

**MINUTES
NOME CITY COUNCIL
SPECIAL MEETING
January 15, 2007**

The Special Meeting of the Nome City Council was called to order at 12:00 Noon by Mayor Denise Michels in the City Council Chambers of Nome City Hall located at 102 Division St.

ROLL CALL

Members Present: Stan Andersen, Jerald Brown, Mary Bourdon, Mary Knodel, Jon Larson, Randy Pomeranz

Members Absent:

Also Present: City Manager Randy Romenesko, City Clerk Leslee Wessel, Chief of Police Craig Moates.

In the audience: Louie Green, Raymond Larsen

CITIZENS GRIEVANCES AND REQUESTS:

Mr. Raymond Larsen stated he submitted a letter to the City of Nome on Friday, January 12, 2007. It is a notice of appeal for non renewal of his chauffeur's license. He explained he received a letter dated December 19, 2006 from Jens Noet, Acting Chief of Police, stating that he was unable to renew his chauffeur's license because he has not met the requirements of NCO 3.10.030 (a) (3) which states a person shall be denied a chauffeur's license if they have been convicted of a felony, any portion of the sentence which was served within five years immediately preceding the application. A review of his criminal record indicates that he has never been convicted of a felony, however, in Section NCO 3.10.030 (a)(1) it does state that a person shall be denied a chauffeur's license if they have been convicted within the past five years of Assault IV, which he was convicted of this past July. He does not wish to hide this fact. What he would like the Council to consider is that he has recently received custody of his children, Raymond, Jr., and Robert and that his main means of income to support them is through driving the cab. He would also like to point out that he is currently very involved in treatment at Behavioral Health Services in changing his lifestyle so that this type of thing never happens again. He asked the Council to allow him to continue his chauffeur's license so he can have a means to support his children. He added that he has had a chauffeur's license since November of 2000 and has been renewing it every year since. At the time of his conviction he was not working. This past mid November in order for him to drive for Checker Cab he had to provide a copy of his driving record to the owner which he sent to his insurance company. As soon as they got it they suggested he be hired since he has a clean driving record. Since he started working he has made enough to get his own apartment. After getting his own place the State of Alaska let him get custody of his two boys. He asked the City Council to renew his license to continue working as he is still working on his treatment plan with BHS. The treatment plan goes to the end of February 2007. The only thing holding him back is his chauffeur's license.

C. Knodel asked how long his treatment plan goes. Mr. Larsen stated it goes until the end of February 2007. He has been in treatment since the end of October 2006. C. Knodel asked if his appeal is on the agenda. Mayor Michels stated it isn't.

City Clerk Wessel stated she received his letter of appeal on Friday, January 12, 2007. The letter of denial was issued to Mr. Larsen on December 19, 2006 and the return receipt shows that he received it on December 22, 2006. He did not meet the requirements of Section 3.10.060 in the appeals section of the code which states he must appeal within five day of receipt of the denial. She informed him on Friday she was not able to bring that to the Council for consideration formally.

C. Andersen asked about the language regarding the five days. City Clerk Wessel stated the language in the code is "the applicant by notice in writing given to the Chief of Police within five days of receiving notice of such refusal can appeal the decision of the Chief of Police to the Common Council of the City".

C. Larson asked if this is the only offense that is a problem for him. Mr. Larsen stated it is. C. Larson clarified there is nothing else on his history. Mr. Larsen stated there isn't. C. Larson asked if the sentence that was imposed by the Court carried a probationary period beyond the term of the treatment portion. Mr. Larsen stated he will be on probation until 2010. C. Larson asked what the condition of the probation is. Mr. Larsen stated no consumption, no possession, no violation of any laws, etc.

C. Larson asked if Chief Moates needs time to respond to this. Chief Moates stated he was just made aware of this today. He would like to have some time to research the circumstances, what the charges are, what the factors are regarding probation, conditions of release, etc. C. Larson asked how much time he would need to do that. Chief Moates stated a day or two.

Louie Green stated this chauffeur's license process has become quite the ordeal for some people. It also has become an expense to the drivers that are applying. It has actually become actually a new license process where they have to go through all the hoops for the different departments instead of a renewal process. He doesn't know where all this has stemmed from but he has had plenty of compliments about the driving partners he is involved with. Any time he has ever had a complaint he has taken care of it on his own. He wasn't aware of most of this taking place when it was being put together and he would have considered it a good idea to have the people who are involved in this industry to at least be a part of a working group that could have put together some common sense kind of stuff together so they wouldn't be mulling over this every time someone got a denial and had to make an appeal. He didn't have much time to prepare for any of that when it was being done. The Council acted on some stuff that was handed to them and he would like to have seen the other owners in here taking part in it by making suggestions because they are in this together and they have responsibilities as the business owner. They have their worries about who drives a cab. He sees a lot of people out there that have rap sheets quite long and they are behind the wheel. He doesn't know why this came to be what it is.

