

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

### Safety and Licensing Committee

Wed, Apr 10, 2024 5:30PM

#### **Alderman Chris Croatt (District 14) 01:09**

No scheduled public hearings are appearances. Moving right into our action items. And we'll take these in order 24-0327, which is the referred back to this committee the recommended denial of the operator's license from [Miguel H.]. I'll start this off because I was the one that requested refer back, and just wanted to say thank you to those that allowed that to happen. I did have some questions, and one or two that I still want to address. But I also wanted to give the police department an opportunity to comment because that didn't occur at the last meeting, and I know they're not here. Were they notified? Does anyone know if they were notified of the action that was taken at Council?

#### **Clerk Kami Lynch 01:57**

No, the—at least from the clerk's office, we did not notify them that it was referred back.

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

Okay. Okay. I was expecting the applicant and the establishment owner to be here tonight, but they're not. So, I did want to thank them for coming to the last meeting and thank them for coming tonight, but they're not here. So, a couple things before I get into some of my questions or reasoning for the refer back. I did want to take the opportunity to clarify the vote because the way it came to counsel was a denial of a recommendation to deny. So, I feel like there might have been a layer of confusion there. I'm hoping with the Attorney's Office help that we can maybe take—send this out of committee as a more straightforward recommendation instead of the double denial. I don't know if that's possible, like not notwithstanding type vote. So, we would actually vote on the license itself and not the recommendation. So hopefully we can address that at the appropriate time.

#### **Alderman Chris Croatt (District 14) 02:29**

I also wanted to say that, obviously, I don't take these votes lightly. I think these are important decisions that this committee and Council are making. I think we need to consider all of the information when making these in the interest of public safety and on behalf of our citizens. It was not an attempt to delay the vote. I just wanted to have a slightly longer discussion because I watched the meeting now three times, and it was about an eight minute—eight-and-a-half-minute discussion about this license. And it was quickly—quickly decided by the committee that it was going to be a recommendation to approve it. So, I respect the work of the committee. Not not—also not an attempt to change anyone's mind on this. I just wanted to express some of my concerns and also ask the attorney's office a question.

#### **Alderman Chris Croatt (District 14) 03:54**

Reason for the refer back was to do the committee work at the committee level. So, you know, yes, it delays the process and the ultimate approval, but just wanted to do that work here and also to give the chief (and I wasn't sure if Lieutenant Gooden was going to be here) to make a comment on the memo that was drafted by him.

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

So, a couple other things quick and then we can get into this more. You know, the last Safety and Licensing com—Safety and Licensing agenda had two of these on it, and one—before I say that, I just want to say that I take each one of these that come forward individually and vote on them based on their own merits. And I know that there was two on the last agenda, and one was quite different in that we were limited in what we could do

statutorily. This one is different in that we have the ability to decide on this license. It doesn't mean that we have to grant it; it just means that we can grant it. Okay, I guess we can get into it. Why don't we get a motion from the committee to get it on the table first of all, and if we could, Attorney Buruin, if we could make that motion so that the action coming out of committee is on the license itself. Is that appropriate?

**Zak Buruin (Assistant City Attorney) 05:16**

So, I think the first thing we would need to do, the motion as it stands would be—as it's noticed on the action items—would be for recommendation of denial of the operator license. So, if that vote were to fail, then we would need to, in the alternative, have a motion on the table to approve it. So, we proceed with a passed vote in that regard. That's my understanding of the way we would need to do it, and then it would come before the Council as a motion to approve or...

**Aldersperson Chris Croatt (District 14) 05:43**

Okay, however, we need to do that. I was just hoping to get it to Council in a little bit more straightforward format.

**Zak Buruin (Assistant City Attorney) 05:49**

I think this would accomplish this.

**Aldersperson Chris Croatt (District 14) 05:50**

I can also take the opportunity at Council to explain it. Alder Siebers?

**Aldersperson William Siebers (District 1) 05:55**

I don't know if this is the time, but I'll say what I'm going to say right now. I feel very uncomfortable, because the people or the person who's going to be impacted by our vote is not here and has not been notified of our decision in regards to it being referred back. Right?

**Clerk Kami Lynch 06:21**

Correct.

**Aldersperson William Siebers (District 1) 06:23**

You know, I feel very uncomfortable in terms of taking a vote. I don't feel uncomfortable in terms of you having your questions answered, but if we're going to take a vote that's going to be different from the vote that we took the last time and the individual doesn't have the opportunity to speak his piece....

**Aldersperson Chris Croatt (District 14) 06:50**

I understand. That's why I asked to start the meeting if they were notified, because I thought if they were following the legislative process, it's important to know that Council didn't take action on it and that they probably would want to be present here tonight. So. All right, so we'll—let's get a motion on the table, and then we can discuss it a little further, if—based on the attorney's comments, someone wants to make a motion on—the original recommendation is to deny the operator's license.

