

## CITY COUNCIL MINUTES

June 1, 2010

The Nebraska City, City Council met for a Special Council Meeting on June 1, 2010 to consider evidence pertaining to the revocation of the liquor license of Limitless Frontier Investments, LLC DBA "Good Times at Stanley's." Publication of Notice Exhibit "B" Mayor Hobbie led in the Pledge of Allegiance. Present were Commissioners Gay, Crunk, Handy, Mercer and Mayor Hobbie. Also in attendance were: City Clerk Arnold M. Ehlers, City Administrator Pat Haverty; Police Chief David Lacy; Capt. Lonnie Neeman; Sgt. Chris Angus; Sgt Dana Schebaum; Sgt. Chris Bando; Officer Clayton Jones, Officer Coray Bell; Officer Jason Holman; Limitless Frontier Investments, LLC President Lisa Winterstien, Good Times at Stanley's manager Derrick Winterstien, Bartender Trisha Edmunds and John Boehm Attorney for Limitless Frontier Investments, LLC. Mayor Hobbie opened the Public Hearing on the revocation of the liquor license of Limitless Frontier Investments, LLC DBA "Good Times at Stanley's hereinafter referred to as Stanley's. City Attorney William Davis was appointed the presiding official of the hearing.

John Boehm, Attorney for Lisa and Derrick Winterstien immediately requested Commissioner Brett Gay recues himself from the hearing due to a previous encounter with Mr. Winterstien. Commissioner Gay stated that the encounter would not affect his actions at this hearing. Mr. Boehm then objected to the hearing notice stating that it was defective according to 53-134(4) since no charges were included in the notice. Mr. Davis ruled that the notice included the sections being used for the Council action and stated that the action was not limited to the sections cited.

Mr. Davis called Chief David Lacy to the stand and after taking the oath to tell the truth was seated. Chief Lacy stated that he requested this hearing based on the totality of incidents (43)(Exhibit C) at Stanley's along with the lack of cooperation by the owner, manager and employee's of Stanley's. Mr. Boehm questioned Chief Lacy specifically on the incident in which Mr. Ray Parks was severely injured. Mr. Boehm asked Chief Lacy how he determined Mr. Winterstien knew what happened to Mr. Parks since the assault occurred around the corner and how Mr. Winterstien is responsible. Chief Lacy stated that witnesses stated that there were "high fives" among some individuals when they came back into the bar. Mr. Boehm asked about cooperation by bar management and Chief Lacy responded that video was not delivered timely. Mr. Boehm stated that according to police reports that only one time was video provided. Mr. Boehm asked Chief Lacy about the list of incidents compiled. Then asked; "How many were self reports?" "Is it a "Catch 22" if you self report is that information used against the bar?" Mr. Boehm asked Chief Lacy about the amount of foot traffic between Stanley's and The Wagon Wheel Bar. Mr. Boehm then asked Chief Lacy to explain an entry on Exhibit "C", a summary of the incidents at Stanley's, concerning an alleged assault on a customer of the Wagon Wheel who was walking past Stanley's. Also, Mr. Boehm pointed out that 5 of the incidents involved 2 City Code issues, and should be considered as 2 not 5. Chief Lacy pointed out an incident in which Mr. Winterstien was asked to provide video of the night of Nov 15, 2009 in which an individual received a broken jaw. Mr. Winterstien has not provided the video.

Mr. Davis called Sgt. Angus to the stand and after taking the oath to tell the truth was seated. Sgt. Angus was asked to recall the incident on September 13, 2009 (Exhibit D). Sgt. Angus stated that at approximately 2:10 a.m. he observed several vehicles parked in the vicinity of Stanley's. He parked his patrol car and tried to look inside but the windows and doors were covered. Through a small opening in the blinds Sgt Angus observed Mr. Winterstien and at least one other individual plus an open container resembling a beer bottle. Sgt. Angus finally gained entrance to the tavern with Officer Murry. Open beer bottles (cold to the touch) were observed behind the bar. Sgt Angus cited Mr. Winterstien for (1) open containers after hours and (2) refuse/delay entry of law enforcement. Next, Mr. Davis asked Sgt. Angus about his observations at St. Mary's Hospital at 3:27 a.m. on November 16, 2009 (Exhibit E). Sgt. Angus described injuries of a patient in emergency room of St. Mary's Hospital. Sgt. Angus was informed that the patient was delivered to the hospital by Mr. Winterstien. Injuries included a broken jaw. Patient's

