

Cuyahoga Falls City Council
Minutes of the Public Affairs Committee Meeting
July 27, 2009

Members: Vince Rubino, Chair
Kathy Hummel
Ken Barnhart

Mr. Rubino called the meeting to order at 6:44 p.m. All members were present.

Legislation Considered

Temp. Res. B-72

Temp. Res. B-74

Discussion

Temp. Res. B-72

A resolution declaring opposition to and urging the denial of parole for Samuel J. Herring, an inmate at the Toledo Correctional Institution, and declaring an emergency.

Mr. Arrington stated that in 1984, Phyllis Cottle, a Cuyahoga Falls resident, was a victim of Samuel J. Herring. Ms. Cottle was attacked, beaten, raped, had her car set on fire and was left for dead. Luckily, she survived. Samuel Herring was convicted for these crimes and was sentenced to 169 to 290 years in prison. The Parole Board has denied one previous parole request in 2004. At that time, the next parole hearing was scheduled for 2014. However, there was a class action lawsuit filed on behalf of prisoners that challenged how the Parole Board conducts hearings. Earlier this year, an order was issued stating that any inmate who has not received a parole hearing is entitled to one this year. The result is that Mr. Herring has a hearing scheduled in September. Ms. Cottle is understandably upset and afraid. Administration felt the City must express its opposition to Mr. Herring getting paroled and is requesting that City Council support this legislation. Mrs. Colavecchio thanked Mr. Arrington for bringing this forward. She stated she does not know Ms. Cottle but does know people who work with her at the Blind Center. Ms. Cottle is known for being a very forgiving person. She added there is also a petition being circulated for anyone wishing to sign it. Mrs. Pyke stated she would like her name added as a sponsor to the legislation. Mr. James suggested that all of Council be added as sponsors.

Committee recommended bringing out Temp. Ord. B-72.

Temp. Res. B-74

A resolution objecting to the renewal of liquor permit number 91164360005 of Two Taverns, Inc., and declaring an emergency.

Mr. Arrington stated that each year, liquor permits expire. October 1 is the expiration date for establishments in the City. There have been numerous complaints and police reports filed against the Chestnut Beer Gardens. Any resolution opposing a liquor permit must be filed with the Ohio Department of Liquor Control 30 days before the October 1 deadline. Council's first meeting after the August recess isn't until September 8. There have been numerous complaints, most dealing with loud noise, loud music, and disorderly behavior. This past weekend there were even a few arrests. Mrs. Pyke and the police have met with the neighbors and the owner of the bar to see if they could resolve the issues. The City felt with the deadline coming up, it would be too late to wait until September to address this. Mrs. Pyke thanked Council for considering this legislation. She has been working on this for months with Mr. Wetzel. She has pulled the police reports for the past year and distributed copies to Council members. There were 37. She also pulled reports for The Boulevard and there was only one. She stated it is odd that, with two establishments so close together, one would have so many more calls and arrests than the other. She met with Mr. Wetzel on June 4 and reviewed the reports. She also pointed out that the neighbors all knew there could be noise from the bar when they bought their homes. That is not the

complaint. The complaints are about all the fighting and suspected drug abuse, many times involving the bar tenders of the bar. She stated this weekend was the final straw for the residents. The police received a call for a fight involving three people in the parking lot. Three cruisers were dispatched. Five cruisers actually showed up along with EMS. They arrived around 2:30 a.m. and left at 4:30 a.m. This has the neighbors upset. Her goal is to start the process for getting a hearing with the Liquor Control Board. Mr. Wetzel will have a chance to speak at that hearing, along with the residents and Mr. Arrington, who will be representing the City. She felt that the residents living next to Chestnut Beer Garden have a right to the same quality of life as someone living three blocks away.

