

**ALCOHOL LICENSING COMMITTEE AGENDA  
CITY OF FOND DU LAC, WISCONSIN**

July 29, 2013  
4:00 p.m.

**Meeting Rooms D & E**  
City-County Government Center

160 South Macy Street  
Fond du Lac, Wisconsin

**I. OPENING CEREMONIES**

- A. Attendance
- B. Declaration Quorum Present

**II. APPROVAL OF MINUTES**

May 29, 2013

**III. REPORTS OF OFFICERS**

REVIEW DELIBERATE AND MAKE RECOMMENDATIONS ON PROPOSED ORDINANCE  
CHANGES FOR RENEWAL OF LIQUOR LICENSES

**III. ADJOURN**



# Alcohol Licensing Committee

July 29, 2013

4:00 P.M.

**ALCOHOL LICENSING COMMITTEE MINUTES  
CITY OF FOND DU LAC, WISCONSIN**

May 29, 2013  
4:00 P.M.

Meeting Rooms D&E  
City-County Government Center

160 South Macy Street  
Fond du Lac, Wisconsin

**OPENING CEREMONIES**

ROLL CALL: Present: - J. Geoffrey Bares  
Paul Osterholm  
Kerry Strupp (arrived @ 4:05 p.m.)  
Ray Lapierre  
Rob Vande Zande

Absent: - David Hopper (excused)

Administrative Staff: - Wayne Rollin, Dir of Comm Dev  
Deb Hoffmann, City Attorney  
Chad Wade, Assistant City Attorney  
Steve Klein, Asst. Police Chief  
of Operations  
Tracy Salter, Dpty Comptroller/  
Treasurer  
Joe Moore, City Manager

Chairman Osterholm declared a quorum present.

**APPROVAL OF MINUTES**

**April 29, 2013**

Motion made by Lapierre to approve the minutes of the April 29, 2013 Alcohol Licensing Committee minutes as presented.

Seconded by Bares.

ROLL CALL VOTE: Aye - Bares, Lapierre, Osterholm,  
Vande Zande  
Nay - None

Carried.

**ALCOHOL LICENSING COMMITTEE MINUTES**

May 29, 2013

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**PUBLIC HEARING**

**REVIEW DELIBERATE AND MAKE RECOMMENDATIONS ON APPLICATION FOR NEW "CLASS B" INTOXICATING LIQUOR AND CLASS "B" FERMENTED MALT BEVERAGE**

Corporation: Blazin Wings Inc.  
Agent: Darin Reiger  
Agent Address: 829 Main Street  
Oshkosh, WI  
d/b/a: Buffalo Wild Wings  
Location of Premises: 121 North Pioneer Road  
City Council Meet Date: June 12, 2013

Appeared in Support and to Ask/Answer Questions:

Darin Rieger, appeared as agent for Buffalo Wild Wings, 829 N Main St., Oshkosh, WI  
Robert Scharf, appeared as representative for Buffalo Wild Wings, 228 E Arndt St., Fond du Lac WI

Motion made by Bares to recommend to City Council approval of New "Class B" Intoxicating Liquor and Class "B" Fermented Malt Beverage d/b/a Buffalo Wild Wings, 121 North Pioneer Road.

Seconded by Vande Zande.

ROLL CALL VOTE: Aye - Bares, Lapierre, Osterholm, Strupp, Vande Zande  
Nay - None

Carried.

**REVIEW DELIBERATE AND MAKE RECOMMENDATIONS ON RENEWAL APPLICATION "CLASS B" INTOXICATING LIQUOR AND CLASS "B" FERMENTED MALT BEVERAGE**

Limited Liability Co: North Main Hospitality LLC  
Agent: Anna Nason  
Agent Address: 673 Mount Vernon Street  
Oshkosh, WI  
d/b/a: Retlaw Plaza Hotel  
Location of Premises: One North Main Street

Chairman Osterholm opened the hearing regarding the Combination Class B Fermented Malt Beverage and Intoxicating Liquor License for North Main Hospitality LLC d/b/a Retlaw Hotel, One North Main Street.

**ALCOHOL LICENSING COMMITTEE MINUTES**

May 29, 2013

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Opening Remarks were heard by Chad Wade, Assistant City Attorney and Mike Cluff, as representative of the Retlaw Plaza Hotel, 1519 E. Street, Two Rivers, WI.

