

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

### Common Council

Wed, May 01, 2024 7:00PM

#### Mayor Jake Woodford 20:46

Alright, staying with safety and licensing. This is item 24-0327 recommended denial of an operator license from [Miguel H.]. And just a note that the action from committee is a recommendation for approval of the license. So, we'll treat that item the same here at Council. We have a motion and a second to approve. Alder Croatt.

#### Aldersperson Chris Croatt (District 14) 21:18

Thank you, Mayor. Just a couple of minutes to explain where we're at with this one. This originally came to committee as a recommendation to deny from the Appleton police department. It came out of committee on a recommendation to approve the license. It came to this Council. I referred—I asked for refer back to committee to have some additional discussion and some additional input from the attorney's office, and we had that. We had a really good longer meeting, good discussion, got some clarity as to what we could do what we had needed to consider in this case. So, it is back to this body as a recommendation to approve the license. It was a three to one vote. I was the one that did not vote for supporting granting this license or issuing this license. And I wanted to just explain my reasons why I could not support supporting this approval.

#### Aldersperson Chris Croatt (District 14) 22:16

I want to first of all, before I get into some of my reasons, commended the applicant for the rehabilitation efforts that they've gone through. I do believe in second chances, but I also believe in consequences of our actions. So, I'm gonna give—I'm gonna give a number of reasons why I personally could not approve this license. We all have our own our own bar that we look at as far as, you know, when we might give a second chance or approve a license. But for me, one of the first things is I have a—I have a really high bar for responsible beverage service. I look at record; I look at what's happened in the past; I look at the connection between that record and what this job entails. And this job entails responsible beverage service. There's a clear history of irresponsible beverage consumption. So that's number one. I have a high bar for approving these. This one doesn't get close to that for me.

#### Aldersperson Chris Croatt (District 14) 23:18

Second one is this came to committee as a recommendation to deny from the Appleton police department. That carries a lot of weight for me. They're the ones that know—they deal with this every single night every weekend downtown and all the ramifications that come with serving minors on over serving adults. That's number two.

#### Aldersperson Chris Croatt (District 14) 23:42

Number three, this applicant has five OWIs. Number four, this applicant has two felonies related to the OWIs. Number five, there were—in my opinion, there were omissions and errors on the application, missing information, lack of clarity, whatever you want to call it.

#### Aldersperson Chris Croatt (District 14) 24:06

Number six is the establishment owner spoke very favorably and in support of this. I think that's important but it also is a reminder that this license can be taken anywhere and used at any establishment, and that might mean someone isn't—doesn't have the guidance and support that this applicant has at their current place of employment.

**Alderson Chris Croatt (District 14) 24:32**

Number seven, to my knowledge, this applicant did not graduate from the treatment court in Outagamie County. And number eight, we learned that we can approve this license but that doesn't mean that we have to approve it. We have the option to deny it. Number nine is this applicant could continue to work at this place of employment with or without this license. They have been already.

**Alderson Chris Croatt (District 14) 25:00**

And Number 10 is going to be a repeat of a number two. And it's for me the biggest one. It's the recommendation from our Appleton police department to deny this license. Thank you.

**Mayor Jake Woodford 25:14**

Alder Fenton.

**Alderson Denise Fenton (District 6) 25:17**

Thank you, Your Honor. I was one of the three votes in favor of granting the license at the Safety and Licensing Committee. And while I respect the report from the Appleton Police Department, I also believe in rehabilitation. And I wanted to thank again Assistant Attorney Buruin for a very organized and well thought out dot memo that he wrote to us giving us all the options.

**Alderson Denise Fenton (District 6) 25:55**

And I kind of focused in on the rehabilitation part. The—I do not dispute any of the OWI offenses. However, we noted at the committee meeting that that he has successfully been released from probation—er of the two felony offenses. The previous misdemeanors didn't have that requirement.

