

PUBLIC HEALTH & SAFETY COMMITTEE

Date and Time: Monday, May 18, 2020, at 5:15 pm, (Council Chambers)

Members Present: Herbst, Rasmussen, Peckham, Wadinski, and McElhaney

Others Present: Alfonso, Kremer, Goede, Rosenberg, Barteck, Bliven, Hebert, Polley, Fitzgerald, Neal, Tyler Vogt, Mark Craig, Kelly Ballard & Leslie Patterson

Being the first meeting of the 2020-2022 term, the meeting was called to order by City Clerk, Leslie Kremer.

Select Chairperson and Vice Chairperson for the 2020-2022 term.

Herbst nominated Lisa Rasmussen for Chairperson, seconded by Peckham. Lisa Rasmussen was selected as Chair for the 2020-2022 term by unanimous consent. The clerk turned the meeting over to the chair.

McElhaney nominated Dawn Herbst for Vice Chairperson, seconded by Peckham. Dawn Herbst was selected as Vice Chair for the 2020-2022 term by unanimous consent.

Minutes of previous meetings. (4/20/20)

Motion by Peckham, second by McElhaney to approve the minutes of the previous meeting on 4/20/20. Motion carried 5-0.

Consider approval or denial of various license applications, including annual renewals of establishment liquor licenses for the 2020-2021 license year.

Rasmussen stated this is annual renewal time for liquor license establishment licenses which expire June 30th. She pointed out the Clerk's Office has indicated the paperwork for many of them is coming in late due to the pandemic and asked the committee to approve them contingent upon completed paperwork and background checks. If something is found in the background that would bring a denial recommendation from the Chief, they will be brought back.

Rasmussen noted a few months ago the committee held of establishment warnings to a few license holders and we will be bringing in those license holders for the June meeting. The establishments meeting a formal expression of concern are: Roc's Place, M&R Station, Newch's Eatery, and Hutch's Stumble Inn. She noted they will be approved for renewal, however, if there are continued issues it could result in possible suspension or revocation.

Motion by McElhaney, second by Herbst to approve or deny various licenses as recommended by staff and contingent upon background checks. Motion carried 5-0.

Consider amendment to premise to include outdoor seating and alcohol service area. (Whitewater Music Hall)

Rasmussen stated the owners are proposing an outdoor area in their south parking lot. There are some natural boundaries that should enable them to control the area. She noted they are looking for outdoor music, as well.

Motion by Peckham, second by Herbst to approve the premise amendment for an outdoor area at Whitewater Music Hall. Motion carried 5-0.

Discussion and possible action to repeal and replace subsections (a) and (b) of Section 15.24.010 Boundaries (Bill Hebert)

Rasmussen explained there is a downtown fire district that governs properties that are sharing walls or are constructed in close proximity allowing fire to hop from one building to another easily. This amendment would exempt a couple of buildings that are not setup that way but are in the confines of the district. She referred to the map in their packet on the proposed exemptions which would redraw that boundary. This will allow more standard construction practices to be used in reconstruction or remodeling.

Hebert stated they have been with the Fire Department to discuss the rationale to these areas and primarily the biggest one was on the west side, which is the old Rainbow Laundry site. He indicated a proposal will be coming later this summer and with modern building codes it will be sufficiently safe. There will be a fire sprinkler system and access on all four sides of the building. They also looked at the vacant land by the former St. James School that are currently parking lots north of the Dudley Tower. Modern building codes will require safe construction.

Motion by McElhaney, second by Peckham to approve the changes to 15.24.010 Boundaries. Motion carried 5-0.

Discussion and possible action on expanding outdoor food and alcohol service and seating options for a temporary and expressly limited time period as a result of the COVID-19 pandemic upon relaxation or cessation of Governor Ever's Safer at Home Order, including:

Rasmussen commented they are looking what can be done city wide to help restaurants and establishments that need additional outdoor seating, however, it is important to understand what we can and cannot do with regard municipal ordinance and state liquor laws. Temporary adjustments can be made to municipal ordinance and there are a few options to consider.

