



City of Waukesha

City Hall,
201 Delafield Street
Waukesha, WI 53188

Meeting Minutes - Final

Ordinance & License Committee

Monday, September 23, 2019

6:00 PM

Council Chambers, City Hall
Use upper level doors off Buena Vista Ave.

1. Call to Order

Ald. Lemke departed the meeting at 7:03 pm.

Present 5 - Johnson, Manion, D. Lemke, Rodriguez, and R. Lemke

2. Public Comment

Robert Proctor, attorney for the WI Builders Association, spoke regarding the proposed amendment to the code (sec. 16.075). He said this was short notice as they just got the agenda Friday. He appreciates the effort by staff that has been made to try to address some of his earlier feedback to the City. The proposed ordinance creates forfeitures for those not in compliance - he feels the \$100 fine is significant. He believes that homeowners should be given more time to put in their landscaping as long as they are maintaining erosion control measures. He said our landscaping ordinance gives homeowners a year to get landscaping completed. He said often driveway and landscaping installation are commonly contracted out by the homeowner, not the builder. He agrees with notice provision; if the homeowner is responsible for landscaping, they are responsible for forfeiture. If the builder is responsible by contract for the landscaping, he feels it is ok to hold them responsible for the completion. He said if a builder is fired, there needs to be a provision that they are no longer responsible, as they cannot get on the site to take care of it. His concerns made tonight were sent today to the City Attorney.

Nicole Krafcheck spoke regarding proposed sec. 16.075. She and her husband are building new home with Kaerek Builders in the Fox Lake Village subdivision. They just found out in order to get occupancy they need landscaping and driveway done - the proposed ordinance as it reads today puts unnecessary burden on them and she may need to find alternate housing. She said there are 3 people on her culdesac that have obtained occupancy without driveway or landscaping completion. She would like clarification of the ordinance.

Robert Sharnot spoke regarding proposed sec. 16.075. He is also building a home with Kaerek in the Fox Lake Village subdivision, set to move in the end of October. His landscaper recommends planting dormant seed at this time of year; he would like to see an amendment to the ordinance. It is cost prohibitive to be installing landscaping and a driveway at this point.

Amy Lowe is also building a home in Fox Lake Village and her home is near completion. She was made aware of the ordinance proposal last week; she was planning on spending money for this next year, not this year. She doesn't want to spend money next year to repair work done now at this time of year. She called lawn services last week and no one can get this done for her now, they are booked until spring. She recommends amending to the proposed ordinance.

Dave Rodrigues, David & Goliath Builders spoke. He said some of the details are missing in this. He has a problem with the May 31 deadline, he feels it will be difficult to make. He would like to see the timeframe changed on the requirements; he would like to see some different structures put in place for this; he said he would welcome getting back together with the Plan Commission to iron out some of the details before it goes to ordinance.

3. Approval of Minutes

[ID#19-1268](#) Minutes - September 9, 2019

Attachments: [O&L Minutes 9-9-19.pdf](#)

Approved by consent

4. Licenses

[ID#19-1313](#) Bartenders - September 23, 2019

Attachments: [Bartenders 2019.09.23](#)

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

Aye: 5 - Johnson, Manion, D. Lemke, Rodriguez and R. Lemke

[ID#19-1314](#) INVITED Other Licenses - September 23, 2019

Attachments: [Other Licenses 2019.09.23](#)

A motion was made by Johnson, seconded by Manion, to approve the Special Class B license for the Chamber of Commerce Wauk-Tober wine walk event on October 12th. The motion carried by the following vote:

Aye: 5 - Johnson, Manion, D. Lemke, Rodriguez and R. Lemke

[ID#19-1315](#) Other Licenses

Attachments: [Other Licenses 2019.09.23](#)

None

5. Review & Act On

[ID#19-1274](#) Review and act on an ordinance to amend provisions of the City Administration Code of the Municipal Code

Attachments: [O&L #19-1274 Change to Municipal Code 2.07](#)
[2.07 Fire and Police Administration Final](#)

Chief Howard said this is a request to consider changes to sec. 2.07, which addresses the Administrative Code for both the Police and Fire Departments. As part of their collective bargaining process, some language that has become outdated became a topic

of discussion. The departments worked with the City Attorney's office to prepare the proposed amendment.

Atty Running said this is more of a housekeeping matter than policy change.

