

Item 24-1105: Operator License for Cindy

Safety and Licensing Committee

Wed, Oct 09, 2024 5:30PM

Aldersperson Alex Schultz (District 9) 00:45

We have no public hearing or appearances. That takes us into action items, the first of which is 24-1105, operator license for Cindy Reed. This was referred back from Council by Alder Fenton, so I'm going to pass it to Alder Fenton to—

Aldersperson Denise Fenton (District 6) 01:00

I moved to deny.

Aldersperson Chad Doran (District 15) 01:02

Second.

Aldersperson Alex Schultz (District 9) 01:04

Motion to deny and a second. Let's open it up for discussion. Alder Fenton, would you like to?

Aldersperson Denise Fenton (District 6) 01:09

Yeah, thank you, Chair. So, after our last meeting, I had some concerns and went and kind of thought back on our conversation on what we'd heard, and looked up some things, and I—one of the things I looked up was the prior—the history of police reports and the action with where the applicant was involved. And I discovered that the original traffic stop was not necessar—was not for tinted windows, or, at least according to the record, it was for a speeding violation, which was dismissed after the OWI in favor of the OWI. And I found a couple of other encounters with law enforcement in between the time of the third OWI and the most recent incident, and it just gave me a lot of concern about the truthfulness of the applicant. And, Chair, if I could direct a question to the police department, would that be okay?

Aldersperson Alex Schultz (District 9) 02:30

Sure.

Aldersperson Denise Fenton (District 6) 02:31

So, Chief Olson, so in terms of the letter we got from the police department, it absolutely, you know, mentioned recommended for denial based on the fourth OWI, the felony conviction but didn't mention any other encounters with law enforcement in the history. Is that just standard practice to only reference the felony conviction that would have caused the police department to recommend denial of the license?

Police Chief Polly Olson 03:12

The short answer is yes.

Aldersperson Denise Fenton (District 6) 03:15

All right. Thank you. Thank you. So those are the reasons for my denial. I am one of those people who the default is giving somebody the benefit of the doubt, and I still—I don't care for the policy that if someone has three previous convictions, the blood alcohol level being that low forever, but that's not something that we're dealing with here. That's this—that's a state function. So, with what I've heard, and what I looked at, I have changed my mind from our last meeting, and can't, in good conscience, vote to approve this license.

Alderson Alex Schultz (District 9) 04:04

Anybody else on committee yet? Okay, I'll say a few things to fill the void here until anybody else wants to speak up. One of our challenges as this committee is to look at what's presented to us, including the recommendations to deny from APD based on what we're supplied, and it's really not incumbent or not our job to look in any deeper than that when we're trying to make that decision. But I too, have some reservations, having found out that that the reason for that stop was for speeding, and that was never divulged by the applicant. So, I can understand why someone might not want to bring that up.

Alderson Alex Schultz (District 9) 04:42

And I think the other thing we struggled with when we made this decision—and it is strange for us to bring it back from Council. Part of what was the challenge when we heard this at the last committee meeting, was understanding how much of an effect having a couple doses of NyQuil um could affect your blood alcohol content. And I think we struggled that committee to understand what that effect might be. Having some time to review that understanding now that with a 10% alcohol content of those cough medicines, it would be highly unlikely, and I think this was said last time, but highly unlikely, that even consuming a glass of that or eight ounces of that would put you into position where you would be over that blood alcohol content.

Alderson Alex Schultz (District 9) 05:26

So that gives me a little bit of pause. I'm not sure that I, too am feeling now that I fully trust the account of what took place. Now I'm going to allow the applicant to approach the mic if she'd like to address some of the things we're talking about, but I think this is where we're sitting now. There's some additional information that was supplied, information that didn't quite jive with what we heard at the last committee meeting where we made this decision, which has given us some pause, and that's why we brought it back here to have a further discussion.

Alderson Alex Schultz (District 9) 05:58

I think we've heard testimony that this is an invaluable employee, and that she's done everything she can in her power to be a model employee. But that's really not what we're here to discuss. And while it might have swayed some of our vote or some of our thinking last time, I think we do have to kind of dial back and understand the sincerity of the of the applicant and why we're back here now with having received some additional information that wasn't presented the last time.

Alderson Alex Schultz (District 9) 06:28

Before we ask you to approach the mic, is there anything else from committee at this point? I have one question for Mr. Buruin and that is we all agree to the findings of fact at the last committee meeting. We've been through this before, so we'll have to go through a process of doing that again I assume, if there's a motion to deny and it's, uh, upheld at this—with this vote.

[Attorney Buruin starts to speak but his microphone is turned off.]

Alderson Alex Schultz (District 9) 06:57

Sorry.

Zak Buruin (Assistant City Attorney) 07:01

Effectively yes. And the finding of fact would be pretty much a binary question of whether or not the information provided is sufficient to establish rehabilitation under the—or as the statute contemplates, and the

committee can base that on the information provided, its credibility determinations regarding that which it seems like is a big part of what's being talked about.

Zak Buruin (Assistant City Attorney) 07:21

One caution I will share. If there are additional documents or records that are being relied upon with respect to making the decision, I don't see an issue with that, but I do think they need to be made part of the record and attached so that they can be part of the record when it does go to the Common Council.

Alderman Alex Schultz (District 9) 07:37

Thank you for that. Alder Croatt, if you'd like to chime in.

