

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, JANUARY 21, 2015

Present: Ald. Sangiolo (Chairman), Rice, Norton, Leary, Blazar and Hess-Mahan

Absent: Ald. Baker and Kalis

City Staff Present: Maura O'Keefe (Assistant City Solicitor), Karyn Dean (Committee Clerk)

#334-12 ALD. SWISTON AND LINSKY requesting a discussion with the Licensing Board regarding the licensing and permit requirements for non-profit organizations. [10/10/12 @ 3:52 PM]

ACTION: **NO ACTION NECESSARY 6-0**

NOTE: Former Alderman, Greer Tan Swiston joined the Committee. She explained that she had docketed this item after hearing several concerns from residents about the cost of licensing fees for their one-day, non-profit events. There was a time that they were not being charged as much and they felt the rates had increased or there had been some change in policy. The fees were significantly diminishing the amount of money they were raising for their organizations making it barely worthwhile to hold the events. She is concerned that the City is not supporting these organizations that endeavor to improve the community.

License Commissioners Kathleen McCarthy and Dina Conlin joined the Committee. They explained that the current Filing Fee for a one-day temporary license is \$50; the License Fee for an all-alcohol license is \$150; the beer-and-wine License Fee is \$100; and the entertainment License Fee is \$100. They noted that the new regulations that went into effect this January now have different requirements for an entertainment license. Certain types of entertainment that once required a license, no longer do.

The Commissioners explained that they are working on streamlining and perhaps eliminating or lowering some of the fees across the board for both for-profit and non-profit organizations. They cannot have a separate fee structure for each as the law mandates that fees for licenses must correlate to the amount of work it takes to process them. It takes the same amount of time to process a fee for both for-profit and non-profit organizations. Assistant City Solicitor, Maura O'Keefe, argued that it would perhaps take even more time to process a non-profit application as staff has to determine if in fact, it is a non-profit entity. She noted that the City made a policy change a few years ago to stop providing discounts to non-profits for various fees and services. Ald. Sangiolo explained that the School Department rents out their buildings and charges a lower rental fee for non-profits and the Parks & Recreation Commission charges less for field rental as well. She is fine with having a uniform policy, but it has to be applied citywide.

The Commissioners reported that they spoke with staff in the Licensing office to determine if processing an all-liquor license and a beer-and-wine license took the same amount of time. They were told there is no additional work required for the all-liquor license, so they are considering bringing the fee down to \$100 from \$150. Also, there is a Filing Fee and a License Fee and the

Licensing Board has the authority to abolish one of those fees. They are also looking at whether the work being put into all of these licenses and filings are reflected accurately in the fee that is being charged. They will also examine whether they can streamline the process for those events that take place year after year. Ms. O'Keefe explained, however, that the statute requires a public hearing anytime alcohol is involved (unless there is a caterer's license or an independent liquor license involved). They did look closer at the entertainment statute and were able to bifurcate instances in which a public hearing is not necessary so those can be done administratively.

Ms. McCarthy and Ms. Conlin stated they the Licensing Board will continue to examine these issues and they will very likely be making some changes. It is not their goal to have a chilling effect on any group wanting to hold an event and they will do what they can to make things as fair as possible.

Committee members asked if the City had to apply for licenses when they hold events, for instance, all the events that Linda Plaut arranges. It was unclear, but Ms. O'Keefe noted that many of her events would not require a license because they are free and there is no alcohol involved, therefore, an entertainment license is not necessary. Former Ald. Swiston noted that Linda Plaut often charged money. It was unclear if that was a charge for the food or the entertainment.

Ald. Sangiolo asked Ms. O'Keefe to check on the fees that the School Department and the Parks & Recreation Commission are charging. She wanted to be sure that the fee structure was applicable citywide.

Former Ald. Swiston was pleased that the License Commissioners were taking a good look at the fees and attempting to make changes if possible. She recommended that the Committee vote No Action Necessary on this item and the Committee voted in favor.