blood alcohol content was .259. Patient identified as Mr. Shores. Officer Bell interviewed Mr. Winterstien who stated that Mr. Shores was found lying on the street and that he brought Mr. Shores into the tavern to clean him up. Mr. Winterstien acknowledged that Mr. Shores had been a customer in the tavern that evening. Mr. Boehm asked Sgt. Angus if he had ascertained the content of the glass during the incident on September 13, 2009, Sgt. Angus answered no. Sgt. Angus then responded to a question by Mr. Boehm concerning Mr. Winterstien calling him a "prick." Mr. Boehm then asked Sgt. Angus if he had entered Mr. Winterstien's tavern a few days later with the name "prick" on a piece of tape over his name badge. Sgt. Angus answered yes. Mr. Boehm asked if that was professional, Sgt. Angus answered no.

Mr. Davis called Officer Holman to the stand and after taking the oath to tell the truth was seated. Officer Holman was asked about the incident at 2:45 a.m. on January 10, 2010 (Exhibit F). Mr. Davis then asked Officer Holman about the incident on January 23, 2010 (Exhibit G)(Exhibit H). Officer Holman stated that Bryan Lee stopped Officer Holman to report an assault by Mr. Winterstien. Officer Holman could not substantiate the assault and did not write a citation.

Mr. Davis called Sgt. Schebaum to the stand and after taking the oath to tell the truth was seated. Mr. Davis asked Sgt Schebaum about the incident on January 31, 2010 (Exhibit I). Sgt. Schebaum stated that at 2:22 a.m. Officer Bell called Sgt. Schebaum to Stanley's. Upon knocking they heard someone say "It's the cops." When Mr. Winterstien finally opened the door no open containers were observed and no citations were written.

Mr. Davis called Officer Bell to the stand and after taking the oath to tell the truth was seated. Officer Bell stated he observed several vehicles parked in front of Stanley's. View of the interior was blocked by shades and a bi-fold covering the door glass. Officer Bell stated that he was called to Stanley's by Mr. Winterstien to intervene with Mr. Vonn. Mr. Vonn was charged with disturbing the peace and pled guilty.

Mr. Davis called Sgt. Bando to the stand and after taking the oath to tell the truth was seated. Sgt. Bando stated that he had been employed with the Nebraska City Police Department since 2000. Sgt. Bando stated that he had been assaulted by J. R. Chase in front of Stanley's. Sgt. Bando contacted Mr. Winterstien and asked for video of the incident. Mr. Winterstien did not provide the video after 3 requests. Sgt. Bando stated that incidents escalated significantly with the Winterstien's ownership of the tavern. Sgt. Bando also stated that the verbal abuse from the management of Stanley's borders on slanderous and is not received from any other establishments.

Mr. Davis called Capt. Neeman to the stand and after taking the oath to tell the truth was seated. Mr. Davis asked Capt. Neeman about the incident on April 15, 2010 in which Mr. Parks was assaulted. Capt. Neeman stated that he received information that Mr. Parks and Ms. Sands had an argument in which Ms. Sands received a cut above her eye from being struck by Mr. Parks. Other individuals then assaulted Mr. Parks in retaliation to the assault on Ms. Sands. Capt. Neeman stated that he overheard doctors at St. Mary's Hospital state that Mr. Park's BAC was .317. Capt. Neeman then related information about an undercover investigation by Nebraska State Patrol of Stanley's. The NSP report reflects that the undercover officers observed patron's being over served. When the officers asked to speak to the bartender in private a patron interfered and was arrested.

Mr. Davis called Pat Haverty to the stand and after taking the oath to tell the truth was seated. Mr. Haverty stated that he has been approached many times by individuals who expressed concerns about their safety when walking down town in the evening. Police patrols were stepped up after July 2009 in response to the public's concerns.