Witness Appeared on Behalf of the City of Fond du Lac:  
Tracy Salter, Dpty Comptroller/Treasurer, 160 S Macy St.,  
Fond du Lac, WI  
Chad Wade, Assistant City Attorney, 2986 Fitchburg Ct.,  
Oshkosh, WI

Witness Appeared on Behalf of the Retlaw Plaza Hotel:  
Mike Cluff, representative of the Retlaw Plaza Hotel, 1519  
E. Street, Two Rivers, WI  
Anna Nason, representative of the Retlaw Plaza Hotel, 673  
Mt. Vernon St., Oshkosh, WI

Closing statements were made by Chad Wade, Assistant City Attorney and Mike Cluff, representative of the Retlaw Plaza Hotel.

Motion made by Lapierre to recommend to City Council renewal of "Class B" Intoxicating Liquor and Class "B" Fermented Malt Beverage d/b/a Retlaw Plaza Hotel, One North Main Street; contingent on payment in full in the amount of \$39,053.02 plus penalty and interest by June 25, 2013.

Seconded by Strupp.

ROLL CALL VOTE: Aye - Bares, Lapierre, Osterholm,  
Strupp  
Nay - Vande Zande

Carried.

**ADJOURN**

Motion made by Bares to adjourn.

Seconded by Strupp.

ROLL CALL VOTE: Aye - Bares, Lapierre, Osterholm,  
Strupp, Vande Zande  
Nay - None

Carried.

Meeting adjourned at 5:10 p.m.

SUE STRANDS  
CITY CLERK

SS/maa

# Memo

To: Alcohol Licensing Committee  
From: Deb Hoffmann, City Attorney  
Date: July 25, 2013  
Re: Request for Recommendations

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The Fond du Lac City Council asked at their July 10<sup>th</sup> meeting that the Alcohol Licensing Committee review the City's liquor license ordinance and make recommendations to the Council. A copy of my Memo to the City Council that outlines the proposed changes is attached. Also attached is that portion of the City Council meeting minutes that cover the discussion on these proposed ordinance changes.

The proposed changes are intended to make clear that the ALC and the City Council have the ability under the law to suspend or revoke a license at any time that a license holder becomes ineligible to hold the license. Also to make clear that the delinquent taxes or charges must belong to the license holder in order to be a basis for suspension, revocation or non-renewal.

I've also attached an alternative wording of the ordinance that is based on the City of Madison's ordinance that spells out the above issues.

Would you please consider all of the above and be prepared to discuss at the upcoming ALC meeting?

Please call if you have any questions on any of this.

# Memo

To: City Council and Joe Moore, City Manager  
From: Deb Hoffmann, City Attorney  
Date: July 25, 2013  
Re: Proposed Ordinance changes – Renewal of Liquor licenses

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## INTRODUCTION

In May and June of this year, the Fond du Lac Alcohol Licensing Committee (ALC) and the Fond du Lac City Council discussed several liquor licenses and whether the licenses should be renewed. Questions arose regarding the meaning of City Ordinance 12.03 that requires license applicants must pay delinquent taxes, assessments or other claims to the City prior to obtaining or renewing their license. The City Council directed the ALC to review the proposed ordinance revisions and make recommendations. The proposed new wording is shown as highlighted.

## PROPOSED ORDINANCE WORDING

### 12.03 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.

(1) **STATE STATUTES ADOPTED.** The provisions of Ch. 125, Wis. Stats., defining, describing and regulating the sale, procurement, dispensing, consumption and transfer of alcohol beverages, including provisions relating to underage persons, are adopted and made a part of this section by reference. Violation of any such provisions shall constitute a violation of this section. Penalties for violations by or relating to sale, procurement, dispensing or transfer to underage persons shall strictly conform to the penalties imposed for violations of identical offenses defined and described in Ch. 125, Wis. Stats....

(5) **DELINQUENT TAXES, ASSESSMENTS AND CLAIMS.** No license shall be granted to any ~~who~~ person or **the premises owned by said person** for which, taxes, assessments or other claims of the City are delinquent and

unpaid. . Such a license may be suspended or revoked if the licensee subsequently fails to meet the conditions required as a basis for granting the license.

I would also suggest that section (5) be added to Section 12.02, to make it clear this applies to all licenses. I have also attached an alternative option for this ordinance that is heavily borrowed from the City of Madison's Code.

## CORPORATIONS

Regarding liquor licenses being issued to Limited Liability Corporations and Corporations. I would propose adding two additional ordinance sections to cover the additional information requirements the City needs when issuing licenses to corporations.

