

November 12, 2024 Alcohol Ordinance Review and Rewrite Committee

Alcohol Ordinance Review and Rewrite Committee – November 24, 2024 AT 10:00 A.M.

Members Present:

Jon Hanson, Chairman Paul Pitner, Mayor Tom Ross, Brett Tinnes

Members Absent:

Kevin Black

Also Present:

Mikayla McWilliams (City Clerk), Harold Stewart (City Manager), Captain Dale Plessas (Acting Police Chief), Stefanie Stalheim (City Attorney), and Brian Billingsley (Community & Economic Development Director)

The meeting was called to order by Chairman Paul Pitner at 10:00 am.

APPROVAL OF MINUTES

Mayor Tom Ross moved the committee approve the minutes of the September 9, 2024 Alcohol Ordinance Review and Rewrite Committee meeting.

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

NEW BUSINESS

DISCUSSION ON LICENSE CAP REMOVAL, LICENSE TYPES, AND FEE STRUCTURES

Katie Schmidt, attorney at Ohnstad Twichell, was present via Teams at the meeting to answer the question on if the minimum bid amount was considered in the memo she has previously written. Katie stated the City of Minot has discretion on fees. She also mentioned by putting a minimum bid requirement on the RFP does not give it a value of the \$100,000 due to it being done three years ago and there have been economic changes.

Chairman Pitner moved the committee approve a 2nd option for the City Council to include:

1. Remove the Retail Liquor License cap;
2. Raise the renewal fee for Retail Liquor licenses to \$5,000;
3. New Retail Liquor license fee (for new licenses issued from the City) will be \$5,000;
4. Issue each of the current license holders a check for \$25,000 paid from the City's Economic Development Fund;
 - a. Prior to receiving the check, the license holder would execute a release of all claims against the City.
 - b. Council would specify a date certain by which the license holders would need to execute their release of all claims – if they do not exercise the release, then the Council could move forward with amending the ordinance to remove the cap, and would not compensate the license holder.
5. Waive renewal fees for current Retail Liquor License holders for twenty (20) years, indexed to any increase in the renewal fee, so if the Council within the 20-year period raises fees, the waiver will increase in value to the license holders;
6. Current Retail Liquor License holders will maintain transferability with a renewal fee waiver credit.

The motion was seconded by Mayor Ross and carried the following vote: ayes: Pitner, Ross, Tinnes; nays: Hanson.

Discussion on the motion included Chairman Pitner stating this would remove the barrier of entrance into this entry by not asking for a higher initial license fee. Committee Member Black's motion included a \$100,000-\$125,000 initial licensing fee. This motion considers the current license holders to have a value of \$125,000 with the payment of the \$25,000 and the waiver of fees for a 20-year period at \$5,000/year.

Committee Member Hanson mentioned how this is a heavily regulated business and that is why a high barrier of entry might need to be in place. There are owners near retirement, which might not get to utilize the full 20-year grace period. Mayor Ross mentioned this is why the transferability of this proposal with the waiver credit might be enticing. Chairman Pitner responded how this proposal is pro-business, growth, and development. He also stated this proposal does not perpetuate the discussion further down the road on the value of the licenses, how it removes the cap that has possible value, and is an amicable resolution to the situation. It was clarified that this proposal will be presented as a 2nd option to the committee at final review of the ordinance changes and possibly to the City Council.

The committee then moved on to license types. The City Clerk discussed the options of combining such licenses as the Private Golf Course license with the Souris Valley Golf Course license, along with the idea of combining some of the other licenses to simplify the list.

Mayor Ross moved the committee direct staff to bring back a consolidated list of license types and include a distillery license option. The motion was seconded by Brett Tinnes and carried the following vote: ayes: Pitner, Ross, Tinnes; nays: Hanson.

Next, the committee was to look at licensing fees. The current structure of fees is to only have an annual fee, but there might be a benefit in adding applications fees, comparing fee types and fees to other cities, transfer fees, etc. This portion of the discussion was tabled until the committee was presented with a consolidated list of license types.