**Aldersperson Nate Wolff (District 12) 07:27**

So, a motion to deny would be a motion to deny the recommendation for denial?

**Aldersperson Chris Croatt (District 14) 07:33**

Correct. That's what happened last time.

**Zak Buruin (Assistant City Attorney) 07:36**

It would be in this case—and I know this is counterintuitive, but the first is a motion to deny. Assuming that would fail, then the alternative would be the motion to approve. And then that could pass through. Or if there's no motion, I suppose....

**[Attorney Buruin consulted briefly with City Clerk Kami Lynch on whether the alderpersons could just do a motion to approve the license. Their words were only faintly picked up by the microphone.]**

**Zak Buruin (Assistant City Attorney) 07:57**

Okay, so I think it may make works—may make more sense to simply put it forth as a motion to approve rather than a motion to deny.

**Aldersperson Nate Wolff (District 12) 08:13**

I make a motion to approve the license.

**Aldersperson William Siebers (District 1) 08:16**

Second.

**Aldersperson Chris Croatt (District 14) 08:19**

Okay, is that acceptable based on what's on the agenda, attorney?

**Zak Buruin (Assistant City Attorney) 08:26**

Yes.

**Aldersperson Chris Croatt (District 14) 08:27**

Okay. So, the motion was to approve the operator—to approve the operator's license, and there was a second. So that's what's on the table. Okay. All right. That's—I was just hoping to get it in that format to Council. That's—if it's too complicated let me know.

**Aldersperson Chris Croatt (District 14) 08:44**

Again, I just wanted to say a couple things and ask a question. One, I wanted to give the Appleton Police Department an opportunity to comment on their memo. I place a high value on their recommendation in cases like this because they are the ones out there every day, every night dealing with public safety issues, and place a really high value on that. I also will be open in my struggles with the record for this applicant, you know, the five OW—the five OWIs and the two felony convictions. And some other notes that I made for myself were that, you know, the reminder that this license can be taken anywhere and used anywhere in any establishment. I know the owner was very complimentary of the applicant, and I understand their challenges with finding good people and staffing. But keep in mind that the license can move from one establishment to another for the operator. And to that note, the person can continue to work at an establishment, just can't serve alone.

**Aldersperson Chris Croatt (District 14) 09:59**

Okay, one of the questions that I had and for the attorney's office, I guess, or someone that may be from APD, was on the application. Was it complete? Or there were some omissions or inaccuracies? Because when I looked at the application, it looked like it was—I want to call it incomplete. And just wanted to make sure that that was clarified. If you could?

**Zak Buruin (Assistant City Attorney) 10:23**

I will take that. So, I would say that there were omissions in the application. There were things that were not on there. It was just the one conviction that was listed. I believe the section indicating if there were any misdemeanors or non-criminal ordinance type violations, that may have been checked incorrectly as well. Oddly enough, and this is something I've been scouring over for a fair amount of time since this was brought to the attention, there does not appear to be a basis in the statute to deny based on that information. There are penalties associated with it and a potential roundabout way to exclude because it is a law violation to do so. But that is part of why my understanding from speaking with Lieutenant Nagel who used to—who used to oversee these things for the police department and I believe Assistant Chief Freeman as well, who has a longer history even than that, that is not something that's typically been looked at to with a lot of vigor in terms of approval or denial decisions. That may or may not have been based on some feedback from prior incarnations of the Council and the committee. I can't speak to that directly, but that's what I've been told. And, frankly, based on the state of the statute, I think that's probably sound advice. And that does tie into some of the other things and some of the other concerns that were expressed. As far as the documentation of rehabilitation, I can get into that now or respond to that—or respond to questions with respect to that as the committee prefers.

**Alderman Chris Croatt (District 14) 12:00**

Okay, thank you for that. I personally feel like the application should be as complete and accurate as it possibly can be. So, I struggle with that okay-ness with leaving it blank or vague or even incorrectly checked. And I understand what you're saying about being able to deny it based on that. You mentioned penalties, which is fine. I'm not—I'm not going to be a nay vote on the license because of that, but it certainly is a component of my decision.

**Zak Buruin (Assistant City Attorney) 12:29**

And to be clear, there are—there is a provision in our code related to it, related to denial of licenses for incomplete or inaccurate information. It's just that that section of the code deals with much more than just chapter 125 alcohol licensing, and there are some specific provisions for chapter 125 Alcohol Licensing that kind of override what would otherwise be in the code.

**Alderman Chris Croatt (District 14) 12:54**

Okay, thank you. Okay. Chief Olson, would you be willing to comment on the memo that was drafted by Lieutenant Gooden in this case? And I appreciate you being here.