Mr. Barnhart asked if there was anything unusual about this bar as far as incidents go. Chief Conley stated that some calls are nuisance calls. Often times once the officer arrives, he does not find anything. Mrs. Ritzinger stated that the report for the fight on Saturday night was four sentences long. She wondered, with five cruisers responding to a call, why that was all the officer had to say. Chief Conley stated that three cars were dispatched. Two stopped by, one of which being a supervisor. Mrs. Ritzinger asked how long the cars were there. Only three people were cited. Chief Conley stated the first car arrived at 2:23:28, the second at 2:23:53, and the third at 2:24:53. The first car left at 3:26, the second at 3:30 and the report car at 4:06. He had no arrival time for the supervisor but he cleared the scene at 3:10 a.m.

Mr. Walters asked about the hearing in Columbus, should this legislation pass. Mr. Arrington stated the hearing would be held before the Department of Liquor Control. The hearing officer makes a “yes” or “no” decision. Sometimes the hearing is held in Columbus or the City can ask for it to be held here. Typically, the hearings are held in Akron. Whoever loses can appeal to the Liquor Control Commission and a hearing will then be held in Columbus. They will also make a “yes or no” decision. Mr. Walters asked what recourse the City would have should the people in Columbus approve the permit. Mr. Arrington stated the City could file an action in Court for an injunction to close the business down, but this procedure is not very final. Orders to close a business is usually to close it for one year. With regard to the Boot Scoot, the owners decided they could not survive that long and still remain in business, so the City negotiated and they decided to close forever. It can take many months or years for it to be resolved. Mrs. Klinger Stated this has been an ongoing problem and did not think it was fair for a neighborhood to be held hostage. Mrs. Colavecchio asked if there were any conditional use permits in place. Mr. Arrington did not know. Mrs. Pyke stated the building was built as a bar and has always functioned as a bar. Whatever that zoning was, it went in there knowing this was a neighborhood bar.

David Ulbricht, 1721 Sixth St., thanked Council for allowing him to speak. His street is a dead-end street with 12 houses and 23 children under the age of 10. They are supportive neighbors who look out for one another. They have a problem with the Beer Garden. There are three properties on the east side of 6th Street whose backyards are up against the parking lot. The Beer Garden is an ongoing nuisance at all hours of the day and night. Bar employees have been implicated in many of the issues. In over one year, the police department has recorded 34 calls, and that is a conservative number. The incident report from Saturday is absurdly brief. The same thing happened two nights later but that victim chose not to press charges. The residents have been working for months to address concerns. At the first meeting, the residents expressed their concerns and Mr. Wetzel promised action. He took a few steps and things seemed to be going fine but then came this past weekend. They are convinced that Mr. Wetzel is either unable or unwilling to deal with the types of people that are frequenting his bar. He feels they have given Mr. Wetzel enough time and he feels if action is not taken now, they lose their ability to act for another year. He encouraged Council to oppose the renewal of Mr. Wetzel’s liquor license.

Chris Hampton, 1727 6th St., stated they have been working on this for a long time and had many meetings with the police department and the owner. However, the residents continue to see a lack of action and unfulfilled promises. They have recommended that Mr. Wetzel hire security for the peak hours on Thursday, Friday and Saturday nights. They have asked for the fence to be fixed so that children and pets can be protected. But there has been no action. They asked Mr. Wetzel to stop by the bar during the peak hours so he can see what is going on but he never has. On top of all of this, there are the two additional incidents from the

past weekend. She personally witnessed the one on Sunday when she saw two men dragging a lifeless body, then getting in their car and leaving. They called Mr. Wetzel to tell him he should come to the bar but he never showed. Her neighbors work hard and care for each other. This is a blemish on their neighborhood. She would like Council to consider this and recommend that the liquor permit be revoked.

Teddi Dowey, 607 Chestnut, stated she was aware there were two bars in the neighborhood when she purchased her home, which is on the corner of 6th and Chestnut. She has had people knock on her door in the early hours of the morning, she found a woman passed out on her front lawn in the afternoon while children were outside playing. She also has to pick up beer bottles, cigarettes and cigarette packs and cartons in her yard. These are all things that affect their daily lives.

