Wagner said that what they have to determine is whether or not this conviction is directly related to the ability to serve alcohol.

Alderperson Krueger commented that she does have two operating while intoxicated arrests during the last licensing period; one in July of 2008 and then another one in November of 2008.

Alderperson Wagner stated that what bothers him about the demerit system is there are three different things they are dealing with; 1) The application itself and the reasons for not renewing an application; 2) The suspension or revocation under State Statutes which do not require any demerit points at all

which says distinctly that they must relate to the job or the bar itself; and 3) Demerit System – Demerit points can be handed out. They could have handed out demerit points for the littering charge because that is within the discretion of the committee and the council. But they don't relate to the performance on the job and that is where he is having the struggle in dealing with this.

Alderperson Feddick wanted to refer this to the full Council for consideration and ask the City Attorney for his opinion. She has the same concerns as Alderperson Wagner. The renewal or nonrenewal of the license and how it relates to statute 111. The suspension because of demerit points and how that relates. They are all tied together and the code is confusing.

<u>JLC09-127</u> Motion by Feddick, second by Krueger to send the Beverage Operator Application of Nicole M. Meckley to the full Council for consideration and ask the City Attorney for his interpretation of the code. All Ayes

**Motion carried** 

The closed session was not held.

The City Clerk explained that Daniel Gebelein was served a summons but was not at the meeting. The Police Department tried to serve a summons to Charles Gilbert but he moved to the Jump Falls, WI area about four months ago.

Police Chief Stroik said that as it relates to Daniel Gebelein based on what this committee determined at their last meeting with another applicant, since the bar owner was issued the citation therefore not necessarily notifying the bartender, the JLC committee did not feel that 25 demerit points should be given to the bartender. On January 7, 2009 the bar owner was issued the citation not the bartender even though their records show that Mr. Gebelein was the bartender, he may not have been made aware of the citation being issued to the bar owner. Therefore for consistency sake, he withdrew his recommendation to revoke the beverage operator license of Daniel Gebelein.

He made the same recommendation for Charles Gilbert.

<u>JLC09-128</u> Motion by Feddick, second by Krueger to not assess 25 demerit points to the 1/07/09 incident based upon no citation being issued to Daniel Gebelein and Charles Gilbert. Therefore there licenses will not be suspended. All Ayes

**Motion carried** 

## Future Agenda Items

1. Changes to Section 9 of the Municipal Code regarding licensing.

Motion by Krueger, second by Feddick to adjourn at 5:45 p.m. All Ayes **Motion carried** 

Deb M. Hall City Clerk