

Item 24-0314: Recommended Denial of an Operator License for Isaiah N.

Item 24-0327: Recommended Denial of an Operator License for Miguel H.

Safety and Licensing Committee

Wed, Mar 27, 2024 5:30PM

Alderman Alex Schultz (District 9) 02:30

As we get to the action items when your case comes up, or we're considering your recommendation for denial, you can approach the podium when I ask. State your name, address, and then you can give us some information. Typically, we'll ask staff first to give us a summary.

Alderman Alex Schultz (District 9) 02:43

So, the first one is 24-0314 recommendation recommended denial of an operator's license for [Isaiah N.]. Staff, would you like to weigh in?

Zak Buruin (Assistant City Attorney) 02:52

I can weigh in on that one again. District three. So, there was a memorandum prepared by Lieutenant Goodin of the Appleton police department with input from myself regarding the legal standards. Should—the committee is likely familiar with much of the template. It sets forth a criminal and arrest history, including exempt offenses, and a pattern of criminal behavior that makes the individual, the applicant, ineligible for alcohol licensing or operator licensing under several Wisconsin statutes that are set forth. Their criminal history and relevant part is set forth in the memorandum as well, and I believe there are specific exempt offenses that are noted in there.

Zak Buruin (Assistant City Attorney) 02:52

In addition (and as I know we've talked about before), those exempt offenses are offenses for which the opportunity to show rehabilitation is not required by statute. So, unless there's some additional information that changes the characterization of the facts, I think that the analysis contained within Lieutenant Goodin's memo is appropriate.

Alderman Alex Schultz (District 9) 04:05

Thank you. Is there anyone who wishes to speak in the audience? Please approach the mic.

Isaiah N. (Applicant) 04:18

Hi, I'm [Isaiah N.]. So yes, I do have a colorful criminal history unfortunately. I have not always made the world's greatest choice is going up. And those—it's not an excuse for the things I've done. I, you know, take responsibility for what I've done. I recently got out of prison about a year ago. And this wonderful woman here—she's the owner of the store I work for—she gave me a chance when I first got out, and I've been working for her for about a year now. She has given me a position to be a manager, and I take my job very, very seriously. It's the first time I've ever actually cared about.

Isaiah N. (Applicant) 04:56

So, most of my problems have stemmed from substance abuse and poor decision making. I have, I guess, not necessarily glowing letters of recommendation, but a letter from my probation agent, you know, letting you guys know that I have been out for about a year. I've had, you know, no known violations. I go to AODA group every week to talk with the counselor, to talk about, you know, just the issues I've had and working on becoming a better person.

Isaiah N. (Applicant) 05:28

So, I totally understand if you guys do not want to give me the license. I can't make you guys change your mind like that. I just wanted to you to know that I've done everything I can to try to change who I am, who I was, and I will let Stacy say better things about me now.

Stacy K. (Glass Nickel Pizza - Owner) 05:48

I am [Stacy K.]. I'm the owner of the Glass Nickle, of Neenah Menasha and the Appleton locations. Isaiah has been with me for about a year. And when he got out of prison, he was actually one of my employ—my other employees from the other location. They had come in, and they had talked to me and I said, "Okay, sir, I'll give him a shot." I really wasn't thinking that he would do a whole lot, you know, in and out. But over the last year, he has done an amazing job for us. I asked him to be a manager about four months ago. He hasn't called in. He's done a great job, very surprisingly, but. **[This elicited some laughter.]** Well, you know, I mean, as a business owner, you...

[Crosstalk]

Stacy K. (Glass Nickel Pizza - Owner) 06:36

And so, I did give him the management position due to the fact that his parole officer did say that he could have the bartending license. So, I went off of that. We got him that, and he's done nothing but good things for the store. We have great comments about our customers, everything like that. If we do take that away from him, he will have to be demoted down back to the kitchen. Because he cannot be in the restaurant by himself without that license. So, if you guys could consider that. He's trying to better himself. He's done a great job. That's about all I got to say.

Isaiah N. (Applicant) 07:15

One last thing. I'm not gonna primarily be bartending. I just have to be, you know, the license holder for to bear responsibility for whatever happens. That's about it. Right?

Stacy K. (Glass Nickel Pizza - Owner) 07:25

Yeah.

