



**SPECIAL MEETING – POSSIBLE QUORUM OF COMMITTEE OF THE WHOLE
Public Hearing –Restrictions on Server Ordinance File 14-0107**

Time and Place: Monday, February 10, 2014 @ 5:30 p.m. City Hall Council Chambers
Staff Present: Mayor Tipple, Chief Hardel, Tara Alfonso
Others: Several Alderpersons and Interested Citizens

Welcome

Mayor Tipple welcomed all those in attendance and asked those wishing to speak tonight to register by completing the form at the front of the Council Chambers. He wishes to have an open dialog and those who register would be called up to the podium one at a time and asked to state their name and address for the record.

Public Comment

Roy Heilmeier (2510), 2510 Stewart Avenue – He was happy with the handout this evening from Chief Hardel which addressed a lot of his concerns from last week. His main question was whether or not he was going to be able to have a glass of wine in his own establishment. Chief Hardel’s handout explains that if an owner is merely on site, but not actively involved in the service of beverages and is not functioning as the licensee supervising the bartender, than this ordinance would not apply to the bar owner acting in that capacity. He’s also concerned about how this ordinance will affect volunteers that offer to assist and serve alcohol at the fair and other venues for fundraising efforts to a specific organization such as the Noon Optimists, VFW, etc. Assistant Attorney Tara Alfonso said that any organization that has a “picnic license” and is licensed to serve alcohol, yes, this ordinance would apply to them.

Dan Maas (Chatterbox), 102 S. 2nd Avenue – A group of his peers met earlier this evening to list their questions and concerns in the sake of time. He will go through the list now. What is the true problem here within the community? What has driven this issue to the forefront of Wausau? Is it the problem bars, specific servers, etc? He is hoping that rules of compliance checks can be better defined. The perception from his peers is that this is more of a harassment issue. The word “special interest groups” was brought up last week defining all bar/tavern businesses. They are not “special interest groups” but are here tonight as “taxpayers” within the city. They are a business that contribute to the community. They are appreciative of the opportunity to have this dialog tonight but feel strongly that this was sprung upon them rather abruptly. Other problems and concerns are bartenders NOT calling for help for fear that they will get in trouble and possibly lose their job. It’s safe to say that a majority of those here this evening wouldn’t know what a .04 BAC would look like. No one’s been trained to identify a .04 PBT. How would a bar owner/manager know if a person is at .04? That is a problem for them. How are they to stop disgruntled patrons from calling the police? Should police officers and city council members and other businesses be held accountable to the .04 BAC? Why just the tavern/bar businesses? Their profession is serving alcohol, they do this every day. They have an issue with others not being held to the same standards...i.e., picnics, fairs, etc. Has law enforcement been trained on this compliance?

A solution might be that a 1st time warning be issued and then if issued a 2nd warning, they come before the Public Health and Safety Committee.

Tyler Vogt (Malarkey’s, Townies) 1004 Spur Lane – He studied politics and policy debate and one of the acronyms he’s familiar with is the SHITS. When a new ordinance is being considered there are 5 things to look at: S – Significance, H – Harm (unintended consequences), I – Inherency, T – Topicality (is this relevant?), S – Solvency (Will this ordinance solve a problem?). He doesn’t believe this will solve the problem of irresponsible bartenders. He believes a better solution would be to provide a 1st time warning and the 2nd time they come to PH & S to explain. It scares him to own a business in a city where the City Council has the right to pass an ordinance, when no one from the business that this ordinance affects, was notified of it beforehand. He wants to work with people, not be against government. Government passed a law that they now plan to fix. That’s wrong. This is a failure policy. Create a policy that solves the problem.

Joe Gehin, 3400 Springdale Avenue – The non-profits need to be a part of this discussion, as well. He understands that those who volunteer their time at various venues such as the Noon Optimist are going to be

held to the same standards as the licensed bartenders, and he's very surprised by that. He doesn't have a resolution but his Optimist group will have representatives at the next PH&S Committee meeting to address their concerns. He likes the option that others before him presented about the 1st and 2nd time warning.

Roger Sydow, 3820 N. 14th Street – He has an issue with the .04 BAC...where did that come from? It should be raised to .08. He represents two entities...the VFW Lounge and the VFW tent at the fair. At the lounge, there won't be an issue, because bartenders are not allowed to drink while on the job, however at the fair tent, it's run strictly by volunteers and they have an occasional beer. Their group has no desire to have a volunteer bartender incapacitated because they are handling money and making change and they are there to make a profit. He's been running the fair tent for 14 years and had only 2 occasions where an individual server/volunteer was asked to leave. He's concerned that he won't get any volunteers.

Timothy Thomas, (President of Marathon County Tavern League) 11420 S. County Road K, Merrill, WI - He's concerned about the interruption of business when police officers enter the taverns/bars. Will the BPT test be discreet or handled out in the open in front of customers? It can be huge disruption within the establishment. Will the bartender be issued a citation or will they be arrested? Will it be handled like a drunk driving DUI? Or will it be just a citation? A PBT is not admissible in court. Tara Alfonso offered to address this question right away. She said they will not be arrested unless their behavior is in the realm of disorderly conduct. This is a municipal ordinance. A PBT test can be declined. People will not be arrested. Mr. Thomas feels the .04 is going to be difficult to implement.

Anna Anderson (Hiawatha), 709 Grant Street – Is there a way to throw this ordinance out if it can't be resolved? Does that ever happen? The answer to that was Yes, it can be repealed. The .04 is another issue with her – she doesn't know how to tell if someone is at a .04 BAC.