**Alderson Denise Fenton (District 6) 26:22**

His employer came with him to committee meetings not once, but twice, during, you know, the middle of the time that her establishment is open. She spoke strongly in favor of what he the changes he's made in his life. In the end, she said 10 years that she's known him.

**Alderson Denise Fenton (District 6) 26:46**

So, five years since the offense, released from pro—released from probation parole, and his employer speaking so highly, and I just believe that rehabilitation has a meaning and that we have to accept and give people another chance. His first offense occurred when he was in his early 20s, and he said that he had a pattern. And perhaps he did not complete the drug treatment court, but it is my understanding from listening to him that he has continued in his recovery program, and continues to work his program, and I think we should give him an opportunity for success. Thank you.

**Mayor Jake Woodford 27:40**

Alder Hartzheim.

**Alderson Sheri Hartzheim (District 13) 27:43**

Thank you, Chair. I agree with the information that was given to us by Alder Croatt. Most important to me as well is the Appleton Police Department recommend recommending a denial of this licensure. I can't get past the fact that there is a substantial relationship between the applicant's record and the licensure that's on the line here.

**Alderson Sheri Hartzheim (District 13) 28:13**

Rather than have it be an emotional decision, I have to make this a logical decision. Is this licensure safe for the folks that could be served by this particular licensed applicant? I'm not sure that that's a true statement. I don't believe that—well, I believe that it's possible, but it's less likely because of the applicant's history.

**Alderson Sheri Hartzheim (District 13) 28:41**

When the employer was here at the last meeting of Safety and Licensing, she stated that he doesn't drink on the job because he's there to serve more to people so that is so that their receipts are up. And I don't know that she thought that through when she said that, but it made me very nervous because that really is the crux of the decision we have to make tonight. Do we believe that this applicant will have the good judgment to not serve—not over serve the people that he has the ability to serve with this with this licensure? And again, I come down to that logical decision. It looks as though historically he's not been able to make those decisions well. That doesn't mean that he can't in the future but I have to look at the past because that's all I have to look at. I just believe it would be unsafe for the city to grant this licensure, and I hope that the rest of the my colleagues think about this as they move into this decision. Thank you.

**Mayor Jake Woodford 29:49**

Alder Heffernan.

**Alderson Patti Heffernan (District 8) 29:54**

Thank you, chair. So in my day job, recovery AODA services wraparound support is all I do. So that being said, I have a lot of thoughts on this, but I will spare you all them because I don't know everything that was discussed. I haven't met the person. What I can tell you is this, I go with people to drug and treatment court all the time. It is next to impossible to pass and graduate the drug treatment court. It's very difficult. Many of the judges are really great, but the people that operate, you know, between times that they're seen in court—the way that they speak to the participants, I've never even had anybody speak to me like that when I was a cashier at Fazoli's.

**Alderson Patti Heffernan (District 8) 30:47**

It's a very punitive program, and they—it's under the threat of, you know, from some pretty serious consequences. And when people are coming with a record of OWIs or anything that happens throughout the period of time in their addiction, it's very difficult to find any gainful employment at any period of time in the future. So sometimes there is nothing left except for to go back to working at the bars, even if that maybe isn't the best or most healthy environment for that person. That being said, I believe in harm reduction; I believe in multiple pathways. So, I wouldn't deny somebody a license to work in a bar or to serve in a bar based on their past use.

**Alderson Patti Heffernan (District 8) 31:40**

We do know, given now, some clinical factors, and with some factors—I won't go into all of the science of the brain on it. But the myth of "once an addict or once an alcoholic, always an addict and always an alcoholic" is not true. The brain can heal within five years of abstinence to the point to operate the same as somebody who's never had a substance use disorder. So, when we are thinking about the past versus the present, these are just things to take into consideration.

