

**City of Portage
Legislative & Regulatory Committee Meeting
Monday, June 2, 2014, 7:00 p.m.
City Municipal Building, 115 West Pleasant Street
Conference Room One
Minutes**

Present: Rita A. Maass, Chairperson; Mike Charles, Martin Havlovic, Jeffrey F. Monfort

Absent: Mary E. Hamburg

Also Present: Administrator Murphy, Attorney Spankowski, City Clerk Moe, Deputy Clerk Ness, Officer Sarah Rueth, Alderperson Richard Lynn, Sherry Schehr from Caboose BBQ, Rich Stewart from Caboose BBQ, Attorney Bart Achterberg representing Market Basket, Sharam Singh from Market Basket, Kirpal Kaur from Market Basket, Mary Traut, Bob Viking, James Daley from Daley's Beverage Mart, Wen Jian Liu from Portage Asian Cuisine, Nikki Shannon from Portage Elks, Susan St. Amour from Kwik Trip 764, Gary Alberts- owner of dog, Matthew Harvey-father of the girl bitten by the dog

Media Present: Bill Welsh from Cable TV and Craig Sauer from Daily Register

1. Roll call

The meeting was called to order at 7:01 p.m. by Chairperson Maass.

2. Approval of minutes from previous meeting

Motion by Havlovic, second by Charles to approve the minutes from the committee meeting of May 7, 2014. Motion carried unanimously on call of roll.

3. Discussion and possible action on appeal from Gary J. Alberts of dangerous animal determination

Gary Alberts referenced his objection letter dated 5/1/14 and verified all members had received it. Alberts admitted his dog bit this girl and last year nipped her brother. Alberts stated if the dog is found to be dangerous it will be dead within 10 days. He explained the ariel map of his property he handed out showing where the dog was tethered, the closest distance from the dog to neighbor's property line, typical entry point when kids come over, location of broken swing set and the location of the children when Gary Alberts left for dinner the night of the incident. Two points Gary Alberts wanted to make regarding the police statement by Matthew Harvey are: 1) the dog goes inside every night and 2) during inclement weather the dog will go to the store with him. Alberts stated the dog did spend the quarantine time at the Portage Vet Clinic and a letter, attached to the ariel map, was written by the vet regarding the dog, stating there was no indication of aggression during this period. Monfort questioned how long Alberts has had the dog- got it at 9 months and now the dog is 7. Havlovic questioned the size or weight of the dog – 52 lbs. Charles questioned if there is a fence – no, but now considering that.

Matthew Harvey stated his daughter needed 17 stitches. Last year the dog did bite the son and he himself has been nipped at before. Harvey feels the dog needs to be confined in some way. Havlovic questioned if the dog was tethered in both instances- yes. His children go into Mr. Alberts' yard to play with the granddaughter.

Officer Reuth explained the difference between vicious and dangerous determination. Clarified she had deemed this dog dangerous and that doesn't have an outcome of death for the dog. Maass questioned if Reuth had seen the dog – yes, when she spoke with Mr. Alberts the dog was tethered and he was petting it, the dog was behaved.

Gary Alberts stated if someone entered a home, the same thing would happen as the dog is protecting his territory, the children should not have been in the yard.

Officer Reuth stated the children play in both yards and feels the children think they can go in the yard.

Monfort stated he feels the dog is dangerous and is concerned about the lifelong fear of dogs by the child bitten.

Charles noted if motion of dangerous dog fails (which he indicated he will be voting no), the dog should be fenced in addition to being tethered.

Motion by Monfort, second by Charles to uphold the determination of dangerous dog and recommend to Council. Motion failed with Charles and Havlovic voting no.

4. Discussion and possible recommendation on Class “A” Fermented Malt Beverage License application from Pal and Simran LLC, 403 DeWitt Street, Sharam Singh, agent (Market Basket)

Clerk Moe reviewed there is one license available and there are two applications on the agenda for consideration. Class “A” Licenses are not regulated by statute, the municipality can determine how many they have and set that by Ordinance. This application was denied by Chief Manthey because Sharam Singh pled no contest to a Class I Felony and no contest to a possession of synthetic cannabinoid, a misdemeanor. He was given a deferred prosecution on the felony charge for a period of 24 months until 3/12/16.