(a) Possible amendments to ordinances related to sidewalk café permits, standards, and requirements

Mark Craig, Compass Properties, stated there are going to be some real restrictions on restaurants as they reopen in terms of capacity and seating while practicing social distancing, so they want to do what they can to extend the boundaries for seats outside the doors of the physical premises. He suggested looking at café seating and how to take the sidewalks and utilize more tables and chairs directly in front of the building and possibly in front of the neighboring sites if they are non-restaurant and are agreeable. He stated on the 300 block of 3rd Street, after converting from the pedestrian mall back to street, there were left a lot of four foot bollards that restrict the ability to put tables and chairs between the planters where they could and should be. He suggested removing the bollards so more space could be used on both sides of 3rd Street. He noted the 300 block is unique in that it has four restaurants in that one block area with limited parking (Ciao, Jalapeno's, Lemongrass and Polito's.) The 400 block of 3rd Street has Malarkey's (Townie's Grill) and The Mint, who are questioning if they can utilize the patio area across the street that is part of The 400 Block. Craig felt the Legislature should make some adjustments on liquor laws more broadly for the state to help businesses survive.

Craig proposed that since Concerts on the Square is not happening this year, to have "Dining in the Street" on Wednesday evenings. He asked if this was something that could be done on the street weekly in the 300 and 400 blocks of 3rd Street.

Craig stated curbside pickup and delivery is going to continue to be important going forward. In the 300 block there are two 15 minute stalls on the north and south ends. He questioned if they could have three pick up stalls in front of Ciao and eliminate the one on the north end. Parklets was another idea some cities are looking at.

Jamie Polley, Parks Director, indicated she took a tour with Mark Craig downtown and took a look at the bollards and learned that DPW can remove them fairly easily.

Rasmussen stated the businesses with Sidewalk Café Licenses could amend their application with a diagram of the larger area and placement of table and chairs.

Motion by Peckham, second by Herbst to allow Sidewalk Café License holders to request expansion of their areas by submitting an amended application to the Clerk's Office; to delegate authority by the Clerk's Office to issue them; and for DPW to remove the bollards. Motion carried 5-0.

Motion by McElhaney, second by Herbst to direct the Assistant City Attorney to make the appropriate modifications to the Sidewalk Café ordinance to temporarily delegate authority to the Clerk's Office to issue the permits that meet the criteria. The amended permits will sunset on October 31, 2020. Motion carried 5-0.

(b) Consumption or possession of intoxicants on streets and in The 400 Block

and

(c) Possible use of all or a portion of the 400 Block and/or 400 Block patio for outdoor food and alcohol service by restaurants

Rasmussen stated a few establishments that are adjacent to The 400 Block patio which would like use it as an expanded seating area. She questioned if they could make a temporary amendment to the premises description to include that area, but need to be fair because it is a public space and other establishments may wish to use it.

Jamie Polley stated there is still one Concert of the Square scheduled for June 28th and another in August. She believed there were four large reservations of The 400 Block still on the books for the summer. The Parks Department had canceled everything through the month of June, but after that it is up to the organization whether or not to hold their event. Health recommendations will be given to the event organizers. She indicated she can put more tables and chairs on the patio as long as they are spaced 6 feet or more apart.

Rasmussen commented there are still those who may not be comfortable sitting inside a restaurant yet. The 400 Block is a public space and she did not think it was right to assign that space to a couple of private businesses. She felt people should be able to purchase a takeout meal from the restaurant of their choice and carry it to The 400 Block to sit in that public space to eat.

Tyler Vogt, owner of Malarkey's/Townie's, stated they were just trying to figure out a way to expand tables outside the restaurants. He liked the idea of adding more picnic tables to increase the social space that anyone could use for any reason. He was in favor of using The 400 Block and keeping the tables far enough apart where people can enjoy part of the summer. He stated food trucks may want to use 4th Street and take advantage of the park as well. Vogt noted some tavern owners have indicated they may want to have expanded outdoor service, too. Rasmussen stated that will be a separate discussion for taverns.

Craig questioned if they could add more picnic tables to The 400 Block and spread them beyond the patio onto the grassy area. Polley stated this was something that could work.

Rasmussen stated "Dining in the Streets" would need to be applied for through a Special Event application for a serial type event, similar to Concerts on the Square. She suggested the River District could submit the event application for every Wednesday through the summer until October and request closure of 3rd Street.

