



City of Appleton

100 North Appleton Street
Appleton, WI 54911-4799
www.appleton.org

Meeting Agenda - Final Safety and Licensing Committee

Wednesday, January 8, 2025

5:30 PM

Council Chambers, 6th Floor

1. Call meeting to order
2. Pledge of Allegiance
3. Roll call of membership
4. Approval of minutes from previous meeting
[24-1601](#) Safety and Licensing Committee Minutes from 12/11/2024

Attachments: [S&L Minutes 12-11-24.pdf](#)

5. Public Hearing/Appearances

6. Action Items

- [24-1126](#) Operator License for Kelly Arndt.

Attachments: [Kelly Arndt Application.pdf](#)

[Kelly Arndt Clerk Letter.pdf](#)

[Kelly Arndt PD Letter.pdf](#)

[Kelly Arndt Appeal Memo.pdf](#)

[UPDATE Operator License Renewal Application of Kelly Arndt.pdf](#)

Legislative History

12/11/24 Safety and Licensing Committee held

Kelly Arndt was present and requested the item be held until the next regularly scheduled meeting on January 8, 2025.

- [24-1496](#) Operator License for Katherine Neubert.

Attachments: [Katherine Neubert Application.pdf](#)

[Katherine Neubert Clerk's Letter.pdf](#)

[Katherine Neubert denial letter.pdf](#)

[24-1528](#) Class "B" Fermented Malt Beverage and Reserve "Class B" Liquor License Revocation Hearing for BT & Dave, LLC - Theodore V. Suess, Agent.

Attachments: [Speakeasy Ultra Lounge Complaint & Summons 12.2.24.pdf](#)
[Speakeasy Ultra Lounge Affidavit of Service 12.3.24.pdf](#)
[Alcohol Demerits and Revocations.pdf](#)
[Steven Wells APD Report 3.3.23 Redacted.pdf](#)
[Steven Wells Signed Criminal Complaint 11.30.23.pdf](#)
[JoC - Wisconsin V Steven Wells Jr 5.21.24.pdf](#)
[Council Minutes from 8.16.23.pdf](#)
[Speakeasy Stipulation 8.2023 Signed.pdf](#)
[Speakeasy Surrender Lic. Email 12-10-24.pdf](#)
[SPEAKEASY ULTRA LOUNGE REPORT 12.11.24.pdf](#)

Legislative History

12/11/24	Safety and Licensing Committee <i>Theodore Suess was present and addressed the committee and did not deny the complaint.</i>	recommended for approval
12/11/24	Safety and Licensing Committee <i>The Motion to approve the report and proceed with revocation of the license failed 2/3.</i>	held

[24-1530](#) The Safety and Licensing Committee may go into closed session pursuant to State Statute §19.85(1)(a) for the purpose of deliberating the revocation of an alcohol license and then reconvene into open session.

[24-0420](#) Class "B" Beer and Reserve "Class B" Liquor License application for Delaires LLC d/b/a Delaire's, David Boulanger, Agent, located at 823 W. College Ave, contingent upon approval from the Health and Inspections departments.

Attachments: [Delaire's.Alcohol.Class B Beer Reserve Liquor.4.10.24.REDACTED.pdf](#)
[Delaire's Attachment.pdf](#)
[Documents distributed by Alder Van Zeeland 10.23.24.pdf](#)
[APD Delaire's letter to S&L 11.27.24.docx](#)
[OEO to Appleton City Clerk re Holding Licensing Hearing - Delaire's LLC.pdf](#)

Legislative History

10/9/24	Safety and Licensing Committee	recommended for approval
10/16/24	Common Council	referred to the Safety and Licensing Committee

10/23/24 Safety and Licensing held
Committee

12/11/24 Safety and Licensing held
Committee

[24-1611](#) Secondhand Article Dealer License renewal application for T&S Sports d/b/a Play It Again Sports, Michael Milloy, Agent, located at 611 W Northland Ave, contingent upon approval from the Health department.
Attachments: [Play It Again Sports.Secondhand Article Renewal.12.10.24.REDACTED.pdf](#)

[24-1604](#) Temporary Class "B" Beer and "Class B" Wine License application for Sacred Heart Church, Dave Erickson, Person in Charge, located at 222 E. Fremont St, for Winterfest event on February 22, 2025 from 5:00 p.m. to 9:00 p.m., contingent upon approval from all departments.
Attachments: [Sacred Heart Church.Alcohol.Temp B Beer Wine.Winterfest.2.22.25.REDACTI](#)

[24-1603](#) Temporary Class "B" Beer License application for Building for Kids Children's Museum, Oliver Zornow, Person in Charge, located at 100 W. College Ave, for Building for Grown-Ups event on February 1, 2025 from 6:00 p.m. to 9:00 p.m., contingent upon approval from all departments.
Attachments: [Building for Kids Childrens Museum.Alcohol.Temp B Beer.Building for Grown U](#)

7. Information Items

[24-1565](#) Gold Cross Ambulance Annual Review
Attachments: [11-05-24 Memo_GCA_Annual_Review.pdf](#)
[Shared_Services_and_Operating_Agreement_2024_Annual_Review.pdf](#)

[24-1634](#) Alcohol Establishment Demerit Point Violations:

Broken Tree Pizza - 201 S Riverheath Way

-Dispense Alcohol to Minor: 80 points
-No licensed Operator on Premises: 40 points
Total demerit points: 120

Mr. Frogs - 409 W College Ave

-Underage Person(s) on Premises: 80 points
-Dispense Alcohol to Minor: 80 points
Total demerit points: 160

[24-1602](#)

Director's Report

1. City Clerk
2. Fire Chief
3. Police Chief
 - Hiring Update

8. Adjournment

Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.

Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.



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Meeting Minutes - Final Safety and Licensing Committee

Wednesday, December 11, 2024

5:30 PM

Council Chambers, 6th Floor

1. Call meeting to order

The meeting was called to order by Chair Croatt at 5:30 p.m.

2. Pledge of Allegiance

3. Roll call of membership

Present: 5 - Croatt, Siebers, Doran, Fenton and Schultz

4. Approval of minutes from previous meeting

[24-1497](#)

Safety and Licensing Committee Minutes from 10/23/2024

Attachments: [S&L Minutes 10-23-24.pdf](#)

**Siebers moved, seconded by Fenton, that the Minutes be approved. Roll Call.
Motion carried by the following vote:**

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz

5. Public Hearing/Appearances

6. Action Items

[24-1126](#)

Operator License for Kelly Arndt.

Attachments: [Kelly Arndt Application.pdf](#)
[Kelly Arndt Clerk Letter.pdf](#)
[Kelly Arndt PD Letter.pdf](#)
[Kelly Arndt Appeal Memo.pdf](#)

Kelly Arndt was present and requested the item be held until the next regularly scheduled meeting on January 8, 2025.

Schultz moved, seconded by Siebers, that the Operator License for Kelly Arndt be held until the next regularly scheduled meeting on January 8, 2025. Roll Call. Motion carried by the following vote:

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz

[24-1495](#)

Operator License for Crystal Williams.

Attachments: [Crystal Williams Application.pdf](#)
[Crystal Williams Clerk's Letter.pdf](#)
[Crystal Williams denial letter.pdf](#)
[Crystal Williams supplemental denial.pdf](#)
[Crystal Williams Operator License Memo.pdf](#)
[Letter provided by Crystal Williams 12.11.24.pdf](#)

Crystal Williams was present and addressed the committee.

Fenton moved, seconded by Doran, that the Operator License for Crystal Williams be recommended for denial. Roll Call. Motion carried by the following vote:

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz

[24-1528](#)

Class "B" Fermented Malt Beverage and Reserve "Class B" Liquor License Revocation Hearing for BT & Dave, LLC - Theodore V. Suess, Agent.

Attachments: [Speakeasy Ultra Lounge Complaint & Summons 12.2.24.pdf](#)
[Speakeasy Ultra Lounge Affidavit of Service 12.3.24.pdf](#)
[Alcohol Demerits and Revocations.pdf](#)
[Steven Wells APD Report 3.3.23 Redacted.pdf](#)
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[Speakeasy Stipulation 8.2023 Signed.pdf](#)
[Speakeasy Surrender Lic. Email 12-10-24.pdf](#)
[SPEAKEASY ULTRA LOUNGE REPORT 12.11.24.pdf](#)

Theodore Suess was present and addressed the committee and did not deny the complaint.

Doran moved, seconded by Croatt, to approve the report and proceed with revocation of the license. Roll Call. Motion failed by the following vote:

Aye: 2 - Croatt and Doran

Nay: 3 - Siebers, Fenton and Schultz

The Motion to approve the report and proceed with revocation of the license failed 2/3.

Schultz moved, seconded by Fenton, that the Revocation Hearing for BT & Dave, LLC be held until the next regularly scheduled meeting on January 8, 2025. Roll Call. Motion carried by the following vote:

Aye: 3 - Siebers, Fenton and Schultz

Nay: 2 - Croatt and Doran

[24-1530](#)

The Safety and Licensing Committee may go into closed session pursuant to State Statute §19.85(1)(a) for the purpose of deliberating the revocation of an alcohol license and then reconvene into open session.

The Committee did not convene into closed session.

[24-0420](#)

Class "B" Beer and Reserve "Class B" Liquor License application for Delaires LLC d/b/a Delaire's, David Boulanger, Agent, located at 823 W. College Ave, contingent upon approval from the Health and Inspections departments.

Attachments: [Delaire's.Alcohol.Class](#)
[B_Beer_Reserve_Liquor.4.10.24.REDACTED.pdf](#)
[Delaire's Attachment.pdf](#)
[Documents distributed by Alder Van Zeeland 10.23.24.pdf](#)
[APD Delaire's letter to S&L 11.27.24.docx](#)
[OEO to Appleton City Clerk re Holding Licensing Hearing - Delaire's LLC.pdf](#)

Fenton moved, seconded by Siebers, that the Alcohol License be held until the next regularly scheduled meeting on January 8, 2025. Roll Call. Motion carried by the following vote:

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz

[24-1506](#)

Police Department Requests Approval of Sole Source Purchase for Load Bearing Vests

Attachments: [2025 Sole Source Memo.pdf](#)
[Armor Express - PD.pdf](#)

Fenton moved, seconded by Siebers, that the Request for Purchase be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz

[24-1567](#)

Fire Department Request to Purchase Cardiac Monitors

Attachments: [12-04-24 Request to Purchase Cardiac Monitors.pdf](#)

Siebers moved, seconded by Schultz, that the Request for Purchase in the amount of \$411,000 be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz

[24-1566](#)

Fire Department Request to Apply - Assistance to Firefighter Grant

Attachments: [Request to Apply AFG SCBA.pdf](#)

Siebers moved, seconded by Fenton, that the Request to apply for the grant be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz

Balance of the action items on the agenda.

Fenton moved, Siebers seconded, to approve the balance of the agenda. The motion carried by the following vote:

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz

[24-1501](#)

Class "B" Beer and "Class B" Liquor License application for Sushi Lover in Appleton LLC d/b/a Sushi Lover, Zhen Zhen Sun, Agent, located at 527 W. College Ave, contingent upon approval from the Community Development, Health, and Inspections departments.

Attachments: [Sushi Lover in Appleton LLC.Alcohol.Class B Beer Liquor.11.11.24.REDACTED.pdf](#)

This Report Action Item was recommended for approval

[24-1502](#)

Class "B" Beer and "Class B" Liquor License application for Eldorado Moon LLC d/b/a Missfits Tavern, Hollyann Strunc, Agent, located at 317 N. Appleton St, contingent upon approval from the Community Development, Health and Inspections departments.

Attachments: [Missfits Tavern.Eldorado Moon LLC.Alcohol.Class B Beer Liquor.11.11.24.REDACTED.pdf](#)

This Report Action Item was recommended for approval.

[24-1519](#)

Class "B" Beer and "Class B" Liquor License application for Taste of Thai Appleton LLC d/b/a Mad Elephant, Chisa Jitmaiwong, Agent, located at 1222 S. Oneida St, contingent upon approval from the Community Development, Health, and Inspections departments.

Attachments: [Mad Elephant.Tast of Thai Appleton LLC. Alcohol. Class B Beer Liquor.11.25.24.REDACTED.pdf](#)

This Report Action Item was recommended for approval.

[24-1500](#)

2025 Secondhand Jewelry, Secondhand Article, and Pawnbroker License renewal applications, contingent upon approval from all departments.

Attachments: [2025 SECONDHAND.PAWN RENEWALS.pdf](#)

This Report Action Item was recommended for approval.

[24-1503](#)

Temporary Class "B" Beer License application for Fox Cities Ice Dogs Hockey Club, Nick Laird, Person in Charge, located at 1717 E. Witzke Blvd, for Fox Cities Ice Dog Hockey Games from 7:00 p.m. to 10:00 p.m. on January 4, 2025, January 24, 2025, February 14, 2025, February 21, 2025, February 22, 2025, February 28, 2025, March 1, 2025, March 15, 2025, and March 22, 2025, contingent upon approval from the Health and Fire departments.

Attachments: [Fox Cities Ice Dogs Hockey Club.Alcohol.Temp B_Beer.1.4.25.pdf](#)

This Report Action Item was recommended for approval.

7. Information Items

[24-1494](#)

Special Events

- Appleton Area NOW Women's March, Approved Route, November 3rd 2024
- Appleton Downtown Inc., Light the Night - Holiday Edition, College Avenue and Houdini Plaza, November 16th 2024
- Run Away Shoes, Santa Scamper, Approved Route, November 26th 2024
- City of Appleton Parade Committee, Downtown Appleton Christmas Parade, Approved Route, November 26th 2024
- Festival Foods Turkey Trot, Approved Route, November 28th 2024
- Appleton Charity Events, X-Mas Pub Crawl, Participating Downtown Businesses, December 14th 2024

[24-1579](#)

Director's Report

1. City Clerk
2. Fire Chief
3. Police Chief

8. Adjournment

Siebers moved, seconded by Fenton, that the meeting be adjourned at 6:27 p.m. Roll Call. Motion carried by the following vote:

Aye: 5 - Croatt, Siebers, Doran, Fenton and Schultz



Application for Operator's/Bartender's License

CASH OR CHECK ONLY!

New Applicant

Renewal License
#: 184-24

FEES ARE NON-REFUNDABLE

Operator License - \$72.00

Operator License plus a provisional - \$87.00

Date Received: 7/9/24

Receipt #: 7103-1

Note: Please allow approximately 3 weeks for application processing.

SECTION 1 - APPLICANT INFORMATION

Legal Name (First name, MI, Last name) <u>Kelly Arndt</u>		Maiden or Previous <u>DORN</u>	
Street Address <u>1518 Midway Rd</u>		City <u>Hortonville WI</u>	State <u>WI</u>
Driver's License Number/State Identification Number		Driver's License State <u>WI</u>	
Date of Birth	Gender <u>F</u>	Phone # (Required)	Email Address:

Name and Address of Establishment you will be selling alcohol - *(verify establishment is within City of Appleton limits)*
Chester's Pub - Pub & Grille

SECTION 2 - NEW APPLICANT ONLY: You are required to list each and every violation and/or offense for which you have been convicted in or out of state. Failure to provide complete answers may result in a denial of your application.

Have you EVER had an Operator's (Bartender's) License? YES NO
If Yes; which Municipality and what year? _____

Have you EVER been convicted of a felony? YES NO
If Yes; when, where and what type of violation? (Please be specific) _____

Have you EVER been convicted of a misdemeanor or ordinance violation? YES NO
If Yes; when, where and what type of violation? (Example: speeding, OWI) _____

SECTION 3 - RENEWAL APPLICANT ONLY: List any pending charges, citations, tickets, and all convictions since last license application in or out of state. Failure to provide complete answers may result in a denial of your application.

Have you EVER had an Operator's (Bartender's) License? YES NO
If Yes; which Municipality and what year? _____

Have you been convicted of a felony since last license application? YES NO
If Yes; when, where and what type of violation? (Please be specific) _____

Have you been convicted of a misdemeanor or ordinance violation since last license application? YES NO
If Yes; when, where and what type of violation? (Example: speeding, OWI) _____

SECTION 4 - NEW APPLICANT ONLY

Must provide proof of completion of a Responsible Beverage Server Course.

SECTION 5- PENALTY NOTICE

Under penalty of law, I swear that the information provided in this application is true and correct to the best of my knowledge and belief.

Signature: [Signature] Date: 7/9/24

FOR OFFICE USE ONLY

Current License in Other Municipality?	Class Completion Date: ____/____/____	Date Sent to Appleton Police Department: <u>JUL 10 2024</u>
Date Approved: ____/____/____	Issue Date: ____/____/____	Expiration Date: ____/____/____
		License Number:



DEPARTMENT OF
**LEGAL AND
ADMINISTRATIVE
SERVICES**

OFFICE OF THE CITY CLERK

100 North Appleton Street
Appleton, WI 54911
p: 920.832.6443
f: 920.832.5823
www.appleton.org

August 13th, 2024

CERTIFIED MAIL

Kelly Arndt
N1518 Midway Rd
Hortonville WI 54944

This letter is to notify you that we are in receipt of your application for an Operator's License. The Police Department has conducted a criminal background investigation and has recommended that your application for an Operator's License be denied based upon the statutory qualifications listed in Wisconsin Statutes §125.04(5). Unless failure to grant the license would constitute unlawful employment discrimination as defined by Wisconsin Law (See Wisconsin Statutes §111.335), Operator/Bartender License may not be granted to individuals with arrest or conviction records, "habitual law offenders," or individuals convicted of a felony who have not been pardoned.

You have the right to appear before the Safety and Licensing Committee to contest this recommendation. To do so, **please contact the City Clerk's Office within 30 days of receipt of this letter** in order to be placed on the Agenda of the Safety and Licensing Committee. Failure to contact the City Clerk's Office within 30 days will result in your license being denied. At the time of appeal, you may provide the Safety and Licensing Committee competent evidence of sufficient rehabilitation and fitness to perform the licensed activity.

Regular meetings of the Safety and Licensing Committee take place on the second and fourth Wednesday of each month at 5:30 p.m. in the Council Chambers, 6th floor of City Hall, 100 N Appleton St., Appleton, Wisconsin.

Again, should you choose not to appeal this recommendation, your application will be considered denied and an Operator's License will not be issued.

If you have specific questions relating to the background investigation please contact Lt. Ben Goodin Appleton Police Department, at 920-832-5500.

Respectfully,

Kami Lynch
City Clerk



“...meeting community needs...enhancing quality of life.”

TO: Safety and Licensing Committee
Common Council

FROM: Lt. Ben Goodin

DATE: 8/09/2024

RE: Police Department’s Recommendation for Denial of Kelly Arndt’s Bartender
Renewal License Application

Committee Members:

The police department is requesting that the Safety and Licensing Committee recommend to the Common Council to deny Kelly Arndt’s application for a bartender renewal license based upon her criminal and / or arrest record, her unpardoned felony conviction(s), and her status as a “habitual law offender.”

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:

- (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. During the 2023-2024 fiscal licensing year, Ms. Arndt was arrested and formally charged with the following:

2023CF000224 in Calumet County

9/26/2023

- Possess w/Intent-Cocaine (>15-40 grams), a Class D Felony

2024CF000338 in Outagamie County

4/15/2024

- Bail Jumping, a Class H Felony

- Possession of Cocaine, a criminal Misdemeanor offense

While Ms. Arndt held an Operator/Bartender license during the 2023-2024 fiscal year, she was arrested for cocaine related offenses twice. The first arrest involved a substantial amount of cocaine and pertaining to drug dealing activity. Ms. Arndt was arrested for Possession of Cocaine a few months later and also violated the conditions of her bond by committing a new crime. Additionally, the renewal Operator/Bartender license application clearly instructs the applicant to:

“List any pending charges, citations, tickets, and all convictions since last license application in or out of state. Failure to provide complete answers may result in a denial of your application.”

