

CITY OF WHITEWATER ALCOHOL LICENSING COMMITTEE MEETING

Monday, November 18, 2013 6:30 p.m.

City of Whitewater Municipal Building Community Room

312 W. Whitewater St., Whitewater, Wisconsin

(2013-14 Alcohol Licensing Committee Members: Singer, Abbott, Bregant)

- I. CALL TO ORDER
- II. ROLL CALL
- III. HEARING OF :

- 1. Hearing of Bryant Plank's appeal of the denial of his beverage operator's license.
- 2. Discussion and possible direction regarding extension of time for opening date, receipt of conditional use permit, and rezone approval deadline and opening date relating to Tyler Sailsbery d/b/a Casual Joe's 2, 319 James St., Whitewater, WI 53190.
- 3. Discussion and possible direction regarding a recommendation to the City Council that it grant an exemption to the Blackthorne Scribe concerning the ordinance requirement that it use its "Class B" Beer and Liquor license within 60 days of granting, and also a waiver of the 90 day non-use of license cancellation option of the City Council and consideration of establishing a target opening date for the establishment.
- 4. Discussion regarding minimum "Hours of Operation" for Class "B" Beer and "Class B" Beer and Liquor licensed establishments in City, and possible direction regarding enforcement policy.

- IV. RECOMMENDATION(S) TO CITY COUNCIL
- V. ADJOURNMENT

Please contact the City Clerk's Office (473-0500, Extension 202) at least 72 hours prior to the Hearing if Special Arrangements are needed.

NOTICE OF HEARING

TO: Bryant Plank
279 N. Prairie St.
Whitewater, WI 53190

PLEASE TAKE NOTICE that the City of Whitewater Alcohol Licensing Review Committee will be conducting a hearing on the 18th day of November, 2013 at 6:30 p.m. in the Community Room of the Whitewater Municipal Building, 312 W. Whitewater St., Whitewater, Wisconsin, to consider an appeal of the denial of a beverage operator's license for Bryant Plank.

THIS IS AN OPEN MEETING, and the public is welcome to attend.

Dated this 15th day of November, 2013.

Michele R. Smith, City Clerk
312 W. Whitewater St., Whitewater, WI 53190
(262) 473-0500, Extension 202
msmith@ci.whitewater.wi.us

NOTICE OF HEARING

TO: BLACKTHORNE SCRIBE LLC
N7660 Ridge Rd.
Whitewater, WI 53190

PLEASE TAKE NOTICE that the City of Whitewater Alcohol Licensing Review Committee will be conducting a hearing on the 18th day of November, at 6:30 p.m. in the Community Room of the Whitewater Municipal Building, 312 W. Whitewater St., Whitewater, Wisconsin, to discuss a recommendation to the City Council that it grant an exemption to the Blackthorne Scribe concerning the ordinance requirement that it use its "Class B" beer and liquor license within 60 days of granting, and also a waiver of the 90 day non-use of license cancellation option of the City Council, and consideration of establishing a target opening date for the establishment.

THIS IS AN OPEN MEETING, and the public is welcome to make comments either for or against the license application.

Dated this 15th day of November, 2013.

Michele R. Smith, City Clerk
312 W. Whitewater St., Whitewater, WI 53190
(262) 473-0500, Extension 202
msmith@ci.whitewater.wi.us

NOTICE OF HEARING

TO: TYLER SAILSBERY
141 W. Whitewater St.
Whitewater, WI 53190

PLEASE TAKE NOTICE that the City of Whitewater Alcohol Licensing Review Committee will be conducting a hearing on the 18th day of November, at 6:30 p.m. in the Community Room of the Whitewater Municipal Building, 312 W. Whitewater St., Whitewater, Wisconsin, to discuss a recommendation to the City Council that it grant an extension of time for Casual 2's opening date, receipt of conditional use permit, and rezone approval. (Initial deadline set was 1/31/14 on the rezone and conditional use approvals and 3/31/14 on the opening date).

