

PUBLIC HEALTH & SAFETY COMMITTEE

Date and Time: Monday, February 17, 2014, at 5:15 pm, (Council Chambers)

Members Present: Rasmussen (C), Gisselman, Kellbach, Winters, Wagner

Others Present: Alfonso, Hebert, Rayala, Hardel, Barnes, Goede, and other interested parties in audience.

Minutes of previous meeting(s). (1/2014)

Motion by Gisselman, second by Winters to approve the minutes of the previous meeting (1/20/14). Motion carried 5-0.

Consider various license applications.

Rasmussen stated the list includes the event season applications for Wausau Area Events; a new event, Caribbean Marketplace; as well as Bull Falls Honor Flight Run. She noted the WSD Fun Run and Riverview Technology Run events are not permitted to paint on the streets. There are no denial recommendations for licenses this month.

Motion by Wagner, second by Kellbach to approve the licenses as recommended. Motion carried 5-0.

Review and discussion of report from Mayor's public meeting on February 10, 2014 pertaining to Restriction on Server Ordinance.

Rasmussen stated the committee received the minutes from the meeting on the 10th as well as the informational piece distributed by Chief Hardel answering questions. She opened the floor to allow members of the audience to speak.

- Joan Theurer, Health Officer, spoke regarding abuse of alcohol and in support of the ordinance.
- Jeffrey Sargent, NCCAP, representing the work of the LIFE Report, spoke in support of the ordinance.
- Sue Gantner, representing Healthy Marathon County, acknowledged the city for passing the ordinance.
- Robert Stasney, local business owner and recent Board Member for Healthy Marathon County, although he applauded their efforts, he felt the ordinance was overreaching and had too many unintended consequences.
- Aaron Ruff, County Public Health Educator, teaches Responsible Beverage Server training at NTC and the Law Enforcement Alcohol Server training. He reviewed a handout showing the difference between .04 and .08 BAC, using the DOT blood alcohol calculator. He supported the ordinance remaining at .04 BAC.
- Carolyn Bronston, citizen, spoke in support of the ordinance remaining at .04 BAC for the health and wellbeing of the public.
- Melissa Dotter, AOD Partnership Council, submitted personal written testimony and voiced the support by the AOD Partnership for the ordinance.
- Laura Scudiere, Executive Director of Bridge Community Health Clinic, spoke in favor of the ordinance remaining at .04 BAC.
- Tim Thomas, Marathon County Tavern League President, noted the Safe Ride Program has provided 15,000 rides in Marathon County this year and the calls for rides are usually made by the bartenders. He had questions with regard to the compliance checks by PD.
- Dan Maas, owner of Chatterbox and managing partner of Bunkers/Tribute Golf, expressed concerns with the agent/owner being on their own social time and on the property, but being held responsible for the bartender's actions.
- Roger Sydow, VFW, agreed with Maas that the ordinance needs clarification. He stated the ordinance was sold as a tool for the chief, but it appeared to him it was pushed by the Health Department like the smoking ordinance, which cost them a lot of money in lost business.
- Tyler Vogt, owner of Malarkey's/Townie's Grill, had concerns, one of which was the .04 BAC versus .08; being responsible for employees that may have been drinking prior to coming to work. He did not know how to determine if they were at .04; he asked them to consider amending it to .08.
- Nancy Cedar, employed by WSD and AOD Partnership Board Member, spoke in support of the ordinance.

Rasmussen opened the floor back up to the committee members for discussion. She commented she was looking for any evidence-based reason that someone could give her that a level above .04 BAC is safer and/or better.

Attorney Alfonso was asked to address the issue regarding events with a Temporary Class B Retailer's (picnic) License that has volunteer bartenders which obtain a Temporary Bartender's License. Rasmussen noted in some

cases, only one or two persons obtain the Temporary Operator's License and allow 30 other people to work under that license. Alfonso stated the people working as volunteers to an organization that *have not* obtained a license would not be liable under the ordinance; any person who is a *licensed* bartender would be held to the .04 standard. The licensee is responsible for themselves, not for the unlicensed persons because the volunteers are not employees of the organization. Chief Hardel stated that if the committee feels that this ordinance is important and creates a safer environment, then he felt it should be for all servers, whether it is at a bar, a church picnic or fair because their responsibility is the same.

Discussion and possible action on maximum blood alcohol content level for compliance with WMC Section 5.64.034 Restriction on servers.