#10-15 ALD. HESS-MAHAN, BAKER, BROUSAL-GLASER, COTE, JOHNSON, SANGIOLO proposing a RESOLUTION requesting the Licensing Commission to adopt a policy requiring all applicants for a license to notify the Aldermen from the respective ward whenever applicants are required to send legal notice to abutters, public or private schools, churches, synagogues, religious institutions of worship and/or hospitals within 500 feet from the proposed licensed premises regarding their application. [12/29/14 @ 12:17 PM]

ACTION: **HELD 6-0**

NOTE: Ald. Hess-Mahan proposed this docket item so that aldermen could be made aware of applications for liquor licenses in their ward. The aldermen would like to be able to address resident's concerns knowledgeably and have sufficient time to talk with staff regarding any applications. The President of the Board has asked that the License Commission agendas be posted and e-mailed to the Board of Aldermen in advance of their meetings. The problem, however, is that the e-mail may not come until 48-hours (2 business days) before the meeting which gives little time for an Aldermen to talk with staff, and they also contain little information about the petition.

In Ward 3, for example, the West Newton Shell station came in for a license to sell wine and beer. The neighbors received the required notice in advance, but the aldermen did not receive any notice until very shortly before the meeting. Once the Shell station got the license, they received a building permit and posted a sign that they were opening a "liquor mart". This was a surprise to many in the neighborhood, even though some did receive the notice. It was of particular concern because the location is quite close to a community center where many kids tend to hang out. When residents turned to the aldermen in the ward for answers, they didn't have much information to offer. Ultimately, it turned out the building permit had been issued in error as a special permit is required for this type of use at a gas station. The owners then petitioned for and received a special permit. The lawyer for the Shell station applicant was surprised that notifying the local elected officials was not a requirement as it is for many communities.

Ald. Hess-Mahan explained that he asked Linda Walsh, Acting Commissioner of Health and Human Services, if going forward, notice could be sent to the 3 ward aldermen for those applications that require legal notification. After Ms. Walsh met with the administration, she reported to Ald. Hess-Mahan that his request could not be accommodated. He is, therefore, proposing this Resolution asking that the License Commission require the applicant to send notice to the three ward aldermen when they are sending their notification to the abutters. He would prefer that they not receive it by certified mail as that seems overly onerous. The notice could be emailed to the aldermen or to the Clerk's office for distribution to the appropriate aldermen.

License Commissioner, Kathy McCarthy, wanted to know if this would be a deal breaker for an applicant if they did not comply. Ald. Hess-Mahan would like it to be a formal requirement. The notice to abutters is required to be sent out 10 days prior to the public hearing, and this timeframe would be more reasonable for the aldermen as well. Ms. McCarthy said they have just added to their application checklist the request that the ward aldermen be notified and provided with a copy of the application by the petitioner. They are also providing the list of aldermen with contact information so that the petitioner knows who to contact and how. The Licensing Board will ask the petitioner when they come in if in fact they have contacted the aldermen. Their response to that will be considered when the decision is being made to grant or not grant a liquor license.

Ms. McCarthy wants to determine which document would give the aldermen the information they need. The agenda does not seem to have enough information and the legal notice (which is what the abutters receive) may not contain enough information. Ald. Hess-Mahan said it would be helpful if the aldermen had the name of the applicant, the address of the establishment and the purpose of the license, along with contact information. Ms. McCarthy thought the application itself would be more suitable; there is a sizeable amount of back-up documentation which is probably not necessary. Ald. Hess-Mahan agreed.

Ald. Hess-Mahan noted that the Licensing Commission has to have proof that notice was sent to abutters at least 10 days prior to the hearing, or their petition cannot be heard. Perhaps that would be a good way to prove that the aldermen have also been notified at least days in advance by sending the notice via certified mail to the Clerk's office. The Clerk will then distribute the information to the appropriate aldermen.

Ms. O'Keefe was concerned about putting in a requirement that is not already in Chapter 138. She said it is difficult to impose requirements over and above what is already in the statute. If the license is denied based on something that is not in the statute it could be seen as an error in law or as an arbitrary and capricious application of the law. She felt this would be better dealt with as a policy matter and not a "requirement".

Ald. Hess-Mahan reiterated that if the aldermen can receive the notice that the abutters receive, in the same timeframe, that would be adequate. Ald. Sangiolo suggested holding this item to allow the Licensing Commissioners to discuss some possible solutions to this problem. Ms. McCarthy and Ms. Conlin said they would come back with some ideas as soon as possible.

The Committee voted to hold this item.

Meeting adjourned.

Respectfully Submitted,

Amy Mah Sangiolo