

## Item 23-1187: Recommended Denial of an Operator License

### Safety and Licensing Committee

Wed, Oct 25, 2023 5:30PM

#### **Alderman Chris Croatt (District 14) 02:44**

Okay, moving back to the top of the agenda. I thought the applicant might be here. 23-1187 is the recommended denial of an operator's license for Katie Baxley, you will see in the packet was the application. There was a denial letter, which is what the clerk's office sent to [Ms. B.] and then presented to us tonight was the memo from the police department with their request to deny this license. I will—I know Lieutenant Nagel is not here, but is there someone else filling in for him tonight? Lieutenant Gooden? Okay. Would you like to comment on the memo that was provided? Okay, yeah, we can get a motion to get this on the table.

#### **Alderman Alex Schultz (District 9) 03:33**

Motion to deny.

#### **Alderman William Siebers (District 1) 03:34**

Second.

#### **Alderman Chris Croatt (District 14) 03:35**

Motion and a second to deny. Okay, so nothing additional. The memo outlines the APD position on why they're recommending, requesting denial of the license. Any questions from committee members? Alderman Schultz, go ahead.

#### **Alderman Alex Schultz (District 9) 03:52**

Thank you, Chair. I wish the individual were here to have some questions or respond to questions, but I guess I'll just direct this to APD. I guess I'm curious to know what is considered a reasonable time for someone to be rebuilt—rehabilitated or show evidence that they are attempting to be rehabilitated. The last violation looks like it was four years ago. Just curious to know as you review something—a application like this, is it five years? Is it 10 years? Or is it or is it evidence that the individual is making some effort in displaying or showing that and providing evidence that they are making some effort? And it's kind of vague to me that you're making a decision that okay, it's four years ago is the last violation. At what point is someone considered rehabilitating

#### **Alderman Chris Croatt (District 14) 04:41**

Assistant chief or attorney? Attorney Buruin, district five? Go ahead.

#### **Zak Buruin (Assistant City Attorney) 04:46**

Thank you. That's a good question. A lot of that information and a lot of the guidance from that actually comes from Wisconsin statutes. So, there are timetables set forth in that, and there's also specific information that can be brought forth by the individual to show rehabilitation. So, there isn't—the key is going off with the information that's available. And when Lieutenant Nagel drafted this, he's got the information based on the offenses. It's disappointing that the individual isn't here to potentially show documentation. And some of the documentation that can be shown is successful completion of probation, documentation of that. There are other periods listed in there in terms of a year post-release from custody without violations. So those are things that are set forth in the statute. But all that is based off of information that they would need to bring forward. So, if she had come here and had documentation of that, this would be a whole different ballgame. But with the information at hand, we can only go off of what is most recently available.

**Aldersperson Alex Schultz (District 9) 05:54**

Just to follow up, yeah, I think that's the unfortunate situation right now. Because I'd certainly love to hear whether or not this individual is making some concerted effort to turn her life around, if that's what we're talking about. And, and without any other information to go on it's a challenging decision. I always like to give the benefit out to someone who might be trying to turn their life around, but if you're not here, or present a reason why you can't be here this evening, then it's, it's really tough to make this decision.

**Aldersperson Chris Croatt (District 14) 06:21**

So, Clerk Lynch, has your office received any communications back from the applicant after the certified letter went out?

**Clerk Kami Lynch 06:28**

So, there was—potentially we'd have a safety and licensing committee meeting two weeks ago, that we cancelled, so she was notified of that meeting, and then she was contacted, "Could we reschedule?" And she actually indicated that this date worked better for her.

**Aldersperson Chris Croatt (District 14) 06:47**

So, she was very aware that this meeting was taking place—

**Clerk Kami Lynch 06:50**

Yes.

**Aldersperson Chris Croatt (District 14) 06:51**

—at this time. Okay. Well, if it goes to Council as a denial, and we get information that she wants to address the committee, we could refer it back, or that gets taken up at Council if she's comfortable with that. Okay.  
Aldersperson van Zeeland.

**Aldersperson Katie Van Zeeland (District 5) 07:08**

Thank you, chair. Not with—with the vote notwithstanding, I was just curious, it looks like this person is a constituent of mine based on their address. I understand that their contact information is not public, but would I be able to get that from the clerk can reach out to the applicant? Is that acceptable?

**Clerk Kami Lynch 07:29**

I think with your direction, I think someone from my office could reach out to the applicant encourage them to come to Council since they didn't make it to this meeting, and we'd be happy to do that.

**Aldersperson Katie Van Zeeland (District 5) 07:40**

Okay, that'd be great. I am going to do that no matter what happens here.