Ald. Rodriguez pointed out section (6)c. Outside Employment and asked why Fire was removed from that section. Chief Howard said he did not see a conflict with his employees working in those establishments; he said few people have had interest, but he didn't feel that it needed to be restricted to security. Rodriguez said she does see a conflict in that section with city employees that are required to enforce on premises where they are also employed as bouncers. She would like to see if employees do work in those types of establishments, that they be restricted to locations outside of the City of Waukesha.

Deputy Chief Angle asked if she was concerned with the role of a bouncer checking ID or if she was concerned about their ability to administer security; Rodriguez said she was referring to a conflict of interest if one were employed by the Police Dept. and also employed as a bouncer and if there was an unruly guest or someone overserving, that they would have to enforce on that premise and she sees that as a potential conflict of interest. She said this is similar to if she worked at an establishment, she would refrain from making decisions related to that establishment. Angle said he doesn't see an issue with this; it has been on the books for years. He asked if this would prohibit an officer off duty from waiting on tables. Rodriguez said perhaps, and that she was held to the same standard, she can't vote on licenses where she is employed at.

Angle said he disagrees as it has been on the books for quite some time and there has never been a conflict; he spoke with his command team and it didn't come up.

Atty Running commented that there is a significant difference in voting as a council member and creating law, policy, binding contracts, and a city employee while not working for the city and is just working a second job - the origin language amended in 1998 prohibited them from engaging in service of food and drink and limited positions to guard duty or security and in doing so they wouldn't be enforcing any laws of the city or representing the city in any way. He said there is a significant difference in creating policy and working. He said whether or not there is thought to be a good policy decision for restricting it, that would be up for discussion, but he would not make a decision based on the distinction on what you are prohibited from doing as a council member.

Rodriguez doesn't want the perception of members of departments working at a licensed premise - and that premise not as enforced as other establishments. She said there have been instances where officers on duty pull over other officers and those from other departments and have been known to get preferential treatment and she doesn't want that in this case either.

Ald. R. Lemke said he would love to see an officer bouncing in every single establishment in the city - you know the job would be done right. Rodriguez said she wouldn't go that far - there are instances with our department that have let people go with a DUI warning and that's not standard protocol and that's not how the rules work.

Angle said Rodriguez is comparing apples to oranges, these are different things and suddenly starting to accuse somebody's integrity based on a different position when we are talking about an ordinance that has been in place for quite some time. He hasn't seen a conflict with this particular language in his 25 years here.

Ald. Rodriguez made a motion, seconded by Ald. Johnson to approve proposed

amendment with the modification to not allow a police officer to be employed by a licensed premise within the City of Waukesha. The motion failed by the following vote:

Aye: 1 - Rodriguez

Nay: 4 - Johnson, Manion, D. Lemke and R. Lemke

A motion was made by Johnson, seconded by Manion, to approve the amendments to sec. 2.07 as proposed. The motion carried by the following vote:

Aye: 4 - Johnson, Manion, D. Lemke and R. Lemke

Nay: 1 - Rodriguez

[ID#19-1316](#) Review proposed new Municipal Code sec. 16.075 regarding erosion control, driveway installation, and final grading for one- and two-family developments; permit; and provision for a winter delay; and make recommendation to Common Council

Attachments: [Council Agenda Cover Sheet- Chapter 16 changes Memo.pdf](#)
[16.075 Site Stabilization Driveway Grading.pdf](#)

*Jennifer Andrews, Community Development Director presented information on the proposed amendments.
Attorney Running went through the proposed amendments to sec. 2.07.
Attorney Running said department discretion will be exercised with issuance of citations, as is the case with any citations. There is also a process after citations are issued where people can appear before our municipal judge if they wish to contest it.
In response to Manion's question, Andrews explained that there will now be 2 permit fees and they will be kept in line with the current building permit fee.
Ald. Pieper asked for the Committee's support in this proposed ordinance.*

A motion was made by Johnson, seconded by Rodriguez, to approve the proposed sec 16.075 with the 2nd and 3rd readings waived at Council. The motion carried by the following vote:

Aye: 4 - Johnson, Manion, D. Lemke and Rodriguez

Absent: 1 - R. Lemke

6. Communications

None

7. Adjournment

Meeting adjourned at 7:22 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 or by the Wisconsin Telecommunications Relay System so that arrangements may be made to accommodate the request.