Directly under that section, Ms. Arndt failed to disclose her two recent drug arrests. Ms. Arndt has displayed poor decision-making skills during this last year while she held a City of Appleton Operator/Bartender license. While working at a bar, Ms. Arndt will undoubtedly come into

contact with individuals who are in a vulnerable, intoxicated state. Some of these individuals may suffer from addiction, whether it's to alcohol or drugs. Ms. Arndt must show the ability to make sound decisions when it comes to knowing when to stop serving a patron. Her being arrested twice in the last year for drug possession/drug dealing shows she does not possess the proper decision-making skills to responsibly serve alcohol to members of the public. Also, bars and taverns have frequently been locations where drugs are bought/sold/exchanged based on my experience as a police officer. Given Ms. Arndt's recent troubles with possessing and selling cocaine, granting her an Operator/Bartender license would only increase the likelihood of her reoffending.

Based upon the information provided, it is the Appleton Police Department's opinion that Kelly Arndt's Operator/Bartender's renewal license application be denied.

Very Respectfully:

Lt. Ben Goodin
Appleton Police Department



DEPARTMENT OF
**LEGAL AND
ADMINISTRATIVE
SERVICES**

CITY ATTORNEY'S OFFICE
100 North Appleton Street
Appleton, WI 54911
p: 920.832.6423
f: 920.832.5962
www.appleton.org

TO: Safety and Licensing Committee, Common Council

From: ACA Zak Buruin

Date: September 23, 2024

RE: Operator Licensing Renewal Application of Kelly Arndt

Kelly Arndt has applied for an Operator License and is appealing the initial denial of that application. Below is a summary of the relevant Chapter 125 eligibility requirements and an analysis of their application.

Summary

Insufficient grounds currently exist to conclude that the applicant is statutorily ineligible for the license renewal being sought. Renewal should therefore be granted at this time.

As the applicant's pending criminal matters conclude, it remains possible that the situation will change. If or when sufficient evidence becomes available to demonstrate that the applicant is no longer eligible for the license she currently seeks or then holds, revocation proceedings would be available and appropriate.

§125.04(5) Licensing Requirements

According to §125.04(5)(a)1, in order to be granted a license or permit under Wisconsin Statutes Chapter 125, the applicant may not have an arrest or conviction record. This prohibition is subject to the requirements of various statutes prohibiting certain types of employment discrimination, which will be discussed in relevant part below. These statutes are §111.321, §111.322, §111.335 and §125.12 (1) (b).

§125.04(5)(b) states that "No license or permit related to alcohol beverages may, subject to §111.321, 111.322 and 111.335, be issued under this chapter to any person who has habitually been a law offender *or* has been convicted of a felony unless the person has been duly pardoned."

In summary, §125.04(5) prohibits the issuance of alcohol related licenses under chapter 125 to anybody with an arrest or conviction record, anybody with an unpardoned felony conviction, or

anybody “who has habitually been a law offender,” regardless of whether any arrests or convictions exist (see State ex rel. Smith v. City of Oak Creek, 139 Wis. 2d 788, 407 N.W.2d 901 (1987)), unless failing to grant that license would constitute prohibited discrimination.

§125.04(3)(j) – False Application Information

It is a violation of the law to provide false information on an application for any type of alcohol beverage license. §125.04(3)(j) provides that the penalty for any person who knowingly provides materially false information on an application for a license or permit under Chapter 125 may be required to forfeit not more than \$1,000.

A review of the general licensing requirements as well as the bases for revocations, suspensions, and refusals to issue or renew licenses reveals what may be an unexpected fact. The provision of false, misleading, or incomplete information on an alcohol license application does not, in and of itself, provide an independent justification to deny, revoke, or suspend an alcohol beverage license under Chapter 125.

Whether this is intentional or an oversight by the legislature is not known. It is undoubtedly a proper consideration in a retail licensing application decision in situations where the licensing authority has more discretion. However, operator licenses are required by statute to be granted if the applicant is eligible for the license applied for. Absent an undiscovered statutory exclusion that might apply to someone who knowingly provides false information on their operator license application, doing so does not make someone statutorily ineligible for an operator license by itself.

Prohibited Discrimination

§111.321 – Prohibited Bases of Discrimination

Arrest or conviction (among other bases not relevant to consideration here) are not permitted to be used as a basis for employment discrimination by a licensing agency.

§111.335 – Arrest or Conviction Record; Exceptions and Special Cases

§111.335(3)(a)1 states that it is not employment discrimination because of a conviction record to refuse to license an individual where that person has been convicted of “any felony, misdemeanor, or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity.” In evaluating the existence of a substantial relationship, it is the circumstances that provide the opportunity for criminal behavior, the reaction to responsibility, or the character traits of the applicant that are the proper considerations. It is not relevant whether the applicant has the ability to perform the work to an employer’s standards. (See Milwaukee Cnty. v. Lab. & Indus. Rev. Comm'n, 139 Wis. 2d 805, 407 N.W.2d 908 (1987)).

Regarding pending charges, it is considered employment discrimination for a licensing agency to refuse to license an individual or suspend an individual from licensing “solely because the individual is subject to a pending criminal charge.” The exception to this general rule is when the circumstances of the charge substantially relate to the circumstances of the licensed activity in question, *and* the offense is either an exempt offense or a violent crime against a child. (See §111.335(2)(b) and (4)(a)). However, even though the fact of a pending charge may not be the sole basis for denial, this does not appear to prohibit the underlying conduct from being considered, to the extent it can be proved with sufficient evidence.

Each offense must be evaluated under the above criteria for determination of whether or not it is substantially related to the activity for which a license is sought. Any arrest (subject to the above), conviction, or other offense which is substantially related to the licensed activity is to be considered in the licensing decision.

Applicability to Kelly Arndt

Ms. Arndt currently has criminal court matters pending in Calumet County and in Outagamie County. As of this writing, both matters are pending. Neither matter alleges an offense that would be considered exempt. Therefore, the fact that either of these matters are pending is not something which can be properly considered as a sole basis for denial.

The facts leading to an arrest remain a proper consideration when determining if an applicant is someone “who has habitually been a law offender.” To be considered a “habitual law offender,” one need not be convicted of or even arrested for a crime. Findings of guilt by a court are the typical way in which this is demonstrated, but they are not the only way in which law violations can be shown. The full scope of the evidence in the pending criminal matters is not generally available at this point in Ms. Arndt’s proceedings. Whether this impacts the ability to determine someone’s status as a “habitual law offender” must be determined on a case-by-case basis.

In at least one of Ms. Arndt’s pending matters, a recent change in the procedural posture of the case indicates that there is at least the possibility of additional relevant factual developments before it is concluded. The posture of the cases at the time of Lt. Goodin’s memorandum recommending the denial of the application was premised upon the (then) well-founded belief that the applicant was statutorily ineligible in fact, and that this fact could be sufficiently demonstrated to the Committee and Council. The change in the posture of the criminal matters is something that occurred after the original memorandum submitted by Lt. Goodin. It is not something he could have predicted based on the status of the cases at that time. Predictable or not, the change does appear to now preclude a fair and full consideration of the facts *at this time*.

There is sufficient evidence by which it might be shown that the applicant violated the law by providing materially false information on her renewal application. This does not, by itself, allow for the conclusion that the applicant is a “habitual law offender,” or render her statutorily

ineligible for the license applied for. It remains a consideration with respect to future license renewals, new applications, and other eligibility determinations under Chapter 125.

Based on the above, it is premature to conclude whether or not Ms. Arndt is a “habitual law offender” and therefore ineligible for the license applied for. In the absence of a determination that she is a “habitual law offender,” Ms. Arndt remains eligible for licensure, at least with respect to that specific qualification.

Conclusion

The defendant’s application should be granted, as it cannot be shown that she is ineligible at this time.

The outcome of Ms. Arndt’s pending criminal matters remains to be seen both legally and factually. Both could potentially have impacts upon whether Ms. Arndt remains statutorily eligible for an operator’s license. The situation can and will be monitored. Changes to eligibility would be addressed in accordance with Wisconsin Statutes §125.12, which governs revocations, suspensions, and refusals to issue or renew alcohol beverage licenses under Chapter 125.



DEPARTMENT OF
**LEGAL AND
ADMINISTRATIVE
SERVICES**

CITY ATTORNEY'S OFFICE
100 North Appleton Street
Appleton, WI 54911
p: 920.832.6423
f: 920.832.5962
www.appleton.org

TO: Safety and Licensing Committee, Common Council

From: ACA Zak Buruin

Date: December 13, 2024

RE: UPDATE – Operator License Renewal Application of Kelly Arndt

Kelly Arndt has applied for an Operator License and is appealing the denial of that application. Below is a summary of the relevant Chapter 125 eligibility requirements and an analysis of their application in this case, accounting for updated information brought up during the meeting of the Safety and Licensing Committee Meeting on December 11, 2024.

This memorandum does not include sections or analysis which remains unchanged from the original submission. This memorandum is a supplement and should be read in conjunction with the memorandum previously submitted.

Summary

Ms. Arndt's recent conviction leaves her ineligible for the license sought. This ineligibility is subject to her ability to provide competent evidence of sufficient rehabilitation. It will be up to the Committee and Council to weigh that evidence and utilize sound discretion to determine whether any such evidence is competent to show sufficient rehabilitation. If so, the license must be granted. If not, it may not be granted.

It remains premature to determine what impact Calumet County case 23CF224 will have upon Ms. Arndt's future eligibility for licensure.

Consideration of Rehabilitation

§111.335(4)(c)1 requires that if a license is denied *based upon §111.335(3)(a)1* (as discussed in the preceding section), the licensing agency typically has two further obligations. It must state the reasons for denial in writing, including a statement of how the circumstances of the offense(s) relate to the licensed activity. It must also allow the person to show evidence of rehabilitation. According to §111.335(4)(c)1.b, if the individual "shows competent evidence of sufficient rehabilitation and fitness to perform the licensed activity under par. (d), the licensing agency may

not refuse to license the individual or bar or terminate the individual from licensing based *on that conviction.*" (Emphasis added).

The statute specifically notes documentation that can demonstrate rehabilitation "on that conviction." As such, rehabilitation is to be considered with respect to each offense individually, rather than the applicant in totality. Where denial is based upon §111.335(3)(a)1, and competent evidence of sufficient rehabilitation shown, that offense may not be considered as part of a denial decision.

Competent Evidence of Sufficient Rehabilitation

For denials *based upon §111.335(3)(a)*¹, competent evidence of sufficient rehabilitation may be shown. As indicated above in §111.335(4)(c)1.b, where such evidence is shown, the related conviction may not be the basis for a denial of a license.

§111.335(4)(d)1 provides two forms of evidence which are statutorily required to be considered "competent evidence of sufficient rehabilitation," and therefore must be accepted by the licensing agency as such. §111.335(4)(d)1.a. allows one to provide certified documentation of honorable discharge from the US armed forces following the otherwise disqualifying conviction. This documentation is no longer sufficient if there is a criminal conviction following the discharge date.²

§111.335(4)(d)1.b, allows the applicant to provide documentation of their release from custody *and* either completion of probation or release from custody and compliance with all terms and conditions of release, be it extended supervision, probation, or parole.³

Where neither of the above exists, §111.335(4)(d)2 provides additional documentary evidence that may be provided that the licensing agency is bound to consider, but that it is not required to accept conclusively as sufficient evidence of rehabilitation. Evidence which the agency is required to consider include:

- a. evidence of the seriousness of any offense of which he / she was convicted.
- b. evidence of all circumstances relative to the offense including mitigating circumstances or social conditions surrounding the offense.
- c. The age of the individual at the time the offense was committed.
- d. The length of time that has elapsed since the offense was committed.

¹ Denials under other provisions may be subject to other requirements.

² From a practical standpoint, honorable discharge from the armed forces is not related to any particular offense. This section, in conjunction with §111.335(4)(c)1.b. could be interpreted as effectively removing any criminal offenses prior to honorable discharge from licensing consideration. This would be more akin to evaluating the rehabilitation of the person rather than specific offenses, which is not what the other related statutes call for. This arguable inconsistency what my prior, more rigid analysis was based upon.

³ Periods of supervision are attributable to specific offenses, allowing for consideration of individual offenses as §111.335(4)(c)1.b contemplates.

- e. 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.
- f. All other relevant evidence of rehabilitation and fitness presented.

Based upon the above, where a denial of a license is based upon §111.335(3)(a)1, and there is no evidence presented that is statutorily defined as "competent evidence of sufficient rehabilitation" for a particular offense, it is up to the licensing agency to determine whether the other documentary evidence available constitutes "competent evidence of sufficient rehabilitation and fitness to perform the licensed activity."

Applicability to Kelly Arndt

Since my original memorandum on this subject was submitted, Ms. Arndt has been convicted of Possession of Cocaine, a misdemeanor offense, in Outagamie County case 24CF338 on November 12, 2024. Additionally, one count of Felony Bail Jumping was dismissed but read into the record for consideration at sentencing. Sentence was withheld and Ms. Arndt was placed on probation for a period of 12 months.

If it is determined that this offense is substantially related to the activity to be licensed, Ms. Arndt is ineligible for a license under Chapter 125 unless she is able to provide competent evidence of rehabilitation. There is a basis to conclude that the offense is substantially related to the licensed activity in that it involves the irresponsible and unlawful usage and possession of intoxicating substances, particularly while under enhanced legal obligations. The enhanced legal obligation comes from her status on a criminal bond versus being a holder of an Operator's license, but it is an additional aspect of substantial relation between the offense and the licensed activity.

In light of the time since this conviction, it is not possible for her to demonstrate successful completion of probation or a year of elapsed time since release with compliance with all conditions of supervision. There is no indication that she might show honorable discharge from the US military since the conviction. She appears unable to satisfy either of the showings that the Committee and Council would be required to accept as competent evidence of rehabilitation.

Absent either of the above showings, Ms. Arndt would only be eligible for licensure if she were to provide sufficient evidence to convince the Committee and Council, in their discretion, that she has been sufficiently rehabilitated to be licensed. This is an evaluation that is to be made by the Committee and Council, utilizing their best evaluation of the relevant information available, including but not limited to any of the information under §111.335(4)(d)2 and noted above.

Ms. Arndt's additional criminal matter in Calumet County remains pending, with a Jury Trial scheduled for April of 2025. The evaluation of this matter has not changed since my prior memorandum. When that matter is adjudicated, it can be determined what additional impact it might have on Ms. Arndt's eligibility for licensure.

Conclusion

Ms. Arndt's recent conviction leaves her ineligible for the license sought. This ineligibility is subject to her ability to provide competent evidence of sufficient rehabilitation. It will be up to the Committee and Council to weigh that evidence and utilize sound discretion to determine whether any such evidence is competent to show sufficient rehabilitation. If so, the license must be granted. If not, it may not be granted.

It remains premature to determine what impact Calumet County case 23CF224 will have upon Ms. Arndt's future eligibility for licensure.



Application for Operator's/Bartender's License

CASH OR CHECK ONLY!

New Applicant

Renewal License
#: _____

FEES ARE NON-REFUNDABLE

Operator License - \$72.00

Operator License plus a provisional - \$87.00

Date Received: 10/3/24

Receipt #: 7461-2

Note: Please allow approximately 3 weeks for application processing.

SECTION 1 - APPLICANT INFORMATION			
Legal Name (First name, MI, Last name) <u>Katherine A Neubert</u>			Maiden or Previous
Street Address <u>5138 N mayflower Dr</u>		City <u>Appleton</u>	State <u>WI</u>
Zip <u>54913</u>		Driver's License State <u>WI</u>	
Driver's License Number/State Identification Number [REDACTED]			Driver's License State <u>WI</u>
Date of Birth [REDACTED]	Gender <u>F</u>	Phone # (Required) [REDACTED]	Email Address: [REDACTED]
Name and Address of Establishment you will be selling alcohol - <u>(verify establishment is within City of Appleton limits)</u> <u>Cold Shot</u>			
SECTION 2 - NEW APPLICANT ONLY: You are required to list each and every violation and/or offense for which you have been convicted in or out of state. Failure to provide complete answers may result in a denial of your application.			
Have you EVER had an Operator's (Bartender's) License? <u>YES</u> NO			
If Yes; which Municipality and what year? <u>Appleton, Grand</u>			
Have you EVER been convicted of a felony? YES <u>NO</u>			
If Yes; when, where and what type of violation? (Please be specific) _____			
Have you EVER been convicted of a misdemeanor or ordinance violation? <u>YES</u> NO			
If Yes; when, where and what type of violation? (Example: speeding, OWI) <u>OWI Feb 2011 OWI Dec 2012</u> <u>OWI 2022</u>			
SECTION 3 - RENEWAL APPLICANT ONLY: List any pending charges, citations, tickets, and all convictions since last license application in or out of state. Failure to provide complete answers may result in a denial of your application.			
Have you EVER had an Operator's (Bartender's) License? YES NO			
If Yes; which Municipality and what year? _____			
Have you been convicted of a felony since last license application? YES NO			
If Yes; when, where and what type of violation? (Please be specific) _____			
Have you been convicted of a misdemeanor or ordinance violation since last license application? YES NO			
If Yes; when, where and what type of violation? (Example: speeding, OWI) _____			
SECTION 4 - NEW APPLICANT ONLY			
<input type="checkbox"/> Must provide proof of completion of a Responsible Beverage Server Course.			
SECTION 5- PENALTY NOTICE			
Under penalty of law, I swear that the information provided in this application is true and correct to the best of my knowledge and belief.			
Signature: <u>[Signature]</u>			Date: <u>10/2/24</u>
FOR OFFICE USE ONLY			
Current License in Other Municipality? <u>Hortonville 25'</u>	Class Completion Date: ____/____/____	Date Sent to Appleton Police Department: <u>OCT 04 2024</u>	
Date Approved: ____/____/____	Issue Date: ____/____/____	Expiration Date: ____/____/____	License Number: _____



DEPARTMENT OF
**LEGAL AND
ADMINISTRATIVE
SERVICES**

OFFICE OF THE CITY CLERK
100 North Appleton Street
Appleton, WI 54911
p: 920.832.6443
f: 920.832.5823
www.appleton.org

October 11th, 2024

CERTIFIED MAIL

Katherine Neubert
5138 N Mayflower Dr
Appleton WI 54913

This letter is to notify you that we are in receipt of your application for an Operator's License. The Police Department has conducted a criminal background investigation and has recommended that your application for an Operator's License be denied based upon the statutory qualifications listed in Wisconsin Statutes §125.04(5). Unless failure to grant the license would constitute unlawful employment discrimination as defined by Wisconsin Law (See Wisconsin Statutes §111.335), Operator/Bartender License may not be granted to individuals with arrest or conviction records, "habitual law offenders," or individuals convicted of a felony who have not been pardoned.

You have the right to appear before the Safety and Licensing Committee to contest this recommendation. To do so, **please contact the City Clerk's Office within 30 days of receipt of this letter** in order to be placed on the Agenda of the Safety and Licensing Committee. Failure to contact the City Clerk's Office within 30 days will result in your license being denied. At the time of appeal, you may provide the Safety and Licensing Committee competent evidence of sufficient rehabilitation and fitness to perform the licensed activity.

Regular meetings of the Safety and Licensing Committee take place on the second and fourth Wednesday of each month at 5:30 p.m. in the Council Chambers, 6th floor of City Hall, 100 N Appleton St., Appleton, Wisconsin.

Again, should you choose not to appeal this recommendation, your application will be considered denied and an Operator's License will not be issued.

If you have specific questions relating to the background investigation please contact Lt. Ben Goodin Appleton Police Department, at 920-832-5500.

Respectfully,

Kami Lynch
City Clerk



“...meeting community needs...enhancing quality of life.”