**Aldersperson Chris Croatt (District 14) 07:46**

Aldersperson Wolff.

**Aldersperson Nate Wolff (District 12) 07:48**

Thank you, Chair. So, my question is, they did initially say that they planned on being here tonight, correct?

**Clerk Kami Lynch 07:55**

Correct.

**Alderson Nate Wolff (District 12) 07:56**

And perhaps they had car troubles or something happened. So, is it possible to hold this item? Or would that be...?

**Alderson Chris Croatt (District 14) 08:11**

It—I guess it's possible. I wouldn't recommend. I would say just send it on to Council and if someone connects with this person, and they want to present their, you know, their, what their what they're doing, they could—there's a few options we have.

**Zak Buruin (Assistant City Attorney) 08:27**

Yes, there are options in that way. And I think the committee can handle that however it deems appropriate. But the most expedient way to get a resolution either direction is probably to send it through today and then it can be substantively addressed at Council if she appears.

**Alderson Chris Croatt (District 14) 08:43**

Okay. So, on the on the floor is a motion and a second to deny the operator's license based on the information that we have. Is there any other comments or questions? Okay, all those in favor of that signify by saying aye. Aye. All those opposed? Five zero. It will go as a recommendation to deny the license application.

[Cut]

**Alderson Chris Croatt (District 14) 25:01**

Before we adjourn, are you [Katie B.]? Okay. I know you came in late. We are actually at the end of our agenda and we already took action on your on your application. Attorney Buruin, would we be able to reconsider our vote here at committee and open that back up since she is here? It would that be an option for us?

**Zak Buruin (Assistant City Attorney) 25:28**

I believe the committee can entertain a motion to reconsider at this point.

**Alderson Chris Croatt (District 14) 25:31**

Okay. I, I know, I know you came in late, but since you're here, I'd like to give you an opportunity to maybe answer some questions that this committee might have. We did. We did vote five zero to deny your application which would go to as a recommendation to the full city Council. But since you're here, and we're still in session, if someone on the committee would like to make a motion to reconsider?

**[Alderson Schultz made a motion to reconsider. He spoke while Alderson Croatt was speaking, and their words overlapped.]**

**Alderson Chris Croatt (District 14) 25:54**

Is there a second?

**Alderson Katie Van Zeeland (District 5) 25:55**

Second.

**Alderman Chris Croatt (District 14) 25:56**

A motion and a second to reconsider our vote, we could reopen that and ask questions based on what information we have. So, we have a motion and a second to reconsider our vote. All those in favor signify by saying aye. Aye. All opposed? Okay. Five, zero.

**Alderman Chris Croatt (District 14) 26:11**

We are reconsidering your license application, which was listed on our agenda as a recommendation of a denial, which is based on the Appleton Police Department's request of this committee to deny your license application. If you could approach the microphone, I believe the committee is going to have some questions. You don't you don't have to speak, but since you're here, the committee may have some questions for you in regards to your history, rehabilitation, what you're doing with your, with your life.

**Alderman Katie Van Zeeland (District 5) 26:47**

Chair, if I could? Could attorney Buruin go over again, what kind of information would be pertinent for the committee to review?

**Alderman Chris Croatt (District 14) 26:56**

Yeah, that's a great point. Thank you. Thank you, Alder van Zeeland. Attorney, Buruin, would you please give us some clarifying direction?

**Zak Buruin (Assistant City Attorney) 27:04**

Sure, and a lot of this will be quoted straight from the Wisconsin statutes. So provide citations here specifically, it comes from 111.335 in this case subsection four. So, if a license agency refuses a license to an individual, they are permitted to "show evidence of rehabilitation and fitness to engage in the licensed activity under the relevant paragraph. If the individual shows competent evidence of sufficient rehabilitation and fitness to perform the license activity, the licensing agency may not refuse to license the individual or bar or terminate the individual from being licensed" in substantially relevant part, I would note that "competent evidence of sufficient rehabilitation and fitness—fitness to perform the license activity" (in this case, the operator's license) includes "a copy of the local state or federal release document, or other copy of relevant department of corrections documents showing completion of probation, extended supervision or parole, or other evidence that at least one year has elapsed since release from any local, State, or Federal Correctional Institution without subsequent conviction of a crime along with evidence showing compliance with all terms and conditions of probation, extended supervision, or parole."

**Zak Buruin (Assistant City Attorney) 28:28**

So, to summarize, if the applicant has documentation of successful discharge from probation, that is pretty much a shortcut for the committee's consideration. That is competent evidence. If that isn't specifically available, she could provide other information in whatever form it takes.

