

## Item 24-1105: Operator License for Cindy

### Common Council

Wed, Oct 16, 2024 7:00PM

#### Mayor Jake Woodford 14:56

All right, I have no business to present to you this evening, so we'll come a part of public participation, and we do have a member of the public here to speak. We'll ask that you limit your comments to five minutes or less and keep your comments concise and within the time limit. And with that, we'll invite Cindy Reed up. Cindy, welcome.

#### Cindy Reed (Applicant) 15:24

I'm Cindy Reed. For those of you who do not know who I am, I'm in an appeal process for my operator's license, and I would like to take this opportunity to address you all, to hopefully clear up some misunderstandings and/or conclusions that may have been unjustly reached or assumed. I'd like to begin by saying I'm not here asking you to renew an operator's license. I am here because if you do not renew that operator's license, you are effectively putting me out of a job which is my means for survival. I typically make my living as a cashier in a convenience store, grocery store, these types of things. They all sell liquor. We're all required to have a operator's license. I tend bar two days a week, part time at night to help make ends meet. You do choose not to renew my license, I am not going to be allowed to do either, and I am and will be unemployed.

#### Cindy Reed (Applicant) 16:30

I usually work two jobs, as I stated, to make my ends meet. I am a functioning part of this community. I pay rent, taxes, utilities, and insurance, all of which are made possible through my employment. Please take these things into consideration and recognize gravity of the decision you are making. When I was stopped, I was driving back from Apple—to Appleton from Weyauwega where I was visiting my folks. I believe I was driving with the flow of traffic (if that was going fast; this is on Highway 10. I think everybody knows kind of how traffic moves) when I was stopped and approached. The officer, asked me why I thought he stopped me. I had no idea, and I had not thought I did anything wrong. I did not even know I was being cited for speeding until I was released the next morning.

#### Cindy Reed (Applicant) 17:26

This citation has been dropped long before I ever met with the Safety and Licensing council. He told me my tint was start. All this stuff was dismissed before I ever came before this panel. Why did I not mention it? It doesn't exist. It was dropped. I didn't think I was trying to be sneaky or hiding anything. I went to court because I had a trace full amount of blood alcohol of a point 026, not point 08. And I do realize this is a violation of my driving privileges.

#### Cindy Reed (Applicant) 18:08

I was under the understanding that my appeal was going to be based on the information presented to the Council through the Appleton Police Department, myself, and yet, the reason that the committee brought this back for review was based on Alderman Fenton's recommendation after she took it upon herself to CCAP me and look farther into my criminal history. As we all know, the information extenuating circumstances are not all contained in those records. For instance, things like a battle to beat an addiction, loss of loved ones, children who have returned home who have served our country, who are broken beyond our ability, myself as a parent, divorce, adultery, just to name a few.

**Cindy Reed (Applicant) 19:07**

These things are not always there in the black and white. So please. So, to use this information to judge me or anyone else facing this Council's review process would obviously be biased, and probably why it's not typically a practice during these committees decision making process. And if that decision making process is going to change, then all applicants, regardless of circumstances, should be properly vetted by someone who has the proper credentials, education, degrees, and formal training to perform these types of interrogation and background checks.

**Cindy Reed (Applicant) 19:52**

In closing, I would like to appeal to all of you please allow me to continue at my work place. Please do not let my troubled past affect my possible future. I have followed the terms of my third OWI for over 17 years. I get up. I go to work every day. I do not drink while I'm at work, nor do I drink and drive. My life is not perfect, but it is a daily effort to continue doing the best I can. Please allow me to move forward. And I thank you for your time.

**Mayor Jake Woodford 20:35**

We'll note that there are no other members of the public present, and so at this time, we'll close public participation and move along.

[Cut]

**Mayor Jake Woodford 23:11**

We'll take up the item from safety and licensing committee. This is item 24-1105, operator license for Cindy Reed. All right, we have a motion and a second to approve, and if it's all right with the Council, we'll have a notwithstanding vote on this item just for clarity. Okay, all right, with that, we'll open discussion. Alder Hartzheim.