Isaiah N. (Applicant) 07:25

I don't know how that works exactly.

Stacy K. (Glass Nickel Pizza - Owner) 07:25

If I'm not there it would be on him. And I can't be at the stores 24/7, so I gotta have my managers have their license. So, if you guys could please consider that, because he is a great asset to my companies.

Alderson Alex Schultz (District 9) 07:40

Thank you for your comments. We, as a committee really appreciate when people show up for these hearings, sort of pour out their souls and let us know that they're making changes. And it's apparent to us that you're making an effort, and everything you're doing since you got out is going to better yourself and certainly help the community. Unfortunately, the challenge with this committee is that were bound by legal statutes and certain restrictions that make it hard for us to, you know, as a committee say, "Okay, we're going to grant you this license." And unfortunate, that's the position we find ourselves in typically. As much as we'd like to give everyone a chance to comes forward and gives us presents themselves as having made life changes, it's a real challenge for us to grant that.

Alderson Alex Schultz (District 9) 08:24

I would like to hear from staff again, like, what is the duration that a person can expect to have to wait if they have a criminal history like this? Is there a certain point where it does become tenable for them to obtain a license?

Zak Buruin (Assistant City Attorney) 08:39

With respect to exempt offenses, I'm not aware of a specific time limit. I think that's—there's no sunset or horizon that I've seen in the statutes. With most types of criminal offenses there is, and I think we'll probably end up discussing that a little bit with the next individual, but with exempt defenses, they're much more straightforward.

Alderson Alex Schultz (District 9) 09:06

Please, go ahead.

Alderson Nate Wolff (District 12) 09:07

Why—so he said that the parole officer said that he could do this. So, I know when I looked over and you looked a little shocked by that. What—like, if that's, you know, what happened, why would that—why would they tell them that and when if they couldn't? Not that you would have—just—yeah.

Zak Buruin (Assistant City Attorney) 09:30

In—I don't know. I don't know who the probation agent was. I do know a number of the local probation agents from prior work. Who was the probation agent?

Stacy K. (Glass Nickel Pizza - Owner) 09:43

Ryan Hartfield. We do have a letter from him stating that he....

Alderson Alex Schultz (District 9) 09:59

Sure, I appreciate that. Okay, we'll add these to the minutes.

Zak Buruin (Assistant City Attorney) 10:04

So, I don't know if he was looking at something different, he has a different interpretation of the relevant statutes, or what along those lines. But I can't speak to specifically why he would have said that. It could be something that perhaps some conversation could be had with him about; I'd be perfectly willing to do that. But I can't speak to why he would have said that.

Alderson Alex Schultz (District 9) 10:26

Alder Siebers.

Alderson William Siebers (District 1) 10:27

I'd like to ask the question of the applicant as well as the owner of the establishment. Knowing very well the record that you have, knowing very well, the fact that you just got out of prison a year ago or about a year ago—I don't want to be provocative, but my question is, what leads you to believe, or what led you to believe that you could appear before this committee and get a license?

Stacy K. (Glass Nickel Pizza - Owner) 11:01

Well, I believe that he is trying. He—for the last year, he has been with me, he has done nothing wrong. He's—if there's any problems with books at the end of the night, any kind of money, anything like that, he's very trusting.

Alderson William Siebers (District 1) 11:19

Did you have the impression that if you could provide the argument that you that you did provide that there was a chance that he could get a license?

Stacy K. (Glass Nickel Pizza - Owner) 11:31

Actually, I have no idea. I'm—I've never been convicted of anything. I'm one of the goody girls that never did anything wrong so I don't really know.

Alderson William Siebers (District 1) 11:45

Well, the reason why I asked the question, I just want to—and I like I said, I didn't want to be provocative. But I have an issue in regards to people believing that they could appear before the committee when, in fact, they don't even have a chance in terms of granting a license based on state statute.

Isaiah N. (Applicant) 12:11

I don't blame you. I wouldn't trust me either.

Alderson Alex Schultz (District 9) 12:15

Can you speak into—

Alderson Nate Wolff (District 12) 12:17

That's not what he's saying.