**Alderman Chris Croatt (District 14) 28:46**

Okay, thank you for that. Okay. So, please give your name and address for the record. And then this is your opportunity to show evidence of rehabilitation and fitness to engage in licensed activity. So, make your comments and then we can open up for questions.

**Katie B. (Operator License Applicant) 29:00**

[Katie B. at XXXXX]

**Aldersonperson Chris Croatt (District 14)** 29:11

Okay.

**Katie B. (Operator License Applicant)** 29:14

I do not have documentation on my completion of probation. I did complete probation. This August was a year since I completed it. I do have documentation of ongoing outpatient treatment through Appleton Comprehensive Treatment Center that I've—they just basically gave me documentation that says that I'm receiving methadone daily and counseling and I am having regular attendance. I don't know. Basically, that's prior—or sobriety has been my priority for the last four years more or less. I have had a full-time job plus a second job, plus, you know, getting my own apartment, reestablishing relationship with my family and my children, most importantly, and basically trying to change my life around and have something to show for myself, more or less.

**Aldersonperson Chris Croatt (District 14)** 30:13

Would you be able to provide the necessary documentation on the probation?

**Katie B. (Operator License Applicant)** 30:18

I will have no problem going up to the probation office tomorrow and seeing if what—if they can provide me with whatever I need to.

**Aldersonperson Chris Croatt (District 14)** 30:28

Okay, well, we might, we might be back to the motion to hold, which was your recommendation from earlier. So, there was a recommendation earlier to hold this at the committee level, since you weren't here. We decided to move it along and get it going to Council, but we can we can now hold that if the committee decides that's the action we want to take, pending additional—you providing additional documentation. Would that documentation go through the attorney's office? Or how would that work? To the clerk's office, and then...?

**Zak Buruin (Assistant City Attorney)** 31:02

I think it could be attached to the—

**Aldersonperson Chris Croatt (District 14)** 31:04

—become part of our packet? Okay. Okay. Is there anything else you'd like to add at this point?

**Katie B. (Operator License Applicant)** 31:11

I mean, I have my manager here. If you'd like to speak on my behalf. If that would help or if—

**Aldersonperson Chris Croatt (District 14)** 31:15

They are welcome to speak. We just need them to come to the podium and name and address and then they could make their comments in regards to support for your application if they want to. They don't have to. Completely up to them. Since you're here, I want to give you an opportunity to speak to the committee so we can take all the information into account when we make a decision. Go ahead.

**Christopher F. (Katie's Manager)** 31:38

[Christopher F. at XXXXX]

**Aldersonperson Chris Croatt (District 14)** 31:43

Okay.

**Christopher F. (Katie's Manager)** 31:45

I've been a store manager here since actually May of this year. She comes to work. She's always picking up shifts. She's never come intoxicated or high. She's a very good asset to my store.

**Alderson Chris Croatt (District 14)** 32:06

All right. Thank you for coming and thanks for making your comments.

**Alderson William Siebers (District 1)** 32:09

Can I ask what store?

**Alderson Chris Croatt (District 14)** 32:11

It's True North store, right?

**Christopher F. (Katie's Manager)** 32:13

And I'm the one on Ballard.

**Alderson Chris Croatt (District 14)** 32:14

So, it's the Shell—is it a Shell station? Yeah, okay.

**Alderson William Siebers (District 1)** 32:18

Thank you.

**Alderson Chris Croatt (District 14)** 32:18

Yep. With the Hardee's and the carwash—a Baskin Robbins. Yep. Okay.

**Alderson Katie Van Zeeland (District 5)** 32:25

Can I just ask a question?

**Alderson Chris Croatt (District 14)** 32:26

Sure. Alderson van Zeeland. Go ahead.

**Alderson Katie Van Zeeland (District 5)** 32:28

As the manager, do you hold the overall licensing for the store?

**Christopher F. (Katie's Manager)** 32:34

I have the license and all that cashiers get one and then the corporate office gets the one for the store.

**Alderson Katie Van Zeeland (District 5)** 32:39

Okay. I wasn't sure. But still, that does—you know, I think it makes a difference to have the manager here on the applicants behalf.

**Alderson Chris Croatt (District 14)** 32:48

Right. And just to be clear, they the—the employee has to have one to work alone. Is that correct?

**Christopher F. (Katie's Manager)** 32:55

Yes.

**Alderson Chris Croatt (District 14)** 32:57

All right. That's why she's able to work now. She's working with someone. Okay, any other questions?  
Alderson Schultz, did I see your hand up?