THIS IS AN OPEN MEETING, and the public is welcome to make comments either for or against the license application.

Dated this 15th day of November, 2013.

Michele R. Smith, City Clerk
312 W. Whitewater St., Whitewater, WI 53190
(262) 473-0500, Extension 202
msmith@ci.whitewater.wi.us

City of Whitewater Alcohol Licensing Committee,

I am writing you today to appeal the decision made by Lisa Otterbacher, Chief of Police, to deny my Beverage Operator's License application on October 11, 2014. I fully understand the reasons for denial and take complete responsibility for the mistakes I have made in the past but feel those decisions should not prevent me from being able to support myself while attending UW-Whitewater. The most recent violation was nearly two years ago and both legal and academic records will show I have been a model citizen since. I am a five year veteran of the Wisconsin Army National Guard where I learned a significant amount about what it means to be a responsible leader and citizen as well as having been the Chair of an academic organization and leader of multiple election campaigns in 2012 where I received exemplary remarks from the organization I worked for. I am currently employed at Coyote Grill in Whitewater and hope to continue working there while also beginning to bartend at night as a way to support myself leading up to and possibly after graduation. In addition, if you were to speak with the City of Whitewater Police Officer who issued the most recent ticket on my record, he would verify I was actually cooperative during the encounter and was only issued the citation because his superior officer ordered him to do so. Of course that does not excuse my behavior and decision at that time, but I hope it will show you I do have respect for authority and for the law. I look forward to the opportunity to appear before the Alcohol Licensing Committee to further discuss the matter.

Sincerely,



Bryant Plank
279 N Prairie St.
Whitewater, WI 53190
(920)728-2345

MEMORANDUM

TO: City Clerk Michele Smith
City of Whitewater Common Council Members

FROM: Lisa K. Otterbacher, Chief of Police

SUBJECT: Disapproval of Beverage Operator's License Application for **Bryant Scott Plank**

DATE: 10/10/13

On September 30, 2013, Bryant Scott Plank, 279 N Prairie St, Whitewater, applied for a beverage operator's license to work, without supervision, at Coyote Grill, 132 W Center St, Whitewater. At that time the usual background investigation was conducted.

Effective October 10, 2013, the following information is being supplied on an official basis concerning the beverage operator's license application of Bryant Scott Plank. Pertinent records of the local and state agencies have been searched as of this date with the following results: (Only that information which would bear upon this application is recorded. Traffic violations are excluded.)

WHITEWATER POLICE DEPARTMENT

02/04/2012 Failure to Obey Officer – Guilty, Fined
02/04/2012 Underage Alcohol Consumption – Guilty, Fined
06/29/2011 Underage Alcohol Consumption – Guilty, Fined
11/18/2010 Underage Alcohol Consumption – Guilty, Fined

An operator at an alcohol establishment has an obligation to reasonably deal with various rules and regulations regarding alcohol. These arrests show that Bryant Scott Plank has displayed an inability to abide by these laws. We therefore do not believe that he has the appropriate ability to handle the responsibility that the license requires.

Qualifications for license in accordance with Wisconsin State Statute 125.04(5)(a) as affected by Chapter 79 and 391, Laws of '81 effective 1/1/82 which states in part: "Natural persons. Licenses and permits related to alcohol beverages, issued to natural persons under this chapter, may be issued only to persons who: 1. Do not have an arrest or conviction record, subject to s. 111.321, 111.322, and 111.335: . . ." Statute 111.335---Arrest or conviction record: Exceptions and special cases---reads in part: "(c) Notwithstanding s. 111.322 it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensing any individual who: 1. Has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity; ..."

Based on the above information, I recommend that this applicant be denied his beverage operator's license application. These offenses he has been arrested for DO substantially relate to the circumstances of the particular job or licensed activity as required under Chapter 125.

