

**Administrative & Judiciary Committee
of the City of Onalaska**

Wednesday, May 7, 2014

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1 The meeting of the Administrative & Judiciary Committee of the City of Onalaska was called to
2 order at 6:00 p.m. on Wednesday, May 7, 2014. It was noted that the meeting had been
3 announced and posted at City Hall.

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5 Roll call was taken with the following members present: Ald. Erik Sjolander, Ald. Jack Pogreba,
6 Ald. Harvey Bertrand

7
8 Also Present: City Clerk Cari Burmaster, Mayor Joe Chilsen, Police Chief Jeff Trotnic, Ald.
9 Bob Muth

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11 **Item 2 - Approval of minutes from the previous meeting**

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13 Motion by Ald. Sjolander, second by Ald. Bertrand, to approve the minutes from the previous
14 meeting as printed and on file in the City Clerk's Office.

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16 On voice vote, motion carried.

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18 **Item 3 – Public Input (limited to 3 minutes/individual)**

19
20 Ald. Pogreba called three times for anyone wishing to provide public input and closed that
21 portion of the meeting.

22
23 **Consideration and possible action on the following items:**

24
25 **Administrative**

26
27 **Item 4 –Public Hearing 6 p.m. (or immediately following public input) regarding Outdoor**
28 **Venue License for Lost Island Wine, 570 Theater Road, Suite 100, Onalaska**

29
30 Cari noted the applications have been filed for the Outdoor Venue License and said there are two
31 items that need to be addressed prior to approval:

- 32
33
 - The exit door did not swing in the proper direction and needs to be changed.
 - An occupant load sign needs to be posted limiting occupancy to 49 persons.

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36 Ald. Pogreba opened the public hearing and called for anyone wishing to speak in favor of the
37 Outdoor Venue License for Lost Island Wine.

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43 **Todd Wiedenhaft**
44 **1919 Market Street**
45 **La Crosse**

46
47 Todd noted that he and his wife, Jennifer, own Lost Island Wine and said they are planning a bar
48 environment where patrons may sit and enjoy a glass of wine outdoors. Todd noted that the
49 property manager is aware of the changes and is working to alter the exit door and post the
50 occupancy load sign. Todd said he and Jennifer hope the business will attract tourists.

51
52 Ald. Pogreba called three times for anyone else wishing to speak in favor of the Outdoor Venue
53 License for Lost Island Wine and closed that portion of the public hearing.

54
55 Ald. Pogreba called three times for anyone wishing to speak against the Outdoor Venue License
56 for Lost Island Wine and closed the public hearing.

57
58 Motion by Ald. Pogreba, second by Ald. Sjolander, to approve the Outdoor Venue License for
59 Lost Island Wine, 570 Theater Road, Suite 100, Onalaska, with the two listed conditions.

60
61 On voice vote, motion carried.

62
63 **Item 5 – Approval of Operator’s Licenses**

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65 Motion by Ald. Pogreba, second by Ald. Bertrand, to approve the Operator’s Licenses dated
66 April 30, 2014, and also an updated list of Operator’s Licenses dated May 7, 2014.

67
68 On voice vote, motion carried.

69
70 **Item 6 – Approval of Minds in Motion Run/Bicycle Race on Saturday, June 14, 2014 from 7**
71 **a.m.-3 p.m. starting at Onalaska Middle School**

72
73 Motion by Ald. Pogreba, second by Ald. Sjolander, to approve the Minds in Motion Run/Bicycle
74 Race on Saturday, June 14, 2014 from 7 a.m.-3 p.m. starting at Onalaska Middle School.

75
76 On voice vote, motion carried.

77
78 **Item 7 – Approval of Change of Agent for:**

- 79
80 a. Olive Garden, 9413 State Road 16, Onalaska to Jose M. Cisneros
81 b. Kwik Trip #643, 1276 Crossing Meadows Drive, Onalaska to Korena M. Pabst
82 c. Kwik Trip #383, 408 Sand Lake Road, Onalaska to Edmund Szewczyk
83 d. Primos Southwestern Grill, 1427 State Road 35, Onalaska to Eric Schilla
84 e. Buffalo Wild Wings, 3132 Market Place, Suite 100, Onalaska to Candis Hayes

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86 Motion by Ald. Pogreba, second by Ald. Bertrand, to approve the Change of Agent for Olive
87 Garden, Kwik Trip #643, Kwik Trip #383, Primos Southwestern Grill, and Buffalo Wild Wings.