**Alderson Patti Heffernan (District 8) 32:11**

I understand the reason for hesitancy and you know, the degree at which things—it sounds like they were pretty serious. So, I definitely understand the hesitancy. I just wanted to add a little bit more of my personal expertise on this as we think about whether or not we would vote to pass this. Again, I don't fully have enough

information as an alderman to be able to make that decision, because we also do have to take into consideration the safety of the city like Alder Hartzheim said. I just felt that it's important to know the inner workings of the systems that we have. While I think that they are all put together with good intent and to help support, sometimes the understanding of another lane and trying to implement it into a punitive one doesn't always work. So that's just food for thought. That's all I've got. Thank you.

**Mayor Jake Woodford 33:13**  
Alder Siebers.

**Alderman William Siebers (District 1) 33:14**

I think that the challenge for the committee or for any of us is at what point in time do we not hold the person's past against him? I think this individual has shown at least via his record, that he's made great strides in cleaning up his act so to speak. But the question each of us has to ask ourselves: at one point in time, you know, is the past the past? I think in regards to this individual and what I heard from him, as well as from his employer, the past is the past, and I think he should be given another chance. Thank you.

**Alderman William Siebers (District 1) 33:14**

Thank you, your honor. You know, while this individual did not complete the treatment program, he led me to believe that he is seriously involved in the 12-step program. And I made a comment that that is definitely a very, very good support group for him as well as his employers is.

**Mayor Jake Woodford 34:32**  
Alder Alfheim.

**Alderman Kristin Alfheim (District 11) 34:34**

Thank you. If I may, could I ask a question the chief? Chief Olson if I can ask, during the appeals process, did we have a member of the APD present?

**Mayor Jake Woodford 34:47**  
Chief Olson.

**Police Chief Polly Olson 34:49**

Yes, there was a member for my department there last week during the meeting, and I was at the previous meeting as well.

**Alderman Kristin Alfheim (District 11) 34:56**

Okay. And after hearing all of the testimony, the employer, all of the information, has the opinion of the PD changed in any way?

**Police Chief Polly Olson 35:05**  
Our opinion has not changed.

**Alderman Kristin Alfheim (District 11) 35:07**

Okay. That's all I need. Thanks

**Mayor Jake Woodford 35:11**  
Alder Meltzer.

**Aldersperson Vered Meltzer (District 2) 35:14**

Thank you. Recommendations come to us from staff, but we're not bound to accept or reject them. The police department serves a function. They are there to look at things from a certain perspective. It's completely logical and reasonable that their opinion is not going to change. But the reason why these decisions are escalated to us is because there are many different perspectives, and this is a complicated topic. So, we certainly do have the room to disagree with the recommendation.

**Aldersperson Vered Meltzer (District 2) 35:48**

I believe that an individual in this situation—I believe that this individual is under a lot of scrutiny and probably compared to most other people out there in the same employment is going to be under much more of a personal and social burden to self-police and to hold themselves to the highest standards of accountability. I do not believe that this individual is any risk or threat to public safety. Thank you.

**Mayor Jake Woodford 36:18**

Alder Hayden.

**Aldersperson Patrick Hayden (District 7) 36:20**

Thank you chair. In many cases, what we've seen in the past is state statutes have limited our ability to act on these matters. So, when we have the ability to act, I think we should lean towards the giving the individual an opportunity to rehabilitate their life. And I would like to remind the body that in the state of Wisconsin, we allow 18-year-olds to serve alcohol. So, I feel like the ability of someone who has been through some challenges and is working on pulling their life together is probably safer than most 18-year-olds out there serving alcohol today.

**Mayor Jake Woodford 37:01**

Alder Doran.

**Aldersperson Chad Doran (District 15) 37:02**

Thank you. I'm not sure if this is a stretch, but I guess I'd just like to ask if Director Sepers might have any information of value to share with the Council as it pertains to alcoholism and kind of the effects of that and putting people in positions like this?

**Mayor Jake Woodford 37:30**

I'm gonna say I think we're right on the edge of what's germane here. I think we've—you have information from in your packet, and there's been a great deal of discussion. And I think we're talking about a nuanced subject that is highly individualized and given the fact that it's not really germane to the item before you, I'm going to say we're not going to entertain that path of discussion at this point.