**Alderson Alex Schultz (District 9)** 33:04

No, I think you just answered it in your comments there.

**Alderson Chris Croatt (District 14)** 33:06

Okay. All right. Alderson Siebers.

**Alderson William Siebers (District 1)** 33:07

I'd like to know a little bit more about your recovery program. You said you go to meetings, or you go to counseling?

**Katie B. (Operator License Applicant)** 33:18

I do regular counseling through the methadone clinic, and I also do just individualized counseling through ThedaCare.

**Alderson William Siebers (District 1)** 33:28

Okay. That—once a week? Once a month?

**Katie B. (Operator License Applicant)** 33:34

I do once a week, um AODA counseling through the methadone clinic. And I also do once a month I do group counseling through the methadone clinic as well. And then once a month, I do the individualized counseling through the ThedaCare.

**Alderson William Siebers (District 1)** 33:51

Okay. Thank you.

**Alderson Chris Croatt (District 14)** 33:53

Okay. Anything else? I think before we take action, I'd like to see the documentation presented to the committee.

**Zak Buruin (Assistant City Attorney)** 34:01

Certainly. Apologies. I was going to say as a, just to make sure all the options are available, the documentation that I talked about and brought forth from the statutes, those are things that need to be accepted, but those aren't the only acceptable pieces of documentation or evidence or things like that. So, the committee could take action if it wanted to today. I'm not recommending that it does. I'm not recommending that it doesn't. Certainly, could be held or could be acted upon today as the committee sees fit.

**Alderson Chris Croatt (District 14)** 34:29

Okay. All right. Alderson Wolff.

**Alderson Nate Wolff (District 12)** 34:32

Thank you, chair. Thank you, Chair. So, is that document that you brought in today an acceptable form of rehabilitation? The one showing that she's getting counseling, and—

**Alderman Chris Croatt (District 14)** 34:43

It's said a probation document, right?

**Zak Buruin (Assistant City Attorney)** 34:46

It wouldn't meet the statutory requirements. If the committee found that to be acceptable, I think the committee is within its discretion to do that, but it's not one of the statutorily mandated—

**Alderman Nate Wolff (District 12)** 34:58

Gotcha

**Zak Buruin (Assistant City Attorney)** 34:59

—pieces of information that would need to be accepted/

**Alderman Nate Wolff (District 12)** 35:01

Just wanted to check. Thank you.

**Zak Buruin (Assistant City Attorney)** 35:02

Absolutely.

**Alderman Chris Croatt (District 14)** 35:03

Okay. Alderman van Zeeland.

**Alderman Katie Van Zeeland (District 5)** 35:04

Let's just say since the applicant says that they are willing, and it seems like it would be quite easy to get the probation documents, I would, I would recommend to hold until we can get those items just because I think it will be easier explanation, and meeting the statutory requirement is important.

**Alderman Chris Croatt (District 14)** 35:23

Is that a motion?

**Alderman Katie Van Zeeland (District 5)** 35:24

I would make that motion.

**Alderman Chris Croatt (District 14)** 35:25

I'll second. So, we have a motion and a second to hold. Alderman Siebers?

**Alderman William Siebers (District 1)** 35:29

I have one concern with that, and I'm going to leave it in your ballpark. We just heard the clerk say that, we usually don't meet in November. In this case, if we don't meet in November, this young lady is going to be waiting until December before she gets a license. Now that doesn't mean we can't—

**Alderman Chris Croatt (District 14)** 35:55

I was gonna say we—I mean meetings are held at the call the chair but we tried to maintain our regular cadence. We also can have a pre-Council meeting. We have a lot of budget meetings coming up. That's our the reason why November's a busy—October, November are very busy. We certainly could try to find something that works in November. And we don't meet the week of Thanksgiving; that's another reason why. So, I think we can look at finding a way to meet and get the documentation and review. It would mean possibly one more meeting to attend or two with a Council meeting. So, okay.



**Aldersperson Chris Croatt (District 14) 36:35**

We have on the table a motion and a second to hold. Are there any other comments or questions? Okay, all those in favor of holding until the next scheduled safety and licensing committee meeting signify by saying aye. Aye. All opposed? Five, zero. So, this will be held. It won't be going to Council quite yet. And we'll take the new information into consideration when we make a vote. Thank you for coming.

**Katie B. (Operator License Applicant) 36:58**

Thank you.

**Aldersperson Chris Croatt (District 14) 36:59**

All right. Okay, now we are finished with our agenda, which would bring us to number eight. Mostly Twitter motion. Is there a second? Second? Motion a second to adjourn. All in favor? Aye. Aye. All opposed. Five, zero.