Mayor Rosenberg stated she did not believe liquor laws would permit service of alcohol from these businesses into the street. Alfonso stated they could temporarily amend the premises to that specific time and date. They would need to designate what area in the street would be assigned to that restaurant and sign a consent in advance that states it is for this specific time and when it is over their premises are going to revert back to the original premise description. Alfonso pointed out there will need to be some sort of access for emergency vehicles.

Deputy Fire Chief Barteck stated their main concern is access. When you talk about occupation of a street for a venue party, liking eating and drinking in the street, we need to define that and have a clear fire lane. The tables and chairs should be located in the parking areas leaving the main thoroughfare clear to only pedestrian traffic. As we come in to respond to an emergency there needs to be a simple barricade that can be removed by a single person.

Motion by Peckham, second by Herbst to direct the Assistant City Attorney to draft temporary provisions in response to COVID-19 that shortens the Special Event application submission window under the 60 day deadline and allow for a Special Event permit for Wednesday night outdoor dining during specific hours to include the closure of the 300 and 400 blocks of 3rd Street; to include a waiver of the ordinance prohibiting open intoxicants on streets during those hours; and temporary premises amendments be allowed for the Class B license holders adjacent to the event to serve outdoors. If there is interest from the other businesses on the 500 and 600 blocks the territory can be expanded. Motion carried 5-0.

Consensus of the committee was to consider outdoor seating for taverns on a case-by-case basis. Chief Bliven agreed and stated there are a lot of factors with each of the establishments as to whether outside seating may or may not be a good idea. Noise is one of the more significant complaints the department receives about taverns. Alfonso recommended having a set standard of criteria for making these decisions. This will be discussed at the next meeting.

Discussion and possible action on amending Section 5.04.030 Investigation of certain applicants.

Rasmussen explained this has to do with delegating our authority to issue Operator's Licenses that the Police Chief has recommended for approval to the Clerk's Office, rather than having to wait to go through committee and Council. Any denial recommendation would come through the committee and Council in order to allow for the ability to appeal.

Alfonso commented in researching this she found city ordinance actually already gives the clerk that authority to issue the Operator's licenses, but it also gives authority to issue Class A and Class B Liquor licenses. She explained this ordinance amendment leaves in place the authority for the clerk to approve, but takes away the authority to issue the establishment licenses.

Motion by Peckham, second by Wadinski to approve the amendment to 5.04.030. Motion carried 5-0.

Operations Report from Fire Department for April 2020

Deputy Chief Barteck commented there was a 20-25% decrease in call volume which he believed was directly correlated to the COVID-19 and Stay at Home orders. He reported one significant fire on 56th Avenue was responded by Station #2 with a quick arrival holding the fire mainly to the garage.

Tavern Activities / Compliance Checks / Law Enforcement Activities

Chief Bliven presented the Tavern Report from March 1, 2020 through March 18, 2020. *(See attached)*

Chief Bliven indicated Cop Shoppe Pub is now down to zero demerit points because they have gone 12 months without violations.

Bliven stated Hutch's Stumble Inn had a violation in January where they were issued 25 demerit points and in March they had an incident in which they refused cooperate and were open after hours and so they were issued 75 demerit points, bringing them to 100.

Bliven stated Newch's Eatery had a large event in March that was way over capacity and took a long time to clear out. There were a lot of issues with the capacity so they were issued 75 demerit points and are now up to 125 total. He noted this brings us to four establishments that are at or over 100 demerit points requiring a formal letter of concern from the committee.

Rasmussen commented somehow Newch's Eatery has changed from a restaurant to a dance club and that is a problem with 300 people inside the building. Bliven agreed noting there were traffic issues, extremely intoxicated people outside urinating, vomiting, and a total lack of control in the establishment. He commented he has met with Newchee a couple times and he appears to be willing to abide by regulations, but now this has happened.

Rasmussen directed the clerk to send the Formal Letters of Concern to call the owners in for the June meeting.

Discussion and possible action to extend expired Executive Declaration No. 3 - Suspending WMC 5.64.036, to permit carry-out sales of alcohol beverages in original, sealed containers

Rasmussen explained at the end of his term Mayor Mielke had allowed licensed establishments to sell sealed, closed containers of alcohol for curbside collection. The ordinance was originally adopted to address Click & Collect and prohibit or drive-up alcohol sales. This will extend that suspension although we don't want it to be permanent, so a sunset date should be inserted. Alfonso clarified the order still requires a face-to-face sale to check the ID.