**Police Chief Polly Olson 13:04**

Yeah. Um, so the police department at the time of application, recommended denial to safety and licensing committee, and ultimately to Common Council, the application for bartender license, based on this applicant's criminal and arrest record, including an unpardoned felony conviction—actually two—and a status as a habitual law offender. At the time of application, the police department was not made aware of any efforts towards rehabilitation or was not provided with any evidence of rehabilitation at that time. We obviously have since become aware, as of the last committee meeting, that some of that has taken place.

**Police Chief Polly Olson 13:54**

The committee is aware of this applicant's conviction record which does include, as you mentioned, five OWI convictions. And we know that there is a connection between the bartender's license and their ability to make decisions as it relates to serving alcohol which is why we have some of those regulations in place. It makes sense from a police department and policing perspective to recommend for denial based on those convictions and this individual's failure in the past to show good judgment when it comes down to consuming and therefore possibly serving alcohol. So that is why we recommended denial of the license.

**Aldersperson Chris Croatt (District 14)** 14:43

Okay. Thank you for sharing that. Alder Schultz, I think your hand was up next.

**Aldersperson Alex Schultz (District 9)** 14:48

Thank you. Now we can have conversations about whether this individual is rehabilitated or **[presents]** evidence that suggests he's reached a turning point in his life, but with—it still comes down to the power of this committee this committee to make a decision that runs up against state statute. And I mean, to be very clear, if we want to state it again, Zak, there isn't really a decision that we can make that does not put us into legal jeopardy if we do not vote to deny. If we vote to approve, we are putting ourselves in a situation where we have to—I feel like we're in some kind of position that is not comfortable for either this committee or the city to approve this. So, we can have conversations all day long about whether evidence was provided about rehabilitation or whether it's complete or not, but when it comes down to it, we really can't vote to approve this. Is that correct? I mean, I just want to make sure that I'm understanding this where we are now as this committee really doesn't have the authority to approve operator license for this individual based on the exempt—

**Aldersperson Chris Croatt (District 14)** 15:57

—exempt. This is different than the other one, in that specific regard. It's very different.

**Zak Buruin (Assistant City Attorney)** 16:06

Correct. And almost diametrically opposite.

**Aldersperson Alex Schultz (District 9)** 16:09

Oh, I'm sorry. I apologize. I thought we were reviewing—

**Aldersperson Chris Croatt (District 14)** 16:11

No, that's okay. So yes, we have the ability to approve this license, but just because—and I and I want to be clear, I'm very happy that the applicant is on a path of rehabilitation, and they've gone through what they've gone through to improve. But that doesn't mean that we have to give the license, it means that we can.

**Zak Buruin (Assistant City Attorney)** 16:32

Can I speak to that?

**Aldersperson Chris Croatt (District 14)** 16:33

Yes.

**Zak Buruin (Assistant City Attorney)** 16:33

So—

**Aldersperson Chris Croatt (District 14)** 16:34

Please.

**Zak Buruin (Assistant City Attorney)** 16:34

I want to be absolutely clear that nothing I say is a policy judgment on whether or not whatever discretion the committee has should be used to grant or deny a license. What I'm going to say is purely about the statutory eligibility and the confines of that discretion. With an operator's license, it has to be—it can't be denied based on—a denial based on a conviction or arrest record isn't valid if that would constitute unlawful employment

discrimination. When it comes to unemployment—or employment discrimination, the issue that we run into is this: for anything other than exempt defenses, they're subject to certain requirements which includes the body having to explain the substantial relationship between the offense and the licensed activity, and except for exempt defenses, the ability, or to—the ability to demonstrate rehabilitation.

**Zak Buruin (Assistant City Attorney) 17:38**

I want to quote from the statute here to make this as concrete as I can. And this is from Wisconsin Statutes Chapter 111.335 sub 4, going down to section C 1 B, "If the individual shows competent evidence of sufficient rehabilitation and fitness to perform the licensed activity under paragraph D, the licensing act—the licensing agency may not refuse to license the individual or bar or terminate the individual from licensing based on the conviction." Moving on to paragraph D, competent—D one—"Competent evidence of sufficient rehabilitation and fitness to perform the licensed activity under paragraph C 1 B may be established by production of any of the following," And that includes a copy of the local, state, or federal release document, and either a copy of the relevant department of corrections document showing completion of probation, extended supervision, or parole.

**Zak Buruin (Assistant City Attorney) 18:47**

So, the only question I think there is for the committee in terms of outlining the discretion is whether or not the committee is of a mind that the documentation provided is appropriate, if it's the if it's the relevant Department of Corrections document showing completion of probation. Because if that is showing the completion of probation, then that is sufficient competent evidence of sufficient rehabilitation, and I don't think the committee has a choice without exposing itself to potentially being accused of employment discrimination. That I think is the issue there.