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

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 (3rd) in Outagamie County case # 2022CT000244.

Operating While Intoxicated (2nd) in Outagamie County case # 2013CT000150.

Operating While Intoxicated (1st) 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

GARY LEWIS,

Complainant,

V.

**BT AND DAVE, LLC
AGENT: THEODORE SUESS
d/b/a SPEAKEASY ULTRA
LOUNGE
425 W. COLLEGE AVE.
APPLETON, WI 54911.**

Respondent.

**COMPLAINT SEEKING REVOCATION OF ALCOHOL LICENSES OF BT AND
DAVE, LLC**

Complainant seeks that the Safety and Licensing Committee of the Common Council of the City of Appleton meet as soon as practicable and as allowed by law, at which time the Complainant, Appleton Police Department Captain Gary Lewis, a resident of the City of Appleton, will ask the Committee to find this complaint to be true and recommend to the common Council that it REVOKE the alcohol beverage licenses of BT and Dave, LLC.

BT and Dave, LLC has registered agent of Theodore Suess and was issued Class "B" (beer) and "Class B" (liquor) licenses of the premises located at 425 W. College Avenue, Appleton, Wisconsin 54911, known as Speakeasy Ultra Lounge.

This complaint by Gary Lewis is being made based upon information and belief regarding the incident described herein:

On March 3, 2023, Appleton Police Department Officer Kyle Jakobsen reports that he was on patrol in the area of N. Division Street and W. College Avenue during the overnight hours. At approximately 1:05 AM, his attention was drawn to a possible disturbance near the Speakeasy Ultra

Lounge, located at 425 W. College Avenue. There appeared to be a physical altercation occurring on the sidewalk amongst several adult individuals.

As officers approached, the involved parties began dispersing in both directions on the sidewalk and also into Speakeasy. They made contact with Dontonio Wells and Steven Wells. Dontonio identified himself as the manager of the bar, and Steven identified himself as the bouncer. Dontonio indicated that a fight had occurred in the bar and Steven attempted to escort a patron out of the bar.

Steven showed officers a recent abrasion to his right brow. Steven indicated he had been hit in the face while escorting a patron out of the bar. He indicated he did not want charges to be filed and that he would handle the situation on his own. He did not want to provide a statement and he left the scene while appearing to remain angry and volatile.

Officers were subsequently able to make contact with the patron that was kicked out of Speakeasy when, a short time later, officers heard Steven Wells yelling loudly from near a different nearby bar that officers had ten seconds to respond, or he (Steven) was going to "kill him." Officers and Dontonio were able to remove Steven from the area and make contact with the subject identified in the subsequent criminal complaint as TRPK. TRPK had a large abrasion and significant swelling on his left eye socket and brow.

Once calmed down and removed a safe distance from the scene, TRPK indicated that he had been at Speakeasy when a fight erupted behind him. He tried to break up the fight when he was wrapped up in someone's arms from behind and dragged towards the door of the bar. He tried to resist and swung his elbows toward the back of his head at the person who had him wrapped up from behind.

Once outside, he indicated he was attacked by several people which led to him being face down on the sidewalk. While face down on the sidewalk, he was kicked in the face. Shortly thereafter, the police arrived and he went into a nearby bar to seek medical attention.

Officer Jakobsen was able to obtain exterior traffic camera video of the area where the confrontation occurred. He observed several adult male subjects dragging TRPK out of Speakeasy. One of the males dragging TRPK was identified as Steven Wells by his distinctive clothing. TRPK ended up on face down on the sidewalk. Officer Jakobsen observed that TRPK was clearly not posing any threat and was not fighting. With TRPK in that position, he observed Steven Wells kick TRPK in the side of the face. TRPK's head jolted to the right. Seconds later, the video showed police lights, and all the involved individuals other than TRPK fled moments prior to officers' arrival.

On March 10, 2023, Off. Jakobsen attempted to contact Dontonio Wells via telephone and voicemail without success. He then attempted to make contact with him in person at Speakeasy later that evening. After making contact with employees at the bar, he asked to speak with Dontonio. An employee walked to the rear of the bar, returning several minutes later. The employee relayed that Dontonio was using the restroom but would be out shortly. Off. Jakobsen asked the employee to have him come outside so they could speak by the front entrance of the establishment. After waiting outside for an extended period of time, Off. Jakobsen came to understand that Dontonio was declining to speak with him.

As a result of the above, Steven Wells was charged with Battery, contrary to §940.19(1) of the Wisconsin Statutes, in Outagamie County case 23CM942. On May 20, 2024, Steven Wells entered a "No Contest" plea and was found guilty of the offense of Battery by Judge Mark McGinnis.

According to §9-54 of the Municipal Code of the City of Appleton, the above-described events constitute a violation of Wisconsin Statutes and City of Appleton Ordinances classified as "Other acts – failure to maintain order / disorderly conduct, noise complaints, etc." There exists a substantial relationship between the violations and the licensed activity. Such violations are to be assessed 45 demerit points against retail alcohol licenses.

Additionally, because the violation resulted in bodily harm to an individual and / or created a substantial risk of death or bodily harm, the above is considered a "severe offense." Therefore 100 additional demerit points are to be assessed.


Pursuant to Chapter 125 of the Wisconsin Statutes and the courts' interpretations thereof, the licensee BT and Dave, LLC, is answerable for the above describe acts. Therefore 145 demerit points should be attributed to its license as a result of the conviction arising from the events described above.

Having previously been assessed 150 demerit points on or about August 16, 2023 (Action Item 23-0982), the licensee has accumulated no fewer than 295 demerit points during the past 36 months.

Recommendation and Conclusion

The above information indicates that state and / or local laws were violated by the licensee, or by its agents or employees working at the licensed premises. Complainant requests that the Safety and Licensing Committee impose 145 demerit points for the above violation. Based upon this accumulation of demerit points and based upon the Municipal Code of the City of Appleton Sec. 9-54(d)(3), that the retail alcohol beverage licenses be revoked, as a result of the accumulation of 200 or more demerit points within a 36-month period. Upon an assessment of the demerit points, and in light of the substantial relationship between the violations and the licensed activity, this complaint is requesting that the Safety and Licensing Committee recommend to the Common Council that it REVOKE the licenses issued to BT and Dave, LLC, (agent: Theodore Suess) for the licensed premises known as Speakeasy Ultra Lounge, located at 425 W. Wisconsin Avenue, Appleton, Wisconsin.

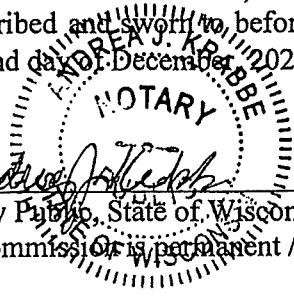
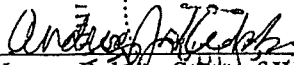
Dated this 2nd day of December 2024



Gary Lewis
Resident of the City of Appleton
Captain, Appleton Police Department

OUTAGAMIE COUNTY, WISCONSIN

Subscribed and sworn to before me
this 2nd day of December 2024.

Notary Public, State of Wisconsin
My commission is permanent / expires 2/9/25

**CITY OF APPLETON
COMMON COUNCIL
SAFETY AND LICENSING COMMITTEE**

IN RE THE ALCOHOL LICENSES OF DB AND DAVE, LLC

AGENT: THEODORE SUESS
d/b/a SPEAKEASY ULTRA LOUNGE
425 W. COLLEGE AVE.
APPLETON, WI 54911

SUMMONS

TO: Any City of Appleton Police Department Officer

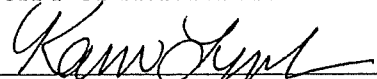
PLEASE TAKE NOTICE THAT,

**THEODORE SUESS
AGENT FOR BT AND DAVE, LLC
425 W. COLLEGE AVENUE
APPLETON, WI 54911**

is commanded to appear at the Safety and Licensing Committee Meeting on Wednesday, December 11, 2024, at 5:30 p.m. in the Council Chambers, 100 North Appleton Street in the city of Appleton, Wisconsin and show cause why the "Class B" and/or Class "B" Alcohol Beverage Licenses issued to BT and Dave, LLC should not be revoked in accordance with Wis. Stat. §125.12.

Dated in Appleton, Wisconsin this 2nd day of December 2024.

CITY OF APPLETON



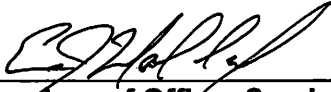
Kami Lynch, City Clerk

AFFIDAVIT OF SERVICE

STATE OF WISCONSIN

OUTAGAMIE COUNTY

I hereby certify that on the 3rd day of December, 2024, in the City of Appleton and County of Outagamie, I served a copy of the Summons and Complaint on Theodore Suess, personally and leaving him a true copy thereof.



Signature of Officer Serving Summons
Appleton Police Department

12/3/24 1440 hrs

Date and Time of Serving

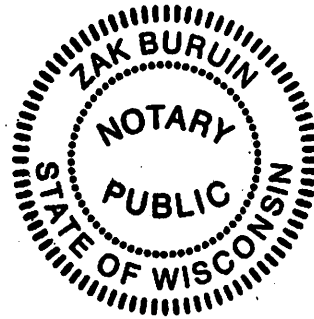
1414 W. SPENCER ST. APPLETON, WI

Location/Place Where Served

*Subscribed and sworn to before me this
3rd day of December, 2024*



Notary Public, State of Wisconsin
My commission is permanent.



LICENSES, PERMITS AND BUSINESS REGULATIONS

the purpose or purposes for which the license was granted by the city council for a period of one (1) year. The Common Council may, for good cause shown, extend such period.

(10) A retail class A, B or C license shall not be granted to any applicant whereby the applicant had been convicted of selling alcoholic beverages without the proper retail license within the last eighteen (18) months.

(Ord 10-07, §1, 2-13-07; Ord 71-09, §1, 6-9-09; Ord 161-10, §1, 11-23-10; Ord 187-10, §1, 12-7-10)

Sec. 9-53. Adoption of state law regarding sale of alcoholic beverages to intoxicated persons.

W.S.A. §125.07(2) regarding the sale of alcohol beverages to intoxicated persons in violation of this article is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, §11.03(9)(a)--(c), (g), (i), (j), (l)--(n); Ord 122-91, §1, 11-6-91; Ord 98-96, §1, 11-20-96)

Sec. 9-54. Demerit point system.

(a) There is hereby established a point system for the purpose of guiding the Safety and Licensing Committee in the suspension or revocation of alcoholic beverage licenses. The number of demerit points is assigned according to the type of violation. This system is intended to identify habitually troublesome liquor licensees who repeatedly violate state statutes and/or City of Appleton ordinances and to take consistent action against such licensees.

(b) There is hereby assigned the following demerit points for each type of violation:

<u>TYPES OF VIOLATIONS</u>	<u>DEMERIT POINTS</u> (per violation)
Refusal to cooperate with Fire Chief, Police Chief or designees	100
Exceeding posted occupancy capacity	80
Exceeding posted occupancy capacity by more than 30%	150
Sale to person under age 21	80
Person under age 21 on premises	80
Sale to intoxicated person	80
False statement on application	70
Operating while license is suspended	200
Unauthorized transfer/use of license	90
Conducting unlawful business	150

Supp. #98

No licensed bartender on premises	40
Open after hours / failure to vacate	50
After hours carry-outs	50
Gambling / Gambling paraphernalia on premises	150
Nude or semi-nude entertainer / employee on premises	150

<u>TYPES OF VIOLATIONS</u>	<u>DEMERIT POINTS</u> (per violation)
Failure to display license	25
Owner / Employee selling controlled substances	150
Illegal drug paraphernalia on premises	100
Other acts – failure to maintain order / disorderly conduct, noise complaints, etc.	45
Penalty enhancer for severe offenses	100

Enhanced penalty for conduct which
 (1) results in bodily harm to any individual;
 (2) creates a substantial risk of death or bodily harm;
 (3) involves the use of a firearm or other dangerous weapon; or
 (4) demonstrates an ongoing disregard for the requirements of state law or municipal ordinances

<u>HEALTH CODE VIOLATIONS</u>	<u>DEMERIT POINTS</u> (per violation)
Non-critical violation	25
Critical violation	80

(c) **Calculating violations.** In determining the accumulated demerit points, the date of conviction shall be used as the basis for assigning demerit points per violation. Points shall be assigned only after conviction for violations.

(d) **Suspension and revocation of license.** The Police Department shall notify the Safety and Licensing Committee of any convictions which result in the assessment of demerit points against any licensee. Following this notification, or the filing of a complaint pursuant to W.S.A. §125.12, the Committee shall hold a hearing if required by W.S.A. §125.12 or this section, and shall take the following action, after first determining the number of demerit points to be assessed against the licensee:

- (1) For demerit points totaling 25-149 within a 24-month period, a warning to the licensee of the consequences of additional violations. The licensee shall appear before the Safety and Licensing Committee and inform the Committee of the licensee's efforts to rectify the

issues that caused the imposition of the demerit points.

- (2) For demerit points totaling 150-199 within a 24-month period, suspension of the license for a period of not less than ten (10) days nor more than ninety (90) days.
- (3) For demerit points totaling two hundred (200) or more within an 36-month period, revocation of the license. Whenever any license is revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises, and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.

(e) **Scope.** Nothing in this section shall be construed to conflict with, abridge or modify, the rights or procedures established for revocation or suspension of licenses in W.S.A. §125.12. Notwithstanding the requirements of this section, the Safety and Licensing Committee may require the appearance before it of any licensee at any time.

(f) **Transfer/sale of licensed business.** Upon the transfer or sale of the licensed business, all accumulated demerit points shall be canceled unless any of the following apply:

- (1) The new licensee is related to the former licensee by blood, adoption or marriage;
- (2) The new licensee held a business interest in the previous licensed business, real estate or equipment
- (3) The former licensee or an individual related to the former licensee by blood, adoption or marriage retains an interest in the business, real estate or equipment used by the business;
- (4) The new licensee's acquisition of the business did not involve an arm's length transaction consisting of an open market sale in which the owner is willing, but not obligated to sell, and the buyer is willing, but not obligated to buy.

If any of the above apply, the new licensee shall inherit the demerit points previously assessed and be subject to the penalties set forth in the code.
 (Ord 29-97, §1, 4-2-97; Ord 56-98, §1, 5-20-98, Ord 126-03, §1, 7-22-03, Ord 108-04, §1, 8-10-04; Ord 72-09, §1, 6-9-09; Ord 9-22, §1, 1-19-22; Ord 10-22, §1, 1-19-22)
 Editor's Note: Sec. 9-55 Quadricycles repealed via Ord 16-18, effective 2-13-18

Secs. 9-55 – 9-70. Reserved.

DIVISION 2. LICENSES

Sec. 9-71. Persons requiring license.

No person, except as provided by §9-51, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or for the purpose of evading any law or ordinance give away any intoxicating liquor or fermented malt beverage, or cause such acts to be done, without having procured a license or permit as provided in this article, nor without complying with all the provisions of this article and all statutes, ordinances and regulations of the state and City applicable thereto.

(Code 1965, §11.03(2)(a))

Cross reference(s)--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 9-72. Separate license required for each place of sale.

A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication with the place where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale.

(Code 1965, §11.03(2)(b))

Sec. 9-73. Issuance for residential premises.

No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling house, flat or residential apartment.

(Code 1965, §11.03(2)(b))

Sec. 9-74. Application.

Application for license to sell or deal in fermented malt beverages or intoxicating liquors shall be made in writing on the forms prescribed by law, shall be sworn to by the applicant as provided in W.S.A. §887.01 through §887.04, and shall be filed with the City Clerk not later than April 15, per W.S.A. §125.51(1)(c). Application for an operator's license shall be made pursuant to W.S.A. §125.04.

(Code 1965, §11.03(5))

Sec. 9-75. Classes of licenses; fees.

(a) There shall be the following classes of licenses, which, when issued by the City Clerk under the authority of the Common Council, after payment of the fee, the amount of which is on file in the City Clerk's Office, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in W.S.A. §125.25, §125.26, §125.27, §125.28 and §125.51.

- (1) Class "A" fermented malt beverage retail license.



APPLETON POLICE DEPT

Incident #: A23010205

Reporting Officer: 9153 KYLE JAKOBSEN

Report Time: 03/03/2023 01:06:26

Incident

Incident Nature
Battery

Address
425 W COLLEGE AV;
SPEAKEASY
APPLETON, Wisconsin 54911

Occurred From
03/03/2023 01:06:26

Occurred To
03/03/2023 01:06:26

Received By
437 NOAH HENKE

How Received
Officer Report

Contact

Disposition
Clrd Adlt, Arst (One Incident)

Disposition Date
03/03/2023

Cleared
N

Intrnl Inc. Sts
Cleared By Arrest

Cleared Date

Clearance
REPORT

Cargo Theft Related

Responding Officer(s)

9193 BRYCE RUDEBECK

9153 KYLE JAKOBSEN

9132 SKYLAR CORBETT

9119 TYRELL WEST

9133 YEELENG THOR

9158 SAMUEL PATEK

9148 SAMUEL VANDINTER

Case Numbers

A24018634

Digital Media Storage

Code

ID

AXON

9153

Offenses

Simple Assault

Completed?

C

Method Of Entry

Gambling Motivated?

Premises Entered?

Location Type
03

Cargo Theft Related?

Statute
940.19(1)

Description
MISDEMEANOR BATTERY

Category
OTHER

Bias Motivation

88

Offender Used

N

Weapons

40

Persons

WELLS, DONTONIO F
Witness

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

WELLS, STEVEN N JR
Adult Offender

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

Narratives

Original Narrative

03/10/2023 22:26:34

On March 3 2023, I officer K Jakobsen 9153 was working as a sworn police officer for the Appleton Police Department in Outagamie County WI with FTO S Gueli 9142. I was parked in a marked black and white patrol vehicle near southbound N Division Street at W College Avenue, for the purposes of visual presence in vicinity the downtown Appleton nightclubs and bars. At approximately 0105 hours, my attention was drawn to a possible disturbance near the Speakeasy Ultra Lounge, located at 425 W College Avenue. I observed what appeared to be a physical altercation amongst several adult parties on the sidewalk. I immediately activated my patrol vehicle lights and responded to the scene. Officer S Gueli related the situation to dispatch via radio.

As we approached the scene, I observed a white male adult crouched on the sidewalk, with an injury sustained to his face. I observed blood dripping from his face. Several parties fled the

scene, dispersing both east and west on the sidewalk, and back into the Speakeasy Ultra Lounge. Officer Gueli and I entered the Speakeasy and voiced police presence. We were confronted by two black male adults. One subject, who was identified as Dontonio Wells, identified himself as an employee/manager. The other subject, identified as Steven Wells, identified himself as an employee/bouncer. Dontonio Wells provided a statement to officer Gueli, ultimately indicating a fight occurred in the bar, and when his brother, Steven Wells, attempted to have a patron escorted out, the patron struck Steven Wells in the face. When asked if we could view any security camera footage, Dontonio related he would provide security camera footage on a usb thumb drive.

Steven Wells approached officer Gueli and I near the front entrance and showed us what appeared to be a recent abrasion and recent swelling to his right brow. Steven Wells related he was hit in the face while escorting a patron out of the bar. Steven Wells related he did not wish to pursue criminal charges and made several statements he would handle the confrontation on his own. Steven Wells appeared highly agitated and did not want to provide a statement regarding the circumstances and the injury he sustained. Steven Wells left the scene on foot, walking east. Steven Wells was clearly very upset and angry, he appeared choleric and volatile. The patron had since left the scene, and likely fled while officer Gueli and I were inside the Speakeasy Ultra Lounge.

