

Item 23-0596: Special Event Application Denial Appeals - Smoshfest

Safety and Licensing Committee

Wed, May 24, 2023, 5:30PM

Alderman Alex Schultz (District 9) 01:13

We have no public hearing and appearances. And that will take us to the first action item on the agenda 23-0596 Special Event application denial appeals. I understand a representative here is here in the chambers to speak to this. And I guess I'd initially just like to, before I open conversation, ask that committee and staff and the individual here to speak keep the comments germane to the denial and the numerous requirement missings here of the things that have not been met to make this event happen and not spend much time or move into discussions about the nature of the music festival or the individual here. So, if we could—I guess I would open it up to staff first to get—I'd like to pass this on to staff to give us a summary of the number of requirements that have not yet been met and if there's been a discussion to remediate those.

Alderman Alex Schultz (District 9) 02:25

No? Oh, three, three.

Alderman Katie Van Zeeland (District 5) 02:27

Director three. [Note: she was referring to the microphone number that needed to be turned on.]

Darrin Glad (Assistant City Attorney) 02:30

Alright, so I'm not—I wasn't a member of the denial. But I am in receipt of the memo that outlines the police department, human resources, Parks and Rec, the clerk's office, and the fire department's rationale for their denial. So I think when it comes to what's contained in the staff memo, at least, there's—I think every department or at least several departments mentioned that their attempts to try and work with the applicant himself to get the corrections or remediate whatever the issues were, but I don't believe there was much indication that that was successful.

Alderman Alex Schultz (District 9) 03:20

At this point, I guess any questions or comments from staff at this point? I think I'd like to ask the requester of the special event to step forward and give us some insight of you know why we're at this point and looking at some things that were missed. Could you—oh, yes, and please state your name and address for the record.

William D. (Smoshfest Organizer) 03:39

The address?

Alderman Alex Schultz (District 9) 03:40

Just state your name and your address for the record.

William D. (Smoshfest Organizer) 03:44

My name is [William D.] I live at [XXXXX]. Can you hear me clearly, guys? All right. Well, I started this project about four years ago, and I've been working at it continuously. I've had a lot of roadblocks due to some police enforcement issues where I was falsely arrested three times, which has blocked me from getting any financial help from any jobs. I've been blockaded from sponsors and donators because there was a mishap with my IRS EIN number, and I had to fix that with a classification that's been set and takes about four to six weeks to reclassify. It wasn't a sole proprietor. It's really a 5013C.

William D. (Smoshfest Organizer) 04:37

It's called Nolan Safehouse and my no—nonprofit helps families that are low income, separated, separated families, and single parents who are going through special issues at Children's Hospital like my son did. My son had a craniostomosis surgery when he was six months old, and now he's almost five and I'm trying to give back to the universe as much as the universe saved my son and my life with Ronald McDonald program.

William D. (Smoshfest Organizer) 05:07

I haven't been able to successfully get everything accomplished due to the fact that I'm still under a bond hearing. They keep moving the court dates. I was injustice, unjustif—unjustifiably arrested for a false crime that I didn't commit. And they haven't made notice of that and the courthouse, but I've had a lot of roadblocks, but I'm still working at it like I wasn't even arrested. And I'm working at it every day asking for help. I have a bunch of sponsors that are still waiting.

William D. (Smoshfest Organizer) 05:40

And I don't know how to do this. There's no classes. I've only learned from being a volunteer at Lifest for 15 plus years. I volunteer at EAA for 15 plus years. I've done pretty much every job at life fest. And I've I'm a good friend with Bob Lenz and his group. You know, I've done everything from trash pickup, to security, to ticket sales, to help setting up, setting down. My roommate goes to festivals all around the world. I have a bunch of—I don't have a committee, but I have a bunch of people who work in special events all around the world who have come to help with this nonprofit event. I don't have all the keys to the puzzle. But, you know, I'm willing to learn, and that's what I'm really here. This is experimental. And I'm really trying to help the community grow, and I feel like Appleton can grow even stronger.

William D. (Smoshfest Organizer) 06:41

I don't know if I'm going to be able to keep this event here in Appleton, but we're looking to double in size next year and move it to Oshkosh and have camping. I don't know everything about anything. But I am here to learn and love to ask for your guys' opinions and responses and to be able to cooperate all my good ideas with the city of Appleton so that the fathers of this city could be happy that we can consider is Father's Day weekend. And I'm trying to prove to my son that I didn't waste his time separated from him.