**Zak Buruin (Assistant City Attorney) 19:31**

And when it comes to whether or not that documentation is the relevant documentation, I will reiterate what I said. I don't usually have the opportunity to do this, but I did in addition to reviewing the documentation that [Mr. H.] provided, I did speak with his probation agent prior to the last committee meeting, and he explained the situation to me and how his supervision was ended approximately a week before that meeting, which puts them into this category of being able to demonstrate that. Things would have been different had the meeting happened the week before, but with things as they developed, I think the question is whether or not there's sufficient relevant documentation. And then beyond that, obviously, the committee has that discretion, but I believe there's a an extreme risk of there being a claim for employment discrimination if the committee does not grant that.

**Alderson Chris Croatt (District 14) 20:25**

Okay. I'm glad we're having this discussion because that's—I think that's an important part. I think what you're what I heard you say, was a completion of probation and the documentation that was submitted, if a member feels like that was acceptable submissions and completion of probation, then you're required—almost required—to grant a license? Well, I guess what I'm saying is, does that mean you can—you have to disregard the record? Because now I'm wondering if the recommendation from APD would be different.

**Zak Buruin (Assistant City Attorney) 21:10**

The—

**Police Chief Polly Olson** 21:11

Can I can I interject quickly here? At the time of the application, we were not made aware of any completion of probation. So, our recommendation wouldn't have changed. It is what it is. The completion of probation and that that notification of such happened just shortly before the last meeting.

**Aldersperson Chris Croatt (District 14)** 21:29

Right. The memo was written prior to all that.

**Police Chief Polly Olson** 21:33

Correct.

**Aldersperson Chris Croatt (District 14)** 21:34

There has not been a new memo issued from APD.

**Police Chief Polly Olson** 21:37

That's correct.

**Aldersperson Chris Croatt (District 14)** 21:38

I guess my question was would anything have changed if you had that information?

**Police Chief Polly Olson** 21:44

Well, perhaps, because in the memo there is language in here, including language as it relates to just our statutory obligations, and one of which includes taking rehabilitation into consideration. So again, I'm not I'm not—to be fair, I'm not the person usually in charge of drafting the memo, but my assumption would be that whomever is assigned that duty (and right now that's Lieutenant Gooden) that that would have been reflected in the memo.

**Aldersperson Chris Croatt (District 14)** 22:12

Okay. Continued discussion. Anyone? Aldersperson Wolff.

**Aldersperson Nate Wolff (District 12)** 22:18

Thank you, Chair. I do think that was very useful. And just kudos on the explanation itself. Very, very good. So, with that, I'm going to vote to approve this license because I think that the forms prove legitimate—or proves that he has gone through the steps of being rehabut—rehabilitated and now looks as though he can have that license.

**Aldersperson Chris Croatt (District 14)** 22:44

Anyone else? Any other alder's at the committee?

**Aldersperson William Siebers (District 1)** 22:52

I'll let...

**Aldersperson Chris Croatt (District 14)** 22:53

Okay. Alder Hartzheim, what, which microphone? 13? You're on.

**Aldersperson Sheri Hartzheim (District 13)** 22:59

Thank you, Chair. This is new information that has been presented to us. I'm struggling mightily with this because we don't have an updated piece of information from the police department knowing these new pieces.



When I see a quote from state law that says "no license related to alcohol beverages may be issued to a habitual law offender where the circumstances of the law offenses substantially relate to the circumstance of the particular licensed activity," that tells me we can't do this. But what constitutes rehabilitation? The few documents that we received from [Mr. H.] don't—they are—he's completed some therapy. Give me more information. I need to know whether those therapies were successful. Were they—like I feel like we don't have enough information from what was presented here to be able to say, "Yes, that trumps what we initially heard from the police department."

**Alderman Sheri Hartzheim (District 13) 24:15**

I know that from the last meeting from watching the last meeting that the attorney present personally knows [Mr. H.], so I'm concerned about what—I'm not saying that any impropriety is being done here, but I'm concerned about what relationship that might bring to the table here. So those are my concerns. And I really feel like I don't even know what I would tell the committee to recommend at this time. Thank you.

**Alderman Chris Croatt (District 14) 24:42**

Thank you for saying that because I'm not confused, but I'm not sure what—

**Alderman Sheri Hartzheim (District 13) 24:49**

Conflicted.

**Alderman Chris Croatt (District 14) 24:49**

Yeah. Based on some of this new information or clarifying information, I certainly want to look at it through the lens of risk to the city as well, but I also see the flipside that there's—there seems to be some level of risk in approving a license. So, Alder Siebers.