LKO/cas

2013-2014 Alcohol License Renewal Request

BUSINESS	AGENT	TYPE LICENSE APPLIED FOR	COMMITTED MINIMUM HOURS OPEN	Hours Open per Year
Beer Here	Cordio Inc. John Cordio Michelle Cordio	Class B Beer & Liq.	All days - 8:00 a.m. - 2:30- a.m.	6752.5
Brass Rail	R & B Brass Rail Corp. David Bergman Dale Pellmann	Class B Beer & Liq.	Mon - Sun 11:00 a.m. to bar time	5527
College Pub	College Pub, LLC Kirk Rasmussen, Agt Julie Rasmussen	Class B Beer & Liq.	M - Sat. 9:00 p.m. - bar time	1617
Coyote Grill	Coyote Grill, L.L.C. Dennis Salverson	Class B Beer & Liq.	Open dally - 6:00 a.m. to 2:00 a.m.	7300
Cozumel	Lopez, Ramon Jose Jesus Lopez, Agt.	Class B Beer & Liq.	Mon. - Sat. - 11:00 a.m. - 10:00 p.m. Sun. - 11:00 a.m. - 9:00 p.m.	3963
Denny K's	Dennis Knopp	Class B Beer & Liq.	Mon. - Sun 10:00 a.m. - bar time (2:00 - 2:30 a.m.)	5892
Fat Jack's Roadhouse	WMED, LLC Mark T. Wokasch	Class B Beer & Liq.	Sun, - Thurs. 11:00 a.m. - 2:00 p.m. Fri. - Sat. 11:00 a.m. - 2:30 a.m.	4747
Gus' Pizza Palace	Gus Pizza Palace LLC George Christon	Class B Beer	Mon - Sat. 4:30 p.m. - 12:00 a.m. Sun - 4:30 p.m. - 11:00 p.m.	2347.5
Hawk Bowl	DLK Enterprises, Inc. Lauren Kachel Michael Kachel	Class B Beer & Liq.	Tues - Fri. - 5:00 p.m. - midnight Sat. - noon - midnight	2451
Hawks Nest Bar & Grill	Hale T. Evans Clint D. Evans Matt B. Golden	Class B Beer & Liq.	Mon. - Thur. 3:00 p.m. - 2:00 a.m. Fri. - Sat. 3:00 p.m. - 2:30 a.m. 10:00 a.m. - 2:30 a.m. Homecoming 6:00 a.m. - 2:00 a.m. St. Patrick's Day Sunday 12:00 p.m. - 9:00 p.m.	3510
Jessica's Restaurant	Ilmi Shabani, Agt.	Class B Beer & Liq.	Monday - Saturday 6:00 a.m. - 9:00 p.m. Sunday 7:00 a.m. - 3:00 p.m.	5111
Karina's Mexican Restaurant	Clara F. Rocha	Class B Beer & Liq.	7 Days a week - 11:00 a.m. - 11:00 p.m.	4380
La Preferida	Luis Islas Martinez	Class B Beer	Mon. - Sat. 9:00 a.m - 8:00 p.m. Sun. 9:00 a.m. - 5:00 p.m.	3859
Ly Brewery	Robert Sweet	Class B Beer & Liquor	Tues - Sat. 8:00 p.m. - close	1586
Mad Boar Pub	Mad Boar Pub LLC Nicolas A. Marietta	Class B Beer & Liq.	Summer - 8:00 p.m. - 2:00 a.m. School Year 4:00 p.m - 2:00 a.m. Everyday except major holidays	3290
Mitchell's/Pumper	GAC Enterprises LLC Greg Condos	Class B Beer & Liq.	Mitchells - 7 days a week 9:00 p.m. - close	1825
Mitchell's/Pumper	GAC Enterprises LLC Greg Condos	Class B Beer & Liq.	Pumping Station - Tues. - Sat. 10:00 p.m. - close	
Pizza Hut	P H Green Bay, LLC Agent - Andy Pizur	Class B Beer	Sun - Wed 11:00 a.m. - 1:00 a.m. Thur. - - Sat 11:00 a.m. - 3:00 a.m.	5422
Randy's Supper Club	Fun Hunters, L.L.C. Kristina Sobolewski, Agt. Randolph Cruse	Class B Beer & Liq.	Monday - as necessary Tues - Sun. - 8:00 a.m. - 2:00 a.m.	5634
Ricks Eastside Pub and Grill	Richard Hartmann	Class B Beer & Liq.	7 days - 11:00 a.m. - close (vary)	5527
Rocky Rococo's	TRH Whitewater Restaurant Inc. Kenneth Dahnert	Class B Beer	Sun - Thur - 11:00 a.m. - 10:00 p.m. Fri - Sat 11:00 a.m. - 10:30 p.m.	4067
San Jose Mexican Store	Jose J. Barajas	Class B Beer	Mon. - Sat. 9:00 a.m. to 9:00 p.m. Sun. - 9:00 a.m. - 6:00 p.m.	4224

