

Item 24-0834: Non-Renewal of the Class "B" Fermented Malt Beverage & "Class B" Liquor License for Corner Pub, 1123 N Mason Street. Kim Williams, Agent
Safety and Licensing Committee

Wed, Aug 14, 2024 5:30PM

Aldersperson Chris Croatt (District 14) 01:00

No scheduled public hearings or appearances. Moving right into our action items 24-0834, the non-renewal for the liquor license for Corner Pub with a long legislative history here and another meeting. I will make an attempt, if it wasn't crystal clear at the Council meeting as to why this was referred back to committee. It was actually due to the timing of events and how this would have actually been pushed out further if we didn't bring it back to committee tonight, because the hearing would have had to come back to committee after the 15th, which would have been our next meeting, which would have pushed the Council action into September, I believe. So, Attorney Glad if you want to add on to that at all, just to—is everyone clear on the reasoning for the refer back? That that's the reason, because the amended action put the extension until tomorrow actually. Go ahead.

Darrin Glad (Assistant City Attorney) 01:56

Yeah, and this is a continuation of the renewal hearing that originated in June, end of June of 2024.

Aldersperson Chris Croatt (District 14) 02:05

Okay. So that's where we're at. Attorney Glad, could I ask you the options for the committee at this time?

Darrin Glad (Assistant City Attorney) 02:15

Well, it would be, you know, on its face, we get the option to recommend renewal, recommend a non-renewal, or there's always that option of making a recommendation to change that period of abandonment that would go to Council. Also, I mean, you could hold this for another meeting, do all the normal things at this point,

Aldersperson Chris Croatt (District 14) 02:39

Okay, but because the action that was taken at the last meeting extended it until tomorrow, do we need to do anything with that?

Darrin Glad (Assistant City Attorney) 02:49

Yeah, so whatever, if we're going to take an action on it and send something to Council, we still need the finding of facts, conclusions of law, and an ultimate recommendation. So, because the last report did have that recommendation of extending the period until tomorrow. Depending on how things go, how the committee decides today, we'd have to update that report. And I did draft a report based on the information that I had, and what I—how I expect this to go, but again, it's your guys'—it's in you guys' court to the side, which route to go.

Aldersperson Chris Croatt (District 14) 03:30

Okay, thank you for that. I hope everyone's clear on our options. I will give the applicant, Miss Williams, and anyone else the opportunity to comment, if you'd like to come up. And please, for the record, just give your name and address one more time. There we go. Go ahead.

Kim Williams (Corner Pub) 03:50

Kim Williams, [XXXXX], Appleton. We got everything completed. All the inspectors said we were good, and it's been a long journey, but we did it, so now we're just waiting to see what's the final say so.

Aldersonperson Chris Croatt (District 14) 04:09

Okay, and when was the last inspection done?

Kim Williams (Corner Pub) 04:14

Yesterday.

Aldersonperson Chris Croatt (District 14) 04:14

Yesterday, okay, and then we'll hear from city staff in regards to where they're at with the process. So, thank you.

Kim Williams (Corner Pub) 04:22

Thank you.

Aldersonperson Chris Croatt (District 14) 04:23

Okay. Inspections, would you like to comment on where we're at with respecting the property? What—which microphone do you have? And if you could—District Two?—if you could give your name, please, and your title.

Daniel Meissner (Commercial Building Inspector - City of Appleton) 04:36

My name is Dan Meissner. I'm the commercial building inspector for the City of Appleton. On behalf of fire and health and our inspection departments, I'm representing each. We were all there yesterday at the site, and I would use the word "compliant" for where they're at. I've heard from Health, Fire, and our different building inspections, which include Building, Heating, Electrical, and Plumbing.

Aldersonperson Chris Croatt (District 14) 05:04

Okay, Chief Hansen, anything to add from the Fire Department's perspective? Okay, all right. So, compliance is the word of the night. Anything from Attorney Buruin? Okay. Anything from Attorney Glad?

Darrin Glad (Assistant City Attorney) 05:21

No.