Motion by McElhaney, second by Peckham to approve extending the suspension of WMC 5.64.036 with a sunset date of 10/31/2020. Motion carried 5-0.

Communications

None

Adjourn

Motion by Peckham, second by Herbst to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 7:00 pm.

Attachment



Robert B. Mielke
Mayor

Benjamin K. Bliven
Chief of Police

Wausau Police Department

Date: 03/29/2020
To Chief Bliven
From Lt. Mike Felder

Subject TAVERN REPORT March 1, 2020 through 18, 2020

ROUTINE TAVERN INSPECTIONS (No violations unless noted)

The inspections for the month of March, 2020, had not been conducted before the ordered closure of the bars.

CONVENIENCE/GROCERY STORE INSPECTIONS (No violations unless noted)

None.

RESTAURANT INSPECTIONS (No violations unless noted)

None.

ALCOHOL COMPLIANCE CHECKS

None.

NOTABLE INCIDENTS AT TAVERNS TO WHICH POLICE WERE DISPATCHED.

Bob and Randy's Bar, 1515 N. 6th Street

- (1) *Case #2002318, 03/07/2020 at 8:16 AM:* An **employee** called to report a theft. After watching the video, and suspect known to Officers is seen removing a tip jar from the bar, hiding it under his coat and leaving. The male was referred to the DA's Office for theft charges.
- (2) *Event #20036853, 03/24/2020 at 4:46 PM:* An anonymous called complained that the bar was open in violation of COVID-19 closure orders, because there were lights on inside, and the parking lot was "half-full" with cars. An Officer responded, and found only one employee on site, managing take out purchases. The cars were from tenants that live above the bar. No violation noted.

Cop Shoppe Pub, 701 Washington Street

- (1) *Event #20027221, 03/01/2020 at 6:01 PM:* An anonymous caller complained about a vehicle parked across the sidewalk. The driver had entered the bar. On arrival of the Officer, the vehicle was gone.
- (2) *Case #20002258, 03/06/2020 at 2:11 AM:* Officers responded to a commercial burglar alarm. The building was found to be secure and a false alarm report was generated.
- (3) *Case #20002369, 03/09/2020 at 3:17 AM:* Officers responded to a commercial burglar alarm. There was an attempt to cancel the alarm, however the Officer had already responded, and another false alarm report was generated.
- (4) *Event #20031397, 03/11/2020 at 12:16 AM:* An anonymous caller complained about loud music from the bar, noting that it happens all the time. Officers responded, and on arrival could barely hear music from the outside. It got worse when the door opened. They were having karaoke. The bartender agreed to shut the windows to help keep the noise down. No further action was taken.
- (5) *Event #20033967, 03/16/2020 at 11:37 PM:* A male citizen responded to the Police Department to report concerns that his drink was drugged while he was at the bar a couple days prior. An Officer took the information and spoke to a bartender. He was going to check with the bartender that had been on duty at the time, and also work with the bar in obtaining video surveillance of the night in question.

The inquiry continues.

- (6) *Event #20034312, 03/17/2020 at 7:24 PM:* There were still people in the bar after the ordered shut-down time. Contact was made with the employees on site to gain compliance. They closed at the direction of Officers.

Malarkey's Pub, 412 N. 3rd Street

- (1) *Event #20033280, 03/15/2020 at 2:28 AM:* There was a 9-1-1 call received from the area of the bar. While checking, a loud verbal argument was taking place at the back door to Malarkey's. The incident involved an intoxicated patron from the bar having a confrontation with a vehicle in the parking lot. One of the bouncers/bartenders came outside to find the patron getting "jumped" by the multiple occupants of the vehicle, and pulled the intoxicated patron into the bar, and was yelling at the others from the car when the Police arrived. The occupants of the car stated that the intoxicated patron had tried opening the driver's door and tried getting into the car. The altercation involved removing the male from their vehicle. No one wanted to pursue charges. All involved had been drinking. The vehicle was parked to await a sober driver and the groups were separated.

Oz, 1206 N. 3rd Street

- (1) *Event #20030057, 03/07/2020 at 11:02 PM:* A citizen wanted to speak with an Officer after seeing a person that has a restraining order against the caller. The caller wanted it documented that he thought the person with the restraining order was following him around and seemingly everywhere he goes. The concerns were documented in CAD comments.