Attorney Achterburg stated Mr. Singh has only has one citation and this occurred over two years ago. The downtown is dependent on the Market Basket and to give him the Class “A” license would benefit the citizens. Currently this establishment sells 5000 packs cigarettes/month – 60,000/year, the employees are checking identification every day and would continue with beer sales. Attorney Achterburg stated Mr. Singh has been financially punished because beer sales are a large percentage of sales for a convenience store.

Mr. Singh presented a petition signed by customers at his store in the last three days supporting the license. Chairperson Maass noted the petition wasn't dated. Mr. Singh stated his income has been impacted by not being able to sell beer and apologized for the mistake he made.

Maass noted the crime took place two years ago but the court hearing wasn't done until this year. Monfort stated he feels Mr. Singh should have the license back as there have been others in the state that have done crimes much worse. Monfort stated 1) Mr. Singh is not a felon and 2) if the judge and DA felt a deferred prosecution was ok then we should grant the license. Charles clarified Mr. Singh was found guilty.

Motion by Havlovic second by Charles to recommend to council approval of Class "A" Fermented Malt Beverage License application from Pal and Simran LLC, 403 DeWitt Street, Sharam Singh, agent (Market Basket). Motion carried unanimously on call of roll.

Bob Viking read a letter in support of granting the license.

Mary Traut works with Circles of Support and the homeless shelter downtown. She stated the Market Basket is a vital piece of the downtown for people who don't have transportation and supports granting the license.

5. Discussion and possible recommendation on Class "A" Fermented Malt Beverage application from Kwik Trip, Inc. 1925 New Pinery Road, Patricia A. Kottka, agent (Kwik Trip 764)

Maass noted Patricia Kottka was unable to attend the meeting so Susan St. Amour, shift manager is in attendance. This premise did have a license in the past but made a business decision when Kwik Trip 683 (north) opened and the license was transferred as there were no available licenses. This is Kwik Trip's third application since transferring the license. Since the committee recommended the remaining available license go to Market Basket, and if the council were to grant that license, the ordinance would need to be changed to grant Kwik Trip a license.

Susan St. Amour stated this is a small store and the beer would be available in two cooler doors. The employees currently card for cigarettes and would be diligent to card for beer. Their goal is to make their customers happy.

Dan Daley, owner of Daley's Beverage Mart, stated it is a privilege to have a license. There were two licenses denied in August because of proximity and hopes the current committee will take into consideration the proximity of other licenses. Gas stations and box stores have other items for sale but a liquor store only has liquor to sell. Dan Daley feels Kwik Trip made a great business decision to transfer their license to the north store and now should live with that decision.

Motion by Charles, second by Maass to recommend to council denial of the Class "A" Fermented Malt Beverage application from Kwik Trip, Inc. 1925 New

Pinery Road, Patricia A. Kottka, agent (Kwik Trip 764) due to proximity to other licensed establishments. Motion carried unanimously on call of roll.

6. Discussion and possible recommendation on Class B Combination License application from NY Sushi Bar, Inc., 123 East Cook Street, Wen Jian Liu, agent (Portage Asian Cuisine)

The premise description includes an outside beer garden with dimensions of 50' x 70'. Richard Lynn stated this was an approximate measurement.

Motion by Havlovic, second by Charles to recommend to council approval of Class B Combination License application from NY Sushi Bar, Inc., 123 East Cook Street, Wen Jian Liu, agent (Portage Asian Cuisine). Discussion ensued regarding the outside beer garden and noted the measurements need to be more accurate. Havlovic amended his motion to include the exact measurement of the outside beer garden to be brought in to the clerk's office and Charles agreed. Motion carried unanimously on call of roll.