Aldersonperson Chris Croatt (District 14) 05:22

Questions?

Darrin Glad (Assistant City Attorney) 05:23

I'll answer any questions.

Aldersonperson Chris Croatt (District 14) 05:24

Questions from committee members.

Aldersonperson William Siebers (District 1) 05:26

No, do you need a motion?

Aldersonperson Denise Fenton (District 6) 05:27

Yeah, do we need a motion here. Are we ready for a motion?

Alderson Chris Croatt (District 14) 05:31

Yeah, let's—Alder Schultz, make your way up here. Alder Schultz arrived 5:36. Yes. We do need to send something out of this committee to Council, based on what you heard from attorney Glad. Alder Siebers.

Alderson William Siebers (District 1) 05:49

I believe the motion would be they're in compliance to renew their license.

Alderson Denise Fenton (District 6) 05:55

I'll second that.

Alderson Chris Croatt (District 14) 05:56

Did you want to add any additional comments? I'm sorry if you're—

Alderson Denise Fenton (District 6) 05:59

No, no, I was just—it looks like, based on the finding of fact that, as we have it, it looks like our—that what we should be doing is moving to renew the license. And Alder Siebers did that, and I'll second that.

Alderson Chris Croatt (District 14) 06:15

Okay, so we have a motion and a second to move forward with renewal of the license. And Attorney Glad, is that what is drafted in the findings of fact that you handed out? I'm sorry, which, which one?

Darrin Glad (Assistant City Attorney) 06:29

It's—that is how I drafted it in anticipation of a recommendation for renewal. Based on the information I received yesterday and today, I updated the findings of fact, conclusions of law in anticipation of the information of the compliance. And you know, with that compliance, they're essentially ready to be open for business. And that's part of how we define abandonment is using that license for the purpose which was granted. So, I updated those. I think, after the recommended recommendation, if this motion to recommend renewal is what proceeds, I'd ask them, the committee, to review the reports, at least those that vote in favor, so we can move this report on the council.

Alderson Chris Croatt (District 14) 07:11

Okay, we'll take a few minutes to review that after the vote. Okay. Other questions or comments from committee members. Alder Schultz.

Alderson Alex Schultz (District 9) 07:21

Thank you. I just commend the city and this committee and staff for working through a really long process that probably took longer than any of them was that we have dealt with previously. So, I think that's part of what we do as a committee is work through sticky situations, particularly the owner who was trying to make right on some wrong. So, I guess again, just commend staff for working this through, legal, this committee. We're where we want to be, and this, I think this business is where it wants to be now that we've gone through this process.

Alderson Chris Croatt (District 14) 07:53

Okay, and Attorney Glad, for clarification for everyone's benefit, if this goes through as a recommendation, goes to Council, and Council approves that, they could open the next business day. Is that how this works from a timeline perspective?

Darrin Glad (Assistant City Attorney) 08:06

Yes. So, the license would be renewed by Council. I do think the clerk has a role of actually issuing the license.

Alderson Chris Croatt (District 14) 08:15

Right. Okay, so—

Darrin Glad (Assistant City Attorney) 08:16

So, on that which customarily, I believe is the next day. I would note that Clerk Lynch, I believe, is ill and not present today.

Alderson Chris Croatt (District 14) 08:24

Right. Yeah, she informed me of that. So, they could, they could contact the clerk's office as soon as council approves this, and then—

Darrin Glad (Assistant City Attorney) 08:33

Once they have that license in hand, they can sell alcohol.

Alderson Chris Croatt (District 14) 08:36

So essentially, Thursday after the council meeting could potentially be. Okay.

Darrin Glad (Assistant City Attorney) 08:41

Yeah, it wouldn't be Wednesday night.

Alderson Chris Croatt (District 14) 08:43

No, yeah, okay, yeah, because their office is closed, obviously. Okay. Any other comments questions? Alder Fenton, go ahead.