88

89 On voice vote, motion carried.

90

91 **Item 8 – Request for burial of ashes for James C. Poppe Jr. with full body burial of Garold**
92 **True buried in Block 87, Lot 4, Grave 5 in the Onalaska Cemetery**

93

94 Motion by Ald. Pogreba, second by Ald. Sjolander, to approve a request for burial of ashes for
95 James C. Poppe Jr. with full body burial of Garold True buried in Block 87, Lot 4, Grave 5 in the
96 Onalaska Cemetery.

97

98 On voice vote, motion carried.

99

100 **Item 9 – Approval of 2013-2014 Combination Class “B” Beer and Liquor License for:**

101

102 a. PRIMOS SOUTHWESTERN GRILL, INC., d/b/a Primos Southwestern Grill, 1427 State
103 Road 35, Onalaska

104 b. Lost Island Wine LLC, d/b/a LOST ISLAND WINE LLC, 570 Theater Road, Suite 100,
105 Onalaska – restricted to wine only

106

107 Motion by Ald. Pogreba, second by Ald. Sjolander, to approve 2013-2014 Combination Class
108 “B” Beer and Liquor Licenses for Primos Southwestern Grill, Inc. d/b/a, Primos Southwestern
109 Grill, 1427 State Road 35, Onalaska, and Lost Island Wine LLC, d/b/a Lost Island Wine LLC,
110 570 Theater Road, Suite 100, Onalaska – restricted to wine only.

111

112 On voice vote, motion carried.

113

114 **Item 10 – Approval of Class B Picnic License for Operation Homefront by Angelini’s**
115 **Restaurant for Onalaska vs. Fort McCoy softball game on May 18, 2014 from**
116 **approximately noon-5 p.m.**

117

118 Motion by Ald. Pogreba, second by Ald. Bertrand, to approve a Class B Picnic License for
119 Operation Homefront by Angelini’s Restaurant for Onalaska vs. Fort McCoy softball game on
120 May 18, 2014 from approximately noon-5 p.m.

121

122 In response to a question by Ald. Bertrand, Cari said this event is an Operation Homefront
123 fundraiser that will be held at Community Park.

124

125 Mayor Chilsen noted that the area must be fenced in due to the Class B Picnic License.

126

127 On voice vote, motion carried.

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Item 11 – Approval of Run/Marathon Color Dash 5K sponsored by the La Crosse YMCA on August 16, 2014 from approximately 10 a.m.-2 p.m. starting at the Onalaska YMCA, 400 Mason Street, Onalaska

Motion by Ald. Pogreba, second by Ald. Sjolander, to approve the Run/Marathon Color Dash 5K sponsored by the La Crosse YMCA on August 16, 2014 from approximately 10 a.m.-2 p.m. starting at the Onalaska YMCA, 400 Mason Street, Onalaska.

On voice vote, motion carried.

Item 12 – Request for burial of ashes for Michael A. Bakke with full burial of David M. Bakke in Block 112, Lot 1 Grave 2 in the Onalaska Cemetery

Motion by Ald. Pogreba, second by Ald. Sjolander, to approve a request for burial of ashes for Michael A. Bakke with full burial of David M. Bakke in Block 112, Lot 1 Grave 2 in the Onalaska Cemetery.

On voice vote, motion carried.

Item 13 – Miscellaneous licensing reporting

Motion by Ald. Pogreba, second by Ald. Sjolander, to approve the miscellaneous licensing reporting.

Ald. Pogreba asked if barricades will be necessary for a block party being given on Stonebridge Avenue by Julie Diermeier.

Cari said the Street Department drops off barricades by Friday afternoon. The individual holding the event utilizes the barricades during the time they have designated on his/her permit. The individual leaves the barricades for the Street Department to pick up Monday morning.

Ald. Pogreba asked Police Chief Trotnic if he notes in his officers' reports that they stop at block parties to ensure the event is being conducted properly.

Police Chief Trotnic said he keeps his officers apprised of the situation, adding both the Fire Department and Police Department are aware if there is a road closure.

Cari said both the Police Department and the Fire Department typically receive copies of the permit as they are issued for emergency response purposes.

On voice vote, motion carried.

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171 **Judiciary**

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173 **Item 1 – Ordinance 1472-2014 – to amend Title 3 Chapter 4 of the City of Onalaska Code**
174 **of Ordinances related to disposal of unclaimed funds (First and Second Reading)**

175

176 Motion by Ald. Pogreba, second by Ald. Bertrand, to approve Ordinance 1472-2014 – to amend
177 Title 3 Chapter 4 of the City of Onalaska Code of Ordinances related to disposal of unclaimed
178 funds (First and Second Reading).