NEW BUSINESS

4.1 CHAPTER FIVE ORDINANCE ON ALCOHOLIC BEVERAGES – STAFF RECOMMENDATIONS

Stefani Stalheim, City Attorney, presented her draft of recommendations to changes to Chapter 5 on Alcoholic Beverages to the City of Minot Ordinances. She discussed changing the current layout to include more articles beginning with Article 1 General Provision, which includes more definitions. Article 2 Minors, combines any part of this particular ordinance in relation to minors. Article 3 will be Licensing Types, which is the next portion of the ordinance to be worked on.

Under new business, Committee Member Hanson moved the committee add the proposal to include:

1. Keeping the cap in place for the Retail Liquor, Beer, and Wine license.
2. Create a new off-sale only license with a minimum of \$50,000 for an initial license fee and have an annual fee of \$3,125.00.
3. The committee still work on consolidation of licensing types.

The motion was seconded by Mayor Ross and carried the following vote: ayes: Hanson; nays: Pitner, Ross, Tinnes. The motion failed.

The discussion of the motion included how the current license holders who operated as a liquor store would not be required to sell this license type and move to the off-sale only license. This could potentially not resolve the issue of the capped license, or it potentially open up 8 licenses for the Retail

Liquor, Beer, and Wine license, which would remain capped. Chairman Pitner also reiterated how it is not his intention to perpetuate this issue to another City Council.

PUBLIC INPUT

- Richard Napora (Ranger Lounge) does not believe the licenses can be held hostage because they have to have the license in use per ordinance. Stefanie Stalheim mentioned the committee and staff could look at defining the use of a license in the penalties portion of the ordinance.
- Anthony Barrette (Drop Zone) believes banks have equity and value in the license. The free market has established the amount. He would also like to see the ordinance state how no council member or family member of council can apply for a license for a set amount of time for transparency reasons. Alderman Pitner believes the recent sale transactions prove the free market value. Alderman Pitner also mentioned he has contacted bank lenders on using a license for collateral and several banks will not take a license as collateral.
- Tony Mueller (Sports on Tap) would like to see more options for on and off sale licensing. He believes there should be some sort of barrier to entry into the industry, because a low entry fee could change the make-up of the community.
- Tracy Boyd (Pour Farm) agrees how government should not be in this market but she discussed the workforce issues that already exist. She also mentioned issues with the application process for renewals. The City Clerk clarified the paperwork required for this year's renewal process is the same as the previous years, but maybe the email wording on the employee list would have been better as an owner/manager list.
- Jon Lakaduk (Saul's) would like to see the committee consider an alternative venue license type, which would contemplate premises issues that arise with his business structure. He also mentioned the values could be adjusted due to inflation.
- Melissa Wright (Arny's 2.0) spoke to the committee about how Fargo has 20 licenses issued similar to the City of Minot Retail Liquor, Beer, and Wine license. Fargo still has a cap on the license at 20, while the City of Minot has a total of 31. She also believes that removing the cap on the license could result in more issues for the Minot Police Department.
- Gabriel Liam asked if the potential off-sale license would have a cap, which it would not. He also mentioned how adding that license could potentially reduce the license value for the current license holders.
- Sabrina Debmman (Ebenezer's) would like to see more verbiage on minors in the establishment or there could be issues removing the cap and consolidating the licenses. She also agrees the Minot Police Department could have potential issues opening up the cap.
- Jessica Kleen, attorney for Olson and Burns representing Marketplace Foods, wondered if the payment to the license holders contemplated in Chairman Pitner's motion would be considered in the 2025 budget or the 2026 budget. She would like the committee to consider the license fee to be increased to \$10,000 compared to the \$5,000 in the motion and it would be a 10-year waiver of fees. She mentioned she has experience with license holders and lenders using licenses as collateral (ex. 4201 d/b/a Safari Fuels 105 v. First State Bank & Trust et al). She clarified with the committee the City Council will give final direction on all recommendations.

NEXT SCHEDULED MEETING

The committee decided the next meeting would possibly work for December 16th, but staff will work with the Chairman to verify the date and time will work.

There being no further business, Jon Hanson moved the committee meeting be adjourned. Motion seconded by Mayor Ross and carried unanimously. Meeting adjourned at 11:39 am.