Alderman Chris Croatt (District 14) 07:42

Yes, thank you, Vice Chair Schultz. Sorry about the background noise here. I'm at the airport, but I just wanted to say that I'm going to be consistent in my vote. I place a lot of weight on the recommendation from the Appleton Police Department, and with the felony conviction, I really didn't need any additional data. I was the nay vote on the license application last time, and I'm going to vote that same way today. Thank you.

Alderman Alex Schultz (District 9) 08:06

Thank you. Anything else from committee? All right, if you'd like to approach the mic, do you do you wish to address any of these things we're talking about?

Alderman Alex Schultz (District 9) 08:24

State your name and address quickly.

Cindy Reed (Applicant) 08:25

Cindy Reed [XXXXX] Appleton, Wisconsin. I'm not quite sure why this is being done. I thought that we go by the recommendation of the Police Department, and that I was to come in here and show rehabilitation and the city attorney agreed on our last meeting that that had been done. I'm not quite understanding why we're digging into everything I've done. I've been recommended for denial because of a fourth—not even OWI—operating with a prohibited alcohol content. I understand everybody considers eight of fourth. Point 08, is the legal limit for each and every person in here unless you are in the same situation as me, minus point 02.

Cindy Reed (Applicant) 09:24

I have done everything I can to try to move forward from this event. Speeding. He says I was speeding, and when I passed him with the darkened plate cover, I'm assuming you've read the police report, and he said, "When the darkened plate cover passed, that is when I initiated my emergency lights."

Alderman Alex Schultz (District 9) 10:02

Alder Siebers.

Alderman William Siebers (District 1) 10:02

May I ask the—

Alderman Alex Schultz (District 9) 10:04

Yes, please, yes.

Alderman William Siebers (District 1) 10:06

After your third OWI, you stated that you went through treatment.

Cindy Reed (Applicant) 10:15

Correct.

Alderson William Siebers (District 1) 10:16

And how long was that treatment?

Cindy Reed (Applicant) 10:20

It was a nine-month program which upon I was released in compliance, and I continued on my own, voluntarily, to see her once a month for probably about three years. Then I sat out a bit, then I went back to her after a year, and continued to see her for a few more times until my insurance did not pay anymore and we had to part our ways. And if you've read the police report, which you have, apparently, it also states that all three convictions occurred in Winnebago County. No, they did not. So, there are discrepancies left and right. I'm not here to discredit a State Patrol. There are just discrepancies, because if you want to look up the OWIs you'll find that one could occurred in Outagamie, the second one in Winnebago, and the third in Calumet. I had my Calumet sentence transferred over to Waupaca County where my parents lived, so that my father who was nice enough to come pick me up for Huber did so and brought me to employment in Weyauwega.

Alderson William Siebers (District 1) 11:34

Thank you.

Alderson Alex Schultz (District 9) 11:35

No follow up? Okay. Anything else?

Alderson Denise Fenton (District 6) 11:38

Not for me. Thank you.

Alderson Alex Schultz (District 9) 11:41

Have anything? All right. Chris, do you want to speak? Your hand is still raised?

Alderson Chris Croatt (District 14) 11:50

Yes, I kept it up because I wanted to—I think it's important to clarify the position of the Appleton Police Department and the attorney's office. I believe the applicant stated that there was proof of rehabilitation. I don't think that's the position of APD or the attorney's office. I think that's for this committee to decide. If we could just make sure that that's clear for everyone in the room.

Alderson Alex Schultz (District 9) 12:12

Thank you, Chris. Attorney Buruin.

Zak Buruin (Assistant City Attorney) 12:16

Yes, I think what I would have shared last time we were here is that the things that would have been ordered by the court were shown, but as Alder Croatt indicated, it is for this committee to determine under the statute whether that's sufficient to show rehabilitation as contemplated by chapter 125. So, I would not have waited on anything other than compliance with the court order.

Alderson Alex Schultz (District 9) 12:40

Alder Siebers.

Alderson William Siebers (District 1) 12:41

Just help with my memory. Did you provide proof that you completed rehabilitation or the program?

Cindy Reed (Applicant) 12:52

Not for my third. From when I was in outpatient treatment 17 years ago? No, I didn't bring anything in.

Alderson William Siebers (District 1) 12:59

Okay, so you haven't brought anything. It's just your word that.

Cindy Reed (Applicant) 13:02

Well, it is court ordered after your third, typically, not always to be court ordered for outpatient treatment. So, I've held a valid license for all these years. That would not be possible had I not been in compliance.

Alderson William Siebers (District 1) 13:20

Okay.

Zak Buruin (Assistant City Attorney) 13:23

And there was documentation regarding treatment after the fourth offense provided.

Alderson Denise Fenton (District 6) 13:28

And that's in the record, right?

Zak Buruin (Assistant City Attorney) 13:30

It is.

Alderson Alex Schultz (District 9) 13:35

Anything else from Committee? Anything else from staff? All right, then we'll move to a vote. All those in favor of the denial. Say aye.

Aldersons Fenton, Croatt, and Doran 13:42

Aye.

Alderson Alex Schultz (District 9) 13:43

Opposed?

Aldersons Siebers and Schultz 13:44

Nay.

Alderson Alex Schultz (District 9) 13:46

Motion carries three to two with Alder Siebers and Alder Schultz voting nay. This will go to Council now with a recommendation to deny, and that'll be next Wednesday at 7pm.