Isaiah N. (Applicant) 12:18

I don't—all you—all I've ever shown my entire life is that I do know how to disappoint. I do know how to do the wrong thing. It's a lot easier to do the wrong thing because you know [...] the community. You try to do something that's good and you fail, it sucks. You something that's bad and it goes even worse who cares? It's such an easy life for me to live to [...] every single day and know that it doesn't matter because no one cares.

Isaiah N. (Applicant) 12:45

I've spent the last year of my life doing stuff I never thought I would ever do. Never thought I would out of that lifestyle I was living. I honestly assumed that I'd die or something else would happen. In the last year, I've rebuilt relationship with my family, with my mom. I have really tried to just become an adult, and it's really hard, especially when you're starting your 30s. So, I, you know, I'm just doing everything to the best of my ability, and the only reason I came here today is because I never thought I'd be in a position to run any business in my life. So, I never thought I'd ever be trusted to do anything, especially run a legit business. Well, she owns it; I just manage it for her, but, you know, I never thought I'd ever be the type of person I am today. I figured I'd always be the one who just fails and nobody cares.

Alderson William Siebers (District 1) 12:45

Okay.

Isaiah N. (Applicant) 13:39

I'm starting to do things where I fail. It hurts; it hurts me; it hurts the people I care about. And it's scary. And I don't like it because now if something goes wrong, you know, I feel like I'm trying to do the right thing, and now even when I do the right thing and I've done everything I can to show I've done that, it doesn't matter because my past life is always what destroys me. And I get it; that's myself. But, you know, that's why I'm here. Even

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with—even with the chance being, you know, a snowball in hell, there's still a chance. So, I came here to plead my case.

Aldersperson William Siebers (District 1) 14:16

For whatever it's worth, or whatever it's where it's from me as one person, if your license is not granted, don't let that stop you. Please, don't let that stop you. You got a good start. Don't stop. And maybe the next time you come here—if your license is not granted—maybe the next time you come here, there'll be a different story. Don't stop.

Aldersperson Alex Schultz (District 9) 14:49

Aldersperson Van Zeeland.

Aldersperson Katie Van Zeeland (District 5) 14:50

Thank you, chair. I echo the sentiments of Alder Siebers. I think that the issue that we have here is that there are some—and if the attorney could correct me if I'm wrong, but—there are some convictions that don't allow the people who come in front of us to show us that they have rehabilitated, and some of them that do. And so, my impression is that your probation officer likely thought that you were in the other category.

Aldersperson Katie Van Zeeland (District 5) 15:22

Being that these, per the law, do not allow you to show rehabilitation, that's where we have a problem. And just to clarify, I felt Alder Siebers was trying to say he felt for you being here in this position to tell us all of these things about you to have us not have the ability to help you. You know, I think it's important that you have the ability to state your case, but, unfortunately, just based on the information that we have in front of us, legally, we cannot help you on this. But again, I think you're doing great; I think it took a lot of courage to be here. And there are people here who believe in you.

Aldersperson Alex Schultz (District 9) 16:04

Alder Wolff.

Aldersperson Nate Wolff (District 12) 16:04

So, you said you'd be willing to have a conversation with that parole officer, and I was wondering if we could hold this item until you have that conversation to clarify why they think—because I don't see the harm in waiting two weeks, you know, especially considering—like you don't find many people who don't call into work, and I just feel like we can literally wait two weeks.

Aldersperson Alex Schultz (District 9) 16:32

Alder Wolff, I think the understanding I got from the attorney was that, no matter what the case review is, they're exempt violations here that would not allow us to make any different judgment on this recommendation for denial. So, if we held it, we'd be sitting here in the same situation, and gonna ask this individual to come back again and do the same thing. So, I would, unfortunately, not want to hold, and I think we don't really have a choice, given what we've been presented with, unless you're telling us something different.

Zak Buruin (Assistant City Attorney) 17:02

I'm not aware of anything. I will have that conversation regardless. Obviously, the decision to hold or not is up to the committee. I will have that—I will have that conversation regardless. I'll reach out to Agent Hartfield, and see if I can get an idea for what happened and where the where the idea came from. And obviously, if there's something to correct, I will bring that back to the committee. But I don't think that there will be.

Alderson Alex Schultz (District 9) 17:27

Anything further from the committee? Do you want to—go ahead.

Alderson Katie Van Zeeland (District 5) 17:29

If I could just clarify, if we denied this license and something came back from the probation officer that change the circumstances, could we add this back to the docket after we've taken action?