179

180 Ald. Pogreba noted that this item had come before the Finance and Personnel Committee at its
181 April 2 meeting. Ald. Pogreba noted some funds have been present for years and said the funds
182 are not returned to the City of Onalaska, but instead are released to La Crosse County.

183

184 Cari said the city is required to turn over to the State of Wisconsin funds such as individuals who
185 moved from the area and have credits on their water bill.

186

187 On voice vote, motion carried.

188

189 **Item 2 – Ordinance 1473-2014 – to amend Title 11 Chapter 2 of the City of Onalaska Code**
190 **of Ordinances related to firearms (First and Second Reading)**

191

192 Motion by Ald. Pogreba, second by Ald. Bertrand, to approve Ordinance 1473-2014 – to amend
193 Title 11 Chapter 2 of the City of Onalaska Code of Ordinances related to firearms (First and
194 Second Reading).

195

196 Police Chief Trotnic said items such as this one and Item 3 typically start with the City Attorney.

197

198 Ald. Pogreba expressed his wish to see the original ordinance with a line through it or in
199 different print so committee members do not have to try to match them up with the city
200 ordinance. This would make it easier to see the difference between the old ordinance and the
201 new ordinance.

202

203 Mayor Chilsen assured the committee that this will be standard operating procedure.

204

205 Cari noted the only item that needed to be altered was that bows could be utilized in the city.
206 Cari said, “Basically what changed is where it’s saying what you can’t use in the city, it’s now
207 referring to firearms instead of any hunting in the city limits. That was the gist of what was
208 changed in here. ... Most of the language was just changing it from ‘all hunting’ to ‘firearms.’
209 So in essence by doing that it allows the crossbows and the bow and arrow hunting within the
210 city limits.”

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212 Ald. Sjolander noted there was a section within this ordinance that mentions individuals are not
213 allowed to discharge firearms into the city limits.

214

215 On voice vote, motion carried.

216

217 **Item 3 – Ordinance 1474-2014 – to amend Title 11 Chapter 2 of the City of Onalaska Code**
218 **of Ordinances related to hunting with bow and arrows, crossbow (First and Second**
219 **Reading)**

220

221 Motion by Ald. Pogreba, second by Ald. Bertrand, to approve Ordinance 1474-2014 – to amend
222 Title 11 Chapter 2 of the City of Onalaska Code of Ordinances related to hunting with bow and
223 arrows, crossbow (First and Second Reading).

224

225 Ald. Pogreba asked Police Chief Trotnic if high school students are subject to a \$100 fine under
226 this ordinance if they are caught having a snowball fight on school grounds.

227

228 Police Chief Trotnic said, “I’d like to think common sense prevails. I don’t think we’ve hauled
229 in any snowball throwers.”

230

231 Ald. Pogreba asked why snowballs are listed in the ordinance.

232

233 Ald. Muth said there are instances where young adults hide behind walls and throw snowballs at
234 automobiles.

235

236 Police Chief Trotnic said the ordinance addresses the fact a snowball could be utilized as a
237 weapon.

238

239 Ald. Muth said he believes there were past instances where young adults were throwing
240 snowballs at fast-moving traffic.

241

242 Police Chief Trotnic said a snowball still could be covered as a missile if the word “snowball”
243 ever is removed from the ordinance.

244

245 On voice vote, motion carried.

246

247 **Item 4 – Ordinance 1475-2014 – to amend Title 11 Chapter 2 of the City of Onalaska Code**
248 **of Ordinances related to prohibition of smoking indoors (First and Second Reading)**

249

250 Motion by Ald. Sjolander, second by Ald. Bertrand, to approve Ordinance 1475-2014 – to amend
251 Title 11 Chapter 2 of the City of Onalaska Code of Ordinances related to prohibition of smoking
252 indoors (First and Second Reading).

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254 In response to a question by Ald. Pogreba, Cari said the change in the ordinance is to include e-
255 cigarettes. Cari noted there used to be a six-page ordinance that has been condensed to two
256 paragraphs. Cari said what is before the committee this evening is basically a new ordinance.

257
258 Police Chief Trotnic noted that both Item 4 and Item 5 originated with the Police Department and
259 said Parks and Recreation Director Dan Wick became involved due to issues with e-cigarettes
260 and minors and the enforceability of e-cigarettes at the Omni Center. Police Chief Trotnic also
261 noted there have been issues with e-cigarettes in city buildings and said both Ordinance 1475-
262 2014 and Ordinance 1476-2014 needed significant revisions to bring everything into compliance.

