

September 9, 2024 Alcohol Ordinance Review and Rewrite Committee

Alcohol Ordinance Review and Rewrite Committee – September 9, 2024 AT 2:00 P.M.

Members Present:

Kevin Black, Jon Hanson, Chairman Paul Pitner, Brett Tinnes

Members Absent:

Mayor Tom Ross

Also Present:

Mikayla McWilliams (City Clerk), Harold Stewart (City Manager), Chief John Klug (Police Chief), Stefanie Stalheim (City Attorney), and Brian Billingsley (Community & Economic Development Director)

The meeting was called to order by Chairman Paul Pitner at 2:00 pm.

APPROVAL OF MINUTES

Jon Hanson moved the committee approve the minutes of the June 10, 2024 Alcohol Ordinance Review and Rewrite Committee meeting.

Motion seconded by Brett Tinnes and carried the following vote: ayes: Black, Hanson, Pitner, Tinnes; nays: none.

NEW BUSINESS

3.1 DISCUSSION ON LICENSE CAP REMOVAL

City Attorney, Stefanie Stalheim, briefly summarized the memo from Katie Schmidt, attorney at Ohnstad Twichell. Katie stated this:

“Although courts have yet to consider the removal of a limitation on the number of liquor licenses, they have considered the removal of similar caps, and based on those cases, it is likely the City may legally remove the limitation.”

Katie’s memo references cases where the courts have considered the removal of similar caps. Alderman Pitner discussed some of the previous thoughts the committee has had on preserving the rights to the license holders to include:

- Initial license fee \$125,000 and overtime lowering the amount down to the decided final amount.
- Grandfathered licenses get a one-time transfer.
- Right of first notice – the City of Minot would provide notice to all license holders before the sale of a new license. This would give the chance for a private sale/transfer to happen with the new license holder and grandfathered license.
- Renewal fees/application fees – waived for a period of time.
- Determination of the value on the license.

3.2 PUBLIC INPUT

- Nikki Meyer, attorney from Olson & Burns, mentioned she represents Marketplace Liquors. She has concerns after her review of the memo and does not agree with it because of the property interest. She mentioned removal of the cap could lead to potential litigation.
- Terry Davidson discussed the value of the licenses if more are sold.

- Jon Hanson questioned the memo on page 2, where it talks about the quota system. He does not believe the license holder has a hold on the market.
- Diane Jensen asked the committee about the information on the last 4 bid winners and the initial fees they paid.
- Tony Mueller talked about some of the background on how the committee began from the discussion of economic development, after the 2021 census auction there was discussion about forming a committee, and at a council retreat the discussion continued. He stated the license holders are not scared of competition, because the pie is the pie.
- Aaron Vibeto asked if the memo addresses the minimum bid amount for the four licenses last sold. He also questioned the idea of an initial fee and the supper club vs liquor license.
- Jon Schmidt does not support the cap to be removed. He believes it was put in place for a reason/for infrastructure.
- Terry Davidson inquired about where the idea to remove the cap came from. The committee responded about how it is a discussion at this level and a possible recommended change to the ordinance in the form of a recommendation to City Council. He then asked to have an explanation of the purpose to remove the cap. The committee responded with the ideas of pro-growth and how it invites new business and it leads to a free market where government should not regulate what business can open in the city.
- Nikki Meyer, attorney from Olson & Burns, asked if the author of the memo could do a follow up on the bid process and minimum amount set for the bid responses.

3.3 COMMITTEE DIRECTION/RECOMMENDATIONS

Kevin Black mentioned how he would like to see a pro-growth environment.

Kevin Black moved the committee create a recommendation to City Council to include:

- Removal of the Retail Liquor, Beer and Wine License cap.
- Honor the current license holders by:
 - Set a minimum amount initial fee around \$100,000-\$125,000.
 - Include first right of refusal language for all license holders.
 - A one-time transfer option for all grandfathered licenses.
- Newly purchased licenses would be non-transferrable.
- On sale vs off sale license option.
- ~~Decreasing the initial fee over the years until the initial fee is within the market range.~~

The motion was seconded by Brett Tinnes and the committee opened the floor for discussion.

Mayor Ross joined the meeting at 2:47 pm.

Jon Hanson was not in favor of that idea until all grandfathered licenses were sold. Kevin Black struck the idea out of the motion and Brett Tinnes agreed as the second. Brett Tinnes believes the committee also needs to look at the other license structures. The committee/staff will need to look into the portion of the recommendation which includes the one-time transfer to discuss possible issues which may arise.

The committee called to roll on the motion on the table from Kevin Black and seconded by Brett Tinnes. It carried the following vote: ayes: Black, Pitner, Ross, Tinnes; nays: Hanson.

NEXT SCHEDULED MEETING

The committee decided the next meeting would be October 14th, 2024 at 1:00 pm.

There being no further business, Kevin Black moved the committee meeting be adjourned. Motion seconded by Jon Hanson and carried unanimously. Meeting adjourned at 3:01 pm.