Zak Buruin (Assistant City Attorney) 17:51

In some way, shape, or form, I would expect there'd be—I haven't actually looked at that. I would expect there to be some type of mechanism that would allow it. I don't know what it would be or how long that would take, but obviously, if there was some type of factual circumstance that merited reconsideration, we could look for a mechanism by which to accomplish that.

Alderson Katie Van Zeeland (District 5) 18:11

Okay, that's actually good enough for me to take action, because I believe that if you can factually say that some of this information is incorrect and that changes things, that we could take it up again. But at this point, I think we should take the vote.

Alderson Alex Schultz (District 9) 18:27

I would I would tend to agree. Any other discussion? Kami, would you like to weigh in?

Clerk Kami Lynch 18:36

I just wanted to add for the committee that there—because of, I guess, these, the statutes that would prohibit rehabilitation, and we've had recent cases like this, we have updated the application to include language that—so that it prevents kind of what's happening if it can't show rehabilitation, that it's on the application. Unfortunately, the timing was really bad with this particular one. It looks like he applied on February 15, and the language on the application was updated on February 20. But that is on there now for review by finding one that applies.

Alderson Alex Schultz (District 9) 19:23

We really appreciate that because we find ourselves in this situation, and it's uncomfortable for us. It's uncomfortable for the people who attend when there's really no power of this committee to change what's being recommended. Alder Siebers.

Alderson William Siebers (District 1) 19:38

I what—you're going to be my guinea pig.

Alderson Katie Van Zeeland (District 5) 19:40

Oh, no.

Alderson William Siebers (District 1) 19:41

Question, do you feel rehabilitated?

Isaiah N. (Applicant) 19:45

Do I?

Alderson William Siebers (District 1) 19:46

Yes.

Isaiah N. (Applicant) 19:49

From back in the day. Yes.

Alderson William Siebers (District 1) 19:52

Okay.

Isaiah N. (Applicant) 19:52

But do I feel like I'm the best I can be? That's what I work on...

Alderson William Siebers (District 1) 19:58

Do you feel you've been—you're rehabilitated?

Isaiah N. (Applicant) 20:01

Yes.

Alderson William Siebers (District 1) 20:02

Okay, that's all I need.

Alderson Alex Schultz (District 9) 20:03

Thank you.

Alderson William Siebers (District 1) 20:04

Thank you.

Alderson Alex Schultz (District 9) 20:05

All right, I think we're gonna move to a vote. I would like to hear a motion.

Alderson Katie Van Zeeland (District 5) 20:13

Motion to deny.

Alderson Alex Schultz (District 9) 20:16

Second. Is there any further discussion? Okay, all those in favor say aye. Aye. Opposed?

Alderson Nate Wolff (District 12) 20:25

Nay.

Alderson Alex Schultz (District 9) 20:27

Motion is three one with Alder Wolff nay. Motion carries.

Alderson Alex Schultz (District 9) 20:33

Thank you for appearing. And we appreciate it.

Stacy K. (Glass Nickel Pizza - Owner) 20:35

I have a question.

Alderson Alex Schultz (District 9) 20:38

I—we'll allow it. Go ahead.

Stacy K. (Glass Nickel Pizza - Owner) 20:40

Does that mean that you are taking it away today, or are you going to give me time to find somebody to replace?

Aldersperson Alex Schultz (District 9) 20:48

Well, he doesn't have it is where we are right now.

Stacy K. (Glass Nickel Pizza - Owner) 20:53

Today?

Aldersperson Katie Van Zeeland (District 5) 20:53

Let's let the clerk and the attorney.

Clerk Kami Lynch 20:55

So, this is a recommendation to the Common Council. So, it's not—hasn't been formally acted upon yet. It will go to the Common Council meeting which is next Wednesday at 7pm in this room, and that that will be once it's formally acted upon, and then a letter will be sent with the outcome of the council's decision next Wednesday.

Stacy K. (Glass Nickel Pizza - Owner) 21:15

Can we attend that, or no?

Clerk Kami Lynch 21:17

Yes, yep, you can attend. And then if you want to address the Council and speak there will be a purple sheet in the back of the room for public participation.