Alderson Denise Fenton (District 6) 08:50

Thank you chair. I would just like to emphasize for my vote and my advocacy of extending this time, I do not find any fault with any staff, city staff in the process. I believe that—I don't think there was anything done wrong or omitted there. But I just believe that we did what we did out of compassion for extraordinary circumstances, and I don't think that this should be a normal process, but I do think we did the right thing this time, and I thank everybody involved for working with the owners, the citizens, and the committee here for working this out. Thank you.

Alderson Chris Croatt (District 14) 09:40

Okay, thank you. Anyone else? Alder Hartzheim. District 13. Okay, go ahead.

Alderson Sheri Hartzheim (District 13) 09:47

Thank you, Chair. I am pleased for Corner Pub and their ownership that they are able to proceed now. I'm glad about that. But I'm very concerned about the entire process this took. They were unable to operate for an entire year until May 30. On June 26, this committee started taking up this issue. We are now on August 14. How many people, how many other businesses, ready, willing, and able to procure liquor license from this city, could have done so in the meantime? And today, later on, on your agenda, there are two people who are applying for licenses that will have to pay \$10,500 for their licenses. And I'm not sure that that's the fairest and most equitable way for this committee and this city to proceed in treating businesses. It's a sticky situation, and I have no—I understand that that's a very sticky thing, but this situation makes me very uncomfortable about how the law has been and how the Council has been fairly treating every single applicant to this city for a liquor license. Thanks.

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Alderman Chris Croatt (District 14) 11:01

Okay. Thank you for your comments. Anyone else? Alder Doran.

Alderman Chad Doran (District 15) 11:07

Just a question, I guess, if staff can answer, maybe if the business owners want to answer. Just curious about the timeline it took to start and complete the work that was required to finish, how long that was? Anyone can answer.

Alderman Chris Croatt (District 14) 11:25

Was that question for staff or for the applicant?

Alderman Chad Doran (District 15) 11:28

Either staff or the or the applicants, I guess, if someone wants to.

Alderman Chris Croatt (District 14) 11:31

If you could, just give your name and address for the record.

Crystal Williams (Corner Pub) 11:33

Crystal Williams, [XXXXX], Grand Chute. It took us—I think, we started process in May. Inspection—we had inspection, the first—that inspection that said, hey, now we had to start coming to boards, I think that was the beginning, middle, middle part of May. So, May, June, July, August, three—three and a half months, four months. So.

Alderman Chad Doran (District 15) 11:55

Okay. Thank you.

Crystal Williams (Corner Pub) 11:56

You're welcome.

Alderman Chad Doran (District 15) 11:57

I just had noted, kind of in review, that the first permit, I believe, was taken out in June, somewhere in the beginning of June, for that work. And just in kind of reviewing the whole scenario again, I go back to something I think that Alder Hartzheim had said, that this process allows for an entire year for situations just like this, and I can't help but feel that this committee and our Council have abused and made a mockery of this ordinance that we have and sort of just absolutely stretching beyond belief the good cause element that was enacted here. This—the work that that needed to be done, assume, assuming, took about, you know, two months here or so, to complete, well after the deadline had already passed for that work to be done. And I know we heard about the extenuating circumstances that the owners had, but as Alder Hartzheim had also pointed out, there have been businesses waiting who are now having to pay extra for a license that they may have already, and should have, in my mind, had access to.

Alderman Chad Doran (District 15) 13:21

I think the way that we continue to operate sometimes as voting on feelings rather than facts and logic is just so frustrating to me. We give businesses the run around; we put staff through much more work than they should have to go through; and we continue to just give our city, a bad name, and it's just really frustrating. And I'm disappointed in this group and our Council that we continue to make these kind of decisions. And I believe that this is the wrong decision to issue this license, even though they have their work done, and I commend them for finishing that and the work that they've gone through. But this is not the right decision, and I will not support it.

Aldersperson Chris Croatt (District 14) 14:06

Okay. Any other comments, questions, or are we—Alder Schultz?—almost ready for a vote?

