

**CITY COUNCIL WORK SESSION
CITY OF WATERTOWN
December 12, 2011
7:05 P.M.**

MAYOR JEFFREY E. GRAHAM PRESIDING

PRESENT: **COUNCIL MEMBER ROXANNE M. BURNS
COUNCIL MEMBER JOSEPH M. BUTLER JR.
COUNCIL MEMBER TERESA R. MACALUSO
COUNCIL MEMBER JEFFREY M. SMITH
MAYOR GRAHAM**

ALSO PRESENT: **MARY M. CORRIVEAU, CITY MANAGER
CITY ATTORNEY ROBERT J. SLYE**

City staff present: Elliott Nelson, Chief Herman, Chief Goss, Amy Pastuf

Mayor Graham opened the work session at 7:05 P.M.

Council discussed the following topics:

Alcohol Licensing and Permitting on City Owned Facilities

Mayor Graham introduced **Anthony J. Casale**, Casale Public Affairs to review his answers to Council questions and his own recommendations.

Council Member Butler referenced the Baseball Field question #8 in the packet and asked if during the baseball season the baseball team holds the alcohol license, what happens if someone whether a not-for-profit organization or a for-profit promoter wants to hold concert at the baseball field.

Mr. Casale reminded Council that there can only be one license in place at any address at any particular period of time. He stated the not-for-profit could approach the State Liquor Authority (SLA) for permission for a one time event but there is no guarantee it would be granted. He added that the odds of the SLA approving two licenses for two for-profit organizations for the same address are nil. He recommended that the licensee for that property could provide the alcohol with an arrangement to make a donation to the not-for-profit organization.

Council Member Smith asked if the City could put in the lease agreement for the Baseball field that not-for-profit organization could have a separate caterer come in and sell alcohol and not use Baseball team's license.

Mr. Casale responded no because the lease cannot supersede the SLA's policies and procedures. He stated that the SLA is a little more lenient with not-for-profit organizations because they can get an exemption to do more than four events per year under the permit process. Based on his observations of the current operations, he stated the baseball field holds more risk over the other venues because they are not used as much. Because the arena holds only a few events per year, he felt it would be difficult to find a vendor to apply for an annual license and recommended continuing with the permit process.

Mayor Graham asked if the proceeds could go to the not-for-profit organization in this situation.

Mr. Casale replied that when the application for the permit is submitted, the names that appear on the permit are the only entities that can share in the profits. He confirmed that if the licensee is a for-profit organization, they can donate some of the proceeds to a not-for-profit organization.

Mayor Graham stated that at the arena some events are appropriate for alcohol and some events that involve children are not appropriate for alcohol. He wondered if there would need to be a fixed enclosed area set up to control the sale of alcohol.

Mr. Casale responded that a diagram of the facility must be submitted with the application for a license or permit and this diagram must include where alcohol is being sold whether it be a stationary bar or on mobile carts.

Mayor Graham stated Council needs to decide which events should have the ability to sell alcohol and determine how to reconcile the issue of people under the age of 16 not in the accompany of their parents with the current law.

Mr. Casale commented that this needs to be put in the application so that it is dealt with up front because it might be allowed if it is controlled. He explained that the Under 16 Law generally applies to restaurants and bars but it is currently under review. He also commented that it depends on the audience attending the events. He added that the method of operation must be put in the application and it should be stated that children under age 16 are allowed but under strict supervision.

Mayor Graham noted that someone with a year round license should have a designated area for alcohol so that it is controlled when the licensee is not there.

Mr. Casale reminded Council that the licensee for the baseball field should have a locked room for storing alcohol when not being sold and only the licensee should have the key to this room.

Mr. Casale confirmed for Council Member Butler that there could be separate licenses or permits for the baseball field, arena, and the Jefferson County Agricultural Building because they all have separate addresses.

Mayor Graham mentioned that the Arena should continue with the permit process and wondered if there should be a competitive methodology for how the franchises are given out.