Kristen Hampton, 1727 6th St., stated that many times things get loud but then they die down. She doesn't call at the first sign of noise. She waits to see if it dies down first. She only calls when it persists. With regard to the fence, she stated there are pickets missing. One day, her dog came in from outside and was wet from having alcohol poured on it. She stated that 37 calls do not attest to what the neighbors are actually dealing with.

Laurie Ulbricht, 1721 6th St., stated there are things that are not contained in the police reports. With regard to the fight on Friday, there is no comment that there were three men without shirts. One officer was helping someone look for their shoes. Someone else didn't know where their keys were. It took the police a long time to help them. After they located their items, the officers allowed them to get into their cars and drive away even though it was clearly obvious they had been drinking. Another time a call was made about the noise and the officers came out and were offered french fries. It was quiet while they were there but, as soon as they left, the noise started back up. There is nothing they can do about this. This is life next to the Beer Garden.

Daniel Crangle, 1732 6th St., stated that another nuisance is the traffic. There are twelve houses on his street and his driveway seems to be a popular turnaround. Children are playing in the area. He does not understand why the bar patrons park on his street instead of in the parking lot.

Palmer Wetzel is the owner of Chestnut Beer Garden. He stated that obviously there is a bit of a situation. He has tried to work with the neighbors. He did not hear about any problems until two months ago when it was brought to his attention. Suddenly, it was thrown at him. He said he would do what he could do. Thirteen days ago, the residents said everything was livable. He admitted this weekend was bad. He hadn't heard about last night, and has not seen the reports. He does not know what happened but the bartender said two brothers who have not been in the bar for quite awhile were the cause. He does not believe marijuana was ever in the bar because police officers do a periodic walk-through. He disagrees with the allegations about employees doing drugs. In 16 years, he has never had one situation from the Liquor Board. He has a clean record. With regard to the fight this weekend, he received a call from a resident at 2:20 a.m. He then called the bar but the bartender told him the situation was handled and the troublemakers were gone. He said this is his livelihood. If he has to close the bar at midnight on Fridays and Saturdays, then that is what he will do. Most of the problems are late at night. He said he had told the neighbors he will fix the fence but if he has no business, he cannot fix the fence. He stated he is caught off-guard. He will put something together with the Law Director.

Mrs. Pyke asked Mr. Wetzel if he believed he had a responsibility to the neighborhood to know what is happening at his bar. Mr. Wetzel said he did. Mrs. Pyke said he had a responsibility but seemed surprised that 34 reports were made and he didn't know about any of them. Mr. Wetzel said the police did a drive-through and there was no problem. Mrs. Pyke stated when she and Mr. Wetzel met in June, she allowed Mr. Wetzel to believe he was under investigation. She asked if he banned people from his bar at that time. He said he did. Mrs. Pyke stated that he must then be aware that the clientele that frequents his bar is bad. These neighbors are saying it is so bad they are at the tipping point. They do not want to put up with his any longer. At the last meeting with the residents, the statement was made that if any further incidents occurred, they would be taking action right away. Mr. Wetzel did not recall that. He said he has worked with the City for 16 years and has

worked with Council members. He talked to several officers. If it had not been for this past weekend, this matter would not have been discussed tonight. He cannot afford to lose his livelihood.

Mayor Robart stated that Mrs. Klinger was correct in stating this has been an on-going problem. In fact, it was one of the first things she talked about when she first ran for Council. He wondered what it was about the Boulevard that it did not have the problems the Beer Garden had. Mr. Wetzel stated that the Boulevard is more of a restaurant. He thinks that some of the problems he gets blamed for are from patrons of the Boulevard, although he takes 89 percent of the blame. It isn't fair to compare the two establishments. Mayor Robart was disappointed that Mr. Wetzel has failed to take any action since the first meeting in May. He thought that meeting would have sent up a red flag to Mr. Wetzel. He felt Mr. Wetzel should be attuned to his business and know all of the major problems that have occurred. The one topic that keeps coming up is excessive drinking. He told Mr. Wetzel that his bartenders need to be trained to know when a person is over the line and should be cut-off from alcohol. Mr. Wetzel said his bartenders are cutting people off and sending them home. Mayor Robart stated Administration did not initially co-sponsor this. He is not sure this matter can be resolved. He was leaning towards Council holding this and then coming back in August after the neighbors have some commitments from Mr. Wetzel. Mr. Wetzel stated he understands their concerns and that things have gotten better since May.

