

WICKLIFFE CITY COUNCIL
SPECIAL MEETING - SEPTEMBER 21, 2009

A special meeting of the Council of the City of Wickliffe was called to order on Monday, September 21, 2009 at 7:45 p.m. by Council President William Margalis. Upon roll call, the following were present:

MAYOR:	Thomas Ruffner
LAW DIRECTOR:	Bill Gargiulo
COUNCIL PRESIDENT:	William Margalis
COUNCIL:	Jaworski, Koski, Krych, Levar, Luther, Matyja
FINANCE DIRECTOR:	Martin Germ,
ENGINEER:	Pete Formica
ACTING SERV. DIRECTOR:	Dan Kerniskey
POLICE CHIEF:	Randy Ice
FIRE CHIEF:	James C. Powers

The Clerk of Council read the notice of the special meeting which is being held per the written request of Councilmen Jaworski, Krych and Matyja.

LIQUOR PERMITS

Mr. Matyja referred to the liquor permits the city receives and it has been the practice for the Clerk of Council to receive the permits but does not forward them on. He wants this procedure to change to when a notice of a liquor permit is received it should be given to the Council President and he in turn can forward it on to the ward councilman. Mr. Margalis added that it appears from the hearing held last week that the Liquor Control Board is assuming that the legislative body is making that decision to either contest these permits or transfers or not and if nothing is heard back they assume everything is okay. The Chief of Police also gets a copy of the permit but it's the legislative body that has to take action. The procedure will change so that the council president and/or the ward councilman receives the application.

THERE WAS NO AUDIENCE PARTICIPATION

RESOLUTION NO. 2009-14 A RESOLUTION EXPRESSING SUPPORT TO TELSHE YESHIVA RABBINICAL COLLEGE AND HIGH SCHOOL, ALL SAINTS ELEMENTARY SCHOOL, SACRED HEART CHAPEL, THE CENTER FOR PASTORAL LEADERSHIP, AND BORROMEO SEMINARY CONCERNING THEIR FORCEFUL AND VIGOROUS OBJECTIONS TO THE ISSUANCE OF A PERMIT TO SUEDE NIGHTCLUB TO SELL INTOXICATING LIQUORS AT 28500 EUCLID AVENUE, AND DECLARING AN EMERGENCY. Read by title.

Mr. Gargiulo stated that he drafted this ordinance and in looking at the Ohio Revised Code, there are some things he would like to add to the discussion. The Department of Liquor Control does not have to notify the city but they do. They do that through the only address that they have which happens to be the City Clerk. In that notice they will cite various sections of the O.R.C. that sets the criteria for the city to object. Also, in that objection there has be an ordinance so Mr. Margalis referring to a legislative action is absolutely correct. Once the city decides to prepare an ordinance that directs an objection to the Department of Liquor Control this Resolution No. 2009-14 is good because it is after the fact. Some wording was added to the resolution referring to the O.R.C. Mr. Gargiulo found out at the hearing that not only is there a rabbinical college but

there is also a high school which has residents at that location. There is also a St. Mary's College on that campus. It is fair for us to say in the second WHEREAS in the Resolution that there are adjoining residences. The other language was taken from various parts of the O.R.C. and it states the position that the council president stated at the hearing. They were forceful and they were vigorous and the city was also vigorous in their objection.

Moved by Mr. Matyja seconded by Mr. Jaworski that the rules of council be suspended and that Resolution No. 2009-14 be placed on third and final reading.

Mr. Matyja added that there should be some record of what happened at that hearing. Chief Ice gave a well prepared, outstanding synopsis of what has happened in Willoughby and what can happen here. He was shocked at how Rabbi Wolf of Telshe Yeshiva and Philip Guban of the Center for Pastoral Leadership were treated. We're talking about a nightclub in Willoughby where they had hundreds of police reports, activities, tons of arrests but what bothered him also was that they had eleven policemen there, we don't even have eleven policemen in our community. They have even called for mutual aid from Wickliffe and Eastlake. There are a lot of bad things that can happen if this goes in. We can support the objections of the schools and he asked Chief Ice to give a report of activities at Willoughby. Chief Ice then proceeded to report on the serious problem there, between September 1, 2007 and July 14, 2008 there have been 341 calls and 181 minor misdemeanor arrests for littering, many traffic citations, felony arrests, arrest warrants, vandalism, carrying concealed weapons and firearms. Extra manpower has always been needed and after closing hours there has been stealing at gas stations and fast food restaurants. Wickliffe has been requested three times for mutual aid. Thirty citations have also been issued by the Department of Liquor Control and they realize there are problems there.

Mr. Margalis added that at the hearing several of the council were there and gave testimony on behalf of the Rabbinical College and the Center for Pastoral Leadership opposing this liquor license based on the information give by the Chief. This club was a nuisance in Willoughby and it appears to him that nothing was changing in their basis of operation and for us not to oppose this would be wrong. We also learned of some legislation that the City of Willoughby has passed. Mr. Margalis placed that chapter of nightclubs into the FINANCE COMMITTEE to discuss further.

Mr. Jaworski referred to a meeting at which Chief Ice reported the problem and we requested that action be taken for the city to object to this club opening but no action was taken. Considering all the documented problems, that is inexcusable and he wants to know why no action was taken. Mr. Margalis added that from the information Chief Ice gave us council was unanimous by saying we oppose it and the Chief was going to talk to the Law Director.