7. Discussion and possible recommendation on alcohol license applications (Class B Combination Licenses, Class B Fermented malt Beverage Licenses, Class C Wine Licenses, Class A Combination Licenses, Class A Fermented Beverage Licenses)

Clark Moe reviewed license applications: Good Stuff didn't apply for renewal; Bellmore & Associates LLC, Reid Bellmore no longer part of LLC; BPO Elks Lodge, Change of members – one new member; Sherry Lee Schehr – The Caboose BBQ Company, Change of premise description, Added – fenced in outside seating 45'x32' April 1 – Oct 31; Stover Enterprises Inc. – Suzy's Steak & Seafood House, new member and vice president; Vinayaka Inc. – Best Western Resort Hotel & Conference Center, agent address change; Crawford Oil Co. Inc. – one member address change; Cleary Krech Post 1707 of Veteran of Foreign Wars of the United States, requested change of premises description to include the parking lot but has now removed the parking lot from the description.

Class "B" Combination Licenses:

NY Sushi Bar, Inc. is included as well because of timing with new license year beginning July 1.

205 Vino LLC, 205 DeWitt Street, Tricia Pionke, Agent (205 Vino)
4 R Future Inc., 322 West Wisconsin Street, Jeremy Rusch, Agent (Portage Theatres)
Bellmore & Associates LLC, 301 DeWitt Street, Mark A. Bellmore, Agent (The Corner Pocket Sports Bar & Grill)
Billie's Place LLC, 220 West Cook Street, Lacey Jane Thomas, Agent (Billie's Place)
B.P.O. Elks Lodge #675, 201 West Conant Street, Myron T Shannon Jr, Agent
(Benevolent & Protective Order of Elks #675)
Cactus Club Bar & Grill LLC, 102 East Cook Street, Dean Jeffery Audiss,
Agent (Cactus Club)
Cleary Krech Post 1707 of Veterans of Foreign Wars of the United States, 215 West Collins Street, Jeremy Duffy, Agent (Cleary Krech VFW Post 1707)
Cottonwood Bar & Grill Inc, 312 DeWitt Street, Randal Leigh Heinzl, Agent
(Cottonwood Bar & Grill Inc.)
Dewitt's End LLC, 1101 DeWitt Street, Ronald Spangler, Agent (Dewitt's End)

Douglas' Big Dog Saloon LLC, 218 West Cook Street, Bradley John Douglas, Agent (Douglas' Big Dog Saloon)
House of Booze LLC, 220 West Wisconsin Street, Kevin M. Malone, Agent (Blarney Stone)
Johnny T's Bar & Deli Inc., 1207 Dunn Street, John L. Timm, Agent (Johnny T's Trackside Bar)
Knights of Columbus, 918 Silver Lake Drive, Darrell Parker, Agent (Knights of Columbus)
Krueger, Jon & Lord, Robert, 223 Oneida Street, (The Friendly Tavern)
Kubiniiec, Jr., Michael D., 316 Dewitt Street, Renee K. Kubiniiec, Agent (Renees Bar)
La Tolteca Fuentes, Inc., 2653 New Pinery Rd, Reyes Aranda, Agent (La Tolteca)
New Pinery Enterprises LLC, 1402 West Wisconsin Street, Lyman O. Kaiser, Agent (Sarbacker's Bar)
Noll, William N., 412 East Wisconsin Street, (Tamarack Pizza)
NY Sushi Bar, Inc., 123 East Cook Street, Wen Jian Liu, Agent (Portage Asian Cuisine)
B & B Hitching Post LLC, 2503 West Wisconsin Street, Michael Scot Bergman, Agent (B & B Hitching Post)
Riley's Bar LLC, 1314 West Wisconsin Street, Lisa Thompson, Agent (Riley's Bar LLC)
Schehr, Sherry Lee, 1505 New Pinery Road (The Caboose BBQ Company)
Shutova, LLC, 2900 New Pinery Road, Beadin Mehmedi, Agent (Dino's Restaurant & Bar)
Stover Enterprises Inc., 2711 Hwy CX, Dana Lee Stover, Agent (Suzy's Steak & Seafood House)
The Ball Room LLC, 112 East Cook Street, Mike Ganz, Agent (The Ball Room)
Threadz Fashion LLC, 214 West Wisconsin Street, Jake Stolte, Agent (Liquid)
Tolly's Alleys LLC, 817 East Wisconsin Street, Brian R. Tollison, Agent (Tolly's Alleys)
TRT Corporation, 125 Wauona Trail, Patricia A. Madani, Agent (Trail's Lounge Restaurant)
Vinayaka, Inc., 2701 South CX, Dawn Schneller, Agent (Best Western Resort Hotel & Conference Center)