Wausau On the Water, 1300 N. River Drive

- (1) *Event #20027162, 03/01/2020 at 2:50 PM:* An employee called for a suspicious person in the business. A male was in the bathroom, shaving his head and dancing. He wouldn't leave. Officers responded and made contact with the male, identified him and escorted him as he voluntarily left.

Roc's Place, 810 S. 3rd Avenue

- (1) *Case #20002616, 03/15/2020 at 1:47 AM:* A person that refused to be identified called to report that there was a large group of people involved in a fight. On arrival, Officers did not observe anything physical going on. On investigation, including watching surveillance of the incident, it was determined that it was a verbal argument, and the people involved had left the scene. Two people were cited for open intoxicants, however the Officers did not determine where the drinks had come from (Roc's or M&R Station), so citation and demerit points were not issued regarding those violations.

Treu's Tic Toc, 1201 W. Thomas Street

- (1) *Case #20002693, 03/19/2020 at 8:33 PM:* Officers responded to make contact with a male in the Marathon County Jail that claimed to have been shot in the leg while outside Treu's Tic Toc bar, on the night on 02/26/2020. The victim was with another male, and they both had warrants, and he had been using drugs, so the incident was not reported at the time of the incident. The Officers were planning on contacting the bar management to ascertain if there was any video of the incident. The suspect was described as a black male, estimated to be approximately 30-35 years old. The suspect obtained the gun from a dark blue, large SUV, with dark tinted windows, loud exhaust and factory wheels.

Hutch's Bar, 4411 Stewart Avenue

- (1) *Event #20034287, 03/17/2020 at 6:54 PM:* Officers found that the bar was still open and serving after the ordered shut-down time. The management was cooperative, closed the bar and patrons left.
- (2) *Event #20035471, 03/20/2020 at 7:35 PM:* Officers stopped at the bar for an extra patrol, as he observed several vehicles in the lot. The doors were locked (Governor's Orders), however the Officer could see six to eight people apparently drinking bottles of beer and glasses of mixed drinks. When the Officer shined his flashlight into the bar, he was able to hear someone inside say that it was the Police. The bartender looked at the Officer, grabbed her phone and then went to the back kitchen area of the bar out of sight. After about five minutes, the bartender reappeared, and allowed Officers inside. She admitted everyone had been drinking, and she did not come to the door because she didn't want the Police inside. The supervisor had a conversation with the owner, who said his daughter was working, and that they had a work meeting earlier in the afternoon. Based on the bartender's behavior, and the recent history of a relatively serious violation, I recommend the assessment of **seventy-five (75) Demerit Points** for failure to cooperate with the Police Chief designee.

Whiskey River Bar & Grill, 5512 Stewart Avenue

- (1) *Event #20027316, 03/02/2020 at 12:40 AM:* An **employee** called to report that a male fell down and was bleeding from the head. Officers and an ambulance responded. On arrival, the Officers found employees yelling at and restraining the male, who had a wound on the back of his head that was bleeding profusely. The male denied medical transport, but allowed the ambulance crew to bandage the wound. On a poor sample, the male tested .197% BrAC. He was released to a responsible person as it was determined the incident was not an "assaultive incident." No information was provided as to whether or not his level of intoxication was reached as a result of being served at the bar. It was noted that the male lives in a nearby apartment, implicating that he may have been drinking elsewhere as well.
- (2) *Event #20034278, 03/17/2020 at 6:46 PM:* The bar was still open and serving patrons after the shut-down order time had passed. Management was cooperative in closing and the patrons left the bar.
- (3) *Event #20035465, 03/20/2020 at 7:24 PM:* An Officer conducted extra patrol of the business as there were many cars in the lot. They turned out to be take-out customers (Friday night), and were practicing good social distancing. Once exception was a male that had been served a drink by bartender Brooke, and was drinking at the bar. It was explained that the order prohibited eating or drinking in the bar, and the issue was resolved by the bartender.