Mrs. Ritzinger agreed with the Mayor. Mr. Wetzel met with Mrs. Pyke in May. He was made aware of the seriousness of the situation, and the fact that the bar is in jeopardy. These neighbors have serious concerns. Mr. Wetzel must be at his bar. Obviously, he has not been there at night. She wondered why. Mr. Wetzel stated he liked to be home with his wife. Mrs. Ritzinger told him that was all well and good but he needed to be a witness to this. He needs to be directing his staff and finding out what goes on in there if he wants to remain in business in Cuyahoga Falls. She stated he needed to promise the residents he will do something different. Mr. Arrington stated that Council does not have the authority to shut the bar down. The Liquor Board decides, not the City. The City takes steps to get the matter to Columbus and then the owner pleads his case to them. Mr. Mader asked what the criteria was that the State Board looks at to determine whether a license should be revoked. Mr. Arrington said some reasons the statute states are whether the bar owner has been convicted of a crime, whether the bar owner is addicted to alcohol or drugs, misrepresented facts on his application, location of establishments and saturation of neighborhoods.

Mrs. Pyke asked about the timeline if the legislation were held. Mr. Arrington stated if it were held tonight, in order for the objection to be filed, there would have to be a special meeting in August to vote. Mrs. Pyke stated she would like to know that if something else happens, Council would come back in August. She stated things that are considered if the State investigates is they look to see if there are weapons, underage drinking, or people being served to the point of intoxication. She feels these reports reflect all of that. Mayor Robart suggested that they get the neighbors together with Mr. Wetzel, Council members and Administration to dissect all of the issues and figure out how to correct them. There needs to be some control over the activities in the bar. If there is no resolution, then Council can meet to pass the resolution before the deadline.

Chris Hampton stated he is not interested in hearing any more of Mr. Wetzel's empty promises. He is not interested in second chances. Mr. Walters pointed out that if they cannot get eight members to attend the special meeting, they cannot get an emergency measure. Mr. Barnhart stated that most people on Council can remember the situation with JR's Pub. At that time, he did not get support from Council. He asked what chance the City would have in winning this in Columbus. Mr. Arrington stated he could not tell because there are too many variables. Council could vote on this tonight but that would not preclude Administration from working things out. Council could always call a special meeting to reconsider the vote. This would give Mr. Wetzel great incentive to work things out. Mr. Arrington felt there is enough evidence to support the objection and to go further with asking for a hearing. It would be up to the Liquor Control Board to make their decision. Mr. James indicated he would be comfortable voting tonight and coming back to reconsider, should that be the case. He understood the plight of neighborhoods feeling helpless. These people have heard empty promises. Mr. Wetzel is responsible for his bar and he needs to be there to see what is going on. He's said this is his livelihood so he needs to do a 180° turn and be a hands-on owner. If he has to go to his bartenders and tell them

they are not doing their job, then so be it. He may need to screen new bartenders and hire some security. For him to gain half the trust of the neighborhood, he needs to prove he is serious about changing the way his bar is run, instead of being someone sitting in the background. Having the owner on the premises may curtail a majority of the problems. Mr. Arrington stated that before he would consider calling Council back, he would have to have an agreement in front of him from Mr. Wetzel that is very detailed and very involved with a lot of conditions. Mrs. Pyke indicated she was in favor of Mr. Arrington's suggestion to move forward tonight and get together with a committee. If an agreement is arrived at that is something the neighborhood could live with, it would be o.k. with her. Mrs. Klinger stated if the Mayor did not happen to sign this legislation, she would like to know because by the Mayor not signing, that is another way to hold this.

Committee recommended bringing out Temp. Res. B-74.

Meeting adjourned at 8:15 p.m.