Stacy K. (Glass Nickel Pizza - Owner) 21:25

Okay, because I think we need to get more information, and I'll talk to my own attorney and find out—

Aldersperson William Siebers (District 1) 21:30

7pm. 7pm next Wednesday.

Aldersperson Alex Schultz (District 9) 21:35

Okay.

Stacy K. (Glass Nickel Pizza - Owner) 21:36

Thank you.

Aldersperson Alex Schultz (District 9) 21:36

I know we voted this already, but, attorney, could we—would you be willing to have that conversation before Council? Thank you. All right, thank you.

Aldersperson Alex Schultz (District 9) 21:47

Okay, we'll go on to the next one, 24-0027 recommended denial of an operator's license for **[Miguel H.]**. I guess we'll do the same thing. If staff could weigh in?

Miguel H. (Applicant) 22:05

Yes.

Alderson Alex Schultz (District 9) 22:06

Hold on one second. We'd like to hear from attorney first.

Zak Burin (Assistant City Attorney) 22:15

So, the situation is similar but not identical. The memorandum again, was drafted and submitted by Lieutenant Goodin with my input. The legal framework is set forth in there. The difference here is that, in this particular case, there are no exempt offenses to complicate things, which means that **[Mr. H.]** does have the ability by statute to provide documentation of rehabilitation, either that the that the committee is required to accept or that the committee and Council can choose to accept by its discretion depending on what documentation there is.

Zak Burin (Assistant City Attorney) 22:53

So, with that, I think primarily, the items that the committee would be required to accept as documentation of rehabilitation would be a copy of the relevant department of corrections, documentation showing completion of probation, extended supervision, or parole. I believe based on some conversations I've had with him prior to this particular meeting, he may have such documentations to provide the community—er the committee.

Alderson Alex Schultz (District 9) 23:25

Okay, we can hear from you now.

Miguel H. (Applicant) 23:27

Thank you. Um, I had my DUI back in 2019.

Alderson Alex Schultz (District 9) 23:31

Can you—sorry, can you state your name and address please for the record?

Miguel H. (Applicant) 23:34

[Miguel H.]

Alderson Alex Schultz (District 9) 23:34

Okay, thank you.

Miguel H. (Applicant) 23:35

I had my DUI back in 2019, and I didn't start my program of drug and alcohol treatment until twenty two—December 2021. I was detained by Immigration and I had to **[unclear]** my case. So, after two years, I was released from there.

Miguel H. (Applicant) 23:55

With that, from day one that I start—that I got out of jail I started my program. During that I've been on probation with Jason [Hunt?], which he had provided me a paper saying that I had completed probation. With that—while being in there, I completed MRT. If you are not familiar with that it's Moral Reconciliation Therapy. I did that with Chelsea—have a hard time pronouncing her last name—Neimuth. Yeah. And then I also did option treatment program with [that?] one on one in aftercare. I completed all of that.

Miguel H. (Applicant) 24:41

I tried to get a letter from Taylor [Diske?]. I didn't get one. I have all of that in here. I've been working at Sangrias for the past two and so years. It's the only job I have. I work there full time. Yes. As part of rehabilitation, I still continue to going to my AA meetings. While being back, I was working at Fox Valley Literacy teaching English. I had two students. And then I also did community service, at the Genesis Club on Mondays for three hours once a week.

Alderson Alex Schultz (District 9) 25:23

Thank you. Attorney Behrens, could you weigh in on that documentation? And would you bring that documentation forward, please? You can give it to the clerk.

Zak Buruin (Assistant City Attorney) 25:34

I have reviewed all that previously. It does appear to indicate that [Mr. H.] was—completed probation almost a week ago here. I did actually speak directly with his probation agent today. I'm familiar with him, and actually, in full disclosure, I'm familiar with [Mr. H.] from the drug and alcohol treatment court. My previous employment as an assistant district attorney, I sat on that court. So, I worked with [Mr. H.] on that. So, I'm familiar with him from there.

Zak Buruin (Assistant City Attorney) 26:04

So, the information I can share as far as his completion of probation, he did complete last Thursday. It's when his participation in drug court was ended, and then ended his time on probation as well. The treatment programs that he's referenced, and a lot of the other things he's mentioned, are parts of the treatment court as well, and those are things that would have—had he not done them, as he indicated, would not have lasted in Treatment Court nearly as long as he did. So, I don't know if there's any other additional questions that the committee would have, but the documentation does indicate he's completed probation. And I confirmed that personally.