Alderman Alex Schultz (District 9) 07:17

We appreciate those comments. Thank you. Committee, do you have any comments right now? Questions for [Mr. D.]? Alderman Wolff?

Alderman Nate Wolff (District 12) 07:29

Thank you, Chair. So, you—so, so far you haven't paid any of the dues to any of the departments needed to be paid and your idea is you...? Is that correct?

William D. (Smoshfest Organizer) 07:51

So, this right here is not payment, but I guess it's a receipt. At least it's one of the things that was needed. And I did pay a fire thing at the fire department Appleton for stage pyro. \$25 fee. I don't have that [...]. I wasn't able to get a Class B license. I had to [...] I didn't get a hard, hard—holds hardem contract online. **[Note: it sounded like he said "holds hardem", but I'm guessing he was referring to a "hold harmless" agreement.]**

Alderman Katie Van Zeeland (District 5) 08:30

Could you do us a favor and just—if you want to drop things for us to look at but go back to the microphone because we have to record what you're saying.

Alderson Alex Schultz (District 9) 08:40

That's okay. I appreciate that. Yes, if you could repeat, repeat the attempts that you did do to get your licenses and things in order for this event.

William D. (Smoshfest Organizer) 08:49

I have—like I said earlier, I was blockaded due to not having any financial help other than my SSI that I live off of. Due to the fact that I'm still dealing with a false accusation in the court, a lot of people have been skeptical to help me with my project. And it's very frustrating, because I didn't do what I've been accused of, and I'm still fighting it in court a year and a half after—

Alderson Alex Schultz (District 9) 09:22

I'm sorry, could you speak to the list of things that were presented as—you know, the steps that you have to take to

William D. (Smoshfest Organizer) 09:29

I did get a stage Pyro from licensing for fire safety from the Appleton Fire Department on Drew street, and I had the paperwork at my house. I thought I brought it in the envelope, but I have the signed paper from there. And I did get a special events—the \$600 one—on the third of April, and I wasn't able to get \$4,000 for all the licensing from the Appleton Parks because I thought I would have had all the sponsors who were promising me money to help with the event and my nonprofit being screwed up with the classification, it kind of backfired. But I do have Papa John's as a three-day vendor and Tundra Land as a three-day vendor with me that are currently still on file with me. And we're having a blazing Wing Challenge father versus kid from Buffalo Wild Wings are donating like 300 wings.

Alderson Alex Schultz (District 9) 10:41

At this point, could I ask staff to respond to the one of the fire pyrotechnic permit. Do you have a record of that being pulled?

Fire Chief Jeremy Hansen 10:48

Thank you, chair. As of Monday, at 11:12am, we still did not have a signed Pyro permit. Basically, it's a burning permit because [Mr. D.] was provided with a list of items that he needed to satisfy. In an email to [Mr. D.] on April 12, 2023, at 1:22pm, we were asked to provide a certificate of insurance to our Risk Manager Brian Margen. There had to be a document that stated the fuel type that was being used in the in the fire performers I think is more or less what we're looking at. We had had to provide a methodology for extinguishing unattended fires, a diagram of the outdoor area written to scale including distances of guest setbacks, provide the name of all performers, and they had to be all over 18 years old, and identify who is going to be performing a fire watch. And then depending on the amount of performers would depend on the number of fire watch individuals. [Mr. D.] provided acknowledgement of the receipt of that email three minutes after it was sent. "Thank you for the information. Yes, I will call soon at courthouse" is his response. And as of April 12, at 1:25pm, we have had no additional information from [Mr. D.].

Alderson Alex Schultz (District 9) 12:29

Thank you, Chief Hanson

William D. (Smoshfest Organizer) 12:30

Do have that email right here.

Alderson Alex Schultz (District 9) 12:32

Chair—I mean, sorry, Alder Wolff.

Alderson Nate Wolff (District 12) 12:40

Did—so did we—how much in total did we charge this man for these permits or events so far?

