



City of Waukesha

City Hall,
201 Delafield Street
Waukesha, WI 53188

Meeting Minutes

Ordinance & License Committee

Monday, February 26, 2018

6:00 PM

Council Chambers, City Hall
Use lower level glass door.

1. Call to Order

Present 5 - Perry, Manion, Johnson, Rodriguez, and Wells

2. Public Comment

3. Approval of Minutes

[ID#18-0299](#) Minutes - February 12, 2018

A motion was made by Perry, seconded by Manion, to approve the Minutes for February 12, 2018. The motion carried by the following vote:

Aye: 5 - Perry, Manion, Johnson, Rodriguez and Wells

4. Licenses

[ID#18-0273](#) INVITED Bartender Applications- February 26, 2018

David Pizana-Martinez was unable to appear tonight; this will be on the next agenda. No action taken.

[ID#18-0274](#) Bartender Applications- February 26, 2018

A motion was made by Chairperson Johnson, seconded by Perry, to approve the bartender applications. The motion carried by the following vote:

Aye: 5 - Perry, Manion, Johnson, Rodriguez and Wells

[ID#18-0276](#) Other Applications - February 26, 2018

The beer/liquor application for B.P. is on hold at the applicant's request.

A motion was made by Chairperson Johnson, seconded by Perry, to approve the Other Applications. The motion carried by the following vote:

Aye: 5 - Perry, Manion, Johnson, Rodriguez and Wells

5. Review & Act On

[ID#18-0192](#)

Consider amending the existing language in ordinance Chapter 29.10 "Basis for Sewer Service Charges" (see attached referral)

This was referred by Ald. Cummings. She brought this forward as a resident brought their concerns to her; they initially wanted to work with their alderman. She stated transparency and consistency is of the utmost importance in local government. On Aug. 18, 2016 the Water Utility Commission took up this item with Granicus ID#16-1321; there was a quorum of 4 present and the vote was 3 in favor with 1 abstention. This matter then went to the Ordinance and License Committee with a new ID# of 16-1717 and later to Council with that same ID. The resident that was monitoring this issue under ID# 16-1321 was unaware it had progressed to O&L and the Council.

Ron Kading 3921 Oxbow spoke, he was on vacation when this item was on the O&L and Council agendas. He was unaware of the amendment until he received a letter from the Water Utility. He contacted Ald. Perry with his concerns. Committee members each have a copy of his correspondence with other members of his neighborhood. Kading is proposing that current meter holders be grandfathered until their property is sold. He is asking that this be reconsidered; he went to Ald. Cummings because his alderman didn't want to bring it forward.

Discussion regarding the validity of the Water Utility vote took place; Kading questioned if it was valid if less than the majority of the total members of the commission voted in favor of the amendment; he is suggesting that this item would have required 4 yes votes in order to advance.

Dan Duchniak, Water Utility Manager, believes it was a valid vote; he interprets the rule as the majority of the members present. Duchniak questions Kading representing 1000 people; the WU received 18 calls after 3,000 letters were sent to meter credit owners informing them of the change. Duchniak said only about 800 meters are active. He said on Aug 18, 2016 the Water Utility acted and recommended that the ordinance amendment be adopted - not simply because of the water conservation; but also because they have 20,000 total customers with 800 taking advantage of this program, so the financial component to this is that 20,000 were subsidizing the benefit for the 800 taking advantage of it.

In Nov. 2016 the Ordinance & License Committee took this up and they recommended approval to the Council. Following Council approval, Perry recommended that all credit meter customers receive a letter letting them know the program would be phased out. The Water Utility received very few complaints; most through a blog that was pointed out to them. They allow a one time pool filling or lawn planting credit for residents. He said Perry brought the concerns of residents to the Water Utility.

Duchniak said the PSC brought up the potential of an irrigation rate that customers could take advantage of and later in 2016 the PSC came out with irrigation rates. There is a substantial cost associated with the manpower required for the credit meter program. The credit meters were read by customers and mailed in and then calculated by hand at the Water Utility. The current program has a flat rate of \$27 per quarter for the meter; the cost for water is \$5.70/1000 gallons, which is lower than the water rate plus the sewer rate; this is still a deal, but not as good as the credit meter was because it's not being subsidized by the other 20,000 customers. Duchniak said he brought this referral to the attention of the Water Utility Commission and they are not interested in revisiting this. The PSC has implemented these rates; if we were to change this we would have to go back to the PSC to review our rates. Customers have already implemented this program; he doesn't know how this could even be changed.

Ald. Rodriguez asked why the ID# changed for this item; Duchniak does not know the answer to this. He said the Water Utility listened to their concerns when they made the change. Rodriguez would like to know the basis for the change; even though the reason for the rate change may be valid. Rodriguez asked about the majority vote of the Water Utility Commission. Mayor Reilly said whatever came from the commission was a recommendation; the council voted 12-2 with 1 person absent, so the Council adopting the ordinance was correct. He believes the recommendation would still be valid; but he would have to defer to the City Attorney on the quorum question; but you don't go back on something that the Council decided based on a recommendation from the Commission.