101 Pub, 101 N. 3rd Avenue

- (1) *Event #20026993, 03/01/2020 at 2:21 AM:* Officers were called to respond to the bar in reference to a male that was bleeding. Contact was made with two individuals who were trying to help a third male. The third male had allegedly slipped and fell on some ice downtown, cutting his face. The other two were trying to keep him with them, due to his injuries, however he wanted to leave them, to the point that he was pushing them away, and pushed one down to the ground. The injured male left the scene before Officers arrived, but he was located in the area. Neither the bar nor the friends wanted to pursue any charges, and the male was released to a responsible person at his residence after he denied any type of medical treatment.

Aftershock Bar and Grill, 1418 Lenard Street

**** Due to recent and ongoing complaints, Officers have been conducting frequent extra patrols of the business. There were a total of 23 extra patrols logged in the month of March. ****

- (1) *Event #20030111, 03/08/2020 at 1:31 AM:* A refused complainant called to report that there were people outside the bar yelling and making noise. An Officer responded, parked some distance away, and approached on foot to gauge the noise level. While observing from a distance, the Officer could hear that there were two people outside the bar talking, but did not feel that the noise was excessive. The noise complaint was not substantiated.

Callon Street Pub, 209 Callon Street

- (1) *Case #20002444, 03/11/2020 at 7:41 AM:* A citizen called to report witnessing someone damage two windows for the bar by throwing a bucket at them. The suspect was located with the assistance of the witness and arrested. The male offered no motive for the damage.

Chatterbox Bar, 102 S. 3rd Avenue

- (1) *Event #20034280, 03/17/2020 at 6:48 PM:* Officers stopped at the bar as there were people inside at the bar, drinking, after the ordered shut-down time. They advised that it was an employee meeting. They cooperatively closed and left the bar.

Labor Temple, 318 S. 3rd Avenue

- (1) *Event #20034234, 03/17/2020 at 5:09 PM:* The bar was still open pending the shut-down order. Management claimed there were unaware of the closure and what it meant. There were still people there waiting for food, and closed once the food was delivered.

Showtime Gentlemen's Club, 1709 Merrill Avenue

- (1) *Case #20002337, 03/06/2020 at 6:37 PM:* A dancer reported that \$75.00 had been stolen from her belongings in the employee area. She had no suspects. The Officer reviewed video from the bar and saw that no one had taken anything from her belongings. The owner noted that the complainant had been fired from the bar and was no longer allowed on the premise.

Newch's Eatery, 1810 Merrill Avenue

- (1) *Event #20030074, 03/07/2020 at 11:53 PM:* Officers had prior knowledge of advertisement that there was going to be a DJ at the bar that night. A call was received regarding the road being difficult to navigate because of the number of cars parked all over the place. Supervisors made contact with management to discuss the issues with a large crowd prior to the event. Officers responded as a result of the traffic complaint. On arrival, Officers immediately came across a male urinating outside. The road was down to one lane, due to cars parked on both sides. Inside the bar, it was totally packed, basically shoulder to shoulder, and very warm. Many people were sweating profusely. A male was seen throwing up in a trash can. Officers estimated there was 300 people in the bar. The owner did not know the capacity, but admitted to selling two packs of 120 wrist bands. According to the Fire Department, the capacity is 99. After the owner was advised of being over the capacity, he did not take immediate action to remove people. Officers gave him a few minutes to begin to take action, and did not notice anyone really leaving. In fact, some people went back into the bar. Officers went back inside, and no action had been taken. The owner was hesitant to ask people to leave since they had paid to come in. After approximately forty five minutes of no action, the Supervisors gave the bar five minutes to take action, or they would close the bar. Once given that warning, the workers went to the DJ booth, and announced that the bar was closing. Officers left once the crowd was down close to the 99 capacity. As a result of exceeding capacity by more than 30%, and the lack of response by management when asked to bring the crowd down to capacity, I recommend **seventy-five (75) Demerit Points** be assessed.

ALCOHOL BEVERAGE DEMERIT POINTS ASSESSED

- **Hutch's Bar** is recommended to be assessed seventy-five (75) Demerit Points for refusing to cooperate with the Chief of Police or designee. They are up to 100 Demerit Point.
- **Newch's Eatery** is recommended to be assessed seventy-five (75) Demerit Points for being over capacity by more than 30%. They are up to 125 Demerit Points.
- **Coppe Shoppe** had there Demerit Points fall to zero in the first week of April, due to time. They are at zero (0) Demerit Points.

Respectfully submitted,
Lt. Michael Felder