Fire Chief Jeremy Hansen 12:51

The permit for the fire department was \$25. But again, I don't have a record of him having a permit. There is a way for an individual to take out a quote, unquote "burning permit." That if you show up at the fire station and just say I'm going to be burning sticks and leaves or you know, roasting marshmallows, anybody can get one of those at any time for the basically the same price. So, if he does—if **[Mr. D.]** does have that permit but has not satisfied the other requirements for the pyrotechnic show, then that permit would not be, would not work for this event.

William D. (Smoshfest Organizer) 13:30

I can get that done at least by Friday or Thursday. Please acknowledge with my staff.

Alderson Nate Wolff (District 12) 13:38

I have a follow up. So, **[Mr. D.]** showed me a receipt for \$700 to either—but, which, where was that?

William D. (Smoshfest Organizer) 13:48

Special events permit?

Alderson Nate Wolff (District 12) 13:50

Okay. Did we...?

Alderson Alex Schultz (District 9) 13:52

Hear from the City Clerk please.

City Clerk Staff Member 13:56

Yes, so he did apply for a special event license. Based on the number of days out that it was and the size of the event, we charged him \$607 which is according to our fee schedule. So, we did receive \$607 for the special event application. And that is what set all of this in motion. Without paying that fee, then we wouldn't have even looked at his application.

Alderson Nate Wolff (District 12) 14:18

And if we are to deny that fee—or deny this, would he be refunded their money? Or would we keep that money?

City Clerk Staff Member 14:26

We would not. All of the city fees that are charged are non-refundable, and that is in the special events policy as well as on the application for the special event that signed.

Alderson Nate Wolff (District 12) 14:36

Okay. Thank you.

Alderson Alex Schultz (District 9) 14:40

Chief Olson, would you like to have any comments about the things that the police department had issues with?

Police Chief Polly Olson 14:51

So, from the police department perspective, there were a number of issues that were brought up to [Mr. D.], to include the application indicating that there is a need for parking restrictions, but there was no additional information provided to indicate the details in terms of when, where, or for how long these restrictions would be needed. I'm told that the information that is on the event application related to the event hours conflicts with the event hours that are posted on the event website. The website event hours are in violation of park rules related to park closing times.

Police Chief Polly Olson 15:34

I think one of the most critical things is that we need to be able to assess our police staffing needs for this event. This information in order to do that would include having performer lineups and expected attendance numbers for each performance. Combined with alcohol sales, the number of people present is critical information, certainly needed for us to assess our staffing needs and to ensure safety for those that are attending as well as the rest of the community.

Police Chief Polly Olson 16:03

The event organization's name Nolan's Safehouse is listed as a nonprofit, but it can only be verified by an IRS ein number. The application form letter dated 3/10 of 23, there's no further information as far as providing or provided to validate the legitimacy of the nonprofit organization. I know Sergeant Ostermeier did some digging into this and just was not able to verify it. The event organization's name NEST Productions, LLC shows a delinquent LLC status when queried through the Wisconsin Department of Financial Institutions. So, it's basically a summary of the issues that we have with Police.

Alderman Alex Schultz (District 9) 16:49

Thank you.

William D. (Smoshfest Organizer) 16:50

It's gonna be—I was planning on having no alcohol at this event for all the fathers who are going through addictions. I can't even get a Class B license right now. So might as well just be a sober event the whole weekend.

Alderman Alex Schultz (District 9) 17:08

So, one of the other missing pieces is the ability to show that you have a general liability coverage for the event. Have you taken steps to provide general liability insurance?

William D. (Smoshfest Organizer) 17:18

I'm working with, uh, Thielen Insurance Group. I had to switch out the EIN classification, and they were gonna sponsor and donate and help with the—Thielen Insurance Group, the one on Richmond Street. Working with them.

Alderman Alex Schultz (District 9) 17:37

As far as the park fee goes, are you—in this situation with your sponsors not able to cover that park fee cost, this event won't happen until that park is reserved. Do you see a solution to that in the near future? I'm looking at still the number of unresolved issues with the permit and just wondering—it feels to me like it's an untenable position that you can get to that point in what's basically three weeks before the event. If we were three months out, I'd say you have some time to work through some of this stuff, but we're really crunched here, particularly with the way things work with the city to work through.