Mr. Casale stated that is a government business decision which needs to be made by the City. He recommended that the lease for the baseball field should stipulate the major provisions of the law that the lessee must follow. He added that the list of rules and regulations should be presented to the lessee and an acknowledgment of understanding should be signed before the lease is finalized.

Council Member Butler inquired about the percentage of profits and wondered if the City should not be involved with this.

Mr. Casale commented that the City should charge rent as the landlord because otherwise the City needs to be listed on the license if it is sharing in the percentage of the profits. He would not recommend the City being an applicant and stated in addition to rent the City could charge flat fees for services such as cleaning, maintenance or security.

Mrs. Corriveau explained that the City currently requires the lessee to hire their own security.

Mayor Graham commented that there is more scrutiny by the SLA of license applications than permit applications.

Mr. Casale explained that a personal questionnaire as well as finger printing must be completed by everyone with an interest in the license. He further explained that one day permits do not require this and this is the reason permits are only allowed to hold four events per year.

Mayor Graham noted that not-for-profit entities applying for dozens of permits are really skirting the requirements of the licensing process and does not further the cause for accountable, professional licensees. This is why he favors licenses and agrees that the City should not receive a percentage of the profits.

Council Member Butler questioned if the Jefferson County Agricultural Society (JCAS) gets a permit for each day of the fair.

Mrs. Corriveau commented that Larry Burnett was in the audience and confirmed that the JCAS gets permits for each day. She added that they lease the land from the City to hold the event.

Council Member Smith inquired if the contract for the arena could state that the for-profit entity must give a portion of profits to the not-for-profit entity.

Mr. Casale clarified that this must be disclosed in the permit application.

Mayor Graham mentioned that the not-for-profit entity might want to avoid this because they do not want to be in that chain of liability.

Mr. Casale stated that if a temporary permit is issued to an organization that has a problem, then the odds of this organization being approved again are low. He added that the SLA has the right to contact the local Chief of Police, Mayor's office or the City Manager regarding the applicant.

Mrs. Corriveau asked how to handle an event held by a for-profit promoter during the baseball season if the City authorizes the baseball team to hold a seasonal license.

Mr. Casale responded that only the license holder for that property can sell alcohol while the license is active. He reminded Council that the licensee can only make a donation to a not-for-profit organization and not a for-profit organization.

Robert Slye, City Attorney stated that the for-profit promoter should pay the licensee to sell alcohol and the promoter takes the revenue of the event only.

Mr. Casale commented that the promoter does not have to pay the licensee to sell alcohol because the licensee will receive all the proceeds from the alcohol sale.

Attorney Slye noted that the lease could be structured so that the licensee is required to make a donation in the case of a not-for-profit organization. He wondered if the amount of the donation needs to be disclosed to the SLA or is it fine to just submit with the application the lease stating the licensee must donate a percentage of the profit to the not-for-profit organization.

Mr. Casale stated the SLA must approve the lease along with the license and may require changes to the lease if they do not like parts of it.

Council Member Burns asked for clarification on a situation involving a for-profit entity license holder and for-profit event holder.

Mr. Casale stated the for-profit entity can host the concert and sell tickets to the concert but only the licensee can sell the alcohol. He explained the concert holder would make his money from the gate and licensee would make money from the alcohol sale.

In response to Mr. Casale question regarding the concert promoter subleasing the field from the baseball team, Mrs. Corriveau replied that the promoter rents the field from the City.

Mayor Graham asked for Mr. Casale's opinion of a for-profit entity using a not-for-profit agency permit.

Mr. Casale responded that this situation is illegal because the application must disclose who is running the venue. He mentioned that he is not aware of how the money is shared without looking at the financial bookkeeping.

Mr. Casale said that other communities with similar baseball teams have the baseball team hold the license.

Mayor Graham asked how the license application handles large events with multi dispensing stations.