## PROPOSED ORDINANCES

12.03 Application for Corporate License. All applications for corporate licenses shall contain the following information, as stated in the last annual report of the corporation:

1. A copy of the Articles of Incorporation, unless such application is for renewal of existing license, and a copy of any amendments to the Articles of Incorporation that have been filed with the Secretary of State and have not previously been filed with the City Clerk.
2. A list of the officers and directors of the corporation with their residences.
3. A list of the stockholders of the corporation together with the extent of their ownership, and their residences.
4. A statement by the applicant showing whether any corporate officers, directors or stockholders of the applicant hold any office or stock in a corporation holding a Class A or Class B beer or liquor license in any part of the state of Wisconsin.

(12.03) Application for Limited Liability Company License. All applications for limited liability company licenses shall contain the following information:

1. A copy of the Articles of Organization, unless such application is for renewal of an existing license, and a copy of any amendments to the Articles of Organization that have not previously been filed with the City Clerk.
2. A list, kept in alphabetical order, of each past and present member and, if applicable, manager. The list shall include the full name and last-known mailing and residence address of each member or manager, the date on which the person became a member or manager and the date, if applicable, on which the person ceased to be a member or manager.
3. A copy of the operating agreement and all amendments to the operating agreement.

4. Unless set forth in the operating agreement, the value of each member's contribution to the limited liability company as determined under Wis. Stat. §183.0501(2).

5. A statement by the applicant showing whether any members or managers of the applicant hold any office or stock in a corporation or limited liability company or are members or managers of any limited liability company holding a Class A or Class B beer or liquor license in any part of the state of Wisconsin.

6. For purposes of this subparagraph, the term manager is defined as in Wis. Stat. §183.0102.

#### SUMMARY OF RELEVANT WISCONSIN LAW

A municipality may refuse to renew a retail license on the same basis it may suspend or revoke a license under Section 125.12(2)(ag),(3), Wis. Stats. The law sets out the following 6 reasons for suspending or revoking a license:

1. The licensee has violated state statutes or local ordinances related to alcohol beverages;
2. The licensee keeps or maintains a disorderly or riotous, indecent, or improper house;
3. The licensee has sold or given away alcohol beverages to known habitual drunkards;
4. The licensee does not possess the qualifications required to hold the license;
5. The licensee has been convicted of certain controlled-substances (drug) violations or has knowingly allowed others to commit controlled-substance violations on the licensed premises; or
6. The licensee has benefited from unauthorized sales from beer wholesalers.

The License holder's interest in renewal of a retail license is a "property interest" for purposes of the 14<sup>th</sup> Amendment Due Process clause. Section 125.12, Wis. Stats. contains the minimum due process requirements that city officials must follow in denying renewal of, suspending or revoking a retail license. These statutory procedures include notice, a full hearing and the right to judicial review.

## Alternative Option

12.03 DUTY OF CLERK WITH REGARD TO LICENSES; PAYMENT OF TAXES, CLAIMS, FORFEITURES, JUDGMENTS, ETC., APPEAL. (1) The City Clerk shall be charged with the enforcement of all ordinances relating to licenses unless other provision is made by the Common Council for the enforcement.

(2) The payment of all personal property taxes, special assessments, and room taxes imposed pursuant to these ordinances, all forfeitures or judgments resulting from conviction for violation of any Fond du Lac General Ordinance except moving traffic violations, and all other judgments due and owing from any applicant to the City of Fond du Lac at the time of the application for any license or permit provided for in these Ordinances, and any of the same relating to the property or business previously licensed if the new license is granted consequent or conditionally upon the sale or transfer of the business or stock in trade or furnishings or equipment of the premises or of the ownership or control of a corporation is a condition precedent to the granting of such license or permit. If the personal property tax bill has not been issued, the Treasurer shall require advance payment based on the previous year's mill rate multiplied by the premises' or property's or business' current year's valuation. No license or permit application shall be granted until the Treasurer has certified on the application that all required payments have been made.

(3) Alleged errors in amounts claimed to be due the City may be appealed to a committee comprised of the Director of Administration, the Director of Community Development and the City Attorney or their designees. The committee shall have no authority to review any matter for which a review or appeal procedure has been provided by statute or other ordinance. Within five (5) days of being informed of an amount claimed due, the person seeking review shall pay the amount claimed and file a written notice of appeal with the Clerk stating the basis for the appeal and specifying the alleged error. Upon payment, the applicant may file the application for the license or permit if otherwise qualified. As soon as practicable, the committee shall hold a hearing at which the person shall present evidence to substantiate the claimed error, call witnesses in his/her own behalf, may cross-examine witnesses and may be represented by legal counsel. After holding the hearing, the committee shall by majority vote make findings of fact and conclusions and shall correct any established errors. Any amount improperly required paid shall be refunded promptly, together with interest at the legal rate.