While speaking with additional officers on scene, as well as Dontonio Wells, I heard Steven Wells yell to officers that we needed to respond to Chadwick's (413 College Avenue). Steven Wells stated officers had ten seconds to respond or he was going to "kill him". Steven Wells began trotting towards Chadwick's, while counting down from five very loudly. I responded to Chadwick's, and observed Steven Wells near the rear of the bar. Steven Wells was being physically restrained by several subject's from making entry into the men's restroom. With the assistance of officers on scene, as well as Dontonio Wells, Steven Wells was removed from Chadwick's and separated from the immediate area. Officer Gueli and I made entry into the men's restroom and observed the white male subject involved in the physical disturbance. The subject, who was later identified as [REDACTED], had what appeared to be a large abrasion and significant swelling sustained to his left eye socket and brow. An adhesive dressing was placed over the abrasion, and his cheek was swollen.

I advised [REDACTED] of the reason for police contact. [REDACTED] denied any involvement. I asked [REDACTED] to exit the restroom and walk with me outside Chadwick's. [REDACTED] became confrontational when asked to leave the bar with police. I assumed a transport hold on [REDACTED] by clamping above his left elbow. [REDACTED] pulled his arm away and yelled at me that I was not to touch his arm. I told [REDACTED] he was to be escorted out of the bar while being held. [REDACTED] became increasingly agitated and continued to pull his arm away, while yelling at me. I elected to place [REDACTED] in handcuffs due to his apparent level of intoxication and volatile demeanor. [REDACTED] was placed in handcuffs and walked outside of Chadwick's, where he was ultimately walked across the street to a safe location.

Once across the street, [REDACTED] demeanor reduced and he apologized for acting confrontational. [REDACTED] was released of handcuffs and provided the following statement in summary: He went to the downtown Appleton bars with his girlfriend and his girlfriend's sister. While at the Speakeasy Ultra Lounge, he was at the bar with his girlfriend. A physical fight erupted behind him. He turned around and attempted to break up the fight by attempting to pull one man off another man. He related he was telling the man the fight is over and was trying to physically remove one man from another. While attempting to do so, he was grabbed from behind and wrapped in arms. Whoever wrapped their arms around him began to drag him towards the front door of the bar. He physically resisted and swung his elbows towards the back of his head, towards the subject who had him wrapped. He was drug outside and attacked by several people. He was face down on the sidewalk while being attacked. He was kicked in the face while face down. Shortly after he observed the police. He left the scene and went to Chadwick's to seek medical attention. Subsequent to obtaining a statement, [REDACTED] was released to the care of his girlfriend's sister, [REDACTED].

Utilizing Avigilon Services, I obtained digital camera footage of the immediate area where the confrontation occurred. Per the digital footage, I observed several adult male subjects dragging [REDACTED] out of the front entrance of the Speakeasy Ultra Lounge. Steven Wells was observed assisting in dragging Klug out. Steven Wells was wearing all red, with a black and white vest, which was

very distinguishable. [REDACTED] brought his knees towards his check and laid on the sidewalk facedown, in a modified prone position. [REDACTED] was clearly not posing any threat and was not fighting. I observed Steven Wells kick the left side of Klug's face. As a result, Klug's head violently jolted to the right. Seconds later, police lights were observed. All parties, aside from Klug were observed fleeing on foot moments prior to my arrival.

On March 10 2023, at approximately 1530 hours, I attempted to contact Dontonio Wells via telephone. Wells did not answer. A voicemail was left requesting contact. On March 10 2023, at approximately 2208 hours, I responded to the Speakeasy Ultra Lounge. Upon arrival I spoke with an employee and requested to speak with Dontonio Wells. The employee walked to the rear of the bar and came back several minutes later. The employee related Dontonio was using the restroom and would be out shortly. I told the employee to have Dontonio meet us on the sidewalk outside the front entrance. After waiting outside in front of the Speakeasy for an unreasonable amount of time, I determined Dontonio was declining to speak with me.

Arrest and Custody Information:

Based on the aforementioned information, I determined the subject, Steven Wells, was in violation of the following and is being referred to the Outagamie County District Attorney's Office:

- Misdemeanor Battery / 940.19(9)

Case Status and Disposition:

Case is cleared by arrest.

Recording Device:

Axon active.

Jakobsen 9153

Supplemental Narrative

03/03/2023 01:37:42 9132 SKYLAR CORBETT

On 03/03/2023 I Ofc. Corbett assisted Ofc. Jakobsen on a disturbance screen that originated at SpeakEasy Bar (425 W. College Ave.). I was working fully uniformed patrol for the City of Appleton at the time. When I arrived on scene, I was tasked with speaking to a female witness later verbally identified as [REDACTED].

[REDACTED] claimed that she was out at the bars on College Ave. with her two friends. While in the SpeakEasy Bar, she and her friend witnessed two black males start a fight between each other. Kathleen's male friend [REDACTED] tried to intervein and stop the fight. When he did so, he became inadvertently involved. [REDACTED] clarified that [REDACTED] was trying to break up the fight and not get involved. The fight lead to the sidewalk just outside of the bar. [REDACTED] then observed multiple more people primarily black males proceed to beat up her friend. Shortly after is when police arrived.

I notified Ofc. Jakobsen of my finding and I left, clearing from the call.

RECORDING DEVICE: AXON ON - 9132

END OF SUPPLEMENT

OFC. CORBETT - 9132

**Supplemental
Narrative****03/03/2023 01:53:00 9142 SAM GUELI**

On Friday, 03/03/2023, I, Officer Sam Gueli, was field training Officer Jakobsen while conducting extra patrol at the PAC, observing the downtown bars. At approximately 0105 hours, I observed what appeared to be a physical disturbance occurring at Speakeasy, 425 W College Ave in the City of Appleton, Outagamie County, WI.

Officer Jakobsen drove to the front of the business and I exited the vehicle. A group of people who were outside immediately went inside the Speakeasy. I went inside Speakeasy and told them to stop and they complied. A male, later identified as Dontonio Wells, approached me and said that the male I asked to stop was the bouncer. Dontonio explained he was the manager working. Dontonio later identified him as his brother, Steven Wells. Dontonio explained that Steven was trying to remove a patron from the bar who was later identified as [REDACTED]. Dontonio said Steven was hit by [REDACTED] and sustained an injury. Steven came over to me and showed me a bump above his right eye that appeared to be new. Steven confirmed [REDACTED] hit him while he was trying to remove him. Steven said he did not want to press charges and that he would take care of it himself. At this point, we weren't sure who [REDACTED] was or where he went. Dontonio said he last saw him outside and he would show us who he was.

We went outside and [REDACTED] was not located. While speaking outside Speakeasy with Dontonio, Steven yelled from in front of Chadwick's stating that he found the guy and that we had "10 seconds" before he "killed" him. Officers went to Chadwick's and Officer Van Dinter spoke with Steven while Officer Jakobsen and I spoke with [REDACTED].

I explained to [REDACTED] that I would like to talk to him about what happened at Speakeasy. I asked [REDACTED] to step out of the bathroom with us and at first he was hesitant, but ultimately agreed to. [REDACTED] stepped just outside the bathroom. Officer Jakobsen told him to continue to walk and he did not. Officer Jakobsen felt [REDACTED] tense up and placed him into handcuffs which were checked for proper fit and safety locked. Officer Jakobsen and I walked [REDACTED] over to the PAC to interview. Officer Jakobsen interviewed [REDACTED] who was ultimately released.

For further details on this interview and this incident, see Officer Jakobsen's report.

RECORDING:

Axon an.

End of report.
S. Gueli #9142

cc: OCDA - Steven NMI Wells, DOB: 08/21/1996 (referred 03/14/2023 SLK)

**Supplemental
Narrative****04/24/2024 16:24:53 9153 KYLE JAKOBSEN**

On April 24 2024 I Officer K Jakobsen 9153 was working as a sworn police officer with the Appleton Police Department in Outagamie County WI. I received correspondence from the Outagamie County District Attorney's officer requesting follow up. Most notably, correspondence indicated the victim party had provided false identifying information to officers on scene by providing the name and date of birth of his brother.

I contacted subject [REDACTED] via telephone. [REDACTED] related he had received a subpoena for being a victim. He related he was not a victim nor was he on scene on the date and time of the crime. He related he was in Michigan and was involved in a snowmobile race. He related his brother, who he identified as [REDACTED] is local to the Appleton area and he believed his brother provided police with his name and birthdate. [REDACTED] related he does not speak with his brother [REDACTED], as [REDACTED] had been going "down a path" that he did not agree with. He related he confront [REDACTED] over the subpoena via Facebook messenger, to which [REDACTED] admitted to providing false information. [REDACTED] related [REDACTED] was on probation at the time of the crime and gave false information to the police to negate a possible probation violation arrest.

Utilizing DOT, I obtained photographs of both [REDACTED] and [REDACTED]. Additionally, I examined Axon body worn camera footage from the date of the arrest. I compared images of the victim with DOT photos and concluded the victim in this matter is [REDACTED].

[REDACTED] related he would attempt to locate the Facebook messages he and his brother shared which included [REDACTED] admitting to providing false information to the police. He further related he would obtain images of the conversation and forward them to me digitally. Should I receive said images, they will be submitted to evidence per departmental policy.

Based on the statement provided by [REDACTED], as well as the DOT images I examined, I determined [REDACTED] was in violation of Wisconsin State Statute Ch. 946.41(1) / resisting and/or obstructing.

The suspect / victim, [REDACTED] is being referred to the Outagamie County District Attorney's officer for the following violation under A24018634:

- Wisconsin State Statute Ch. 946.41(1) / resisting and/or obstructing.
[REDACTED] knowingly provided a false name and date of birth to police in an effort to negate possible probation violation charges.

End of supplemental.

Axon activated.

Officer K Jakobsen 9153.

cc: OCDA - Steven NMI Wells, DOB: 08/21/1996 SUP#3 (04/25/2024 SLK)

FILED
11-30-2023
Clerk of Circuit Court
Outagamie County
2023CM000942

STATE OF WISCONSIN CIRCUIT COURT OUTAGAMIE COUNTY

<p>STATE OF WISCONSIN Plaintiff,</p> <p>vs.</p> <p>STEVEN NMI WELLS JR. 1137 Lawndale Drive Menasha, WI 54952 DOB: 08/21/1996 Sex/Race: M/B Eye Color: Black Hair Color: Black Height: 5 ft 7 in Weight: lbs Alias: Also Known As Steven Wells Defendant.</p>	<p>DA Case No.: 2023OU001058 Assigned DA/ADA: Nicholas P. Grode Agency Case No.: A23010205 Court Case No.: ATN:</p> <p style="text-align: center;">CRIMINAL COMPLAINT</p>	<p><i>For Official Use</i></p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------

The undersigned, being first duly sworn, states that:

Count 1: MISDEMEANOR BATTERY

The above-named defendant on or about Friday, March 3, 2023, in the City of Appleton, Outagamie County, Wisconsin, did cause bodily harm to TRPK, by an act done with intent to cause bodily harm to that person, without that person's consent, contrary to sec. 940.19(1), 939.51(3)(a), 973.046(1r), 973.047(1f) Wis. Stats., a Class A Misdemeanor, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

And furthermore, invoking the provisions of Wisconsin Statute 973.046(1r), if the court imposes a sentence or places a person on probation, the court shall impose a deoxyribonucleic acid analysis surcharge, calculated as follows: (a) For each conviction for a felony, \$250 (b) For each conviction for a misdemeanor, \$200.

And furthermore, invoking the provisions of Wisconsin Statute 973.047(1f), if the court imposes a sentence or places a person on probation, the court shall require the person to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis. The court shall inform the person that he may request expungement under s. 165.77 (4).

PROBABLE CAUSE:

AND PRAYS SAID DEFENDANT BE DEALT WITH ACCORDING TO LAW; AND THAT THE BASIS FOR THE COMPLAINANT'S CHARGE OF SUCH OFFENSE IS AS FOLLOWS:

Complainant is a sworn law enforcement officer and bases this Complaint upon the investigation of the officers named below, who are presumed truthful and reliable as sworn law enforcement officials.

At approximately 0105 hours on March 3 2023, Officer K Jakobsen of the Sturgeon Bay Police Department learned of a possible disturbance near the Speakeasy Ultra Lounge, located at 425 W College Avenue, in the city of Appleton, Outagamie County, Wisconsin. At approximately that time Officer Jakobsen observed what appeared to be a physical altercation amongst several adult parties on the sidewalk. Officer Jakobsen immediately activated his patrol vehicle lights and responded to the scene. Officer S Gueli related the situation to dispatch via radio.

As we approached the scene, Officer Jakobsen observed a white male adult crouched on the sidewalk, with an injury sustained to his face. Officer Jakobsen observed blood dripping from his face. Several parties fled the scene, dispersing both east and west on the sidewalk, and back into the Speakeasy Ultra Lounge. Officer Gueli and Officer Jakobsen entered the Speakeasy and voiced police presence. We were confronted by two black male adults. One subject, who was identified as Dontonio Wells, identified himself as an employee/manager. The other subject, identified as Steven Wells, identified himself as an employee/bouncer. Dontonio Wells provided a statement to officer Gueli, ultimately indicating a fight occurred in the bar, and when his brother, Steven Wells, attempted to have a patron escorted out, the patron struck Steven Wells in the face. When asked if we could view any security camera footage, Dontonio related he would provide security camera footage on a USB thumb drive. Dontonio Wells never provided said USB footage.

Steven Wells approached officer Gueli and Officer Jakobsen near the front entrance and showed us what appeared to be a recent abrasion and recent swelling to his right brow. Steven Wells related he was hit in the face while escorting a patron out of the bar. Steven Wells related he did not wish to pursue criminal charges and made several statements he would handle the confrontation on his own. Steven Wells appeared highly agitated and did not want to provide a statement regarding the circumstances and the injury he sustained. Steven Wells left the scene on foot, walking east. Steven Wells was clearly very upset and angry, he appeared choleric and volatile. The patron had since left the scene, and likely fled while officer Gueli and Officer Jakobsen were inside the Speakeasy Ultra Lounge.

While speaking with additional officers on scene, as well as Dontonio Wells, Officer Jakobsen heard Steven Wells yell to officers they needed to respond to Chadwick's, located at 413 College Avenue, in the city of Appleton, Outagamie County, Wisconsin. Steven Wells stated officers had ten seconds to respond or he was going to "kill him". Steven Wells began trotting towards Chadwick's, while counting down from five very loudly. Officer Jakobsen responded to Chadwick's, and observed Steven Wells near the rear of the bar. Steven Wells was being physically restrained by several subject's from making entry into the men's restroom. With the assistance of officers on scene, as well as Dontonio Wells, Steven Wells was removed from Chadwick's and separated from the immediate area.

Officer Gueli and Officer Jakobsen made entry into the men's restroom and observed the white male subject involved in the physical disturbance. The subject, who was later identified as TRPK, had what appeared to be a large abrasion and significant swelling sustained to his left eye socket and brow. An adhesive dressing was placed over the abrasion, and his cheek was swollen.

Officer Jakobsen advised TRPK of the reason for police contact. TRPK denied any involvement. Officer Jakobsen asked TRPK to exit the restroom and walk with him outside

Chadwick's. TRPK became confrontational when asked to leave the bar with police, but eventually complied, but was apparently intoxicated at the time.

Once across the street, TRPK's demeanor reduced and he apologized for acting confrontational. TRPK was released of handcuffs and provided the following statement in summary: He went to the downtown Appleton bars with his girlfriend and his girlfriend's sister. While at the Speakeasy Ultra Lounge, he was at the bar with his girlfriend. A physical fight erupted behind him. He turned around and attempted to break up the fight by attempting to pull one man off another man. He related he was telling the man the fight is over and was trying to physically remove one man from another. While attempting to do so, he was grabbed from behind and wrapped in arms. Whoever wrapped their arms around him began to drag him towards the front door of the bar. He physically resisted and swung his elbows towards the back of his head, towards the subject who had him wrapped. He was drug outside and attacked by several people. He was face down on the sidewalk while being attacked. He was kicked in the face while face down. Shortly after he observed the police. He left the scene and went to Chadwick's to seek medical attention. Subsequent to obtaining a statement, TRPK was released to the care of his girlfriend's sister.

Utilizing Avigilon Services, Officer Jakobsen obtained digital camera footage of the immediate area where the confrontation occurred. Per the digital footage, Officer Jakobsen observed several adult male subjects dragging TRPK out of the front entrance of the Speakeasy Ultra Lounge. Steven Wells was observed assisting in dragging TRPK out. Steven Wells was wearing all red, with a black and white vest, which was very distinguishable. TRPK brought his knees towards his check and laid on the sidewalk facedown, in a modified prone position. TRPK was clearly not posing any threat and was not fighting. Officer Jakobsen observed Steven Wells kick the left side of TRPK's face. As a result, TRPK's head violently jolted to the right. Seconds later, police lights were observed. All parties, aside from TRPK were observed fleeing on foot moments prior to officer's arrival.

Subscribed and sworn to before me on 11/30/23

Electronically Signed By:

Isaac R. Lent

Assistant District Attorney

State Bar #: 1101748

Electronically Signed By:

Michael Velie

Complainant

It is adjudged that 0 days sentence credit are due pursuant to §973.155, Wisconsin Statutes.

It is ordered the Sheriff take the defendant into custody

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.

DISTRIBUTION:	Address	Service Type
Court		
Mark J McGinnis, Judge		None
Brian M Rolf		Electronic
Steven NMI Wells Jr.	9299 Pacoso Street, Spring Hill, FL 34608	Mail
Nicholas Paul Grode, District Attorney		Electronic



City of Appleton

100 North Appleton Street
Appleton, WI 54911-4799
www.appleton.org

Meeting Minutes - Final Common Council

Wednesday, August 16, 2023

7:00 PM

Council Chambers

A. CALL TO ORDER

The meeting was called to order at 7:05 p.m. by Council President Van Zeeland.

B. INVOCATION

The Invocation was offered by Alderperson Jones.

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

Present: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Patrick Hayden, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim and Alderperson Chad Doran

Excused: 2 - Alderperson Christopher Croatt and Mayor Jake Woodford

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

All Departments were represented.

F. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[23-0984](#)

Common Council Meeting Minutes of August 2, 2023

Attachments: [CC Minutes 8-2-23.pdf](#)

Alderperson Fenton moved, seconded by Alderperson Meltzer, that the Minutes be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Patrick Hayden, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim and Alderperson Chad Doran

Excused: 2 - Alderperson Christopher Croatt and Mayor Jake Woodford

G. BUSINESS PRESENTED BY THE MAYOR

[23-0988](#)

Confirmation of Board of Review Alternate Appointments

Attachments: [Aug 16 2023 Board of Review Appt Memo.pdf](#)

Aldersperson Hartzheim moved, seconded by Aldersperson Jones, that the Appointments be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Aldersperson William Siebers, Aldersperson Brad Firkus, Aldersperson Israel Del Toro, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Patrick Hayden, Aldersperson Joss Thyssen, Aldersperson Alex Schultz, Aldersperson Vaya Jones, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff, Aldersperson Sheri Hartzheim and Aldersperson Chad Doran

Excused: 2 - Aldersperson Christopher Croatt and Mayor Jake Woodford

Abstained: 1 - Aldersperson Vered Meltzer

H. PUBLIC PARTICIPATION

There was no one signed up to speak during Public Participation.

I. PUBLIC HEARINGS

J. SPECIAL RESOLUTIONS

[23-0987](#)

Resolution authorizing and providing for the sale and issuance of General Obligation Promissory Notes, Series 2023 and all related details.