Aldersperson Alex Schultz (District 9) 14:14

I just feel like responding to that last comment, not that I would normally. But you know, things happen. Businesses are caught unawares. Even the most prepared business, whether they're private or public or nonprofit, can find themselves in a situation where they did not submit the things that they were supposed to do. So, I understand that we need to follow the letter of the law, but sometimes the spirit can be more important.

Aldersperson Alex Schultz (District 9) 14:37

If we had followed the letter the law, a certain nonprofit wouldn't have been able to sell any alcohol in Jones Park for Mile of Music. And it's the position of my colleague that that's what we should do—just follow the letter of the law and not allow the city or this community to understand that there are circumstances that arise or things that get overlooked, and that we have the capacity to understand that those things occur and we have the facility and the authority to make decisions that allow us to move forward as a city, and allow something, which is an oversight, I will grant you that, certainly large oversight by this business to wait that long. I'm not arguing that. But as a committee, seeing what we've seen and understanding what we now know for the effort and the good will of this business and staff, I think it sheds a positive light, not a negative one, on what we do as a city. So I take issue with that last statement, and I would say that as a committee, that is our role to understand when we find ourselves in situations where we are up against the letter of the law and ordinances, whether it's local or state, to have the capacity to understand that someone's in a sticky situation and give them some gravity and allow them to make right on their wrongs and follow through, particularly when it's a significant financial burden, if we just follow the letter of the law. So, I would encourage us to vote for this.

Aldersperson Chris Croatt (District 14) 16:08

Okay. Thank you. Any other final comments? Attorney Buruin.

Zak Buruin (Assistant City Attorney) 16:16

I just want to emphasize one point, that this isn't a question of letter versus spirit of the law there. The committee is exercising its judgment in this particular case, and that is within the letter of the law, and that is the judgment call here. So, I don't want there to be any mistake about there being a choice between following the letter and the spirit of the law here in this particular case, they are compatible.

Aldersperson Chris Croatt (District 14) 16:43

Thank you for that clarification, because sometimes there are things that come before this committee that are that—the other scenario where we basically can't act or can't do something different than what's being recommended. Alder Hartzheim.

Aldersperson Sheri Hartzheim (District 13) 17:01

Thank you, Chair. I understand what Attorney Buruin was saying before about—or just said about using the judgment, the best judgment. My concern is not that the best judgment is not an option. My concern is that we equally apply the best judgment, and in this particular instance, I'm not sure that we have successfully done that. I'm all for compassion, and I'm all for understanding caught unawares, but I am concerned that this puts the city in potential question of whether they've treated every applicant appropriately and fairly. I actually questioned Attorney Glad whether we had any issue or potentially opened ourselves to an issue of being sued by someone who's not received a license during the period of time that this license has remained unused. He

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assured me that that's potentially not an issue, although Attorney Glad can talk about that further and probably clarify just what I said. But that is a concern for me. Again, equal fairness, equal treatments to all applicants, should supersede compassion in my mind, thank you.

Aldersperson Chris Croatt (District 14) 18:18

Thank you, and I appreciate all the comments, and I do agree with you, Alder Hartzheim. I have expressed concern about precedent and setting precedent in the past on this. This has been an extended legislative process, as was commented on earlier. I mean, it's been a long time to get to this point. You know, most of that, I think, is on this committee. You know that whole timeline of events. But we're here and we have a motion and a second to renew the license. Are there any other comments or questions? Seeing none, all those in favor signify by saying aye.

Alderspersons Fenton and Schultz 19:00

Aye.

Aldersperson Chris Croatt (District 14) 19:01

All opposed?

Aldersperson Chad Doran (District 15) 19:02

Nay.

Aldersperson Chris Croatt (District 14) 19:03

Four one. Okay, so now let's take a moment to—Alder Schultz, needs a copy of the findings of fact. And did you want to comment, Attorney Glad?

[The committee members review the Findings of Fact document that Attorney Glad prepared. They approve it and also approve the correction of a minor typo.]

Aldersperson Chris Croatt (District 14) 22:26

All right, folks, everything clear for you? We have one more meeting. That would be the next Council meeting. Okay. Thank you.