**Alderman William Siebers (District 1) 25:09**

All right.

**Alderman Chris Croatt (District 14) 25:10**

And then Alder Fenton.

**Alderman William Siebers (District 1) 25:12**

Based on my limited knowledge, I think rehabilitation may not be the right word that we want to use here. Based on the individual's record, based on that—I regret he's not here to answer my question, but it would—the individual, in my opinion, my assumption is, has a problem with alcohol. I might even go as far as saying could very well be an alcoholic. But we don't know that. An alcoholic is always going to be an alcoholic. The only difference between one that is abusing alcohol and one that has stopped drinking is that person is a recovering alcoholic.

**Alderman William Siebers (District 1) 26:11**

But in terms of recovery, every so often an alcoholic or a person who has problems with alcohol falls and takes a drink, and then needs to go back to therapy or treatment or what have you. That's why the 12 Step program is extremely important. You know, once you realize and you admit that you have a problem with alcohol, you're in the program forever, and you need to be in the program forever because you need that support. So, I don't know if we can, in my opinion as it pertains to an alcoholic, we can ever say this person is rehabilitated. I'd like to have a conversation with this individual maybe in private, but you know. And then again, if you want to use the word rehabilitation, then you need to define that, and I don't know if anybody can define it.



**Aldersonperson Chris Croatt (District 14) 27:37**

Thank you. Alder Fenton. Which microphone? Six? You're on.

**Aldersonperson Denise Fenton (District 6) 27:44**

So, may I direct the question to the attorney? Not in terms of any knowledge of the applicant, but because of perhaps familiarity with the way the drug court works and the—I don't understand the word Moral Reconitive Therapy treatment. But so, my question would be do individuals undergoing this treatment have to submit to random drug testing and alcohol testing?

**Zak Buruin (Assistant City Attorney) 28:18**

There is weekly—well, depending on the phase one is in as part of the drug court (drug and alcohol treatment court or the OWI court, which is what actually [Mr. H.] was involved in) there are random urinalysis, and they do, early on, start much more frequently and get more infrequent. But they are—they do remain random throughout participation in the program. Some of the programs he referred to I'm familiar with not intimately. I'm familiar with some of the cognitive based treatment involved with some of those.

**Zak Buruin (Assistant City Attorney) 28:57**

I do want to circle back to something that's been said a couple of times: the issue of rehabilitation. I use that word specifically because that's what's in the statutes, and in terms of asking what rehabilitation is, if we're talking about it colloquially, then the questions are spot on. But for the purposes of this question, it is defined by the statute, and it's that paperwork—rightly or wrongly. And again, that is a legal opinion not a policy position that I'm that I'm providing. And I don't know—I frankly may be speaking out of turn sharing this, but in terms of assuaging concerns about my prior knowledge of [Mr. H.], I would be providing a different—my policy position on it would be different than my legal position on it, to be blunt. He did not graduate from the drug court program. I'm aware of that. But the statute, as I understand it, is something that he has satisfied, so that is why the legal opinion is what it is. I understand, and I think the concerns are well founded, but the statute has taken some of that out of local hands to some degree, unfortunately.

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

Thank you very much, attorney, appreciate it. Alder Fenton, go ahead.

**Aldersonperson Denise Fenton (District 6) 30:33**

Can I follow up on this maybe to the police department and I understand Chief Olson doesn't have the—but in terms of, the felony conviction was in 2019—

**Aldersonperson Chris Croatt (District 14) 30:44**

The last one?

**Aldersonperson Denise Fenton (District 6) 30:45**

The one that is on the application. And that is my question, is that—were misdemeanors or other convictions subsequent to that or was that the last conviction?

**Aldersonperson Chris Croatt (District 14) 30:58**

I'll let the attorney answer that, but that was part of my question about the application being incomplete.

**Zak Buruin (Assistant City Attorney) 31:03**

So that was the most recent offense of any kind. That's actually an offense that I prosecuted him for when I was with the DA's office. So, my knowledge of him goes back beyond—or before a drug court. But that is the most recent offense of any kind that I'm aware of.

**Alderson Denise Fenton (District 6) 31:18**

And—

**Alderson Chris Croatt (District 14) 31:19**

Go ahead.

**Alderson Denise Fenton (District 6) 31:20**

Okay. And this is not a question—and I'm going on, I watched the I watched the meeting two or three times myself, and, um, you know, obviously, he wasn't under oath when he was testifying before us, but he mentioned multiple times attending and both being in a leadership position at the Genesis Club which implies to me—who I have, you know, familial experience with 12 Step programs—and which applies—implies to me that he is working on his—whether he can graduated from the drug program, he is working on his 12 Step program. And so, in my mind, legally speaking, what our obligation is, I mean, I guess, ordinance wise, we could, say, deny it based on the incomplete application, which, honestly, may have been a misunderstanding that, I don't know, I don't know. I mean, if I were gonna lie about something, I don't know that I would lie about the misdemeanors, but because they can prove—you know, law enforcement can prove that as well. But in my mind five years ago, and someone whose employer is vouching for him, and who is, you know, assume that client says he is completing rehabilitation has not had any issues with his employment, and there's no reason for us not to deny, us to deny it, to have to deny it by statute or ordinance, I see no reason not to grant it.