Johnson asked Duchniak if the irrigation rate required different plumbing; Dan said that it did and a permit could be applied for and then residents can convert.

Steve Edlund said this is a sewer issue, not a water issue. He said the Water Utility had the PSC approve a 3 tier rate system; he said people that have a credit meter for sewer will pay a 4th rate; he questions this even going before the PSC because this is a sewer rate issue and not a water issue; he proposes the City switch out the meters so it can be automated. He said the Water Utility can't get involved in City sewer rates. Kading said single family residents are being discriminated; others can still use the program.

Cummings defended Kading having 1000 supporters ; she asked if all businesses were treated like the residents? Dan said the people that use it are all treated the same. Dan said the residential irrigation rates are the same as the commercial. Cummings felt Kading had a legitimate concern; the ID numbers changing; the process being delayed - the residents thought their alderman would be bringing something forward, but he didn't. Cummings said 3 people on the Water Utility moved this forward and it affected a great number of people; the process was flawed. She doesn't believe this was a seamless effort. She believes this should have been brought back earlier; the residents were told to wait and something would happen. She would not have approved this item if she had known what she knows now. She would like an opinion from the City Attorney on the quorum issue.

Rodriguez asked if the businesses will have to use the new irrigation system; Dan confirmed that they are the same as the residential; he is not sure about the sewer credit portion - he would have to look into that.

Ald. Pieper is chair of the Finance Committee, it is a 5 member committee; he said he has a quorum with 3 members - he said an abstention is not a vote; the majority vote of those 3 members present would pass an item. He believes the Water Utility acted appropriately, speaking as a committee chair. Pieper said the mayor appoints members to the Water Utility Commission and they report to the Council. Pieper believes the steps were followed; he does empathize with residents.

Manion said in lieu of the City Attorney not here or his opinion, he is not sure how the quorum issue may relate to a commission/board. He would like to hear from the City Attorney regarding that question. Regarding the Granicus numbers changing, he hasn't heard anything to compel him in that regard to sway him that anything was done to eliminate transparency; we operated for years without Granicus; he would support putting this on hold if the rest of the committee is concerned about the potential quorum issue.

Mayor Reilly believes you need a quorum of the Water Utility Commission and you need a

majority of the Commission to make a recommendation; this was a recommendation to the Council. He said trying to walk this back would create many, many problems for many, many more people; anyone who had a credit meter put in since 2010 gets to keep that meter for 7 years; this is a very inefficient procedure for the Water Utility and those that have it are getting a tremendous benefit; he asked the O&L Committee not to change this ordinance, he said if it were changed the Water Utility would have to go back to the PSC and many more people would then ask for changes.

Robert Baudo, 2315 River Hill Ct. said this is the crux of the problem - the Water Utility doesn't want to go back to the PSC because they don't want to look bad.

Johnson said the Water Utility made a recommendation; it came to O&L – the process was intact - people were here to talk about it and it went to Council; he doesn't believe anything was done in secret; this is one of the things, the conservation end of it, that strengthened our application for the water.

Cummings said it is truly sad when a process happens such as this and citizens have been told for over a year that something would happen; at least they are heard by the Committee tonight; she thinks there is a gap when Granicus numbers change - that needs to be corrected; a decision was made by 3 members of a 7 member committee; she believes it would be difficult to go back to the PSC but because something is difficult does not mean that it shouldn't be done. The residents waited - at some time they thought it would be addressed - they trusted their representative and they were failed. At least the residents have been politely listened to. She said it wasn't easy for her to bring this forward, but she did it anyway.

Rodriguez agrees that there was a lot of time during which this was dealt with; she will not support this referral at this time. Rodriguez did comment that Granicus numbers should be kept consistent; she would like clarification on the quorum issue.

A motion was made by Chairperson Johnson, seconded by Wells, to deny taking action on the referral regarding sec. 29.10 of the Municipal Code. The motion carried by the following vote:

Aye: 5 - Perry, Manion, Johnson, Rodriguez and Wells

6. Communications

Ald. Johnson said the City Attorney's office is working on some ordinance revisions to bring to committee in the next month; they include housekeeping items.

The Police Department had no comments.

7. Adjournment

Adjourned at 7:05 pm

Ald. Steve Johnson, Chairman

"A majority of the Council members may be in attendance"

NOTICE: Any person who has a qualifying disability under the Americans with Disabilities Act that requires that the meeting be accessible or that materials at the meeting be in an accessible format, please contact Fred Abadi 48 hours prior to the meeting at 524-3600, Fax 524-3898, or the Wisconsin Telecommunications Relay System so that arrangements may be made to accommodate the request.