Winters stated it was his understanding that originally this ordinance was created to be a tool for the Police Chief to use to affect a narrow group of combative bartenders, such as was dealt with at I.C. Willy's and Break Away. He felt it had now morphed into an attempt at social legislation and he was not on board with that. He believed the .04 BAC standard was just put it in to scare people into not drinking. Rasmussen questioned how the server can assess the ability of others if the server is at .08 and cannot drive home legally and safely themselves.

Motion by Winters, second by Wagner to amend the ordinance restriction on servers from .04 BAC to .08 BAC.

Winters commented combative bartenders make up less than 10% of the problem; most of the businesses are good and we are looking at only a couple of places. He pointed out the I.C. Willy's case went all the way to the Supreme Court and he just wanted to provide the tools to deal with bars such as this. He did not want to try to change the culture of central Wisconsin by ordinance in the City of Wausau. He would not support a process that would do that unless every other community in the metro area was sitting here first. He felt he was sold a bill of goods in December with limited information and indicated he was standing firm on .08. Rasmussen commented it is a tool for the police department and this is not a crusade, but it does make a step towards a cultural change whether we want it to or not.

Wagner stated we have heard throughout all the testimony that a very high number of the establishments, possibly as much as 90%, have indicated they don't allow their bartenders to drink at all. He was also led to believe the only reason for this tool was to go after the very problematic bars. He liked that the Tavern League was trying to work with us and suggested someone from the Tavern League be added to the Public Health & Safety Committee possibly in a non-voting ex officio capacity.

A vote was taken on the motion to amend to .08. Motion failed 2-3.

Discussion and possible action on issuing immediate citations for certain housing code violations.

Alfonso stated Winter's proposal was to follow the parking ticket model of instant citations for certain violations: animal excreta in yards, boulevard maintenance, equipment storage, non-collectible materials, storage of refuse, off street parking in yards, exterior yard maintenance, unapproved signage, trash containers, vehicle parking, unregistered or junk vehicles, and grass or weeds too long. She explained rather than giving individuals notice or repeated notice in some circumstances, Community Service Officers or the Inspection Department would just go out and issue a citation immediately. Alfonso reviewed the current parking ticket citation process and the appeal and court process, which could be somewhat complicated for this proposal. The simpler version of just issuing a municipal citation would probably be the most effective to not bog the process down.

Winters clarified his proposal is that we use immediate fines to correct the behavior, which raises revenue to include a clerical position for the Inspections Department to track the citations through an excel spreadsheet. He stated CSO's would be used to enforce it, which frees up time for the inspectors to deal with other more important issues. He felt the ticket should be \$10 or \$15 and if they decide to fight it will cost them a lot more because a picture will be taken of the infraction. Rasmussen questioned what would be done in situations with new residents that were unaware of the regulations. Winters stated the people issuing the citations should be able to talk to the people, use discretion and in certain cases just give a warning.

Bill Hebert commented we don't want to work harder, we want to work smarter. He felt the major issue is that we have never had enough people to follow up on things in a timely manner. The help of CSO's will allow us to be more proactive and to follow up more effectively. He felt they were on the right track and asked for the committee's patience. He was not in favor of an appeal process which would be very time-consuming; they should either pay the

fine or go to court and tell it to the Judge. Winters reiterated this was also a fiscal process in which additional staff would be paid for by the revenue generated from the people who are the violators rather than from the general tax revenue.

Alfonso requested direction as to what amount of fine they wanted in the ordinance; whether they did or did not want an appeal process; and whether they going to cite property owners and/or the tenants in the case of rental properties. Winters stated he just wanted a simple lower fine that goes up if not paid and if they choose to fight it, court costs will be added. Wagner agreed with setting the fines educationally low from \$10 - \$20, which deters them from fighting it because it could cost an additional \$73 if they do.

Discussion followed regarding landlords and tenants and Richard Holster, landlord, addressed the committee to comment on the proposed ordinance. Winters commented now that we have landlord licensing we need to revisit the nuisance property ordinance. Lt. Matt Barnes stated a lot of what was being discussed they will find will not be an issue. He indicated he will be supervising the CSO's who are going to be smart and will apply discretion appropriately.

Rasmussen stated consensus was to direct staff to create the necessary ordinance amendments and bring back some options to consider regarding the fine scale.

Ordinance amending Section 8.08.200 Dangerous animals to amend the definition of dangerous animal.

Rasmussen indicated this was a housekeeping item to reflect the Humane Officer as the designee of the Chief of Police in evaluating dangerous animals, as well as the testing process used.