2013-2014 Alcohol License Renewal Request

BUSINESS	AGENT	TYPE LICENSE APPLIED FOR	COMMITTED MINIMUM HOURS OPEN	Hours Open per Year
Split Decision	DLK Enterprises, Inc. Laurence Kachel Michael Kachel	Class B Beer & Liq.	Wed. - 7:00 p.m. - 1:00 a.m. Fri. 7:00 p.m. - midnight Sat. 7:00 p.m. - 1:00 a.m. Closed Week of Labor Day to May 15th	936
Station 1	Fire Station 1 LLC, Patrick Wellnitz Diane L. Wellnitz	Class B Beer & Liq.	Sun - 10:00 a.m. - 2:00 p.m. Mon - Thur 3:00 p.m. - 2:00 a.m. Fri - noon - 2:30 a.m. Sat. 10 a.m. - 2:30 a.m.	4743
The Black Sheep	Fine Food Culture LLC Tyler Sallsbery	Class B Beer & Liq.	Mon - Sat 11:00 a.m. - 11:00 p.m.	3756
The Sweet Spot	Lacey Reichwald	Class A Beer & Class C Wine	6:00 a.m. - 7:00 p.m.	4745
Taco Fresco	Jesus Cortez	Class B Beer	Mon - Sat 10:00 am - 9:00 p.m.	3443
Tokyo Restaurant	En Zheng	Class B Beer & Liquor	Mon. - Sat. 11:00 a.m. - 10:00 p.m. Sun. - 12:00 p.m. - 10:00 p.m.	3963
Wanda's Lakefront	Wanda K. Milnamow	Class B Beer & Liquor	(Banquets, Partys, Weddings, Funerals) Sun. - Sat. 6:00 a.m. - 2:00 a.m. Restaurant/bar Fri. - Sat. 4:00 p.m. - 2:30 a.m. Sun. - Thurs. 4:00 p.m. - 2:00 a.m.	1560
Whitewater Street Restaurant/ Lakefront Pub	Christ Christon	Class B Beer & Liquor	Mon - Sun. 6:00 a.m. - 2:30 a.m.	6312

shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail class "B" license.

(2) During the period of any non-alcohol event, a notice card prescribed by the police department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the department to a requesting licensee at no cost.

(3) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours as specified in Section 5.20.090, Hours.

(4) During the period of any nonalcohol event, all alcohol, all beverages not stored in a locked portion of the licensed premises, shall be stored in a secure place out of sight and physical reach of any patron present, and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

(5) No underage person under the age of eighteen shall be allowed on the premises at any time unless accompanied by a parent or legal guardian.

(6) A licensed premises may only schedule one nonalcohol event per week. Said event may not last more than twenty-four hours. (Ord. 1275 §1, 1994; Ord. 1274 §1, 1994; Ord. 1088 §1, 1986).

