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TO: Safety and Licensing Committee  
Common Council

FROM: Lt. Ben Goodin

DATE: 10/10/2024

RE: Police Department’s Recommendation for Denial of Katherine Neubert’s Bartender License Application

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Committee Members:

The police department is requesting that the Safety and Licensing Committee recommend to the Common Council to deny Katherine Neubert’s application for a bartender license.

Pursuant to Wis. Stat. §111.335(2)(b) and (3)(a), it is not employment discrimination for a licensing agency to deny an applicant based on an arrest or conviction record where the circumstances of the conviction substantially relate to the circumstances of the particular licensed activity.

Pursuant to Wis. Stat. §125.04(5)(a)1., no license or permit related to alcohol beverages may be issued to an individual with an arrest or conviction record where the circumstances of the record(s) substantially relate to the circumstances of the particular licensed activity.

Pursuant to Wis. Stat. §125.04(5)(b), no license or permit related to alcohol beverages may be issued to a “habitual law offender” where the circumstances of the habitual law offenses substantially relate to the circumstances of the particular licensed activity.

Also pursuant to Wis. Stat. §111.335(4)(c), if the licensing agency refuses to license an individual based upon arrest or conviction record, the applicant is allowed an opportunity to show “evidence of rehabilitation and fitness to engage in the licensed activity,” *unless the conviction(s) are for “exempt offenses.”* Wis. Stat. §111.335(4)(d) provides the following options that the applicant may produce to conclusively demonstrate their rehabilitation and fitness from a given conviction:

- A copy of the local, state, or federal release document; and either
- (1) a copy of the relevant department of corrections document showing completion of probation, extended supervision, or parole; or
- (2) other evidence that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime along with

evidence showing compliance with all terms and conditions of probation, extended supervision, or parole.

Additionally, the licensing agency must consider any of the following evidence if presented by the individual, though none are required to be accepted as conclusive proof of rehabilitation:

- (1) Evidence of the nature and seriousness of any offense of which he or she was convicted.
- (2) Evidence of all circumstances relative to the offense, including mitigating circumstances or social conditions surrounding the commission of the offense.
- (3) The age of the individual at the time the offense was committed.
- (4) The length of time that has elapsed since the offense was committed.
- (5) Letters of reference by persons who have been in contact with the individual since the applicant's release from any local, state, or federal correctional institution.
- (6) All other relevant evidence of rehabilitation and present fitness presented.

### **STATEMENT ON SUBSTANTIAL RELATIONSHIP**

As part of any denial of licensing, the police department must determine if crimes are substantially related to the sale of alcohol. Ms. Neubert is a habitual law offender based on the following convictions:

Operating While Intoxicated (3<sup>rd</sup>) in Outagamie County case # 2022CT000244.

Operating While Intoxicated (2<sup>nd</sup>) in Outagamie County case # 2013CT000150.

Operating While Intoxicated (1<sup>st</sup>) in Outagamie County case # 2011TR002386.

These three Operating While Intoxicated convictions are substantially related to the sale of alcohol for several reasons. Ms. Neubert has shown a pattern of poor decision-making by getting arrested for Operating While Intoxicated in 2011, 2012 (convicted in 2013) and again in 2021 (convicted in 2022).

Drunk driving is a serious offense and a major problem not only in Wisconsin but across the entire country. Ms. Neubert has not shown the ability to make sound decisions by understanding when she has had too much to drink and is unsafe to operate a motor vehicle. A person serving alcohol to members of the public must be aware of when a patron has had enough to drink and should not be served any longer. If Ms. Neubert cannot understand when she is too drunk to drive, it's unreasonable to believe she would recognize when a patron she is serving has also consumed too much alcohol.

Having nine years of no OWI arrests from 2012-2021 is commendable. However, it is the police department's belief that Ms. Neubert getting arrested a third time for OWI as recently as 2021 clearly indicates she does not understand the seriousness of drunk driving. Ms. Neubert has not shown she has learned her lesson from the first two arrests, and her pattern of drunk driving behavior is concerning.

As a person who wants to be responsible to serve alcohol, Ms. Neubert has not shown the ability to make good decisions related to her own sobriety. The service of alcohol includes coming into contact with individuals in a very vulnerable state and the Appleton Police Department feels that through Ms. Neubert's prior OWI convictions that she has not demonstrated the necessary maturity and decision-making capacity to be allowed a bartender's license in the City of Appleton.

Ms. Neubert's repeated OWI convictions qualify her as a habitual law offender and the Appleton Police Department recommends her bartender application be denied.

Very Respectfully:

Lt. Ben Goodin  
Appleton Police Department