Motion by Winters, second by Kellbach to approve the ordinance amendment. Motion carried 5-0.

Update from the WPD on the animal control program and service now shared in Weston. Update on rollout timeline for other areas.

Lt. Barnes reported the progress of the animal control program from September 2013 to the present. He commended Ashlee Bishop as the Humane Officer, stating she is the right person for the job. There were 142 animal calls for service and she has been involved with most of them. We began providing services to Everest Metro on January 13, 2014; she has responded to 13 calls and is getting to know their system and staff. He reviewed the investigations and various citations that were given since September. He noted she compared the PetData information to city's licensed animals and issued 103 citations for failure to license in a one month period. He stated Bishop has begun a program to reach out to new animal adopters to educate them on our ordinances and their responsibilities; she has put together a pamphlet and a letter she mails to them.

Winters stated we need a timeline for implementation of the contracts with the townships. He noted the Council passed the contracts in August, so there are model contracts out there. He distributed and reviewed a handout. He wanted to set a date of May 31st for a test rollout with the Town of Wausau because they are very close and cooperates with our Fire Department. He indicated the Town of Wausau has approximately 17 calls a year and the six townships only have about 2% of total calls. He stated he was receiving complaints from the townships that the city was acting in bad faith by not moving forward or communicating with them at all about the status of these contracts.

Chief Hardel stated Shane VanderWaal is the attorney for the majority of these townships and has been involved in meetings with him and Wally Sparks. He stated that VanderWaal requested that we hold off because there was work to be done with the other townships, including ordinance changes and a power of authority to allow the Humane Officer to enforce them. Hardel stated that VanderWaal indicated if we were going to provide service, it would not be until 2015. Winters commented that he and Kellbach were hearing the opposite from the townships, that the city is the holdup. Rasmussen suggested they get back with VanderWaal to find out what changes would be necessary for the Town of Wausau contract. Hardel stated he would not promise service that he can't deliver; Ashlee needs to focus on Wausau and Weston to get the program on the ground and rolling to feel comfortable with it. Barnes commented he struggled with putting Ashlee with all her responsibilities, in a position of reporting to 10 different groups.

Update from Clerk's Office on animal licensing (sales numbers compared to 2013).

Rasmussen noted we are up 732 licenses from last year and the deadline is March 31st. Rayala commented on the handout report put together by Richard Whalen, which is also given to the Finance Committee. She noted she was working on getting the fliers translated to Hmong and Spanish. Wagner suggested using the NTC students from Central America to help with the translation.

Discussion and possible action on update from Wausau PD surrounding prostitution investigations and their discussions with neighboring law enforcement agencies

Lt. Barnes stated this was an opportunity for him to ask the Council to give him some tools to help reduce the prostitution that is occurring within the city. He indicated the police department has begun stings to arrest prostitutes working within the city, as well as stings to arrest the customers, or the Johns. He stated they have been successful, but it is a lot of work to make misdemeanor arrests in an effort to make it clear that it is not okay to advertise online. He commented it is as easy as ordering pizza to call them up, tell them what you want and have them deliver themselves. In looking at the models presented by other communities that have dealt with the problem and are having success, it is not the arrest for the misdemeanor charge that has caused a change in behavior; it is the use of municipal ordinance violation citations. He indicated he attended a meeting that was hosted at the Police Department with representatives from the Sheriff's Department, Everest Metro PD, and Rothschild PD. It is our intention to work cooperatively because the prostitutes working in Wausau also work in Weston, Kronenwetter, Rothschild and Rib Mountain, and we all want get on board and enforce things the same way to try to reduce it in our county, not just our city.

Barnes indicated examples of communities that use ordinance violation model are Grand Chute and Appleton. He explained they have enacted an escort licensing process. In order to function as an escort and advertise your services as an escort you need a license from the city, which also requires you to work for a licensed escort service. He indicated to date nobody has applied for any of those licenses within Appleton or Grand Chute, but because it is required anyone advertising their services as an escort for companionship only, is in violation when they post the advertisement online, allowing officers to take action with less of a sting set up, with less evidence to prove that prostitution is occurring. If probable cause does not exist when conducting a sting because they didn't say the right words, it allows officers to issue a citation because they advertised.