263
264 Ald. Pogreba noted there are discussions at the state level regarding e-cigarettes and asked if
265 minors may smoke e-cigarettes.

266
267 Police Chief Trotnic said the city will be able to enforce minors from smoking e-cigarettes if this
268 ordinance is enacted. Police Chief Trotnic said he believes this ordinance is in compliance with
269 State of Wisconsin law if City Attorney Sean O'Flaherty drafted it and stated, "We can't draft
270 something and adopt something that is in direct opposition of what state law allows. I don't
271 know what the state law exactly says. Sean would have looked at what state law allows and
272 drafted this around what state law allows us to do. When this goes to Council, Sean will be there
273 to answer if this is in opposition to state law or not. From what I understand, when this passes –
274 if it does pass – then e-cigarettes would be treated just like a cigarette in all buildings."

275
276 Ald. Pogreba said, "My personal feeling is, we live in a free country and we have a Constitution
277 that allows free citizens to have free access to certain things. The e-cigarette is not harming any
278 other individual. If I happen to have one in here, there is no harm by Harvey or anybody else in
279 this room by me having it. It's like holding a pen. It does emit steam from it, so it does look like
280 smoke is coming out. But there is no scientific evidence to say that harms anyone. So why are
281 we regulating what a free individual should be allowed to do? Until it comes down by the state,
282 we're forcing people to not do something or forcing people to do something. I disagree with
283 that. If the state is not regulating a minor [from possessing an e-cigarette] – it's like candy – then
284 a minor can possess candy. Is it harmful for them, or is it harming anyone else? That's up to
285 that individual or that parent to decide that. I don't think a government body should be deciding
286 that. Now, cigarettes on the other hand, they cause harm to other individuals next to them."

287
288 Ald. Bertrand said the fact Sean rewrote the ordinance tells him that the City Attorney is familiar
289 with State of Wisconsin law and stated, "I suppose the reason behind this is the practice of a
290 teenager having something that emulates a cigarette and thereby setting a bad example. Is that
291 the idea behind it?"

292
293 Police Chief Trotnic said this ordinance will impact more than minors and stated, "From our
294 perspective, how this whole thing started was the high school students that were actually in
295 possession of e-cigarettes. Which again, when we get complains on that there is nothing that we

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296 can do. I don't disagree with what you're saying, Jack. For anybody that knows what my belief
297 is, I believe that government should interfere with a citizen's rights as little as possible. When
298 we look at these things and we bring them up for discussion and they get drafted like what they
299 are – something like Sean is doing with clarifying the language and making it sound as far as
300 bringing the fines into compliance and bringing all the ordinance numbers into compliance –
301 that's stuff that needs to be done. When it comes down to all these trivial things like e-cigarettes
302 – are e-cigarettes bad or good or neutral? – I take my direction from what it says on paper. And
303 if the paper says it's legal, I don't really care. If the paper says it's illegal, then we enforce it. I
304 think this is an interesting topic, and it's one that at least one person has already asked that
305 question of. I'm not going to shove this whole thing down under Sean because he looked at the
306 e-cigarette matter from a question we asked. When we asked that question it opened up a whole
307 can of worms of looking at the whole picture on how all of our ordinances fit into this. There
308 was some obvious clearing up of the language that we needed to do. Whether we strike e-
309 cigarettes, that's up to all of you.”

310

311 Ald. Bertrand cited the example of one citizen smoking a cigarette and another smoking an e-
312 cigarette at the Omni Center. Ald. Bertrand asked if it will be necessary to do more policing if e-
313 cigarettes are allowed.

314

315 Police Chief Trotnic said, “I think it's safe for me to say since the state has changed its way of
316 looking at smoking inside buildings, this has not become an enforcement issue for the police.
317 I'm not saying we haven't responded at all, but I'd be surprised if it was a handful of times that
318 we've responded. What it does is it puts the onus on the owner of the building.”

319

320 Police Chief Trotnic said Dan has told him patrons have asked him about e-cigarettes in the
321 Omni Center and stated it became necessary for both the city and the Police Department to
322 examine this issue.

323

324 Ald. Bertrand said he agrees with the ordinance because he believes allowing e-cigarettes will
325 cause confusion regarding the enforcement issue.

326

327 Ald. Sjolander said he understands Ald. Pogreba's point of view and agrees with him to a certain
328 extent. Ald. Sjolander said he would like to withdraw his motion to approve and pass this item
329 on to the Common Council without recommendation so further discussion with both Sean and
330 the rest of the Council may take place.