Attachments: [FINAL Appleton 2023 G.O. Promissory Notes - Award Resolution.pdf](#)

Aldersperson Hartzheim moved, seconded by Aldersperson Meltzer, that the Resolution be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson William Siebers, Aldersperson Vered Meltzer, Aldersperson Brad Firkus, Aldersperson Israel Del Toro, Aldersperson Katie Van Zeeland, Aldersperson Denise Fenton, Aldersperson Patrick Hayden, Aldersperson Joss Thyssen, Aldersperson Alex Schultz, Aldersperson Vaya Jones, Aldersperson Kristin Alfheim, Aldersperson Nate Wolff, Aldersperson Sheri Hartzheim and Aldersperson Chad Doran

Excused: 2 - Aldersperson Christopher Croatt and Mayor Jake Woodford

K. ESTABLISH ORDER OF THE DAY

[23-0949](#)

Request from Colleen Vanden Heuvel at 1007 N. Badger Avenue for a Terrace Occupancy Permit to keep an existing 4' fence, lilacs, landscaping stone and pavers in the street terrace along W. Commercial Street.

Attachments: [1007 Badger Ave memo.pdf](#)
[1007 Badger Ave application.pdf](#)

Alderson Hartzheim moved, seconded by Alderson Meltzer, that the Terrace Occupancy Permit be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Alderson William Siebers, Alderson Vered Meltzer, Alderson Brad Firkus, Alderson Israel Del Toro, Alderson Katie Van Zeeland, Alderson Denise Fenton, Alderson Joss Thyssen, Alderson Alex Schultz, Alderson Vaya Jones, Alderson Kristin Alfheim, Alderson Nate Wolff, Alderson Sheri Hartzheim and Alderson Chad Doran

Nay: 1 - Alderson Patrick Hayden

Excused: 2 - Alderson Christopher Croatt and Mayor Jake Woodford

[23-0982](#)

Alcohol License Suspension Hearing for BT & DAVE, LLC DBA: Speakeasy Ultra Lounge, Theodore Suess, Agent

Attachments: [Complaint - Speakeasy 8-4-23.pdf](#)
[Summons - Speakeasy 8-4-23.pdf](#)
[Speakeasy Stipulation.pdf](#)
[Speakeasy Stipulation 8-2023 Signed.pdf](#)

Alderson Schultz moved, seconded by Alderson Wolff, that the Stipulation be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderson William Siebers, Alderson Vered Meltzer, Alderson Brad Firkus, Alderson Israel Del Toro, Alderson Katie Van Zeeland, Alderson Denise Fenton, Alderson Patrick Hayden, Alderson Joss Thyssen, Alderson Alex Schultz, Alderson Vaya Jones, Alderson Kristin Alfheim, Alderson Nate Wolff, Alderson Sheri Hartzheim and Alderson Chad Doran

Excused: 2 - Alderson Christopher Croatt and Mayor Jake Woodford

[23-0959](#)

Request for Finance Director to sell \$20,200,000 of General Obligation Promissory Notes

Alderson Firkus moved, seconded by Alderson Meltzer, that the Note Sale be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Patrick Hayden, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim and Alderperson Chad Doran

Excused: 2 - Alderperson Christopher Croatt and Mayor Jake Woodford

[23-0960](#)

Request to Award the 2023 Lundgaard Park Development Project contract to Vinton Construction Company in the amount of \$911,177.70 with a 15% contingency of \$137,000 for a project not to exceed \$1,048,177.70.

Attachments: [Lundgaard Park Development Project Finance Memo .pdf](#)

Alderperson Hartzheim moved, seconded by Alderperson Hayden, that the Contract be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Patrick Hayden, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim and Alderperson Chad Doran

Excused: 2 - Alderperson Christopher Croatt and Mayor Jake Woodford

L. COMMITTEE REPORTS

Balance of the action items on the agenda.

Alderperson Firkus moved, Alderperson Meltzer seconded, to approve the balance of the agenda. The motion carried by the following vote:

Aye: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Patrick Hayden, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim and Alderperson Chad Doran

Excused: 2 - Alderperson Christopher Croatt and Mayor Jake Woodford

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[23-0950](#)

Approve modification to the parking restrictions in the downtown business area, the southside of the 400 and 500 block of W. College Avenue.

Attachments: [College Av 400W 500W - APD memo.pdf](#)

This Report Action Item was approved.

[23-0951](#) Request from OB's Brau Haus for a street occupancy permit to place tables and chairs in the College Avenue beautification strip at 523/525 W. College Avenue.

Attachments: [Table and Chairs Ob Brau Haus.pdf](#)

This Report Action Item was approved.

[23-0967](#) Request from The Boldt Company for a permanent street occupancy permit for the Appleton Library construction site perimeter fencing and staging on N. Oneida Street, W. Franklin Street, N. Appleton Street and W. Washington Street for a period ending on October 24, 2024.

Attachments: [Occupancy Permit Appleton Public Library.pdf](#)

This Report Action Item was approved.

2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[23-0824](#) Fire Department Service Agreement for Gold Cross Ambulance

Attachments: [Service Agreement for Gold Cross Ambulance.pdf](#)
[Amended GOLD CROSS - SHARED SERVICES AND OPERATING AGRM - 08-10-2023.pdf](#)

This Report Action Item was approved.

[23-0916](#) Reserve "Class B" Liquor License application for El Guadalajara Mexican Restaurant LLC d/b/a El Guadalajara Mexican Restaurant, Lucelia Guzman, Agent, located at 1003 W Northland Ave Suite B.

Attachments: [El Guadalajara Mexican Restaurant-Reserve Liquor app.pdf](#)

This Report Action Item was approved.

[23-0918](#) Class "B" Beer License application for Newell Company Inc, d/b/a Lumberjack Johnny's, David Oshefsky, Agent, located at 2701 N Oneida St Ste E, contingent upon approval from the Health and Inspections departments.

Attachments: [Lumberjack Johnnys.pdf](#)

This Report Action Item was approved.

[23-0983](#)

Fire Department contract with Department of Military Affairs for Radiological Field Team Services

Attachments: [Radiological Field Team Services Appleton 2023-2027 \(DMA 7-12-2023 Legal Edits\).pdf](#)

This Report Action Item was approved.

3. MINUTES OF THE CITY PLAN COMMISSION

4. MINUTES OF THE PARKS AND RECREATION COMMITTEE

5. MINUTES OF THE FINANCE COMMITTEE

[23-0969](#)

Request to approve Dental Associates, Manos Holding North Appleton LLC request for partial refund of 2021 and 2022 real estate property taxes in the amount of \$21,326.18 for 2115 E Evergreen Dr, Appleton, WI (parcel 31-1-6510-39)

Attachments: [8-2-23Dental Associates Summary Memo.pdf](#)

This Report Action Item was approved.

6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

7. MINUTES OF THE UTILITIES COMMITTEE

[23-0944](#)

Award Engineering Services Contract for the AWTF Clearwells and Lindbergh Standpipe Project to McMahon Associates, Inc., in the amount of \$39,100 with a 10% contingency of \$3,910 for a project total not to exceed \$40,010.

Attachments: [Clearwells and Lindbergh Project - Engineering Award 07-31-23.pdf](#)

This Report Action Item was approved.

8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE

[23-0927](#)

Department of Public Works Traffic Table of Organization Change.

Attachments: [Memo - HR Committee Traffic Engineer Position.pdf](#)
[Public Works TO.pdf](#)

This Report Action Item was approved.

[23-0928](#)

Valley Transit Table of Organization Change 1.0 FTE Utility Worker Position.

Attachments: [Valley Transit Memo.pdf](#)
[Valley Transit DRAFT 7.24.23.pdf](#)

This Report Action Item was approved.

9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION

10. MINUTES OF THE BOARD OF HEALTH

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION

Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION

[23-1012](#)

Resolution #9-R-23 Mental Health Awareness & Services

Attachments: [#9-R-23 mental health awareness.pdf](#)

[23-1013](#)

Resolution #10-R-23 Allocation of State Shared Revenue Aid

Attachments: [#10-R-23 Allocation of State Shared Revenue Aid.pdf](#)

R. OTHER COUNCIL BUSINESS

S. ADJOURN

Aldersperson Hartzheim moved, seconded by Aldersperson Fenton, that the meeting be adjourned at 7:27 p.m. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson William Siebers, Alderperson Vered Meltzer, Alderperson Brad Firkus, Alderperson Israel Del Toro, Alderperson Katie Van Zeeland, Alderperson Denise Fenton, Alderperson Patrick Hayden, Alderperson Joss Thyssen, Alderperson Alex Schultz, Alderperson Vaya Jones, Alderperson Kristin Alfheim, Alderperson Nate Wolff, Alderperson Sheri Hartzheim and Alderperson Chad Doran

Excused: 2 - Alderperson Christopher Croatt and Mayor Jake Woodford

Kami Lynch, City Clerk

**CITY OF APPLETON
COMMON COUNCIL
SAFETY AND LICENSING COMMITTEE**

IN RE THE ALCOHOL LICENSES OF BT AND DAVE, LLC

AGENT: THEODORE SUESS
d/b/a SPEAKEASY ULTRA LOUNGE
413 W. COLLEGE AVE.
APPLETON, WI 54911

STIPULATION

The City of Appleton, by Assistant City Attorney Zak Buruin and BT and Dave, LLC by its agent Theodore Suess, hereby stipulate and agree as follows:

1. BT and Dave, LLC and agent Theodore Suess are the licensees of "Class B" and Class "B" licenses issued pursuant to Chapter 125, Wisconsin Statutes, and Appleton City Ordinances ("ACO") in conformity therewith, for the licensed Premises known as Speakeasy Ultra Lounge, located at 425 W. College Ave, in the City of Appleton, Outagamie County, Wisconsin.
2. A violation of ACO was committed at the licensed establishment on October 1, 2022; to wit, a violation of ACO 9-82 prohibiting Improper Exhibitions in Outagamie County case 23FO422. The date of conviction for this offense is June 30, 2023. As part of the stipulated resolution of this citation, the parties agreed that the violation involved a "Nude or semi-nude entertainer / employee on premises," contrary to ACO 9-54. One hundred fifty (150) demerit points are associated with this violation.
3. The parties agreed as part of the negotiated settlement of the citation that this violation subjects the establishment to suspension of its alcoholic beverage license(s) per ACO as adopted pursuant to Wisconsin Statutes §125.10.
4. The above conviction is substantially related to the licensed activities.
5. A Complaint Seeking Suspension of Alcohol Licenses of BT and Dave, LLC was filed with the City of Appleton Clerk's Office on August 9, 2023.

6. The Summons and a copy of said Complaint was served on Theodore Suess as agent of BT and Dave LLC, requiring their appearance at the Safety and Licensing Committee on August 9, 2023, to show cause as to why their licenses should not be suspended or revoked.

7. Theodore Suess understands and acknowledges the right to a hearing prior to the City of Appleton Suspending or revoking any licenses issued and freely and voluntarily waives the right to a hearing as consideration for this agreement.

ZB/K.S.

8. ^{BT}~~DB~~ and Dave, LLC does not contest the allegations in the Complaint and therefore agrees that the Safety and Licensing Committee shall find the complaint to be true.

ZB/K.S.

9. ^{BT}~~DB~~ and Dave, LLC does not contest the points assessment set forth in this Agreement.

10. The City of Appleton and DB and Dave LLC agree to the imposition of 150 points assessed against the licensed establishment, Speakeasy Ultra Lounge. Based upon that assessment, the parties agree that the licensed establishment, Speakeasy Ultra Lounge, shall have its license suspended for a period of ten (10) days, pursuant to ACO 9-54.

11. The suspension shall commence on August 14, 2023, and end on August 23, 2023 (inclusive). The commencement of this suspension shall, upon the approval of the Appleton Common Council, be retroactive to the date of August 14, 2023 so that the effect will be 10 calendar days during which the licensed establishment is ceasing from engaging in licensed activity.

12. The licensee and its employees and agents will comply with all applicable Appleton City Ordinances, laws of the State of Wisconsin, including but not limited to Department of Revenue Requirements.

13. This Agreement, including any contingencies placed on the subject licenses shall remain binding on BT and Dave, LLC, its agents, and any successors, assigns, transferees, and the like unless expressly waived by the City of Appleton Common Council.

14. This agreement satisfies the statutory requirements of: Notice of suspension of license, and the Safety and licensing Committee's Report to the Common Council, including Findings of Fact, Conclusions of law, and its recommendation for suspension.

15. BT and Dave, LLC, and Theodore Suess as agent have had the opportunity to review and discuss this Agreement with counsel and enter into this Agreement freely, voluntarily, and intelligently.

Zak Buruin
Zak Buruin, Assistant City Attorney
City of Appleton

Date: 8/9/23

Theodore Suess
Theodore Suess
Agent for BT and Dave LLC

Date: 8/8/2023

Approved by the Appleton Common Council on: _____

Kami L. Lynch

From: Theodore Suess <tsuess@ft.newyorklife.com>
Sent: Tuesday, December 10, 2024 12:33 PM
To: Kami L. Lynch
Cc: kytel93@hotmail.com
Subject: Speakeasy Surrender License

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Clerk Lynch,

Per our phone conversation, I'm emailing you to let you know that we intend to surrender our alcohol license on Monday, December 16, 2024. We will be attending the Safety and Licensing Committee meeting tomorrow night to answer any questions they may have.

Thank you for your help and all the information,

Regards,

Ted



Theodore Suess, FSCP, CLTC

New York Life Insurance Company

Registered Representative offering securities through NYLIFE Securities LLC (member FINRA/SIPC), A Licensed Insurance Agency

1414 W. Spencer St.

Appleton, WI 54914

Business: (920) 636-8885

Text: (920) 520-2221

Website: www.newyorklife.com/agent/tsuess

Make Appointment: <https://calendly.com/tsuess>

If you do not wish to receive email communications from New York Life, and /or NYLIFE Securities, please reply to this email, using the words "Opt out" in the subject line. Please copy email_optout@newyorklife.com

New York Life Insurance Co., 51 Madison Ave., New York, NY 10010

**IN THE CITY OF APPLETON,
OUTAGAMIE COUNTY, STATE OF
WISCONSIN, BEFORE THE
SAFETY AND LICENSING COMMITTEE**

GARY LEWIS,
Complainant

v.

BT AND DAVE, LLC
AGENT: THEODORE SUESS
d/b/a SPEAKEASY ULTRA LOUNGE
425 W. COLLEGE AVE.
APPLETON, WI 54911

REPORT TO THE COMMON COUNCIL OF THE CITY OF APPLETON

The above matter came before the Safety and Licensing Committee on December 11, 2024, after a Complaint was filed with the City Clerk on or about December 2, 2024, requesting that the alcohol beverage license issued to BT and Dave, LLC be revoked. A copy of this report shall be given to the complainant and licensee (agent Theodore Suess). If either the complainant or licensee files an objection to this report with the City Clerk prior to the matter being decided by the Common Council, they will have an opportunity to present arguments supporting the objection to the Common Council, who shall determine whether the arguments shall be presented orally or in writing or both.

FINDINGS OF FACT

1. BT and Dave, LLC, doing business as Speakeasy Ultra Lounge, has a premises licensed by the City of Appleton for retail alcohol beverage sales located at 425 W. College Ave. in Appleton, Wisconsin.
2. Theodore (“Ted”) Suess is the registered agent for BT and Dave, LLC.
3. Steven Wells was an employee of BT and Dave, LLC working at Speakeasy Ultra Lounge as a bouncer on March 3, 2023.
4. BT and Dave, LLC was issued a Class “B” (beer) and “Class B” (liquor) licenses for the premises doing business as Speakeasy Ultra Lounge.

5. On May 21, 2024, Steven Wells found guilty and convicted of Battery based on his conduct while working at Speakeasy Ultra Lounge on March 3, 2023.
6. Steven Wells' conduct on March 3, 2023, included kicking a bar patron in the side of the face while the patron was lying face down on the sidewalk outside the Speakeasy Ultra Lounge after the patron was forcibly removed by staff. This conduct is found to be in violation of Sec. 9-54(b) of the City of Appleton Municipal Code, specifically "Other acts – failure to maintain order / disorderly conduct, noise complaints, etc." Additionally, this conduct resulted in bodily harm to the patron.
7. Steven Well's conduct while working under the employment of the licensee on March 3, 2023, is substantially related to the licensed activity, i.e., the retail sale of alcohol beverages at the premises identified as the Speakeasy Ultra Lounge.
8. On December 2, 2024, Gary Lewis, a resident of Appleton, filed a sworn, written Complaint with the City of Appleton Clerk requesting revocation of the alcohol beverage license issued to BT and Dave, LLC.
9. On December 3, 2024, a Summons and Complaint was served on Ted Suess commanding him to appear before the Safety and Licensing Committee on December 11, 2024, at 5:30 p.m. to show cause why the alcohol beverage licenses issued to BT and Dave, LLC should not be revoked.
10. On December 11, 2024, Ted Suess appeared at the Safety and Licensing Committee meeting and did not deny the complaint.
11. The licensee was assessed 150 demerit points on or about August 16, 2023 (see Action Item 23-0982) for violations with an associated date of conviction of June 30, 2023.
12. The Safety and Licensing Committee finds the Complaint to be true.

CONCLUSIONS OF LAW

1. The Safety and Licensing Committee of the Common Council of the City of Appleton has proper jurisdiction to conduct a revocation hearing for alcohol beverage licenses pursuant to Section 9-54 of the Municipal Code of the City of Appleton ("Code") and Wis. Stat. §125.12.
2. The Demerit Point System contained in Section 9-54 of the Code is a municipal regulation adopted under Wis. Stat. §125.10 and therefore the alcohol beverage licenses granted to BT and Dave, LLC can be revoked based on the adopted Demerit Point System.
3. Pursuant to Section 9-54 of the Code, upon the findings of fact related to the conviction for Battery, including other relevant information presented to the Safety and Licensing Committee pertaining to the conduct of Steven Wells, **145 demerit points shall be assigned to the licensee as of the date of conviction, May 21, 2024.** Specifically, 45 demerit points are assessed due to the "Other acts – failure to maintain order / disorderly

conduct, noise complaints, etc.” violation and 100 demerit points are assessed due to the applicable “penalty enhancer for severe offenses” for violations “resulting bodily harm to any individual.”

4. The Safety and Licensing Committee concludes that Section 9-54(d)(3) of the Code calls for the revocation of a license when the total number of demerit points within a 36-month period is 200 or greater.
5. The Safety and Licensing Committee concludes that the total number of demerit points assessed to the BT and Dave, LLC within a 36-month period beginning on the earliest date of conviction above is 295
6. The Safety and Licensing Committee concludes that the alcohol beverage licenses issued to BT and Dave, LLC should be revoked pursuant to Section 9-54(d)(3) of the Code.

RECOMMENDATION

Based on the above findings of fact and conclusions of law, the Safety and Licensing Committee recommends that the Common Council of the City of Appleton **FIND THE COMPLAINT TO BE TRUE AND REVOKE** the Retail Licenses for Class “B” (beer) and Reserve “Class B” (liquor) issued to BT and Dave, LLC.