Barnes indicated at the meeting they decided to reduce the fine significantly less than the other communities in order to be effective; instead of \$2600 we propose the fine be \$1600 for operating without a license and being an escort, with the second offense being \$2600. They would also adopt an ordinance for Johns, during a sting when the Johns show up, in lieu of arresting them for a misdemeanor violation, taking them to jail and having them bond out in 20 minutes, they issue a \$1600-\$2600 citation, which surprisingly have been paid rather rapidly to avoid that arrest. There has been significant revenue generated, but more importantly they have found a reduction in the amount of prostitution that is occurring. It has also allowed them to conduct more stings which have caused the customers looking for these services to think again before looking in their own communities. He stated they felt it was important that if any one of our municipalities were to adopt this concept, we should all do it because if one municipality doesn't, that becomes the place for this to occur.

Winters felt the process used for the cell phone ban ordinance was a good process and could be used with this issue as well. He noted the only thing he would change is to put into the ordinance a later start date to allow the other communities time to join us with the start date. Barnes stated the investigations would be collaboration and the enforcement would be equal and collaborative. Winters suggested they convene a meeting with other communities. Rayala questioned who they would like to invite. Barnes stated Chief Jeremy Hunt, Rothschild PD; Cpt Clay Schultz, Everest Metro PD; Gary Schneck, Sheriff's Department. Winters suggested they include Kronenwetter and Mosinee representatives as well. Rasmussen asked Kellbach, member of the County's Public Safety Committee, to share this with them.

Request for 90 day extension to open for business for good cause per Section 5.64.160(b). (Hudson Burger, LLC, d/b/a Milwaukee Burger Company, 2200 Stewart Avenue)

Matt Letnes requested a 90 day extension for good cause to open for business in reference to their Class B Beer & Liquor license granted by Council on December 10, 2013, which would have required the business to be open by March 10, 2014. He indicated in his request that the contractor is just getting into the space for a remodel this week. He anticipated an April opening.

Motion by Wagner, second by Kellbach to approve the 90 day extension to open for business to Hudson Burger, LLC. Motion carried 5-0.

Tavern Activities / Compliance Checks / Law Enforcement Activities

Hardel presented the Tavern Report for January 6, 2014 thru February 2, 2014. Report placed on file. (*See attached*)

Communications

Wagner requested that Tim Thomas and Richard Holster be added to the agenda mailing list.

Adjournment

Motion by Kellbach, second by Winters to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 8:05 pm.

Attachment

Wausau Police Department



James E. Tipple
Mayor

Jeffrey G. Hardel
Chief of Police
(715) 261-7801

Date **01-05-14**
To **Chief Hardel**
From **Lt. Todd Baeten**
Subject **TAVERN REPORT January 06, 2014 through February 02, 2013**

ROUTINE TAVERN INSPECTIONS (No violations unless noted)

101 Pub, 101 N. 3rd Ave.

6th Street Pub, 2002 N. 6th St.

Baker's Retreat, 1418 Lenard St.

The Bar, 1025 S. 3rd Ave.

Bob & Randy's Bar, 1515 N. 6th St.

Cabaret, 204 E. Rib Mountain Dr.

Callon Street Pub, 209 Callon St..

Campus Pub, 1110 W. Campus Drive

The Chatterbox Bar, 102 S. 2nd Ave.

Cheers Bar, 101 E. Thomas St.

Cop Shoppe Pub, 701 Washington St.

Day's Bowl-A-Dome, 1715 Stewart Ave.

NOTABLE INCIDENTS THAT OCCURRED AT TAVERNS THAT POLICE WERE DISPATCHED TO

Bob & Randy's, 1515 N. 6th St., Case #13-510, 01-21-14 at 12:50am: Officers were dispatched to Bob & Randy's for a report of a vehicle theft. The victim reported he had started the vehicle and left it running to warm it up. He said he returned to the vehicle to see it being driven out of the lot by a male he recognized as having been a bar patron earlier. The vehicle was located the next day damaged in a snowbank. The investigation continues.

Campus Pub, 1110 W. Campus Dr., Case #14-790, 01-30-14 at 11:44pm: Officers responded for a report of an individual violating a no-contact order. A male was located there, and found to be in violation of a court order. He was arrested and transported to jail.

Cop Shoppe Pub, 701 Washington St., Case #14-835, 02-01-14 at 6:45pm: Offices were dispatched for a report of a male on probation that was in the bar, and may be involved in drug activity. The male was located and found to be intoxicated. He was on probation and was arrested for a probation violation.

Days Bowl-A-Dome, 1715 Stewart Ave., Case #14-427, 01-17-14 at 3:45pm: Officers were dispatched to the parking lot of Days Bowl-A-Dome for a report of a fight. Further investigation showed that an armed robbery had occurred. Two males were arrested for armed robbery, possession of methamphetamine, carry a concealed weapon, and disorderly conduct.