Mr. Davis recalled Chief Lacy to inform the Council on the reason for Officer Murry's absence since Officer Murry was involved in several of the investigations. Chief Lacy verified the Certification of a plea agreement from the Nebraska Liquor Control Commission on the charge of open containers after hours on September 13, 2009. Chief Lacy stated that the window coverings have been removed so that the interior of Stanley's can be reviewed from the street. Chief Lacy also stated that the cooperation from The Wagon Wheel is excellent whereas cooperation from Mr. Winterstien is very poor.

Mr. Davis stated that he had no more evidence to present. At this time Commissioner Crunk had to leave the meeting.

Mr. Boehm called Lisa Winterstien to the stand and after taking the oath to tell the truth was seated. Mr. Boehm asked Ms. Winterstien about her recollection of the incident in which Bryan Lee accused Derrick Winterstien of the assault. Ms. Winterstien stated that Derrick did not assault Mr. Lee as she had full view of the incident. Mr. Boehm asked Ms. Winterstien if she was present the night of September 13, 2009. Mr. Boehm asked Ms. Winterstien if Stanley's had ever been the subject of a compliance check. Ms. Winterstien presented a letter (Exhibit L) from Sgt. Lant of the Nebraska City Police Department informing them that their establishment had not served a minor during the compliance check. Ms. Winterstien stated that the owners or management of The Wagon Wheel have instigated many problems for Stanley's on several occasions because of Stanley's success. Ms. Winterstien presented a petition with over 70 signatures supporting retaining the liquor license of Stanley's. (Exhibit M) Mr. Davis asked if Ms. Winterstien could have missed the assault on Mr. Lee by Mr. Winterstien. Mr. Davis then asked for clarification of liquor license space in basement.

Mr. Boehm called Trisha Edmunds to the stand and after taking the oath to tell the truth was seated. Mr. Boehm asked Ms. Edmunds about her training and background in alcohol server training. Mr. Boehm asked Ms. Edmunds her knowledge of activities at The Wagon Wheel. Ms. Edmunds stated that just about every time she went into The Wagon Wheel there was an argument or disturbance and that police were not contacted by staff or management to her knowledge. Ms. Edmunds stated that compared to The Wagon Wheel; Stanley's did not have near the problems. Ms. Edmunds described her memory of the evening Mr. Parks was assaulted.

Mr. Boehm called Mr. Derrick Winterstien to the stand and after taking the oath to tell the truth was seated. Mr. Boehm asked Mr. Winterstien to recall the events on the evening Mr. Parks was assaulted. Mr. Winterstien stated that he never witnessed any interaction between Mr. Parks and Ms. Sands throughout the evening. Mr. Winterstien stated that to this day he does not know what transpired outside his bar the night Mr. Parks was assaulted. Mr. Winterstien explained how complicated his surveillance system is to operate and download. Mr. Winterstien stated that he forgot to provide video requested by the police department. Mr. Winterstien provided excuses for calling the police officers dirty names. Mr. Winterstien expressed his and other patron's concern for the safety of staff the night the undercover officers were in Stanley's and that is what caused the arrest of a patron. Mr. Winterstien explained that they have changed the way they operate Stanley's since all this has happened. Mr. Winterstien added that there have been many instances where an employee or a family member of The Wagon Wheel has entered Stanley's and started trouble where police needed to be contacted and that staff of Stanley's has never pulled any "stunts" like that, "we are too polite".

Mr. Davis closed the City's argument by stating that the amount of resources required by the activities occurring or originating at Stanley's and lack of respect by the management of local police and staff compound the problems with Stanley's.

Mr. Boehm closed by saying that the Winterstien's have learned their lesson and will operate in a more appropriate and cooperative manner. Mr. Boehm stated that the perpetrators are the persons need to be

punished not the bar owners. He stated that bar owners are in a "Catch 22." If they self report the incidents, go on an activity report which can be used against the owners. Also, the Parks incident is taking on a life of its own and should not be held against the owners.

Commissioner Handy moved to close the Public Hearing. Upon roll call the following voted YES: Gay, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Handy moved to direct the City Attorney to draft a resolution revoking the liquor license of Limitless Frontier Investments, LLC DBA Good Times at Stanley's. Upon roll call the following voted YES: Handy, Mercer and mayor Hobbie. Voting NO: None. Abstain: Gay. Motion passed.

Meeting adjourned at 10:41 p.m.

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Arnold M. Ehlers, City Clerk