Dated this 11th day of December 2024

Alderson Chris Croatt
Chairperson, Safety and Licensing Committee

Form
AB-200

Alcohol Beverage License Application

For Municipal Use Only	
Municipality	Appleton
License Period	24-25

License(s) Requested: (up to two boxes may be checked)

- Class "A" Beer \$ _____ Class "B" Beer \$ 100
 "Class A" Liquor \$ _____ "Class B" Liquor \$ _____
 "Class A" Liquor (cider only) \$ _____ Reserve "Class B" Liquor \$ 10500
 "Class C" Liquor (wine only) \$ _____

Fees	
License Fees	\$ 10,600
Background Check Fee	\$ 60
Publication Fee	\$ 7
Total Fees	\$ 10,667

Part A: Premises/Business Information

1. Legal Business Name (individual name if sole proprietorship) <u>Delaire's LLC</u>			
2. Business Trade Name or DBA <u>Delaire's</u>			
3. FEIN		4. Wisconsin Seller's Permit Number <u>456-1031294282-04</u>	
5. Entity Type (check one) <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Corporation <input type="checkbox"/> Nonprofit Organization			
6. State of Organization <u>Wisconsin</u>		7. Date of Organization <u>9/20/2022</u>	8. Wisconsin DFI Registration Number <u>D073986</u>
9. Premises Address <u>823 827 W. College Ave.</u>			
10. City <u>Appleton</u>		11. State <u>WI</u>	12. Zip Code <u>54914</u>
13. County <u>Outagamie</u>	14. Governing Municipality: <input checked="" type="checkbox"/> City <input type="checkbox"/> Town <input type="checkbox"/> Village of: <u>Appleton</u>		15. Aldermanic District <u>11</u>
16. Premises Phone <u>727-808-9092</u>	17. Premises Email <u>delaires.wb@gmail.com</u>		18. Website _____
19. Premises Description - Describe the building or buildings where alcohol beverages are produced, sold, stored, or consumed, and related records are kept. Describe all rooms within the building, including living quarters. Authorized alcohol beverage activities and storage of records may occur only on the premises described in this application. Attach a map or diagram and additional sheets if necessary. <u>1779 sq. ft. premise where alcohol will be sold and stored. Alcohol consumed in bar area. Alcohol will be sold over bartop and stored in a backroom.</u>			
20. Mailing Address (if different from premises address)			
21. City		22. State	23. Zip Code

Part B: Questions

1. Has the business (sole proprietorship, partnership, limited liability company, or corporation) been convicted of violating federal or state laws or local ordinances? Exclude traffic offenses unless related to alcohol beverages. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list the details of violation below. Attach additional sheets if necessary.			
Law/Ordinance Violated		Location	Trial Date
Penalty Imposed		Was sentence completed? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Law/Ordinance Violated		Location	Trial Date
Penalty Imposed		Was sentence completed? <input type="checkbox"/> Yes <input type="checkbox"/> No	

2. Are charges for any offenses pending against the business? Exclude traffic offenses unless related to alcohol . . . Yes No
 beverages.

If yes, describe the nature and status of pending charges using the space below. Attach additional sheets as needed.

3. Is the applicant business or any of its officers, directors, members, agent, employees, owners, or other related individuals or entities a restricted investor with any interest in an alcohol beverage producer or distributor? . . . Yes No
 If yes, provide the name of the restricted investor and describe the nature of the interest.

4. Is the applicant business owned by another business entity? Yes No
 If yes, provide the name(s) and FEIN(s) of the business entity owners below. Attach additional sheets as needed.

4a. Name of Business Entity	4b. Business Entity FEIN
-----------------------------	--------------------------

5. Have the partners, agent, or sole proprietor satisfied the responsible beverage server training requirement for this license period? Submit proof of completion. Yes No

6. Is the applicant business indebted to any wholesaler beyond 15 days for beer or 30 days for liquor/wine? Yes No

7. Does the applicant business owe past due municipal property taxes, assessments, or other fees? Yes No

Part C: Individual Information

List the name, title, and phone number for each person or entity holding the following positions in the applicant business or businesses listed in Part B, Question 4: sole proprietor, all officers, directors, and agent of a corporation or nonprofit organization, all partners of a partnership, and all members, managers, and agent of a limited liability company. Attach additional sheets if necessary.

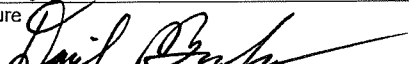
Include Form AB-100 for each person listed below. Corporations and LLCs must appoint an agent by including Form AB-101.

Last Name	First Name	Title	Phone
Boulanger	David	owner	

Part D: Attestation

One of the following must sign and attest to this application:
 • sole proprietor • one general partner of a partnership • one corporate officer • one member of an LLC

READ CAREFULLY BEFORE SIGNING: Under penalty of law, I have answered each of the above questions completely and truthfully. I agree that I am acting solely on behalf of the applicant business and not on behalf of any other individual or entity seeking the license. Further, I agree that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another individual or entity. I agree to operate this business according to the law, including but not limited to, purchasing alcohol beverages from state authorized wholesalers. I understand that lack of access to any portion of a licensed premises during inspection will be deemed a refusal to allow inspection. Such refusal is a misdemeanor and grounds for revocation of this license. I understand that any license issued contrary to Wis. Stat. Chapter 125 shall be void under penalty of state law. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000 if convicted.

Last Name Boulanger	First Name David	M.I. D
Title owner	Email	Phone
Signature 	Date 4/10/24	

Part E: For Clerk Use Only

Date Application Was Filed With Clerk 4-10-2024	License Number	Date License Granted	Date License Issued
Signature of Clerk/Deputy Clerk		Date Provisional License Issued (if applicable)	



City of Appleton Alcohol License Questionnaire

1. Name of Applicant: David Boulanger

2. Name of Business: Delaire's

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) Coffee bar

3. Address of Business: 827 W. College Ave, Appleton WI 54914
823

4. Have you or any member of your organization ever been convicted of a misdemeanor or ordinance violation? Yes _____ No X

AND/OR been convicted of a felony? Yes _____ No X

If yes to either question, please explain in detail below:

5. List all partners, shareholders or investors of your business. Include full name, middle initial and date of birth. Please use additional sheets if necessary.

<u>David</u>	<u>D</u>	<u>Boulanger</u>	
First name	M.I.	Last name	Date of Birth
			/ /
First name	M.I.	Last name	Date of Birth
			/ /
First name	M.I.	Last name	Date of Birth
			/ /
First name	M.I.	Last name	Date of Birth
			/ /

6. Name of person/corporation you are buying the premise and equipment from?

Name: _____
First name Middle Initial Last name

Address: _____
City State ZIP

7. What was the previous name and primary nature of the business operating at this location?

Name: Empty / VACANT

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
 Tavern/Night Club/Wine Bar
 Microbrewery/Brewpub
 Painting/Craft Studio
 Other (describe) _____

8. Was this premise licensed for alcohol sales/consumption during the past license year?

Yes _____ If yes, please contact the Community and Economic Development Department at 832-6468 about obtaining a copy of an existing Special Use Permit and related requirements that may run with property.

No X If no, please contact the Community and Economic Development Department at 832-6468 about obtaining a Special Use Permit. A Special Use Permit may be required for your business activity prior to the issuance of a Liquor License, pursuant to the City of Appleton Zoning Ordinance.

9. If alcohol sales were a previous use in this building, when did the operation cease?

_____ months ago.

10. Seating capacity: Inside 15 Outside 0

11. Operating hours (Inside the building): 10AM - 10PM
Operating hours (Outdoor seating areas): —

12. Employees/Staff

Number of floor personnel 1 Number of door checkers _____

13. In general, state the size and operational details of the proposed establishment:

a. Gross floor building area of the premises to be licensed: 1779 square feet.

b. Gross outdoor seating areas of the premises to be licensed: 0 square feet.

c. Below, identify the operational details of the proposed establishment:

Serving coffee with liquor.

See attached business plan for more details.

Open every day 10am-10pm

[Signature]
Signature

4/10/24
Date

Agent Type (check one)	
<input checked="" type="checkbox"/> Original (no fee)	<input type="checkbox"/> Successor (\$10 fee for municipal licensees only)

Part A: Business Information	
1. Legal Business Name (individual name if sole proprietor) Delaire's LLC	
2. Business Trade Name or DBA Delaire's	
3. Entity Type (check one) <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Corporation <input type="checkbox"/> Nonprofit Organization	
4. Alcohol Beverage Business Authorization (check one) <input checked="" type="checkbox"/> Municipal Retail License <input type="checkbox"/> State Permit	5. If successor agent, provide State Permit or Municipal Retail License Number
6. Describe the reason for appointing a successor agent, if successor is checked above.	


Part B: Agent Information			
1. Last Name Boulanger	2. First Name David	3. M.I. D	
4. Email		5. Phone	
6. Home Address 1024 Sumac Drive			
7. City West Bend	8. State WI	9. Zip Code 53090	10. Age
11. Drivers License/State ID Number		12. Drivers License/State ID State of Issuance	

Part C: Agent Questions	
1. Have you satisfied the responsible beverage server training requirement? Submit proof of completion.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Have you completed Form AB-100, <i>Alcohol Beverage Individual Questionnaire</i> ? Submit a completed Form AB-100 with this form.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3. Have you been a Wisconsin resident for at least 90 continuous days? See instructions for exceptions.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Continued →

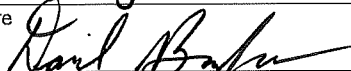
Part D: Business Attestation

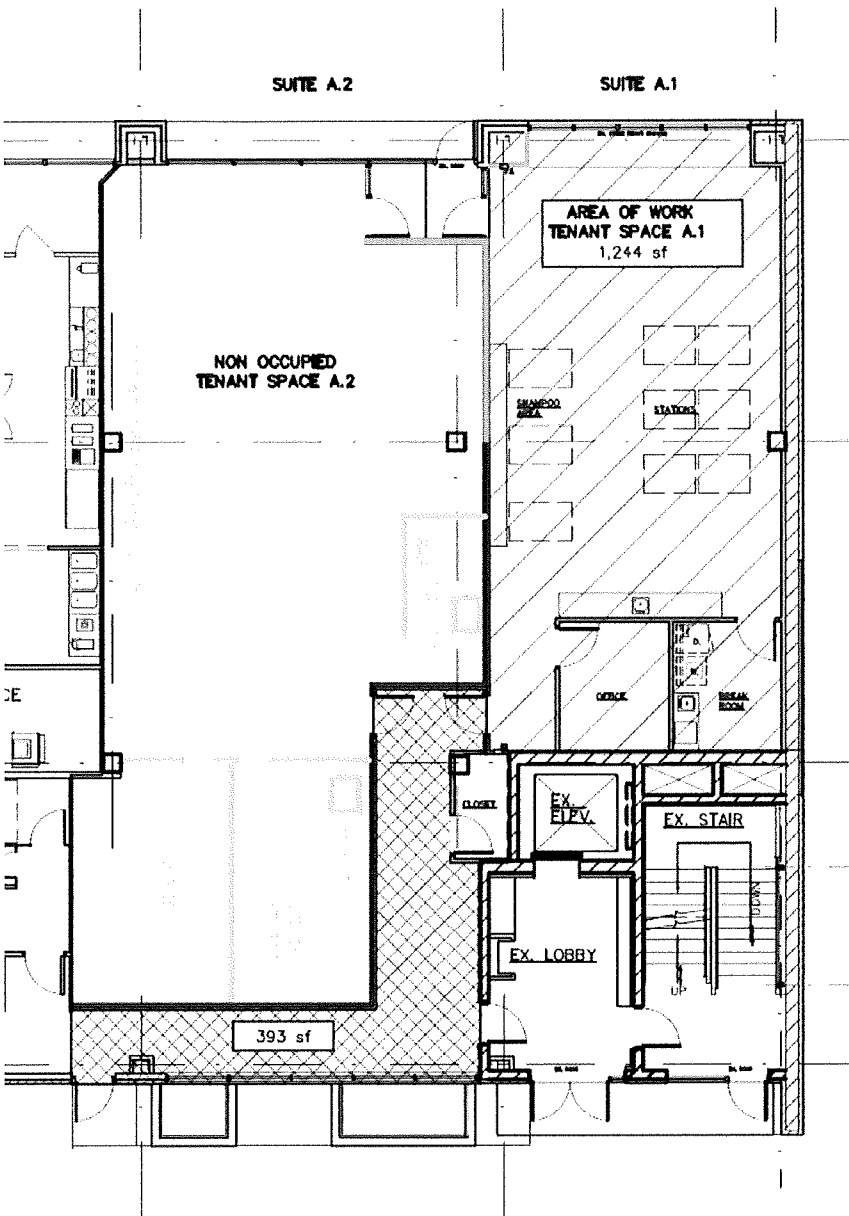
READ CAREFULLY BEFORE SIGNING: I, the **Undersigned**, authorize the above-named individual to act for the above-named corporation, nonprofit organization, or limited liability company with full authority and control of the premises and of all alcohol beverage activities on such premises. I certify that I am authorized by the above-named entity to authorize this individual to act on behalf of the entity. If I am appointing a successor agent, I rescind all previous agent appointments for this premises. Further, I understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000 if convicted.

Last Name Boulanger		First Name David	M.I. D
Title Owner	Email	Phone	
Signature 		Date 4/10/24	

Part E: Agent Attestation

READ CAREFULLY BEFORE SIGNING: I, the **Agent**, hereby accept this appointment as agent for the above-named corporation, nonprofit organization, or limited liability company and assume full responsibility for the conduct of all alcohol beverage activities on the premises for the above-named business. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000 if convicted.

Last Name Boulanger		First Name David	M.I. D
Signature 		Date 4/10/24	



Business Plan: Delaire's

Executive Summary:

Delaire's is a unique establishment that combines the cozy ambiance of a traditional coffee shop with the sophisticated offerings of a cocktail bar. Located in the heart of Appleton, our café aims to provide a welcoming environment where customers can enjoy expertly crafted coffee beverages during the day and indulge in signature cocktails in the evening.

Business Description:

Delaire's will offer a diverse menu of high-quality coffee drinks, including espresso, cappuccino, latte, and specialty brews sourced from premium beans. Our skilled baristas will be trained to create exquisite coffee creations that cater to both traditional coffee aficionados and adventurous palates.

In addition to our coffee offerings, Delaire's will hold a liquor license, allowing us to serve a curated selection of spirits, wines, and craft beers. Our cocktail menu will feature innovative concoctions that blend classic recipes with modern twists, providing customers with a unique drinking experience.

Target Market:

Our target market includes a diverse range of individuals, including coffee enthusiasts, professionals seeking a relaxed workspace, students looking for a study spot, and individuals seeking a casual yet sophisticated atmosphere to socialize with friends or colleagues.

Competitive Advantage:

Delaire's distinguishes itself from traditional coffee shops by offering alcoholic beverages, creating a one-of-a-kind experience for customers. Our commitment to quality extends beyond our coffee beans to our selection of spirits, ensuring that every drink served meets the highest standards.

Additionally, our café will prioritize customer service, aiming to create a welcoming and inclusive environment where patrons feel valued and comfortable. Our knowledgeable staff will be trained to provide personalized recommendations and cultivate a sense of community among customers.

Marketing Strategy:

Delaire's will utilize a multi-faceted marketing approach to attract customers and build brand awareness. This strategy will include:

1. **Social media marketing:** Engaging with customers through platforms such as Instagram, Facebook, and Twitter to showcase our offerings, promote special events, and interact with our online community.
2. **Local partnerships:** Collaborating with nearby businesses, such as bookstores or art galleries, to cross-promote our café and attract a diverse clientele.
3. **Event hosting:** Hosting regular events, such as live music performances, trivia nights, or cocktail workshops, to create buzz and attract new customers.
4. **Loyalty programs:** Implementing a loyalty program to reward repeat customers and encourage customer retention.

Financial Plan:

Delaire's anticipates initial startup costs for equipment, furnishings, and renovations. We project steady growth in revenue over the first few years of operation, driven by increasing customer traffic and sales volume.


Revenue streams will primarily come from the sale of coffee beverages, alcoholic drinks, and light food offerings. We will carefully monitor expenses, including inventory, staffing, and marketing, to ensure profitability and sustainable growth.

In the event additional financing is required, Delaire's has the option to secure a line of credit of up to \$200,000 from one of our current businesses, providing flexibility to manage cash flow and unexpected expenses.

Conclusion:

Delaire's offers a unique concept that combines the warmth of a coffee shop with the allure of a cocktail bar. With a focus on quality, innovation, and exceptional customer service, we are confident that our café will become a beloved destination for coffee enthusiasts and cocktail aficionados alike, operating from 10 am to 10 pm to accommodate our diverse customer base.

Proposed Grafton lounge bar stalls at Plan Commission

 gmtoday.com/news_graphic/business/proposed-grafton-lounge-bar-stalls-at-plan-commission/article_6760f1a2-9575-11ec-aa9d-8f6037bb0a82.html

By Melanie Boyung - Special to the News Graphic

February 24, 2022

GRAFTON — A proposal for a gaming lounge bar in downtown Grafton stalled this week, as the Plan Commission tabled the conditional use permit the business will require in order to obtain more information.

David Boulanger submitted an application for the conditional use permit to the Plan Commission, which met Tuesday. Boulanger said the proposed business for 1208 12th Ave., the former location of Lash Boutique in the commercial complex at the corner of 12th Avenue and Washington Street, would be a small establishment called Bella's Gaming Lounge, serving beer and bar snacks.

The plan included several television sets for sports game viewing and five bar gaming machines. According to Boulanger, the bar would have only 10 to 15 patrons at a time on the high end; there would be limited seating under the business plan, and he said the business would not produce high levels of noise, as it would be a quiet place to lounge, relax and play games rather than a traditional bar.

The permit application was tabled after a public hearing and Plan Commission discussion, during which there were concerns about noise, gambling on the bar video games and whether such an establishment fit the character of what the village of Grafton envisioned for downtown.

Village President and Plan Commission Jim Brunnquell asked Boulanger about patrons being able to win money at the game machines, noting some bars have that type of machine. Boulanger said there are machines like that, but gave no specific information about what games or type of games he planned to use in Bella's Gaming Lounge, beyond that they would be coin-operated machines.

"It's just going to be just like what you'll see in other bars in the area, that's the best I can tell you," Boulanger said.

Several other Plan Commissioners inquired about the specific games as well, and expressed concerns about gambling and the business's hours. The permit application indicated hours of opening at 8 a.m. daily and closing at 12 a.m. or 2 a.m., though Boulanger said he planned to close by midnight daily.

"To have it open at 8 a.m. when you're serving primarily alcohol ... I think that could potentially be an issue," Plan Commissioner Brittany Hess said.

The village's Community Development Director Jessica Wolff noted in discussion that the state has limitations on the actions a commission can take when a conditional use is listed for a district within the zoning code.

"If I could remind the Plan Commission, bars are a conditional use in the downtown. There has to be very specific grounds for denying a condition use under state statute, legally," she said.

The Plan Commission tabled the matter to next month's meeting, and directed Wolff to gather additional information about potential impacts of the planned business and consult the village's legal counsel for information about the process and application.

During the public hearing on the permit, Jeff and Julie Prochnow spoke against the planned business. The Prochnows recently received village approval to convert space above the bar's proposed location into tourist rooming houses; their concern was that a bar downstairs would cause noise and disruption to their business and others in the building, as they said the building's design was not very soundproof.

"I'm not a fan of the use, given the other uses in there," Plan Commissioner Mark Paschke said.

Jeremy Hahn, a resident of West Bend, spoke in favor of Bella's Gaming Lounge during the hearing. He said the lounge bar business model would cause noise only similar to what other area businesses create, and not greater noise.

"This is the commerce district. Downtowns are more noisy," Hahn said.

Commission leery of plan for downtown bar

 [ozaukeeexpress.com/content/commission-leery-plan-downtown-bar](https://www.ozaukeeexpress.com/content/commission-leery-plan-downtown-bar)

February 25, 2022

[Home](#) » Commission leery of plan for downtown bar
February 25, 2022

A decision on a bar with gaming machines proposed for Grafton's Mill Square has been tabled amid concerns the operation may not fit into the village's downtown image.

The bar, which would be located in the former Lash Boutique Grafton at 1208 12th Ave., was proposed by David Boulanger.

Boulanger wants to establish a bar and video gambling lounge that only serves beer. He said the bar, which is not a franchise, would be the first he's opened.

Boulanger has not requested a full liquor license, which would come with a \$10,000 fee from the village.

Ozaukee Press

Wisconsin's largest paid circulation community weekly newspaper. Serving Port Washington, Saukville, Grafton, Fredonia, Belgium, as well as Ozaukee County government. Locally owned and printed in Port Washington, Wisconsin.