Mr. Gargiulo read from the Ohio Revised Code, Section 2303.292 which deals with this. This gives the criteria that the city has to use to make an objection. Although the section is hard to comprehend, the owner does not have a criminal record, has the transfer of the license from Willoughby so that allows us to get in the door. Section A, 1 through 2 was read to council. Letter B is arranged that law enforcement officers and duly authorized agents of the division are prevented from reasonable access to

the rooms within which beer and intoxicating liquor is to be consumed. This does not apply because the officers can walk in the front door. Section C was then read which pertains to the neighborhood and public decency regarding the transfer of ownership. This is in our resolution. Section D also pertains to a nuisance being declared and that is not the case either. The place where the permit is sought is so situated with respect to any church, school, library, hospital that the operation of the liquor establishment adversely affects. This is also in the resolution but does not apply either. He further referred to Section 2B2 of Section 4303.29. This whole section does not apply so the city would be hard pressed to file an objection because all of the incidents were not in the municipality of Wickliffe. Why Willoughby did not declare it a nuisance is a problem.

Mr. Jaworski stated that this makes no sense because the amount of money spent in overtime could actually bankrupt the city in the future. Mr. Margalis added that this decision is for the legislative body to make not the city. If this legislative body comes to an agreement that we object to it we do so because it was not understood before. Mr. Margalis added that based on the information he heard from the Building Dept. there would be about 500 to 700 people there, that facility cannot hold that many. We have not seen parking plan approvals so based on that we do have a standing to object. They did not go to the Planning Commission for approval. Our objections are from what happened at the other city.

Mr. Matyja said the objection to 700 people is valid and this is on the agenda because the attorney for Suede Nightclub objected to anyone else testifying because he said we had a chance to object to which we did not. That's why this resolution is important and he suggested that the state representatives and Ohio State senators be sent a copy of the resolution because this is important to the schools and to the city and if all our police are at this club who will watch the city.

Mr. Garguilo added that they have to go to the Planning Commission for parking and for occupancy. The Fire Chief added that he received information from Suede Design Professionals that stated their occupancy rate to be 440 for the commercial end of the facility. Mr. Sack stated that there are 195 rooms at the hotel and 195 parking spaces. There are only 250 spaces there now.

Mayor Ruffner clarified that a few months ago Mr. Sack reported to him that he has good news that a new restaurant wants to move in to Mosley Suites. A few weeks later Chief Ice came to his office with concerns about this Suede Nighclub. He had a conversation with the law director stating what do we do with this information and at that point he was telling me that this was in another city and from looking at the permits applied for there does not seem to be an obstacle as far as legalities go. Representatives from Suede visited me at my office. They painted the picture that there was a problem before which was exaggerated and now they do things better. The owner of Mosley Suites also came in and said that if they do anything wrong he will be first guy to tell them to hit the road. So the Mayor understands that they had the permits in place, they have the zoning, etc. they just basically sold it to him. He did point out to them that in the past that in that area of town we have had overload crowds from nightclubs or whatever and it always poses a problem. We are a tight community and do not have room for overflow crowds, everything has to be policed. At that point there was no discussion of any liquor permit, the only objection he heard from council was we can't object to the permits for the zoning, everything was in

place prior to that, if they came out of my meeting thinking I was approving their whole agenda but it was just to be fair that there was a business coming into town and that being a restaurant, no discussion of numbers was mentioned. They did call the other day and were upset because people were opposing them. He said he told them that he listened to what they said but that they do not have a carte blanche in the city.

The Mayor further said that they had to have the permit process completed and that it wasn't the mayor that approves the permits.

Mr. Jaworski added that during the meeting the owner said that he had put in about \$150,000 in improvements to the building, did he have the proper permits to do this. Mr. Sack replied that he did not need a permit for that, all they did was paint the walls. Mr. Margalis added that if work is done inside any structural changes have to go through the County Building Department. He called the county and they did submit plans but have not received a final inspection. They were also building a platform for a stage. A nightclub falls into the same category as a restaurant as far as county codes go. Mr. Jaworski also asked if they went to the Sign Review Board since there is a sign there, to which Mr. Sack replied that they did.

In answer to a question from the Mayor regarding the permit, Mr. Gargiulo stated that his understanding is that if council passes this and it is signed it should be sent out by fax and e-mail to legislators in the county and state. Mr. Krych questioned the number of 700 and if it was given under direct testimony under oath by the owner he would want the record for parking plan approval to be adjusted to that number because they gave that testimony under oath and we should get a copy of that. Mr. Sack stated that this was for an occupancy permit. Mr. Margalis reiterated that they have to to the Planning Commission before they can proceed.

Mr. Matyja referred to the \$150,000 investment and that would be perjury on that count, he could not have put that much into improvements and he did say that under oath. He asked the Law Director to contact the Liquor Agency and tell them that he perjured himself on that item. Mr. Gargiulo will obtain a transcript. Mr. Matyja further added that he does not want to see this in the city and we should do whatever we can to protect our residents and the schools around there.

Mr. Jaworski added that for the most part we have been very good to all of the businesses here that have followed the rules but for this establishment to come in here thinking they can not, this is unacceptable and we should do whatever it takes to stop them.

Mr. Levar asked Mr. Gargiulo about the meaning of a nuisance. Mr. Gargiulo answered that in this situation he did not know why the City of Willoughby did not declare this establishment a nuisance. We do have that in our ordinances.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja
No: None

Motion carried.

Moved by Mr. Jaworski seconded by Ms. Koski that Resolution No. 2009-14 be adopted as presented.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja
No: None

Motion carried. Resolution No. 2009-14 adopted.

There being no further business it was moved by Mr. Jaworski seconded by Ms. Koski that the special council meeting of September 21, 2009 be adjourned.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja
No: None

Motion carried. Meeting adjourned at 8:25 p.m.

Clerk of Council

Council President and
Presiding Officer