**Alderson Chris Croatt (District 14) 33:07**

Okay. Thank you for your comments. Alder Hartzheim.

**Alderson Sheri Hartzheim (District 13) 33:10**

Thank you, Chair. Feels like we have two things. One, what is best for the safety of all of Appleton combined? For the people that could come into contact with this applicant as the server and perhaps over serve, drive away, kill someone, that's a worst-case scenario, obviously. And potentially may not happen if he is rebuilt rehilt rehabilitated. But then the other piece we've got is this, are we denying employment? And the thing for me about that, this employment discrimination issue—the thing for me about that is that one thing specifically was said by the owner of the establishment that this person works for, even if he doesn't get this license (and I'm not quoting her exactly) but even if he doesn't get this license, he's still valuable to me as an employer. So, I struggle deeply with this because I understand there are some statutory requirements of us. But this still says to me or what was said to us by the attorney today was that we as a body still have some judgment possibility here, and I feel like I'm not there at this point. Thanks.

**Alderson Chris Croatt (District 14) 34:37**

Thank you. All right. Anyone else? Alder Wolff and Alder Jones, if you want to speak. No? Okay.

**Alderson Nate Wolff (District 12) 34:44**

I just want to make a brief summary to everyone in the room. What we're on right now is basically a if you're voting for this, it's basically looking at the documentation provided to our, you know, the offices to show that he's met the criteria to say that stat—statutorily he is rehabilitated, whether he is or not. You could vote against

this if you are upset by the missing thing on the form, though that might be a misunderstanding. And that's where we're at, because we can't look at the past criminal history on voting against it. Just wanted to—

**Alderman Chris Croatt (District 14) 35:26**

That's.

**Alderman Nate Wolff (District 12) 35:26**

That's essentially where we are.

**Alderman Chris Croatt (District 14) 35:28**

It's more than the application for me, and I cannot ignore the criminal history. And if the Attorney's Office is saying that we need to ignore that, I'm that—I struggle with that. So good summary, but I want to make sure that I was clear that it's not just the application. It's one piece of it. I struggle with, with the two felonies five, OWIs, and responsible service in a bar. And the comment that was made by the establishment owner that employment would likely continue—I don't want to put words in her mouth, but I heard the same thing that Alder Hartzheim heard.

**Alderman Chris Croatt (District 14) 36:06**

Anyone else? We do have a motion on the table to approve this licen—motion and a second to approve this license. Any final comments? Is everyone comfortable with? They're not here. I know you're concerned about that. I wish they were here, because I would like to commend him on the journey of the path that he's on. But also would like him to hear my concerns with this. So go ahead Alder Siebers.

**Alderman William Siebers (District 1) 36:27**

With you having just said that, I'm gonna try this. I feel it would be appropriate to hold this until the next meeting and give the applicant an opportunity to speak to your concerns.

**Alderman Chris Croatt (District 14) 36:45**

And I'm not opposed to that. So, before we get a second on that, I'm not opposed to that, but we could also send it to Council and make sure that they are aware that this happened and that it's at Council, and you know, I—the only reason I am not a big fan of that is it delays it even further, and I think we'd like to move forward with this instead of kind of pushing out there. But I'll do whatever the committee—

**Alderman William Siebers (District 1) 37:09**

Chair?

**Alderman Chris Croatt (District 14) 37:10**

—wants to do. Go ahead.

**Alderman William Siebers (District 1) 37:11**

Based on what you said in the beginning of this meeting, doing committee business in committee.

**Alderman Chris Croatt (District 14) 37:18**

Yeah.

**Alderman William Siebers (District 1) 37:19**

You know, and, you know, if you want to wait and allow him to do the Council thing, and there's 15 alderpersons here.

**Aldersperson Chris Croatt (District 14) 37:32**

Yeah, the only other thing is this committee is likely going to change. So, if we push it out, it's going to be a different committee. Not that that really matters that much, because we're going to take it up on the merits of its action item. Alder Hartzheim and then Alder Wolff.

**Aldersperson Sheri Hartzheim (District 13) 37:47**

Could I ask that whatever happens at today's meeting, whether it's held or whether you vote to approve, that before—if you do vote to approve—that before Council, we have updated information from APD, including the documentation that was received, because I take very, very strongly the recommendation of the police department, and I would be very reluctant to approve something knowing that there is a document out there saying "Don't do it," from the police department.