5.20.032 Cancellation.

A. Findings of fact and purpose. The common council finds that the nonuse of alcohol licenses that are available in limited numbers is generally contrary to the public's best interest. This is because alcohol licenses, if used responsibly, can attract and retain businesses such as restaurants and hotels, and thereby create jobs and provide non-alcohol-related entertainment and service opportunities for the general public. Furthermore, the nonuse of alcohol licenses, limited by quotas, is unfair to persons or busi-

nesses that seek to earn income through the use of a license, but are unable to receive a license because of the limited number available to be issued by the city.

B. Cancellation for nonuse. Any "Class A" or "Class B" license granted under this chapter may be cancelled by the common council 1) if it is not used within sixty days after its initial issuance (this sixty-day nonuse provision applies only to initial license issuance and does not apply to license renewals); 2) if its usage is discontinued for a period of ninety consecutive days or more; 3) if the holder does not use the license for at least fifty days during the one-year period of the license term; 4) if the licensee does not open and use its license on the minimum days and hours it submits under subsection C three or more times during a license term.

For the purpose of this section, a day within the yearly license term shall be defined as a day during which the license grantee or holder is open for business and therein uses the license for a minimum period of six hours. Said hours shall be consecutive on the particular day. In order to be considered open, a "Class B" licensed premises must have a licensed bartender on duty and available and present on the premises to dispense alcohol. If there are two licensed premises in any one building, each premises must have a separate bartender available, present, and on duty during the time the premises is required to be open.

C. Reporting requirements: Each "Class A" or "Class B" licensed premises shall complete a form as part of the initial and annual renewal application process that lists the specific days of the week and specific hours it represents will be open which satisfies the minimum opening and use requirements set forth above. If any licensee changes its minimum required days or hours of operation stated in the application, the licensee shall immediately report the change in writing to the municipal clerk. Licensees are not required to disclose all hours it or they expect to be open, rather only those mandatory minimum hours it will be open.

D. Exceptions: In the event the grantee or holder of a "Class A" or "Class B" license issued under this chapter demonstrates to the satisfaction of the city council that, due to undue hardship or unusual circumstances beyond the grantee's or holder's control, the grantee or holder could not meet the minimum use requirements set forth herein

within the yearly term of the license, the license grantee or holder may request that the city council grant an exception to the requirements found in subsections B and C above. Exceptions which the city council may consider in not imposing the requirements of subsections B and C are the following:

- (1) Damage to the licensed premises rendering it temporarily unfit for safe operation under the license;
- (2) Closing for reasonable periods of time to alter, repair, remodel or redecorate the premises;
- (3) Certain factors of death, illness or contractual impossibility;
- (4) Any other unusual circumstances not under the control of the license grantee or holder.

E. Investigations and inspections to determine compliance with this section may be conducted by the City of Whitewater Police Department, or any city employee or official directed by the city manager to conduct an investigation or inspection to determine compliance. If a licensee is found to be in violation of the terms of this section, future inspections shall subject the licensee to the imposition of reinspection fees under Chapter 1.29. Violations of this section shall also subject a licensee to the imposition of the penalties set forth in Section 5.20.160.

F. Prior to cancellation: Prior to the cancellation of any license, the city shall notify the licensee in writing of the city's intention to cancel the license for nonuse and provide the licensee with an opportunity for a due process hearing. Such hearing shall be conducted by the alcohol license review committee generally under the procedures set forth in Whitewater Municipal Code 5.20.025.

(Ord. 1106 §1, 1987).

(Ord. No. 1720A, § 1, 3-3-2009)

5.20.040 License--Issuance restrictions.

A. Delinquent Taxes, Assessments, Etc.

(1) Premises. No initial or renewal alcohol beverage license shall be granted for any premises for which taxes, assessments or other claims of the city are delinquent and unpaid.

(2) Persons. No initial or renewal alcohol license shall be granted to any person:

(a) Delinquent in payment of any taxes, assessments or other claims owed to the city;