

SPECIAL PUBLIC HEALTH & SAFETY COMMITTEE

Date and Time: Wednesday, June 15, 2016 at 5:15 pm, (Council Chambers)

Members Present: Rasmussen, Wagner, Kellbach, McElhaney, Peckham

Others Present: Alfonso, Rayala, Baeten Goede, Mielke, Raj Bhandari and Attorney James Koppelman.

Discussion and Possible Action on non-renewal of Class B Beer license for United America, LLC dba Pizza Bites, 802 E Wausau Ave, pursuant to Wis. Stats. 125.12(3). (Raj Bhandari, owner)

Rasmussen stated we have periodically received updates from Inspections, Police Department and the Clerk as to the status of this license. It was approved earlier this year with contingencies, but never actually issued and since that time a number of events have occurred. She indicated if the committee wishes not to renew this license for the 2016-2017 license year a non-renewal process needs to be undertaken. She explained this meeting was not to hear evidence or to receive sworn testimony, it is only to review what has taken place and to make a decision on non-renewal to schedule a hearing.

Rayala stated Raj Bhandari applied for a Class B Beer license on November 16, 2015 in the Clerk's Office, which was considered by Public Health & Safety Committee on December 21, 2015. The premise address of 802 E Wausau Avenue was already licensed for a Class A Beer & Liquor License for the Fast Fuel Mart, LLC also owned by Raj Bhandari. Under the law a person may not obtain both a "Class A" Liquor and a Class "B" Beer for the same or connecting premise unless the operation qualifies as a hotel. *Wis Stats. 125.51(8) and 125.02(7)* Mr. Bhandari indicated there was an area at the back of the building that previously housed a Subway where he intended to place a restaurant called Pizza Bites and which had a separate entrance from the gas station. It was explained to him that the two businesses would have to be completely separated by a wall from the inside and the licenses would have to be under separate entities. The PH&S Committee approved the license contingent upon the wall being constructed and the business be functioning as a restaurant. It would have to be inspected and approved by the Inspections and Police Departments. The Council granted the license on January 12, 2016 with these contingencies in place. On February 2, 2016 the Health Department indicated the restaurant was not ready and no restaurant license had been issued. In March, Bhandari said it was ready so Inspections and Fire Department went over and reported there was only a pizza oven there. On March 10th the Health Department provided us with a copy of Restaurant License – Limited Prepackaged. There were more delays in the completion of the kitchen through April and into May. Bhandari called on June 1st and indicated it was a full operating restaurant and a full restaurant license was issued in mid-June by Health Department.

Rasmussen stated we have an abandonment or non-use of license ordinance in connection with the liquor licenses that stipulates a premise must be open for business within 90 days of the granting of the license. Based on the time this has taken, it is already in violation of this provision.

Lt. Baeten stated on May 19, 2016 he was advised by the Police Chief there was suspicion of gambling machines being operated at that location. He instructed a couple officers from the Community Resource Unit to go to the location in a plain clothes capacity and they confirmed the machines were operational and were paying out. They had to exit the proposed restaurant area where the machines were located and go outside to the convenience store side of the building to receive the payout. We returned again the second day to attempt a payout and applied for and received a search warrant for the Pizza Bites business and the gambling machines were seized. He indicated the investigation is currently ongoing and they believe the machines have probably been in there operational for several months.

Rasmussen commented the committee was clear that it was our intention to license a full sit down, eat in restaurant and not what appears in the pictures to be a makeshift casino. Wagner stated he was opposed giving a Class B license to a restaurant business that appeared to be just a front for gambling machines and felt this should move to a hearing.

Raj Bhandari commented he thought he had a Class B license and therefore thought it was okay to have the gambling machines. He believed the condition was a partition between the businesses and he built the partition. He stated he was never warned not to have the gambling machines which were in the pictures he submitted. Alfonso stated the assumption was that the machines were not in operation because the license had not been issued. Lt. Baeten commented in this situation it appeared more was being done to circumvent the law.

Alfonso pointed out there was discussion between her and Lt. Baeten that because of the circumstances of how the payout was actually made on the premise of the Class A license, it may also be appropriate for the committee to consider the non-renewal or revocation of the Class A license at the gas station/convenience store as well.

Motion by Wagner, second by Peckham to not renew the Class B Beer license for United America, LLC, dba Pizza Bites and set a Non-Renewal Hearing for June 20, 2016. Motion carried 5-0.

Rasmussen explained the process for the non-renewal hearing process. Bhandari questioned if he could avoid the hearing for non-renewal of this license. Alfonso stated if he voluntarily waived his right to renew the Class B license we could resolve this without a hearing and the committee could allow him to maintain his Class A license at the gas station. Bhandari agreed to come in the next day and discuss waiving his right to renew.

Motion by Peckham, second by Kellbach to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 5:40 pm.