Alderson Alex Schultz (District 9) 18:16

If we were working on one item, I think we could help you get there. But we still have a number of things, particularly the reservation of the park and the liability insurance and concerns from the police department. There's just a lot hanging out there that I don't feel we're going to be capable of resolving for your event. I guess I'd like to listen to staff or hear what staff has to say about whether this is tenable or not. Can we get there? Or is this—we're in a position where there's no time to accomplish the things that need to get accomplished?

William D. (Smoshfest Organizer) 18:45

I also have volunteers, like 300 volunteers, that was going to help out the event. And I have a lot of friends who work in clubs and bars that would be security.

Alderson Alex Schultz (District 9) 18:57

I—you know, and I appreciate you've got all this time and energy put into promotion and selling tickets and volunteers. But I'd like to hear from staff where we are on this.

Police Chief Polly Olson 19:08

Well, I think, again, it goes back to the responsibilities that I have as chief and for our police department in order to ensure that this event is safe, and a multi-day event—even a single day event—three weeks out, at this point in order to ensure that I have proper staffing not only for the rest of the city, but then for that special event is—usually we require at least 30 days. I have to be able to post for potential overtime that might be required in order to again ensure proper staffing, or make adjustments to schedules, and it does not allow enough time for me to be able to do that.

Alderson Alex Schultz (District 9) 19:47

Thank you.

City Clerk Staff Member 19:51

I spoke with city clerk Lynch before this meeting, who was unable to make it, and she did just mentioned that we do have a history of not having very mental—many special event denials because our staff is so good at working with applicants on resolving these issues. And the applicant has, as he mentioned, been attempting to put on this event for a couple of years. And we've been working with him in that amount of time and the departments have been very good up until now, at reaching out about these issues, and they have not been resolved up into this point. So, I just wanted to bring that up.

Alderson Alex Schultz (District 9) 20:25

I appreciate that and the effort that all departments are trying to make here to get this moved along. Any other comments from committee? Go ahead.

Alderson Katie Van Zeeland (District 5) 20:38

I'll just say, I appreciate what you're trying to do. And I feel very badly for you that we weren't able to get these things lined up in time. But the fact of the matter is that the city needs to provide things for this event, and they're unable to do that at this time. They don't have the time to find staffing or to make sure they have the materials available. So, I—unfortunately, I would vote for the denial.

Darrin Glad (Assistant City Attorney) 21:08

I think I'll take this opportunity, if I may, to point out there's no motion on the table yet.

Alderson Alex Schultz (District 9) 21:12

Well, thank you for that. Could I get a motion on this?

Alderson Katie Van Zeeland (District 5) 21:15

I'll motion to deny.

Alderson William Siebers (District 1) 21:19

Second.

Alderson Alex Schultz (District 9) 21:20

There's a motion to deny and a second. And if there's any additional comments from staff, anything from committee, any additional? I just say, you know, it's it is unfortunate. I echo the sentiments of my colleagues here. We would really love to see an event like this take place in Appleton. We're a we're a music city, and this feels like it fits in there. But again, we've got to get a little bit ahead and allow city staff to do the things that are necessary to pull something like this off, particularly a [indecipherable] event with, you know, some significant hours at this central city park. It's no small affair. And it's unfortunate that, having worked this long and through those other events that you've worked with that you weren't able to get a little bit closer to a recommendation for approval.

Alderson Alex Schultz (District 9) 22:11

So, at this stage, I guess I'd call for a vote. All those in favor of approving the denial say aye. Aye. Opposed? The ayes have it. The recommendation will go to Council for denial.

Alderson Alex Schultz (District 9) 22:26

That brings us to 23-0441. I guess I—before that I'd entertain a motion to approve the balance of the agenda items, action items.

Alderson Katie Van Zeeland (District 5) 22:37

So moved.

Alderson Alex Schultz (District 9) 22:38

The balance to move the remainder of the action items on the agenda and a second. All those in favor? Aye. Opposed? The ayes have it. Motion carries.

William D. (Smoshfest Organizer) 22:51

So, I can't get my \$600 back?

Alderson Alex Schultz (District 9) 22:54

Unfortunately, not. That fee covers this process, and you know, pulling together all the records and pulling in the departments to do their due diligence. That's—it's an unfortunate situation.

Alderson Nate Wolff (District 12) 23:07

Sorry about that.