**Mayor Jake Woodford 38:09**

And given the robust discussion that all of you had just now, if there's anything else that you'd like to add that hasn't been said that that needs to be, please, by all means, get in the queue and say it. Otherwise, let's move on to a vote. Alder Doran seeing as I ruled you out of order on that, I'll get you right back in so you can you can go in a different direction if you'd like. Alder Doran.

**Aldersperson Chad Doran (District 15) 38:36**

Thank you appreciate that. I guess I disagree with your decision but will respect it. I just want to express I guess, disappointed in the committee's action to recommend this for approval. Based on the information that we have before us, I can understand one OWI being a mistake, but five to me, is a pattern—a pattern of behavior and a

pattern of bad choices. And when we add felony convictions, multiple felony convictions, on top of that, I find it just patently absurd that we're even entertaining the idea of granting a license to someone with substantially related convictions to alcohol the opportunity to continue serving alcohol to people in our community.

**Aldersperson Chad Doran (District 15) 39:27**

I'm all for businesses being able to operate as they see fit and to earn revenue, but I would I would be remiss if I—I'd feel awful if I supported a bar being able to make a few extra bucks on the off chance that over-serving someone might have much, much more dangerous and perhaps deadly consequences for that. And I just I can't in any way see how this is a good decision and will not be supporting this. Thank you.

**Mayor Jake Woodford 40:04**

Alder Heffernan.

**Aldersperson Patti Heffernan (District 8) 40:09**

Thank you, chair. So just a point of reference, alcoholism is quite outdated in any clinical setting, and is referred to as alcohol use disorder, and it is a spectrum disorder. And I cannot imagine having to go before a City Council and have my medical condition discussed as to whether or not I can have gainful employment.

**Aldersperson Patti Heffernan (District 8) 40:38**

That being said, one thing that just kind of sticks with me, and this is a gut thing just from my experience in this world and time and have a lot of interaction with 12 Step communities and 12 step functions, etc., I can't think of a single sponsor in the world that would recommend somebody go and work in a bar after having had that. I cannot see that. So, I'm hearing a lot of, you know, being involved with the 12 Step Community, etc. I—that may be true, but as far as following the program and the way that program works, I cannot see a single Home Group, a single friend, a single sponsor within that group recommending this or supporting this or giving them wraparound support. And many times in those groups, they then withdraw their support if somebody makes a decision like that, leaving that person without their social capital that helps them with their recovery in the first place. I'm really ambivalent if that didn't come across. So, thanks.

**Mayor Jake Woodford 41:50**

All right. Again, I'll remind the Council that what's before you is a recommendation from the committee to approve license, and let's try and keep the keep the conversation focused on what's before us. What's been discussed. Again, this is a—this isn't like a road project where we're talking about something that maybe is a little bit abstract. We are we're talking about an individual, a person in our community, and I'd like us to please be careful about discussion that veers into generalities about conditions and so forth.

**Mayor Jake Woodford 42:25**

So, let's try and bring the conversation back to the license application before you, and let's do our best to get to a place where you can hold a vote because I really—my sense is that we're not introducing a lot of new information or discussion at this point. So, if you feel it would be helpful in making your own decision or you believe you'd sway the position of your colleagues, then please continue the debate. Otherwise, let's get on to a vote. Next is alder Wolff.

**Aldersperson Nate Wolff (District 12) 43:00**

Call the question.

**Mayor Jake Woodford** 43:04

Motion's been made to call the question. Is there a second? Motion has been made and seconded to call the question. There are three speakers in the queue. All those in favor calling the question please signify by saying aye.

**Alderspersons** 43:16

Aye.

**Mayor Jake Woodford** 43:17

Opposed?

**Alderspersons** 43:19

Nay.

**Mayor Jake Woodford** 43:19

The ayes have it. The question has been called. Again, the recommendation is for approval of the license. An aye vote approves the license. A nay vote denies the license. Everyone clear? Please cast your votes. Motion passes eight to six item has been approved.