331

332 In response to a question by Ald. Bertrand, Ald. Sjolander said there are questions that are not
333 answered that could be answered with further discussion at the May 13 Common Council
334 meeting.

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336 Ald. Bertrand reiterated he supports the ordinance and will not withdraw his second.

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338 On voice vote, motion failed, 2-1.

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Item 5 – Ordinance 1476-2014 – to amend Title 11 Chapter 5 Section 9 of the City of Onalaska Code of Ordinances related to purchase or possession of tobacco products (First and Second Reading)

Motion by Ald. Bertrand, second by Ald. Sjolander, to approve Ordinance 1476-2014 – to amend Title 11 Chapter 5 Section 9 of the City of Onalaska Code of Ordinances related to purchase or possession of tobacco products (First and Second Reading).

Police Chief Trotnic said this is an attempt to address issues with the ordinance as a whole, dealing with e-cigarettes and tobacco products. Police Chief Trotnic said, “We’re going to run into the same issue with this one because it has e-cigarettes in it as well. But this is one that actually clarifies some much-needed language as well.”

Cari said this ordinance also places restrictions on selling e-cigarettes to minors.

Ald. Pogreba said, “I agree with the clean-up of the ordinances that we’ve had in the past and Sean cleaned them up. I agree with cleaning it up, but adding e-cigarettes in there is what I have a disagreement with.”

Police Chief Trotnic said this ordinance gives his department the ability to enforce minors and tobacco products. This element was previously missing. Police Chief Trotnic said, “I hope we at least agree with that one.”

Motion by Ald. Pogreba, second by Ald. Bertrand, to amend the motion on the floor to remove language pertaining to e-cigarettes from Ordinance 1476-2014.

In response to a question by Ald. Bertrand, Ald. Pogreba stated he is speaking about civil rights, freedom and scientific evidence and said, “There are a lot of issues here.”

Police Chief Trotnic said he, like Ald. Pogreba, is a strong proponent of the Fourth Amendment to the United States Constitution, which is part of the Bill of Rights and prohibits unreasonable searches and seizures and requires any warrant to be judicially sanctioned and supported by probable cause. Police Chief Trotnic stated, “I think there is some legitimacy to the argument of e-cigarettes and minors. I understand they’re safe. I understand everything you’re saying with that. When you’re thinking about looking at ordinances that potentially protect our children from harmful acts going forward and, using drugs as an example here, looking at a gateway to something that is more harmful in the future ... if it’s the ability of the municipality to do so, I think it sends a positive message to the youth of our community that we view that e-cigarettes are a potential jump to cigarettes. Regardless of what you believe in cigarettes or don’t believe in cigarettes, I don’t smoke but I don’t care if somebody smokes. I don’t drink, but I don’t care if somebody else drinks. That’s not really what I’m talking about. It’s really the message that

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381 we're sending to our youth.”

382

383 Police Chief Trotnic cited the example of the popularity of fake tattoos with children, stating that
384 while he knows they are popular he refuses to distribute them because it might lead to a child
385 getting a tattoo later in life. Police Chief Trotnic said, “From my perspective, we try to send
386 positive messages to our youth. I don't think e-cigarettes are a positive message to our youth.
387 With that said, I totally agree with everything the Council rules on this and we'll be fine with it.”

388

389 Ald. Bertrand said he wishes e-cigarettes were not available on the market and stated,
390 “Unfortunately, regardless of what Sean says, if it's not harmful I'm afraid that I'll have to go
391 along with removing it [from the ordinance].”

392

393 Police Chief Trotnic stressed he does not have issues with tattoos, smoking or drinking and said
394 he is certain Sean had researched the legality of his words contained in the ordinance. Police
395 Chief Trotnic said, “Sean may or may not agree with what the words are on the piece of paper.
396 Only Sean knows that.”

397

398 Vote on the Amendment:

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400 On voice vote, motion carried.

401

402 Original motion restated:

403

404 To approve Ordinance 1476-2014 – to amend Title 11 Chapter 5 Section 9 of the City of
405 Onalaska Code of Ordinances related to purchase or possession of tobacco products, with
406 language pertaining to e-cigarettes being removed (First and Second Reading).

407

408 On voice vote, motion carried.

409

410 **Adjournment**

411

412 Motion by Ald. Pogreba, second by Ald. Bertrand, to adjourn at 6:47 p.m.

413

414 On voice vote, motion carried.

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416

417 Recorded by:

418

419 Kirk Bey