Danielle Fischer (The Great Dane) 627-1/2 S. 5th Avenue – Beer tastings take place all the time in their establishment. She is a very responsible individual. She is licensed by the city. She could potentially be at a .04 after three 1 oz. beer tastings. She loves the City of Wausau and is active in the community. She's concerned about all the activities that have been moved out of the city. Exhibitour and other beer festivities in the La Crosse area are examples. The downtown is going through a lot of changes now and businesses are moving out of the area. That is a big concern of hers.

Lee Shipway, 824 Broadway Ave – She felt worried and concerned when Council even considered bartenders and licensed bar owners be allowed to drink while working. There is no other profession that would allow their employees to have alcohol while working. She runs a psychotherapy clinic and her employees are not allowed to drink on the job. She has seen research that at .05, judgment is impaired. It should be at .00.

Kristi Nowitzke (Intermission) 628 N. 5th Avenue – She has been in the bar business for 10 years and many of the establishments in the City of Wausau are outstanding, responsible businesses. Many don't allow their bartenders to drink while working. Her issue is the fact that small businesses are losing their rights to govern their business. A majority of her concerns are addressed in Chief Hardel's handout.

Stephanie Jamgochian (Hiawatha) 713 Grant Street – She needs clarification on where this all started? Why can the city totally govern small businesses in this manner. Per Mayor Tipple, this came from the PH&S Committee and this is a fair question that should be addressed at their next meeting on February 17, 2014 at 5:15 p.m.

Tyler Vogt asked if he could address Lee Shipways concerns. He DOES NOT want to employ drunk bartenders. Many, many bars in the city DO NOT allow drinking on the job. He wants the ability to govern his own employees in his own business. He wants to be a part of the solution.

Dan Bower (Domino Bar), 8457 N. Birch Road, Ringle, WI – Most of his issues were addressed tonight. He's still concerned about the unintended consequences from this ordinance. Today we heard from the volunteer groups and he was wondering if anyone thought about the unintended consequences...not getting volunteers for these functions and events in the city. Money will be lost. Chief Hardel addressed the group and answered some questions. The majority of the bar owners are professional and they address issues as they arise. This ordinance is directed at those few that aren't responsible and he understands that. If people didn't speed,

there wouldn't be the need to issue tickets, if people didn't commit crimes, there wouldn't be the need for jail time. This whole issue should not be a big surprise to tavern/bar owners. All PH&S monthly minutes are agendized and posted properly. There is a tavern report that is released every month, as well. It provides a brief synopsis of what happens at every bar. Numerous bad behaviors are experienced every day in bars throughout the city. A majority of calls for assistance are those that have bartenders that are intoxicated. A conflict has to be addressed quickly within these bars before they escalate into problems and bar owners and managers need to be held accountable. It was brought up that government is barging in on private businesses where they don't belong. It is the responsibility of government and specifically the police department to make sure this community is safe. If we know there are unsafe conditions within the city and don't take action, we are failing at our public duty and public responsibility to maintain a safe environment.

It was asked how often the police do bar checks. Officer Baetten provides a list to his team every month of about 10 bars to check. They keep documentation of every place they enter and this is documented and presented to the PH&S committee.

Tim Howe (Gaslight Grill) took the mic. Why doesn't he see checks of gas stations and grocery stores on the report that Chief Hardel just spoke about? He checks the list occasionally and it used to be on there and it isn't any longer. Chief Hardel said they check everyone that has a liquor license in the city. Will this ordinance affect gas stations, grocery stores and restaurants? Chief Hardel said it will if they are SERVING intoxicants. Gas stations and grocery stores don't serve. Assistant Attorney Tara Alfonso clarified the ordinance by stating that it applies to ANY LICENSEE – any gas station or grocery store or restaurant that has a liquor license would fall under this ordinance.

Chief Hardel addressed bogus calls. They respond to them now and they can't prevent them from happening.

Atty Alfonso questioned the volume that is consumed when "sampling" a beer or drink that is mixed within an hours' timeframe. Kristi Nowitzky provided various scenarios. Alfonso indicated that when it was brought up earlier that cities and communities were losing good, fun community events already due to strict alcohol restrictions, it needs to be mentioned that the City of La Crosse has a separate provision within their ordinance that states no consumption is allowed at non-profit events.

Chief Hardel said the state allows the police officers to arrest for OWI at a .05 and above. Signs of impairment start at .04. It was brought up earlier, Are police officers held at the same standard? All police officers and city employees are held at a .00. The officers that are on-call also HAVE to be a .00 so they cannot consume while on "on-call" status.

Joe Buchberger, (Arrow Tap in Marathon City, WI), 715 Greenfield Avenue – If a bartender takes a shot and the police enter and see that and test him/her, the BPT may potentially read a 1.0 immediately after a shot. If they wait for it to dissipate, it would be lower. Has that been given consideration in this ordinance? Chief Hardel said if that's been communicated with the police officer, the police officer would allow that.

Heidi Ninneman, T7693 Acorn Lane – Isn't there a point system already in place? Chief Hardel said yes, as soon as some bars reached their limit, they were called into the PH&S Committee. The process took a very long time in the case of IC Willy's.

Other scenarios were given of situations bartenders and bar owners could find themselves in. These specific factually dependent situations should be brought to the PH&S Committee next week.

Anne Jacobson took the mic. She wanted to clarify a few questions brought up. All officers are trained on the Toximeter. PBT's can be used and are admissible in court (just not on DUI's).

Tom Schroeder, 1757 N. 5th Avenue – He asked if a person can decline the PBT. Yes they can. He then asked what happens if they decline? They would not be arrested. They would be issued a citation.

Mayor Tipple asked if anyone else wanted one last time to speak. Hearing none, he closed the Special Meeting and thanked everyone for coming to voice their concerns. He encouraged them to come to the next PH&S

Committee being held on Monday, 2/17/14 where these issues will be considered and the ordinance will be looked over again.