Mr. Casale stated that it should be listed on the original application that there is a stationary counter functioning as a bar and on occasion there might be additional dispensing areas. He added that if additional areas were set up and not disclosed, the licensee could be fined \$1000 for an unauthorized alteration. He mentioned that as a licensee, the individual is accountable to the SLA but as a lessee, the individual is accountable to the City.

Attorney Slye commented that the lease would state that a violation or breach of the license would be a breach of the lease as well.

Mayor Graham summarized that the baseball field should have a seasonal or year round license, the arena should continue with permits and the JCAS building should continue with permits under the City's supervision.

Mrs. Corriveau confirmed that the City signs off on the permit applications for the JCAS as the landlord.

Mr. Casale mentioned that the JCAS could apply for a catering hall license that is used for private functions.

Mayor Graham asked if the catering hall license is year round and can be used for hard liquor.

Mr. Casale confirmed that a catering hall license can be year round and the entity must apply for what they want to serve.

In response to Council Member Burns inquiry, Mr. Casale said that a catering hall license is for the location on the application. He confirmed that a catering hall license can go to other locations such as the baseball field but the SLA limits the number of times this can happen. He reiterated that the profits could not be shared.

Mayor Graham told Council they need to decide on the type of atmosphere for events to be held on City property.

Mr. Casale pointed out that food must be available at every type of licensing establishment. He explained that a restaurant must have a kitchen and a bar must have some kind of food such as snack foods or sandwiches.

Mr. Casale clarified that seasonal permits have a monthly term and the applicant requests the number of months on the application.

Attorney Slye suggested that during a special event held at the baseball field by a not-for-profit organization, the licensee must sell the alcohol and share a percentage of the profits with the not-for-profit. He would like this to be part of the lease agreement. He added that the lease should also list any extra fees for the special events. He mentioned that the City should limit the term of the lease to one year instead of the requested three year term since the baseball team is under new ownership.

Mrs. Corriveau asked if Council wanted that baseball team to hold the license as part of the lease or would Council like to do a RFP for that.

Mayor Graham commented that there should be a RFP to see what the interest is.

Attorney Slye noted his understanding is that the baseball team wanted to control the field and facilities.

Mrs. Corriveau stated she was contacted by a group expressing interest in having a baseball team as well as holding the alcohol license. She said this group has requested a three year lease and license but if Council only wants to do a one year lease then this group will do a seasonal license.

Mr. Casale clarified that a seasonal license is limited to a certain number of months and an annual license is for the entire year. He added that the City set the dates of the lease and the lessee applies for a seasonal license corresponding to those dates.

Mayor Graham summarized that the Council needs to see if someone is interested in securing the field for the 2012 season and anyone renting the facility for the season must get a seasonal license. Council concurred and agreed that there should not be any third parties arrangements.

Council Member Butler stated he would like to see this process resolve quickly.

Council concurred that the arena will continue to work on a permit basis for 2012.

Council Member Butler reviewed Mr. Casale's recommendations regarding the JCAS and pointed out that the City should restrict the JCAS ability to serve alcohol to the property currently leased to them.

Mr. Casale stated the sale of alcohol should be restricted to their building and operate under the permit process. He noted that as a not-for-profit entity they should keep the proceeds.

In reference to Thompson Park, Mr. Casale clarified that there is no license required and BYOB is fine for a venue such a pavilion or picnic area in which there is no charge for the usage.

Boarding House at Breen Avenue

Mrs. Corriveau received email from Anthony Doldo regarding a meeting to be held this Wednesday at the Italian American Club at 6:00 p.m. to discuss the boarding house on Breen Avenue.

Joseph Goss, City Police Chief commented that he has spoken to Mr. Doldo and gave him information regarding the organization.

Bid 2011-09 Radio Combiner and Multi-Coupler Systems – Clarification

A memo from Amy M. Pastuf, City Purchasing Manager clarifying the dates bid invitations were sent and due as well as the list of ten prospective bidders was available to Council for review.

The work session ended at 8:17 P. M.

Ann M. Saunders
Deputy City Clerk