VILLAGE OF GRAFTON

PLAN COMMISSION MEETING MINUTES

MARCH 22, 2022

The Plan Commission meeting was called to order at 6:00 p.m. by Chair Jim Brunnuquell. The Pledge of Allegiance followed.

Plan Commissioners present: Village President Jim Brunnuquell, Trustee David Antoine, Carl Harms, Alan Kletti, Mark Paschke, and Heidi Ham

Commission members excused: Brittany Hess

Officials/Staff present: Trustee Amy Luft, Trustee Lisa Uribe Harbeck, Trustee Jim Miller, Trustee Dan Delorit, Community Development Director Jessica Wolff, Administrative Assistant Sara Young, and Village Attorney Johnathon Woodward.

MINUTES

Motion by Commissioner Harms, seconded by Commissioner Paschke, to approve the February 22, 2022 Plan Commission meeting as presented. Motion carried.

HEAR PERSONS REQUESTING TO BE HEARD

None.

STATEMENT OF PUBLIC NOTICE

The purpose of the public hearing is to review and comment on a request by Food Dog LLC for a conditional use permit for an embroidery facility (Light Industrial) known at World Emblem International at 1000 Hickory Street
Statement of public notice was given by Administrative Assistant Sara Young. Community Development Director Jessica Wolff gave a summary on the conditional use permit request. She stated that the applicant is requesting a conditional use permit at the former Control Products facility. The business would occupy 36,200 square feet and offer embroidery services for garments and other marketing materials. The World Emblem has facilities in Texas, Illinois, Georgia, California, and Canada. The floor plan includes embroidery equipment, warehousing, shipping area, offices, and restrooms. Hours of operation will be 7:00 a.m. to 11:00 p.m. Monday through Friday, 5:00 a.m. to 4:00 p.m. Saturday, and 7:00 a.m. to 4:00 p.m. Sunday (weekend hours only as needed). They will have two shifts with 30 employees per shift. They expect daily deliveries via box truck and monthly deliveries via semi-truck. Standard security measures will be used. The business plans to be open in April.

Lawrence Kifer and Jeff Stancoff were present to answer questions. Chair Brunnuquell opened the public hearing.

Amy Luft, 1955 Comanche Court.

Trustee Luft inquired if there would be any retail customers. Mr. Kifer responded that it would be business to business commerce, e-commerce and shipping, but no direct retail sales.

Dan Delorit, 772 Overland Trail.

Trustee Delorit asked if the business would use the loading dock in Hickory Street. Mr. Kifer responded that there were no specific plans for use of the loading dock but they were not removing it.

There were no questions from the Plan Commission. Chair Brunquell closed the public hearing.

Consideration on a review of a conditional use permit for an embroidery business (Light Industrial) at 1000 Hickory Street

Motion by Commissioner Harms, seconded by Commissioner Kletti, to approve a conditional use permit for an embroidery business (Light Industrial) with the following conditions:

1. Use shall be limited to a total of 36,200 square feet.
2. Hours of operation shall be limited to 7:00 a.m. to 11:00 p.m. Monday through Friday, 5:00 a.m. to 4:00 p.m. Saturday, and 7:00 a.m. to 4:00 p.m. Sunday (weekend hours only as needed).
3. Add a bike rack on a hard surface near an entrance to be approved by the Community Development Director.
4. Add a dumpster enclosure on a concrete pad to be approved by the Community Development Director.
5. Repave and stripe the parking lot with required handicap spaces prior to occupancy as approved by the Community Development Director.
6. Refresh all landscaping and replace any dead or dying plants as approved by the Community Development Director.
7. The life safety and fire suppression system shall be approved by the Fire Inspector.
8. Obtain an occupancy permit from the Community Development Department.
9. Signage to be reviewed and approved by the Community Development Director subject to Chapter 20 Signs.
10. All building code, fire code, and other Village and State codes pertaining to the business will be met.

Motion carried.

STATEMENT OF PUBLIC NOTICE

The purpose of the public hearing is to review and comment on a request by FCH Grafton LLC for a conditional use permit for a restaurant known as The Stillery at 1304 12th Avenue

Statement of public notice was given by Administrative Assistant Young. Director Wolff stated that the applicant is requesting a conditional use permit for a full service family restaurant in the former Atlas BBQ. This would be a second location for The Stillery in addition to the current location in Richfield. The business would occupy 5,600 (5,100 square feet on the first floor and 500 square feet on the second floor for a staff-only room)

and offer a diverse menu and full bar. The existing floor plan will remain largely unchanged with the exception of remodeling the bar area. Requested hours of operation are 11:00 a.m. to 2:30 a.m. daily. The business will have two shifts with up to 30 employees per shift. They expect daily weekday deliveries via box truck and standard security measures will be used. The business plans to be open in August. Director Wolff also noted that she is recommending an additional condition of approval related to continued hosting of the sound equipment for Paramount Plaza.

Peter Kotsakis was present to answer any questions or concerns. Chair Brunnuell opened the public hearing. There were no public comments or concerns.

Commissioner Kletti commented he was happy the site is being used. Commissioner Harms asked for confirmation as to changes to the floorplan. Mr. Kotsakis confirmed that one room on the second floor would be for staff and that the small back room would be available for small gatherings in the future.

Chair Brunnuell closed the public hearing.

Consideration on the conditional use permit for a restaurant at 1304 12th Avenue

Motion by Commissioner Paschke, seconded by Commissioner Kletti, to approve a conditional use permit for a restaurant at 1304 12th Avenue with the following conditions:

1. Use shall be limited to a total of 5,600 square feet.
 2. Hours of operation shall be limited to 11:00 a.m. to 2:30 a.m. daily.
 3. Disposal of empty cans/bottles shall be restricted to 11:00 a.m. to 7:00 p.m.
 4. Submit an updated floor plan with seating.
 5. Use of the second floor is restricted until all Building and Fire Codes are met.
 6. Shall provide access to the sanitary sewer manhole on the west side of the building for periodic jetting.
 7. Request Village Board approval of use of space in Paramount Plaza along the building frontage for seasonal outdoor seating.
 8. Sink disposal of all waste fats, oils, and greases shall be connected to a grease interceptor.
 9. Provide an evaluation of the sprinkler/alarm system based on interior modifications to be approved by the Fire Inspector.
 10. The life safety and fire suppression system shall be approved by the Fire Inspector.
 11. Obtain an occupancy permit from the Community Development Department.
 12. Signage to be reviewed and approved by the Community Development Director subject to Chapter 20 Signs.
 13. All building code, fire code, and other Village and State codes pertaining to the business will be met.
 14. Shall continue to host the sound equipment used in Paramount Plaza.
- Motion carried.

STATEMENT OF PUBLIC NOTICE

The purpose of the public hearing is to review and comment on a request by S & L Properties Grafton LLC for a conditional use permit for a drive through expansion at Culver's at 2001 Wisconsin Avenue

Statement of public notice was given by Administrative Assistant Young. Director Wolff stated that the applicant is requesting a conditional use permit to add a second drive through lane at their existing location. The drive through would be located on the west side of the existing drive through. Director Wolff also noted that emergency access and dumpster enclosure placement are acceptable; these conditions have been removed.

The applicants' representatives Emily Bublitz and Michael Connor from McCON Building Corporation were available for questions or concerns. Chair Brunnuquell opened the public hearing.

Trustee Luft asked if this second lane would cause additional back up of waiting vehicles causing a congestion problem. Ms. Bublitz confirmed that ownership has addressed this issue and has made internal workflow adjustments to accommodate queued vehicles.

Trustee Antoine asked if all Culver's were moving to two lane drive-throughs. Ms. Bublitz stated that the decision falls to each ownership group.

Commissioner Harms inquired if barriers should be put in front of the dumpsters. President Brunnuquell suggested adding a concrete bollard at the corner and the applicant agreed. Commissioner Paschke commented on the traffic direction on the east side of the parking lot. Mr. Connor confirmed the driveway meets the 24 foot standard width to accommodate two-way traffic.

Chair Brunnuquell closed the public hearing.

Consideration of the conditional use permit for a drive through expansion at Culver's at 2001 Wisconsin Avenue

Motion by Trustee Antoine, seconded by Commissioner Harms, to approve the conditional use permit for a drive through expansion at Culver's at 2001 Wisconsin Avenue with the following conditions;

1. Use shall be limited to a total of two drive through lanes.
2. No change to hours of operation.
3. Add a bike rack on a hard surface near a customer entrance to be approved by the Community Development Director.
4. Install bollard at corner of dumpster enclosure to be approved by Community Development Director.
5. Obtain an occupancy permit from the Community Development Department.
6. Signage to be reviewed and approved by the Community Development Director subject to Chapter 20 Signs.
7. All building code, fire code, and other Village and State codes pertaining to the business will be met.

Motion carried.

Review and consideration of a site plan for a drive through expansion at Culver's at 2001 Wisconsin Avenue

Motion by Commissioner Harms, seconded by Commissioner Kletti, to approve a site plan for a drive through expansion at Culver's at 2002 Wisconsin Avenue with the following condition: Inspect the landscaping this spring with the applicant; replace overgrown plants and fill in dead or dying plants/trees as approved by the Community Development Director. Motion carried.

STATEMENT OF PUBLIC NOTICE

The purpose of the public hearing is to review and comment on a request by Alan and Rebecca Goldman to rezone land located on Hunter's Lane (Parcel 10-019-13-005.00) from MF-14 Multi-Family Residential-14 to I Institutional

Statement of public notice was given by Administrative Assistant Young. Director Wolff stated that the applicant is requesting that their property on Hunter's Lane west of Port Washington Road be rezoned from MF-14 Multi-Family Residential-14 to I Institutional to accommodate the proposed institutional residential facility known as Woodside Prairie. The project previously obtained conditional use permit and site plan approval from the Plan Commission however, this approval has expired since no activity took place. Director Wolff noted that this development will be considered an "Institutional Residential Facility" under the Zoning Ordinance because no State licenses for care of adults (i.e., CBRF) She stated that she had been informed of a change to the proposed usage and would now need to address the zoning to meet the projects new proposed intent. She has received no public input on the project so far.

The property owners Alan and Rebecca Goldman and Michael Carlson from Impact Seven were available for questions or concerns. Commissioner Paschke abstained from discussion due to his involvement with this project. Chair Brunnquell opened the public hearing.

Michael Carlson, 2961 Decker Drive, Rice Lake, WI 54868.

Mr. Carlson, representing Impact7, a 501(c)3 hired by the Goldmans, stated that there were no changes to the site plan from the 2020 project. However, the Section 42 tax program funding for the project required the housing be available to the public and could not be limited to only student housing manger renters.

Mark Paschke, 405 9th Avenue.

Mr. Paschke explained that the facility would have general housing managers rather than student managers.

Rebecca Goldman, 3368 N. Summit Avenue, Milwaukee, WI 53211.

Mrs. Goldman provided background on the intent of the project and explained that they want a community with a variety of residents not just autistic adults.

Chair Brunnquell noted that the Commission still supports the project but that the use of "Institutional Residential" and rezoning to "Institutional" is not appropriate given the updated usage as stated by applicant. He suggested tabling the items until the proposal could be submitted accurately with the applicable zoning and that it could not go further as it was listed in the agenda.

There were no more comments or concerns. Chair Brunnquell closed the public hearing.

Motion by Commissioner Kletti, seconded by Commissioner Harms, to table all items related to Woodside Prairie. Motion approved (Paschke – abstain).

STATEMENT OF PUBLIC NOTICE

The purpose of the public hearing is to review and comment on a conditional use permit requested by David Boulanger for a bar at 1208 12th Avenue

Statement of public notice was given by Administrative Assistant Young. Director Wolff gave an updated summary on the returning conditional use permit for Bella's Gaming Lounge. She noted that this item was tabled at the February meeting. The main concerns are noise, level of activity, and "fit" in the downtown area. Director Wolff stated that she is recommending changes in the hours of operation to 11:00 a.m. to midnight daily and having no sound on any gaming machines. She recently worked with the applicant and the Prochnows on the second floor on sound testing and found no concerns for sound in the bar area.

Johnathon Woodward, Village Attorney, gave an overview of the legal opinion regarding the gaming machines. Video gaming machines where there is cash payout, and where the business owner receives compensation, are unlawful and considered gambling, which is illegal in the state of Wisconsin.

Director Wolff received two public comments opposed to the project from Mike Bowen at 1121 13th Avenue and Jay Jorgenson at 2721 First Avenue.

David and Courtney Boulanger were present to answer any questions or concerns. Chair Brunnquell opened the public hearing.

David Boulanger, 1024 Sumac Dr, West Bend, WI 53090.

Mr. Boulanger requested that condition #4 be changed to allow low sound on the gaming machines since it was determined that sound is not a problem. He also requested to remove condition #5 because the Department of Revenue says the machines have to pay out.

Laura Kacmarcik, 1000 Badger Circle.

Mrs. Kacmarcik is concerned that this type of use does not belong downtown. They will use the Air BnBs for visitors and she does not think it will be safe. She is also concerned about impact on high school students and parking.

Dan Delorit, 772 Overland Court.

Trustee Delorit asked if this business was part of a chain and stated that his constituents had public safety concerns with the proposed operation. Mrs. Boulanger confirmed the business is not part of a chain and that they would have a Coin Operator License.

Courtney Boulanger, 1024 Sumac Dr, West Bend, WI 53090.

Mrs. Boulanger noted that the gaming lounge is for watching sports. They filled out the amusement license as required and wants equal protection similar to other bars.

Commissioner Paschke noted that the State statute for gaming machines does not allow the customer to receive a monetary gain.

Commissioner Hamm noted her concern for public health and additional implications with the gaming machines related to addiction, women, and the elderly. The algorithms used by these types of machines are designed to make users become addicted to variable reinforcement based on extended use and increased wagering. She does not believe this type of operation would be in accordance with Village Code or legal under Village Ordinance.

Chair Brunnuell asked Mr. Boulanger if he would be willing to move forward with the conditions, including updating item #5 to include no cash payouts from the gaming machines, to bring the proposal into legal compliance; Mr. Boulanger declined.

There were no more comments or concerns. Chair Brunnuell closed the public hearing and proposed the motion to deny the request based on the illegality of gambling per State of Wisconsin Statute and Village Ordinance.

Consideration on the conditional use permit requested by David Boulanger for a bar at 1208 12th Avenue

Motion by Commissioner Paschke, seconded by Commissioner Kletti, to deny a conditional use permit for a bar and gaming lounge at 1208 12th Avenue. Motion carried.

Review and consideration of a site plan for a food truck site known as Grafton Station at 1020 Washington Street

The Village was approached by a food truck vendor about using the former Clark gas station site for his business. The original plan for the Clark site was to work with the property owner to the north to combine the two properties for a mixed use redevelopment project. Unfortunately, the property owner has indicated to staff that they are not in a position to move forward in the near future. As such, staff is expanding on the food truck idea to create a Village-run food truck site.

The site plan includes paving the majority of the site and creating a one-way traffic flow (entry on Washington Street and exit on 11th Avenue), a seating area, two spaces for food trucks/trailers, bike racks, and parking. Electrical service would also need to be reestablished so that food trucks do not need to use generators which can be noisy. Staff hopes to have the site open in June.

Commissioner Kletti inquired if there would be restrooms on site. Director Wolff responded that none would be needed. Commissioner Harms asked if users would need permits from the Village to use the space. Director Wolff responded yes, and that staff is working on an application.

Chair Brunnquell stated that this project had been discussed at the Finance Committee meeting and that this was just a Site Plan consideration to clean up a Village owned site.

Motion by Commissioner Harms, seconded by Commissioner Paschke, to approve a site plan for food truck site at 1020 Washington Street, as presented. Motion carried.


Director's Update

None.

Adjourn

Motion by Commissioner Kletti, seconded by Trustee Antoine, to adjourn the meeting at 7:15 p.m. Motion carried.

Gaming lounge denied for downtown

 gmtoday.com/news_graphic/business/gaming-lounge-denied-for-downtown/article__197ddc84-af01-11ec-ad64-47264c4bfb5.html

By Melanie Boyung - Special to the News Graphic

March 29, 2022

GRAFTON — A bar and gaming lounge proposed for downtown Grafton was denied last week, after research from the village's legal counsel found that the coin-operated gaming machines the applicant planned to install were against state law.

Proposed Grafton lounge bar stalls at Plan Commission

GRAFTON — A proposal for a gaming lounge bar in downtown Grafton stalled this week, as the P...

The village of Grafton Plan Commission met last week, and reconsidered a conditional use permit application from David Boulanger for Bella's Gaming Lounge; he originally came to the commission in February, planning a bar that would serve beer and bar snacks, with several television sets for sports game viewing in the bar and five coin-operated gaming machines.

Boulanger planned the new business for 1208 12th Ave., the former location of Lash Boutique in the commercial complex at the corner of 12th Avenue and Washington Street. The matter was tabled last month for further information due to concerns about gambling on the coin-operated game machines, noise disrupting neighboring businesses and the proposed hours of a drinking establishment opening at 8 a.m.

While some concerns were addressed between the February meetings — he agreed to limit his hours to 11 a.m. to 10 p.m. instead of 8 a.m. to midnight, and sound tests found most normal noise from the space did not disrupt neighbors — village information stated Boulanger had also decided to pursue a full liquor license, instead of just beer licensing.

Boulanger said he intended on using the game machines and that they would have payouts of some kind where customers could win money or value.

"Essentially, under Wisconsin law, any device that provides value in a game of chance is considered illegal under Wisconsin statutes and village ordinance," attorney Jonathan Woodward said during last week's Plan Commission meeting.

Planning staff's report on the conditional use permit included a recommendation that Boulanger be required to not have payouts from the gaming machines. Boulanger did not agree to that condition, at which point the Plan Commission denied the permit application.

There was some discussion on the machines. Boulanger said the state department of revenue required the bar game machines to have cash payouts. He said also that there were other establishments in Grafton that used the gambling machines, and asked why the village had gaming licenses if it was illegal.

Community Development Director Jessica Wolff clarified that the village had amusement licenses for coin-operated video games machines; the license is for all pay-to-play video games, some of which do not involve gambling and payouts.

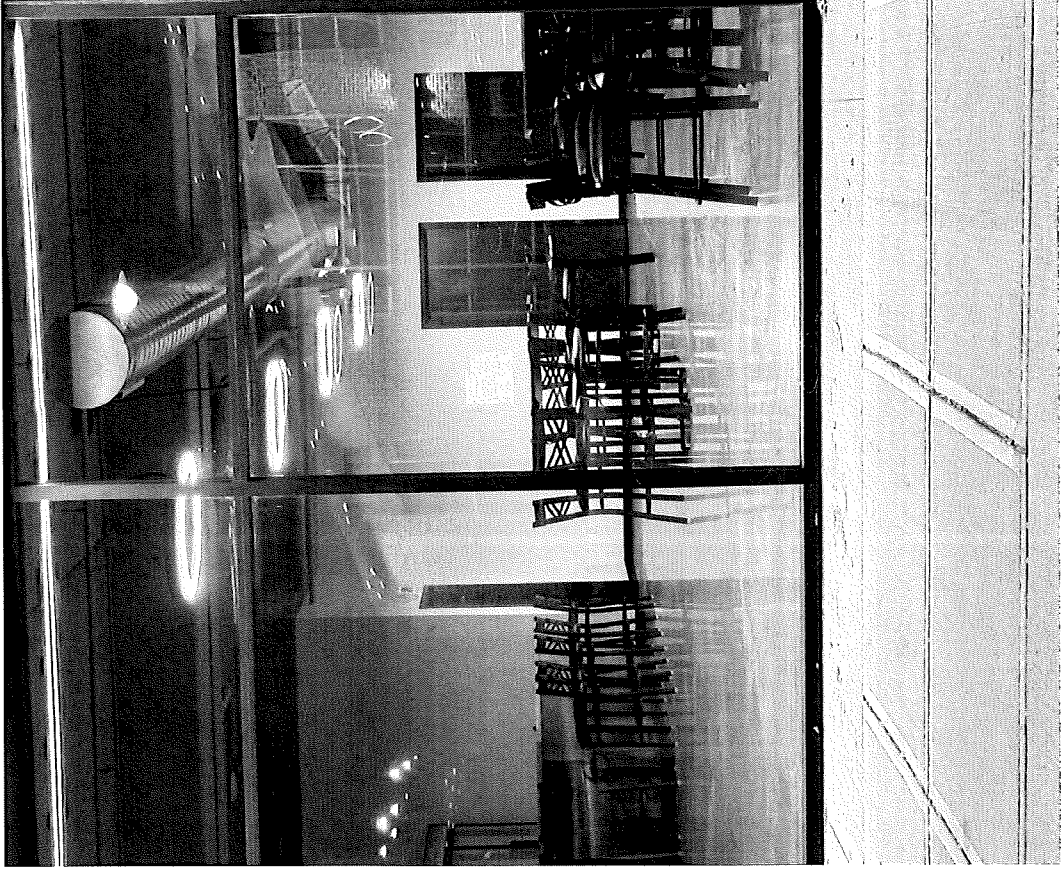
Woodward and Village President Jim Brunnquell said whether there may be similar machines in other places in the village was also irrelevant. The Plan Commission was considering Boulanger's application for Bella's Gaming Lounge, which included gaming machines that were for gambling purposes, according to legal definition.