**Aldersperson Chris Croatt (District 14) 38:21**

Yeah. And I feel the exact same way. And that's actually probably a very good reason to keep it at committee because then you know, when it's at Council, then we're talking about a newly presented information. If there's no—I know what drags it out, but I know people want to move this forward, and I certainly was not intending to delay it any further, but I really do think it's a good idea since they're not here. We have possibly—we learned a lot today, I think, and if possible, I'd like to see an updated memo from APD if that's something APD's willing to provide.

**Police Chief Polly Olson 38:56**

Yeah, we can certainly do that. The date on the current memo is February 20 of 2024. So that was about a month before it appeared actually on the agenda. So, if the committee would like us to redo our memo, I'm sure that we can make that happen.

**Clerk Kami Lynch 39:13**

You have a motion on the table.

**Aldersperson Chris Croatt (District 14) 39:13**

Sure. I would appreciate that. And I think alders would, too. We'll keep the original as part of the packet. But you know, this happens at pub—with public works. They do an original memo, and then they do an updated memo with—after discussion occurs. Alder Siebers, go ahead. You did have a motion there. Oh, okay.

**Aldersperson William Siebers (District 1) 39:29**

I was just—I just asked the question of myself.

**Aldersperson Chris Croatt (District 14) 39:34**

You have a motion?

**Clerk Kami Lynch 39:36**

To approve. So that would have to be withdrawn before a new motion.

**Aldersperson William Siebers (District 1) 39:39**

No, I—does it?

**Aldersperson Chris Croatt (District 14) 39:40**

No, he was going to—he was gonna hold it, and hold would trump the other action, I think, right, attorney?

**Zak Buruin (Assistant City Attorney) 39:48**

I believe so. Yeah.

**Alderson Chris Croatt (District 14) 39:49**

I believe so. So go ahead.

**Alderson William Siebers (District 1) 39:50**

So, chair, I'd like to make a motion to hold until our next meeting.

**Alderson Chris Croatt (District 14) 39:54**

Okay, I'm gonna second that just based on what we just discussed about keeping the discussion at the committee level. Someone—

**Alderson Chris Croatt (District 14) 40:00**

Yeah. One second. I just want to make sure that someone's going to take responsibility for notifying the applicant. I don't know if that falls on me or not, but I think they should be formally notified that action didn't occur. Action—a meeting happened and—

**Alderson Nate Wolff (District 12) 40:00**

Chair, before we take that vote—

**Clerk Kami Lynch 40:19**

Yep, the clerk's office can take care of it.

**Alderson Chris Croatt (District 14) 40:20**

Okay, thank you for saying that. Okay. All right. Alder Wolff, go ahead.

**Alderson Nate Wolff (District 12) 40:23**

I had a question for the clerk. Last week, we talked about whether time was an issue with this application. Is there an issue with us—

**Alderson Chris Croatt (District 14) 40:36**

Good question—

**Alderson Nate Wolff (District 12) 40:36**

—holding it for the applicant?

**Alderson Chris Croatt (District 14) 40:38**

With 30 days or something in there. Was there something with...?

**Clerk Kami Lynch 40:41**

If the applicant has a provisional—which I apologize, it's unclear to me based on the application. It looks like the box was not checked. The provisional license, they would they would have gotten that the day they applied, and that is only good for 60 days. So that would expire on—it was applied for on February 12. So that would be April 12, the provisional actuals would expire. They would be able to work but they'd have to work with somebody else that holds a license.

**Alderson Chris Croatt (District 14)** 41:15

Okay, so with the provisional, it's just like they have a real license?

**Clerk Kami Lynch** 41:20

For that time unless a determination—

**Alderson Chris Croatt (District 14)** 41:21

Okay, interesting.

**Clerk Kami Lynch** 41:22

—is made sooner than that sixty days.

**Alderson Chris Croatt (District 14)** 41:23

Interesting. I didn't know that that was the case. Can that be extended? Is there any ability to extend that?

**Clerk Kami Lynch** 41:28

No. And you can only get one.

**Alderson Chris Croatt (District 14)** 41:30

Okay. You can't renew your provisional?

**Clerk Kami Lynch** 41:33

Yep.

**Alderson Chris Croatt (District 14)** 41:33

Okay, well, again, the ability to work there still can occur. It's just not serving alone I would imagine, right? Alder Wolff, go ahead.

**Alderson Nate Wolff (District 12)** 41:43

We would also need to make sure that the business owner knows because if they aren't aware that this was sent back, then the business owner might make the mistake of allowing someone without a license to be in that position when they need someone else there.