Alderson Alex Schultz (District 9) 26:42

Okay. Alder Van Zeeland.

Alderson Katie Van Zeeland (District 5) 26:45

Thank you, Chair. So just to clarify those documents would meet the proof necessary for us to consider licensing, even though that there are some legal situations here?

Zak Buruin (Assistant City Attorney) 27:00

I'm not sure what legal situations.

Alderson Katie Van Zeeland (District 5) 27:02

Well, they—he has some offenses on his record, but those types of documents would allow us, if we see fit, to agree to licensing per his rehabilitation?

Zak Buruin (Assistant City Attorney) 27:15

Right, because none of the offenses that he's been convicted of previously are exempt offenses. Those are the ones that complicate things. So, he does have that opportunity to show rehabilitation. And some of the documentation he's provided, I think the committee is required by statute to accept.

Alderson Katie Van Zeeland (District 5) 27:30

Great, thank you.

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Alderson Alex Schultz (District 9) 27:31

Before we go any further—apologies to the committee, but we don't have a motion on the floor. Could we get a motion

Alderson Katie Van Zeeland (District 5) 27:36

I'll move to approve.

Alderson Nate Wolff (District 12) 27:37

Second.

Alderson Alex Schultz (District 9) 27:39

Okay, there's a motion on the floor to approve and a second. That would mean we're recommending approval of the operator's license instead of denial. Okay, continue. Anybody else wish—you want to keep continuing? Go ahead.

Alderson Katie Van Zeeland (District 5) 27:50

Thank you. So, it sounds like you have provided us with some documentation, but also, that you have been very diligent in your treatment, and that allows us some leeway, and I feel like I'm gonna vote in favor of your license. Thank you.

Alderson Alex Schultz (District 9) 28:11

Alder Siebers.

Alderson William Siebers (District 1) 28:12

I'd like to hear from the young lady who's standing next to him. She's there for a reason. Do you have something to say?

Sarah G. (Sangria's - Owner) 28:19

Um, well, I want to say is...

Alderson Alex Schultz (District 9) 28:21

I'm sorry, can you—if you want to speak, name, address, and then speak into the microphone there.

Sarah G. (Sangria's - Owner) 28:25

My name is Sarah Gregory and address 215 South Memorial Drive.

Alderson Alex Schultz (District 9) 28:29

Thank you for that.

Sarah G. (Sangria's - Owner) 28:30

So, I've owned Sangrias for 16 years now, just opened Topsy Tacos so I recognize some of your faces. But we've had hundreds of employees over the years, and unfortunately, I can sit back and see that you guys are in a predicament—right?—where some—this industry is going to have a lot of people with substance abuse issues and whatnot, naturally, and that's unfortunate. But we've had hundreds—thousands of employees over the years having all of these businesses, and Miguel is easily in my top 1%.

Sarah G. (Sangria's - Owner) 28:59

I wouldn't show up for many of the people that were denied, and even in reading the application, if I were the one checking the boxes, I understand seeing those type of offenses and just it's easy to deny—right? But seeing as we had a little bit of wiggle room in this case, 100% I was going to be here, because this is a guy that's helping me train new staff. I mean, I have my hands full right now. So, he's there early. He's there late. He's always there. Very, very responsible. And I understand his history may have jaded your opinion of him in the past, but it's his future that I'm excited about because he's definitely one of my right-hand men there that I'm constantly going to and very, very responsible in the business. So very grateful for him either way.

Aldersperson Alex Schultz (District 9) 29:45

Thank you. Thanks for those comments, and thank you for coming in support. Good help is extremely hard to find these days. So, we understand that. Is there anything else from committee before we vote? Seeing nothing else, let's all those in favor of approving the operator's license from **[Miguel H.]**, please say aye. Aye. Opposed? Motion carries four zero. Moving on to—congratulations.

Aldersperson Katie Van Zeeland (District 5) 30:12

Tell him about next week.

Aldersperson Alex Schultz (District 9) 30:14

Oh, I'm sorry. This will appear on the Common Council agenda next week, and it'll appear as a motion to approve.