**Aldersperson Sheri Hartzheim (District 13) 23:47**

Thank you, Chair. I cannot in good conscience vote to approve this license, not because I do not empathize and sympathize with the applicant's concerns and issues as far as employment, but because what is asked of the committee, and then again asked of us as the council, is to validate and verify that rehabilitation has taken place. And the items that were provided to us as evidence of rehabilitation are a letter stating that treatment was concluded. It began in April and concluded in June of 2024. That seems like a very short period of time in which multiple OWI treatment could be administered. A letter from a from the applicant's daughter and a letter from a coworker of the applicant, an assessment plan document that marked that there was alcohol and other drugs as an issue, and a certificate for a responsible beverage license—or certificate of completion.

**Aldersperson Sheri Hartzheim (District 13) 25:17**

In totality, those items, to me, don't prove or show rehabilitation which is the key item that this Council needs to vote in order to approve this license—to vote on in order to approve this license, and I don't believe that it's been proven or shown by these documents.

**Aldersperson Sheri Hartzheim (District 13) 25:45**

I understand the emotional appeal of this particular applicant and that, you know, we as a council hold this important decision in our hands, but I believe that the evidence from APD stating that they're they don't—they don't believe that we should approve the license, and the actual facts that there was a felony OWI on this applicant's record, and there hasn't been shown that there's any rehabilitation based on these documents, I believe that that the answer is clear, that we cannot approve this license. So, I hope that the rest of this council takes—my colleagues take this in mind, keep this in mind and vote more on the factual data that's provided

here, then on an emotional appeal, no matter how important it is and no matter how strongly it touches us. Thank you.

**Mayor Jake Woodford 26:50**

Alder Croatt.

**Aldersperson Chris Croatt (District 14) 26:53**

Thank you, Mayor. I share, I share all the thoughts of Aldersperson Hartzheim on this. I am going to be consistent in my vote. If you look at the legislative history on this, we first—the committee first took it up on 9/25, and at that, at that meeting, we had four members present, and the motion was to approve the license on a three-one recommendation, which came to Council and then ultimately got referred back. Now that it's back before the Council today, it's a three-two motion or three-two recommendation to deny the license I was I was the one that voted consistently through two committee meetings, and I'm going to vote that same way tonight, and it's based on a lot of the same reasons that Alder Hartzheim mentioned, including the fourth offense felony conviction and the position of our Appleton Police Department. Thank you.

**Mayor Jake Woodford 27:50**

Alder Fenton.

**Aldersperson Denise Fenton (District 6) 27:51**

Thank you, Your Honor. I was the flip flopper there in our first Safety and Licensing meeting. I—my inclination is always to give somebody the benefit of the doubt, particularly with the amount of time that it occurred between the third and the fourth OWI. How—and so I voted to approve the license. However, thinking about it later, and some of what Attorney Buruin had shared with us, something just didn't ring right with me, and the stating that the blood alcohol result had been the result of taking cold medicine, specifically NyQuil, and that this the original traffic stop was for the either dark tint on the driver—on the license plate or the windows. So, I did—as the applicant says, I did look up the in the database myself and notice that the original stop was for speeding. And then I also did some more looking. And, you know, I find it really difficult to believe that a normal dose of cold medicine would have resulted in that blood alcohol level.

**Aldersperson Denise Fenton (District 6) 29:26**

And as I stated in the committee meeting, I find it disturbing that someone, regardless of the amount of time, that between a third and a second—or subsequent offense, that the threshold for blood alcohol level is permanently lower than a normal person may be having a drink. But that's not our—that's not ours to decide. Ours is to decide whether this person is trustworthy in terms of being a responsible server, and after I did that more looking, I did not find her to be trustworthy and changed my vote to not grant the license, and I'll be voting that same way again tonight. Thank you.

**Mayor Jake Woodford 30:26**

Alder Siebers.

**Aldersperson William Siebers (District 1) 30:28**

Thank you, Your Honor. And I'm going to be consistent too. I supported this applicant's request for a license. I've always stated in committee "When is the past the past?" It appears in this situation that the past is not the past even though there's been a lot of time between the third and the fourth OWI. I think she should be given credit for that. I think she should be applauded for that. I'm going to vote in favor of her having a license, even though she did get her fourth OWI, you know. So anyways, thank you.

**Mayor Jake Woodford** 31:17

Alder Schultz.