**Alderson Chris Croatt (District 14)** 41:58

Right.

**Alderson Nate Wolff (District 12)** 41:59

So that's...

**Alderson Chris Croatt (District 14)** 42:00

Just to be clear, even if we didn't hold it at committee, we would still have a provisional expiring this week or so before the next Council meeting. So, it's sort of irrelevant, but not really because it impacts them.

**Alderson Nate Wolff (District 12)** 42:13

And if they don't—if they didn't necessarily watch the meeting last week. They weren't there last week, right? So, they think that—

**Alderson Chris Croatt (District 14) 42:19**

Business owner in your district? Is the establishment in your district? I'm just wondering who can communicate with the business.

**Alderson Denise Fenton (District 6) 42:27**

I think it's Alfheim, isn't it?

**Alderson Chris Croatt (District 14) 42:28**

Oh, is it? Okay, I thought it—I'm sorry, I thought it was me and yours.

**Alderson Denise Fenton (District 6) 42:31**

Sorry.

**Alderson Chris Croatt (District 14) 42:32**

Okay. Alder Hartzheim and then Alder Schultz.

**Alderson Sheri Hartzheim (District 13) 42:35**

With the clerk's office in informing them that this is being held and we'd like to discuss it further, would that also include informing the establishment owner that the provisional has ended? Or will end?

**Alderson Chris Croatt (District 14) 42:49**

I don't know if it can, but could it? Could the clerk's office also notify the person that came?

**Clerk Kami Lynch 42:55**

At the direction of the committee, we can absolutely notify both the applicant and the establishment owner that this has been held and the status of the current provisional.

**Alderson Chris Croatt (District 14) 43:07**

Seems like the right thing to do—formal notice. Apologize, that that maybe didn't happen this time. But, so, okay. Are you...?

**Alderson Nate Wolff (District 12) 43:20**

Thank you for letting them—

**Alderson Alex Schultz (District 9) 43:21**

No, I just—thank you, Chair. I just—I'm in favor of holding as well, given all the conversations that have taken place. I'm not sure much more—how much more information will be provided that will sort of change any opinions on committee, but I think it's worth having the person appear again, despite the fact that it's dragging out a little bit longer than any of us would want it to. And so, I'll support the motion to hold. But I would reiterate what Alderman Wolff said about, you know, we're really up against whether he's met statutory requirements to show rehabilitation, and I think that's been shown. So, there is this strange position we're in to make a subjective call on documents provided and an objective call on whether the individual is rehabilitated or not. And I think that's where we're all having a little bit of a challenge. So—

**Alderson Chris Croatt (District 14) 43:21**

Right.



**Alderson Alex Schultz (District 9) 43:22**

I guess we'll, welcome—we'll welcome a hold. We'll wait for some additional information, but I think in the end, it's going to be up to us to determine whether as a body we've—this individual has proven that he's provided documentation to be rehabilitated.

**Alderson Chris Croatt (District 14) 44:31**

Okay, thank you for that. And if it's not too much to ask from the attorney's office, would it be possible to draft a memo that explains what you described? So, we have that as far as the statutory language? I mean.

**Zak Buruin (Assistant City Attorney) 44:47**

I can do that. It will largely be a recitation of the relevant statutes and kind of tracing it through, but I can do that.

**Alderson Chris Croatt (District 14) 44:53**

Yeah, I think it would help with—you know, the decision-making process for some of us is to understand the implications of a vote. So, all right. Did you want to add something?

**Alderson Nate Wolff (District 12) 45:04**

No that was—

**Alderson Chris Croatt (District 14) 45:04**

Okay.

**Alderson Nate Wolff (District 12) 45:04**

—all I need to clear up.

**Alderson Chris Croatt (District 14) 45:05**

Okay. All right. Again, not really wanting to delay this, but I think the appropriate action is to hold it. That was not my intention coming into this meeting. So, if there's no other comments? Alder Jones? Alders? Okay.

**Alderson William Siebers (District 1) 45:20**

...needed to say something.

**Alderson Chris Croatt (District 14) 45:21**

Yeah. All right. Well, I thought maybe he came from the meeting because he wanted to say something. Okay. All right.

**Alderson Nate Wolff (District 12) 45:26**

Well, we only—we're—

**Alderson Chris Croatt (District 14) 45:28**

Thanks for coming. All right. Thanks for everyone's input. I really appreciate it. Glad we had this discussion. Okay, on the motion to hold, all those in favor signify by saying aye. Aye. All opposed? All right. Hearing no opposition, it's 4-0 to hold us we'll notify the applicant and Sangrias, the owner, Sara Gregory. That is the correct name, right?

**Clerk Kami Lynch 45:46**

Yes.

**Aldersperson Chris Croatt (District 14)** 45:47  
Okay.