C. Andersen stated Gary Hart was here twice while they were going over this thing. Mr. Green stated he came in June of 2005 and he got here too late because he didn't even know the meeting was taking place. He hadn't had a chance to consider the changes. At that time he found that the notices are placed on the door of City Hall. Mayor Michels stated that first reading of the Ordinances is also published in the Nome Nugget. They do what is required by the State of Alaska to post all notifications and Ordinances, etc. Mr. Green stated he told Nome Eskimo Community when he was told they advertise everything on the TV, newspaper and the radio, there are lots of people who don't listen to the radio or read the newspaper, but everyone goes to the mail box.

C. Andersen stated if he is going to be in this business he needs to find out what the rules and regulations are. Mr. Green stated he actually has those now.

NEW BUSINESS

A. Chauffeur's License Appeal.

Discussion.

C. Andersen asked what he is saying in his letter of denial.

Chief Moates stated there are three areas that actually fall under the code. One is a driving history, one is moral character and the other is a criminal history. He denied the renewal on the moral aspect of a pending charge for furnishing alcohol to a person under age.

C. Andersen stated the way the code is now if they walk across the street funny, they will find a violation. He stated he thinks the pendulum has swung too far.

Chief Moates stated there has been an issue of minors consuming and the amount of alcohol that is going to people under age, etc. in the community and it is an issue the City Council has addressed. There is a pending charge for that. He talked to Ms. Hoogendorn and suggested that she may want to wait until she gets through the adjudication period and then come back and make a presentation at that time for a license. She didn't want to do that. She wanted to go for renewal at this time. He looked at what she had said and restated in her letter that she supplied alcohol to people by buying a round of drinks. Looking at the aspect of possible pending charges and/or probation and the act itself, he denied the application.

C. Larson asked if this isn't it a specific intent crime. Chief Moates referred to the definition which says conviction or not. C. Larson stated he meant the furnishing. Isn't the furnishing a specific intent crime and if someone has a reasonable expectation that the individual that has received the alcohol is of legal age that may be a defense. Chief Moates stated he thinks that will be adjudicated. C. Larson asked if there is evidence that is contrary to what her statement is in her letter to them in terms of her knowledge or intent at the time. Chief Moates stated without trying to adjudicate this through this process he didn't go into the case or the case material. He tried to look at it on its open face value without making a judgment based on whether he thought she should be guilty or not.

C. Andersen stated then she is not presumed innocent until she goes to court. He made a judgment on her statement. Chief Moates stated the charge itself—under the definition of moral character—if you are arrested, you don't have to be convicted, but if you are arrested or charged with—and based on what they were trying to do both in the community and the police department he thought this was of such an impact that to deny it now would be the prudent thing to do. If she goes to court and she is adjudicated and it is dismissed or whatever and she wants to reapply, then he would look at it from a different perspective.

C. Andersen asked if she is driving right now. Mr. Green stated she can't. C. Andersen stated the last he heard she was in Koyuk. Mr. Green stated she is here.

C. Larson asked if there is any other history or problems. Chief Moates stated not that he is aware of.

C. Andersen stated once they stumble through a few of these hopefully this process will be refined.

A motion was made by C. Knodel and seconded by C. Andersen to approve the appeal as requested.

At the roll call:

Ayes: Andersen, Brown, Bourdon, Larson, Pomeranz

Nays: Knodel

The motion CARRIED.

Mayor Michels asked if they need to schedule another meeting regarding Mr. Larsen's appeal. City Clerk Wessel stated if they are going to accept his letter of appeal as being timely.

C. Andersen stated the Agenda says Chauffeur License appeal(s). It doesn't have a specific person listed. To him anyone can come up and appeal.

C. Brown stated they were going to give the Chief time to gather more information. He suggested they have it at the regular meeting on January 22.

C. Andersen asked the applicant if he could wait until that meeting. Mr. Larsen indicated he couldn't. C. Andersen stated unless he can get other work he is not going to have enough to get workman's comp or anything. He asked if they could tentatively approve the license pending on what the Chief finds.


C. Brown stated the fact that he waited as long as he did to appeal weighs in with him on scheduling this.

C. Knodel stated she thinks they need to wait until next meeting.

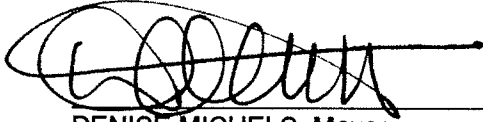
ADJOURNMENT

A motion was made by C. Knodel and seconded by C. Pomeranz to adjourn. Hearing no objections the meeting adjourned at 12:20 p.m.

SIGNED AND DATED this 31st day of January, 2007.



LESLÉE M. WESSEL, City Clerk/Treasurer



DENISE MICHELS, Mayor