**Aldersperson Alex Schultz (District 9)** 31:19

Thank you, Your Honor. I too will remain consistent. I voted twice to approve. The second time around was a little bit more challenging, given the discussion that was had at the second time at committee level that I chaired. Perhaps didn't do an exceptional job chairing that meeting. I think for similar reasons, you know, a challenge to put myself in this individual's shoes and think about what I would feel if I were—if 17 years had passed and I was pulled over, I had some blood alcohol, but it was point 026, which is a beer, I could see something like that happening. And in my shoes, at this point, I would be let go and say, "Yeah, watch your drink and get home safe." But because these previous OWIs which were 17 years and then another one even before that, were still on the record. Again, to this, "When is history history? When is the past, the past?" This individual did not get that opportunity to say, "Oh, I'm at point 02." Whether it was for NyQuil or some other reason, she didn't get that pass, but it's because of that distance.

**Aldersperson Alex Schultz (District 9)** 32:33

Now, as has been stated a couple times, that's not what we're here to decide. So that was part of the struggle that I had supporting the applicant the second time around, but in my mind, I heard testimony from her present employer which had nothing but extremely positive things to say about how she operated and her responsibility behind the bar, or when she wasn't behind the bar. Her ability to get to work and do extra work when she was in her—performing duties as she's expecting to do. That was one employer, I don't know about the others. Probably one of the most significant, since it was the bar that was testifying.

**Aldersperson Alex Schultz (District 9)** 33:15

And I didn't see any documentation in anything that was reviewed that suggested this individual served underage minors, served any kind of other substances across, that there was nothing that suggested me that while she was performing her duties in a bartender position that she had any infractions over, I'm assuming, a decade or more of service as a as a lead bartender. So given those two things, I'm going to continue to support. I did struggle mightily with it, based on some of the comments that were made, but I will continue to support her, give her this chance, because I put myself in her shoes, and I would be really struggling if I had to lose my employment because I blew a point 026.

**Mayor Jake Woodford** 34:06

Alder Heffernan.

**Aldersperson Patti Heffernan (District 8)** 34:09

Thank you, Chair. Listening to what Alder Hartz—Hartzheim—sorry—laid out as the rehabilitation that she had completed. I believe that is what is required systemically for when we have OWIs in Wisconsin, and she completed those, and she has letters, and her employer says that she is responsible. Earlier this year, we approved a license for somebody who had been known to sell alcohol to minors, and we believed in rehabilitation earlier this year, so I would ask the Council to be consistent in believing in rehabilitation and those efforts. Taking somebody's, you know, bartending license doesn't stop drunk driving. It stops them from being able to serve alcohol to other people. There that—there would be nothing that would still stop some from—somebody from consuming alcohol and then continuing to drive. All this does is stop somebody's ability to be employed, which can contribute—if there is an alcohol use disorder, can contribute further to an alcohol use disorder. So, in this situation, I would, I would vote to approve. Thank you.

**Mayor Jake Woodford** 35:34

Alder van Zeeland.

**Aldersperson Katie Van Zeeland (District 5)** 35:37

Thank you, Chair. I do tend to try to give people another shot, but I have some concerns with the way the applicant talks about there being a misunderstanding in information and what happened in their incident. You know, being upset with someone for going and looking up what the public record says is concerning to me. I—it makes me question if I can trust them, and so I'll have to vote no. Thank you.

**Mayor Jake Woodford** 36:15

Alder Croatt.

**Aldersperson Chris Croatt (District 14)** 36:18

Thank you, Mayor. I wasn't going to follow up, but based on some of the comments, I just wanted to clarify a couple things. We're not voting on employment here. We're voting on a license. If the employer chooses to do something with the employment, that's their choice. This is on the license. And I'm basing it on the facts. It's 4 OWIs with a felony conviction. The license can be can go from this this the establishment that praised her work. She can go work somewhere else, and maybe the arrangement or the situation is different with from a support standpoint. But this is not about employment. This is about a license. Thank you.

**Mayor Jake Woodford** 37:05

Any further discussion? Alder Firkus?

**Mayor Jake Woodford** 37:10

It's eight votes.

**Aldersperson Brad Firkus (District 3)** 37:10

Just a question for point of clarification. With 11 members present tonight, is this going to be eight votes to pass, or just a majority of the body present?

**Aldersperson Brad Firkus (District 3)** 37:13

Okay, thank you.

**[Aldersperson William Siebers asks question off microphone.]**

**Mayor Jake Woodford** 37:13

Uh, yeah, so this will be a notwithstanding vote. So, an aye vote would approve the license. A nay vote would deny the license. Okay? Yep. Any other discussion or questions? All right, hearing none. Please cast your votes. The motion fails four to seven. License has been denied.