Class "B" Beer Licenses:

Golden Cup 2 Café, LLC, 2812 New Pinery Road, Arif Topalovski, Agent (Golden Cup 2 Café)
Milz, Norman E., 100 East Cook Street, Norman E Milz, (Norm's Pitstop)
Peng, Huan Qing, 238 West Cook Street, (Cathay Garden)
Pizza Hut of Southern Wisconsin, Inc., 401 East Wisconsin Street, Jon W. Kreklow, Agent (Pizza Hut)
PR Partners LLC, 2905 New Pinery Road, James H. Firari, Agent (Pizza Ranch)

Class "C" Wine Licenses:

Golden Cup 2 Café, LLC, 2812 New Pinery Road, Arif Topalovski, Agent (Golden Cup 2 Café)
Peng, Huan Qing, 238 West Cook Street, (Cathay Garden)
Pizza Hut of Southern Wisconsin, Inc., 401 East Wisconsin Street, Jon W. Kreklow, Agent (Pizza Hut)
PR Partners LLC, 2905 New Pinery Road, James H. Firari, Agent (Pizza Ranch)

Class "A" Combination Licenses:

Crawford Oil Co. Inc., 2211 West Wisconsin Street, Steven Douglas Madsen, Agent (Jim's BP)
Daley, James D., 1623 New Pinery Road, (Daley's Beverage Mart)

Mathieus, Kevin Edward, 211 East Wisconsin Street (Discount Liquor)
Pierce's Supermarket Inc., 2915 New Pinery Road, Angela K Pierce, Agent
(Pierce's Marketplace)
Wilz Drug, Inc., 140 East Cook Street, Larry R Wilz, Agent (Wilz Drug & Home
Health Care)
Express Laundry, LLC, 2725 New Pinery Road, John D. Bennett, Agent
(Mobil Travel Plaza)

Class "A" Beer Licenses:

Crawford Oil Co. Inc., 1901 East Highway 33, Steven Douglas Madsen, Agent (Fort BP)
Kwik Trip, Inc., 1223 East Wisconsin Street, Michael Jude McConville, Agent
(Kwik Trip #653)
Kwik Trip, Inc., 2970 New Pinery Road, Nona May Hartman, Agent, (Kwik Trip #683)

Motion by Havlovic, second by Charles to recommend to council renewal of all
licenses as presented for approval. Motion carried unanimously on call of roll.

**8. Discussion and possible recommendation on Operator License application
for Mackenzie L. Barney**

Maass reviewed Mackenzie L. Barney applied for an operator license last year
but was denied due to 2 OMVWI convictions, she appealed and the license was
granted. She has applied for the new license year; Chief Manthey has denied it
based on the 2 OMVWI offences and a citation for domestic abuse. Motion by
Havlovic, second by Charles to deny operator license application for Mackenzie
L. Barney based on two OMVWI offences and domestic abuse citation. Motion
carried unanimously on call of roll.

**9. Discussion and possible recommendation on Operator License application
for Sonja R. Peplinski**

Application was denied by Chief Manthey due to incomplete information and two
alcohol related convictions in the past five years. Motion by Charles, second by
Havlovic to deny operator license application for Sonja R. Peplinski based on
incomplete information and two alcohol related convictions in the past five years.
Motion carried unanimously on call of roll.

10. Discussion and possible recommendation for Taxi Cab License

Motion by Havlovic, second by Charles to recommend Taxi Cab License for
Richard Running (Running Inc.) as presented. Motion carried unanimously on
call of roll.

11. Adjournment

Motion to adjourn by Charles, second by Monfort. Passed on voice vote at 8:59
pm.

Rebecca Ness
Deputy Clerk