Glass Hat, 1203 N. 3rd St., Event #140004470, 01-12-14 at 1:28am: Officers were dispatched for a report of three females fighting. Upon arrival, and after speaking with patrons and security staff, no fight was located. Bartender and security staff stated they did not see anything unusual.

Glass Hat, 1203 N. 3rd St., Event #140007043, 01-18-14 at 2:09am: Extra patrol had been requested at bar close for reports of "rowdy crowds." Officer observed parking violation (vehicle blocking crosswalk) and issued citation.

Glass Hat, 1203 N. 3rd St., Event #140007422, 01-19-14 at 3:44am: Officers responded for a report of an unresponsive female in a vehicle. Investigation showed that the intoxicated female had passed out while waiting for a cab to respond to pick her up. Female was released after cab arrived.

Glass Hat, 1203 N. 3rd St., Event #140009736, 01-24-14 at 10:36am: Offices were dispatched for a report of two males that had been refused entrance to the bar now standing out front harassing patrons. Officer made contact with the males who stated they had just wanted to use the phone at Glass Hat to call for a friend to pick them up. They were sent on their way.

Labor Temple, 318 S. 3rd St., Event #140013221, 02-02-14 at 8:30am: Reporting party advised that the building was broken into sometime during the evening of 1-31-14 or morning of 02-01-14. It appeared that approximately \$400.00 dollars was missing from the jukebox and change machines. Investigation continues.

Loppnow's Bar, 1502 N. 3rd St., Event #140004485, 01-12-14 at 2:06am: Officer on patrol observed a male that appeared to be urinating near Loppnow's. Male was verbally warned and sent on his way.

Malarkey's, 412 N. 3rd St., Event #140009772, 01-25-14 at 12:39am: Officer on patrol was flagged down by bouncer at Malarkey's. A male patron was arguing with him. Bartender advised the male was asked to leave because he had been causing a disturbance in the bar. Male stated he was now missing his hat and glasses. Male was directed to leave the area for the remainder of the evening.

Paradox, 932 S. 3rd Ave., Event #140004461, 01-12-14 at 12:50am: Officers responded to Paradox for a report of people yelling and screaming outside, and for loud bass music. Paradox owner was advised to turn music down, and he argued that did not feel it was too loud and that he would lose business if he turned it down. He was told it needed to be turned down or he would receive a citation. Music was turned down.

Roc's Place, 810 S. 3rd Ave., Case #14-475, 01-20-14 at 2:18am: Officer was dispatched for a report of a theft from a vehicle in the parking lot. Victim reported an ice auger was taken from his vehicle. No suspects.

Showtime Gentlemen's Club, 1709 Merrill Ave., Case #14-226, 01-10-14 at 1:26am: Multiple officers responded for a report of a male that was swinging at staff and trying to fight with other patrons. The male left just prior to officer arrival, and was stopped in a vehicle a couple of blocks away. He was arrested for fighting with officers and on suspicion of OWI.

Showtime Gentlemen's Club, 1709 Merrill Ave., Event #140006956, 01-17-14 at 9:11pm: Officers were dispatched after an intoxicated female claimed she was injured outside. It was later learned she was not injured; rather she had been kicked out of the bar due to her intoxication. A friend was contacted and agreed to take responsibility for the female. She was released to the friend.

Showtime Gentlemen's Club, 1709 Merrill Ave., Case #14-731, 01-28-14 at 9:442pm: Officers were dispatched for a report of a male in the bar that was on probation and not supposed to be there. The male was located and found to have a warrant for his arrest. He was arrested and transported to corrections.

Sidetracked, 818 S. 3rd Ave., Case #14-474, 01-20-14 at 1:46am: Officers were dispatched for a report of some unruly males. Through investigation it was learned that one of the males had felt threatened earlier by another individual at a neighboring bar, so he went home to get his brother. They thought they saw the male at Sidetracked, but were then told to leave when they were being loud. Officers learned that one of the males was on probation and was not to be drinking. He was arrested and transported to corrections for a probation violation.

VFW, 388 River Dr., Event #140007366, 01-18-14 at 11:33pm: Officers responded to the VFW for a report of underage persons on the premises in conjunction with a concert being held there. Upon arrival, officers observed few cars in the lot and were told the concert had ended some time ago.

ALCOHOL BEVERAGE DEMERIT POINTS ASSESSED

Respectfully submitted,
Lt. Todd A. Baeten