"You're asking us to authorize what our attorney said is an illegal practice," Brunnquell.

According to the legal opinion given to the village, Wisconsin statute states anyone who "Permits any real estate owned or occupied by him or her or under his or her control to be used as a gambling place," or "permits a gambling machine to be set up for use for the purpose of gambling in a place under his or her control," is guilty of a misdemeanor or violation of law.

Michael Herbrand and Bennett Jenkins of Houseman and Feind sent the opinion.

Pictures of the establishment at at 823 W. College Ave taken on 10/16/2024





"...meeting community needs...enhancing quality of life."

TO: Safety and Licensing Committee
Common Council

FROM: Lt. Ben Goodin

DATE: 11/26/2024

RE: Police Department's Investigation into Delaire's Reported Gambling Machine Operation

Committee Members:

On 10/16/24 I received email correspondence from City of Appleton attorney Zak Buruin. Attorney Buruin informed me a new bar attempting to open at 823 W. College Ave. known as Delaire's initially had their alcohol license approved by the Safety and Licensing committee. On the licensing application, Delaire's is reportedly going to be a coffee bar and a traditional bar serving alcoholic beverages. However, Alderperson Van Zeeland received reports from her constituents that Delaire's actually planned on using the business as a gambling parlor. The City Council sent the alcohol license application back to the Safety and Licensing committee to review based on this information. Attorney Buruin informed me the owner of Delaire's, David Boulanger, previously tried opening a bar with gaming machines in Grafton, WI in 2022 but was denied by Grafton's planning commission.

On 10/23/24 Alderperson Van Zeeland e-mailed me contact information for the main complainant about Delaire's, identified as Jaime Pappenfuss. Jaime runs a salon directly next door to Delaire's. On 10/24/24 I spoke with Jaime over the phone to get her statement. Jaime stated someone gave a person from Delaire's a key to access her business (they have a joint rear hallway within the building) to look for some sort of electrical hook up. Jaime was at her salon when this occurred. Jaime spoke with the male who came over and asked if there was going to be a coffee bar in the establishment and the male said "yeah, well not really one with drinks but more of a gambling machine lounge." Jaime informed me she did an internet search and discovered David's past encounter in Grafton. Jaime then forwarded this information to Alderperson Van Zeeland.

Jaime stated the above-mentioned comment about the business being a gambling machine lounge was captured on her salon cameras. Jaime sent me the video clip in question which I saved to evidence.com. The video shows Jaime asking an unidentified white male what was going in the business next door. The male responded, "A bar but not really (unintelligible) gambling machines". There was some background noise while the male was speaking, and I couldn't make

out all of his words. Jaime then laughed and asked, "like Big Daddy and all that?" and the male said "yeah". After viewing the video and comparing the side view of the male's face with David's DOT photo it does not appear that David is the one on video. The video was recorded on 10/15/24 at 2:33 pm according to the time stamp on the footage.

After speaking with Jaime, I went by Delaire's and viewed the interior of the bar from the storefront window. The business had a small bar area, several high back seats with tables, and a small couch seating area. There were no gambling machines visible at that time.

Later on 10/24/24 I spoke on the phone with Timm Gloudemans, who works for Buss Electric Inc. Timm was the electrical inspector hired by Delaire's to complete the electrical permit for the business. I asked Timm if there was anything unusual about his time in Delaire's or anything from an electrical wiring standpoint and he said no. Timm advised the inspection was pretty standard and nothing suspicious occurred. Timm did not know anything about gambling machines being installed at the business.

I attempted to speak with the owner of Amberlulu Bubble Tea and Desserts (Uni Uni) which is the business on the other side of Delaire's. I went by Uni Uni on 11/6/24 and spoke with the manager, who called and messaged the owner Fannie, but she did not respond. I left the manager my business card and asked her to have Fannie call me. I called Fannie and left her a voicemail and have yet to receive a call back. Jaime indicated Fannie may have more information about the gambling machine allegations which is why I reached out to her.

Jaime also gave me a phone number for the landlord of the property, identified as Jeff. I called Jeff on 11/16/24 and left a voicemail asking him to call me back.

On 11/16/24 I spoke with David over the phone to get his statement. I told David I had received complaints that his new business was going to operate as a gambling parlor instead of a bar. David stated he had no intentions of running any sort of gambling operation and was opening the business as a bar just as he indicated on his alcohol license application. I told David about the video Jaime sent me and he stated he had no idea who she spoke with that made that comment on the video. David said he did not plan on having any sort of gambling machines at all. He said in the future he may install some amusement devices that do not pay out any money but that's it.

As of 11/26/24 I have not developed any other leads to investigate this complaint.

Respectfully submitted,

Ben Goodin
Lieutenant
Appleton Police



December 6, 2024

Emil Ovbiagele
emil@ovblaw.com

[via Email Only]
City of Appleton
Attn: Kami Lynch
kami.lynch@appleton.org

RE: REQUEST TO HOLD LICENSING HEARING
Delaire's LLC – 823 W College Ave.

Dear Ms. Lynch,

Please be advised that my office has been retained by Delaire's LLC, and its agent, David Boulanger, as it pertains to my client's business license applications to operate at 823 W College Ave., Appleton, WI 54914.

My client is currently scheduled to come before the Safety and Licensing Committee on December 11, 2024. However, after careful consideration, my client is requesting that their appearance before the Safety and Licensing Committee be held until a later date. At this time, my client needs the additional time to meet with community members and those who have special interest in the business. The additional time will further allow my client the ability to provide the Committee with more information concerning their business operations.

Please feel free to direct any questions to me concerning my client's matter. I appreciate your attention to this matter.

Very Truly Yours,

OVB Law & Consulting, S.C.

/s/

Emil Ovbiagele, JD, MBA
Attorney

OEO/*ab*

826 N Plankinton Ave.
414. 585. 0588 (office)

Suite 600
ovblaw.com

Milwaukee, WI 53203
414. 255. 3031 (fax)

Application for Secondhand Article Dealer License

Applies to: Secondhand Mall/Flea Market, Pawnbroker, Secondhand Article Dealer, Secondhand Jewelry Dealer



License Period Is One
Calendar Year*

*Except Secondhand Mall/Flea Market Licenses

NOTE: Please allow approx. 4 weeks for application processing

Individual license - Complete Sections 1, 2, 3 and 5
Corporate/Partnership/LLC license - Complete Sections 1 - 5

FEES ARE NON-REFUNDABLE

CASH OR CHECK ONLY!

- Pawnbroker - \$217.00
- Secondhand Mall/Flea - \$172.00
- Secondhand Article/Jewelry:
 - Original - \$107.00
 - Renewal - \$82.00

Date Recvd 12/10/24
Total \$ 82
Receipt #: 7684-2

SECTION 1 - APPLICANT INFORMATION

Applicant Name (First, MI, Last) <u>Michael Jeffrey Milloy</u>		Date of Birth	
Home Address <u>9336 Timber Ridge Rd</u>		City <u>neenah</u>	State <u>WI</u>
Applicant Drivers License/State ID Number		DL/ID State of Issuance	
Phone Number (Required)		Email Address	
Has the applicant ever resided outside of Wisconsin? If so, please list previous state(s) of residence. <u>Yes Nevada</u>			

SECTION 2 - BUSINESS INFORMATION

Individual/Business	Street Address	City	State	Zip Code	Phone Number
Business Name <u>T+S Sports DBA Play It Again Sports</u>	<u>611 W. Northland Ave</u>	<u>Appleton</u>	<u>WI</u>	<u>54911</u>	
Owner's Name <u>Mike Milloy</u>	<u>9336 Timber Ridge Rd</u>	<u>neenah</u>	<u>WI</u>	<u>54956</u>	
Business Manager's Name <u>Mike Milloy</u>	<u>9336 Timber Ridge Rd</u>	<u>neenah</u>	<u>WI</u>	<u>54956</u>	
Building Owner's Name <u>R. Lewis LLC</u>	<u>PO BOX 22190</u>	<u>Green Bay</u>	<u>WI</u>	<u>54305</u>	

SECTION 3 - CONVICTION RECORD

Have you, or any other person listed on this application, been convicted of any of the following:

A felony within the last ten (10) years? YES NO

Within the last ten (10) years of:

A misdemeanor? YES NO

A statutory violation punishable by forfeiture? YES NO

A county or municipal ordinance violation? YES NO

For each "YES" response provide the date of arrest, the nature of the offense and conviction information: _____

SECTION 4 - PARTNERSHIP/CORPORATION/LIMITED LIABILITY COMPANY INFORMATION

Check the box that applies to your business: Partnership Corporation Limited Liability Company (LLC)

Partnership/Corporation/LLC name: T+S Sports DBA Play It Again Sports State of Incorp. (if applicable) 2005

List information for all additional partners/members. Attach additional sheets, if necessary

Name (First, MI, Last) <u>Mike Milloy</u>	Date of Birth	Home Address <u>9336 Timber Ridge Rd</u>	City <u>neenah</u>	State <u>WI</u>	Zip Code <u>54956</u>
Drivers License/State ID Number			DL/ID State of Issuance		
Name (First, MI, Last)	Date of Birth	Home Address	City	State	Zip Code
Drivers License/State ID Number			DL/ID State of Issuance		
Name (First, MI, Last)	Date of Birth	Home Address	City	State	Zip Code
Drivers License/State ID Number			DL/ID State of Issuance		

Application for Temporary Class "B" / "Class B" Retailer's License

See Additional Information on reverse side. Contact the municipal clerk if you have questions.

FEE \$ 10 per event + \$7 (applicant background investigation fee)

Application Date: 12-15-24

Town Village City of Appleton

County of Outagamie

The named organization applies for: (check appropriate box(es).)

A Temporary Class "B" license to sell fermented malt beverages at picnics or similar gatherings under s. 125.26(6), Wis. Stats.

A Temporary "Class B" license to sell wine at picnics or similar gatherings under s. 125.51(10), Wis. Stats.

at the premises described below during a special event beginning 2-22-25 and ending 2-22-25 and agrees to comply with all laws, resolutions, ordinances and regulations (state, federal or local) affecting the sale of fermented malt beverages and/or wine if the license is granted.

1. Organization (check appropriate box) →

- Bona fide Club Church Lodge/Society
 Veteran's Organization Fair Association or Agricultural Society
 Chamber of Commerce or similar Civic or Trade Organization organized under ch. 181, Wis. Stats.

(a) Name Sacred Heart Church

(b) Address 222 E. Fremont St. Appleton, Wi. 54915
(Street) Town Village City

(c) Date organized 1898

(d) If corporation, give date of incorporation _____

(e) If the named organization is not required to hold a Wisconsin seller's permit pursuant to s. 77.54 (7m), Wis. Stats., check this box:

(f) Names and addresses of all officers:

President _____

Vice President NA

Secretary _____

Treasurer _____

(g) Name and address of manager or person in charge of affair: DAVE ERICKSON W6060 Dahlia Dr.

(g)1. Date of Birth: _____ (g)2. Drivers License #: _____ (g)3. Em. _____ Phone: Appleton, Wi. 54915

2. Location of Premises Where Beer and/or Wine Will Be Sold, Served, Consumed, or Stored, and Areas Where Alcohol Beverage Records Will be Stored:

(a) Street number 222 E. Fremont St. Appleton, Wi. 54915

(b) Lot _____ Block _____

(c) Do premises occupy all or part of building? YES - ALL

(d) If part of building, describe fully all premises covered under this application, which floor or floors, or room or rooms, license is to cover: _____

3. Name of Event

(a) List name of the event Winterfest

(b) Dates of event 2-22-25

(c) Time(s) of event 5:00 - 9:00 PM

DECLARATION

An officer of the organization, declares under penalties of law that the information provided in this application is true and correct to the best of his/her knowledge and belief. Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

Officer Dave Erickson 12-15-24 Sacred Heart Church
(Signature / Date) (Name of Organization)

Date Filed with Clerk DEC 17 2024

Date Reported to Committee _____

Date Granted _____

License No. _____

COA Dept. Approval: Police _____ Fire _____ Health _____

Application for Temporary Class "B" / "Class B" Retailer's License

See Additional Information on reverse side. Contact the municipal clerk if you have questions.

FEE \$ 10 per event + \$7 (applicant background investigation fee)

Application Date: 12/19/2024
County of Outagamie

Town Village City of Appleton

The named organization applies for: (check appropriate box(es).)

- A Temporary Class "B" license to sell fermented malt beverages at picnics or similar gatherings under s. 125.26(6), Wis. Stats.
 A Temporary "Class B" license to sell wine at picnics or similar gatherings under s. 125.51(10), Wis. Stats.

at the premises described below during a special event beginning 2/1/2025 and ending 2/1/2025 and agrees to comply with all laws, resolutions, ordinances and regulations (state, federal or local) affecting the sale of fermented malt beverages and/or wine if the license is granted.

1. Organization (check appropriate box) →

- Bona fide Club Church Lodge/Society
 Veteran's Organization Fair Association or Agricultural Society
 Chamber of Commerce or similar Civic or Trade Organization organized under ch. 181, Wis. Stats.

(a) Name Building for Kids Children's Museum

(b) Address 100 W College Ave Appleton, WI 54911
(Street) Town Village City

(c) Date organized 11/02/1992

(d) If corporation, give date of incorporation _____

(e) If the named organization is not required to hold a Wisconsin seller's permit pursuant to s. 77.54 (7m), Wis. Stats., check this box:

(f) Names and addresses of all officers:

President Oliver Zornow 1009 N OWLDA ST APPLETON, WI 54911
Vice President Kristen Trimmerger 100 W College Avenue "
Secretary Tom Hardwick 100 W College Avenue "
Treasurer Barb Gonnering 100 W. College Avenue "

(g) Name and address of manager or person in charge of affair: Oliver Zornow

(g)1. Date of Birth: _____ (g)2. Drivers License #: _____ (g)3. Email: _____ Phone: _____

2. Location of Premises Where Beer and/or Wine Will Be Sold, Served, Consumed, or Stored, and Areas Where Alcohol Beverage Records Will be Stored:

(a) Street number 100 W College Ave.

(b) Lot _____ Block _____

(c) Do premises occupy all or part of building? part

(d) If part of building, describe fully all premises covered under this application, which floor or floors, or room or rooms, license is to cover: 1st & 2nd floors

3. Name of Event

(a) List name of the event Building for Grown-Ups

(b) Dates of event 2/1/2025

(c) Time(s) of event 6:00 pm - 9:00 pm

DECLARATION

An officer of the organization, declares under penalties of law that the information provided in this application is true and correct to the best of his/her knowledge and belief. Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

Officer [Signature]
(Signature / Date)

Building for Kids
(Name of Organization)

Date Filed with Clerk DEC 23 2024

Date Reported to Committee _____

Date Granted _____

License No. _____

COA Dept. Approval: Police _____ Fire _____ Health _____



FIRE DEPARTMENT

MEMORANDUM

Date: November 5, 2024
To: Safety and Licensing Committee and Common Council
From: Jeremy Hansen, Fire Chief
Subject: Gold Cross Ambulance Shared Service Agreement Annual Review

On September 26, 2024, members of the city leadership team and Gold Cross Ambulance (GCA) met to review the Shared Service and Operations Agreement. The review covered the first year of a three-year agreement for GCA providing paramedic transport service to the City of Appleton. The attached Shared Service and Operating Agreement Annual Review document served as the basis for our discussion.

Since the service agreement took effect, GCA and Appleton Fire Department (AFD) have exchanged response time data monthly. The data provided indicates an improvement in ambulance response times which meets the established goal of 8 minutes and 59 seconds in all but the month of December. We agreed that future response time data will be further broken down into additional emergency medical dispatch categories. The additional detail will provide a clearer picture of response time data based on the severity of the medical incident.

AFD and GCA attended joint mass casualty incident training involving both command and line staff. We are collaborating with medical protocols and equipment as the fire department prepares to increase our service level to paramedic. GCA allowed AFD paramedic students to complete their clinical ride-along time on their ambulances.

We jointly agreed to work to improve radio communications and established a goal of 90% on-scene connectivity. This goal simply means that when AFD units attempt to contact the responding ambulance, AFD will be able to communicate with the responding ambulance 90% of the time. This initiative has been in progress for several years; however, this is the first established goal.

Our service agreement calls for one paramedic on ambulances that respond to high acuity calls. In a few cases, the first unit responding did not have a paramedic. Later, another ambulance or their non-transporting paramedic response vehicle did arrive to provide care. City leadership emphasized the expectation to have more GCA paramedics responding to medical incidents. We also discussed the potential positive impact paramedic engine companies may make toward this objective.

Reviewing the patient care metrics, there was a decrease in the on-scene time for stroke and heart attack patients and a decrease in the time to perform cardiac monitoring. These three positive care metrics support better patient outcomes.

Overall, we believe that the Service Agreement has helped to organize and systematize our discussions. Communications between GCA and AFD have improved, and the first-year data indicates modest improvements in some important areas of service and quality for our residents. As previously noted, we have identified areas that need continued focus and we will continue to carefully monitor progress, reporting back to the Committee as warranted.

If you have any questions or concerns, please do not hesitate to contact me at (920) 832-1703.



Shared Services and Operating Agreement: Annual Review

REPORT PREPARED BY:

NICK ROMENESKO, EXECUTIVE DIRECTOR, GOLD CROSS AMBULANCE

Background: On October 1, 2023, Gold Cross Ambulance Service (GCA) and the City of Appleton entered a shared service and operating agreement. During the agreement's formulation, a request was made for Gold Cross leadership, including executive leadership and board members, to meet with the City of Appleton's leadership, which was to include the Mayor and Fire Chief.

Reporting Methodology: The City of Appleton Fire Department (AFD) has been working collaboratively to gather and share data collected by both entities. This data is shared and reviewed every month. The information below is a result of the data exchanged and verified to be accurate by both entities. The data reported is from October 2023 to August 2024.

VI. Support and Training and Education

- GCA and the Appleton Fire Department continue collaborating and working on various training topics.
- GCA has supported the AFD paramedic interns through our ride-along internship programs.
- GCA has completed upgrading our training facility to allow for larger training classes and more collaboration with AFD and other first responder partners.
 - Human Patient Simulator
 - Expanded lab and lecture areas
 - Ambulance docking station for real-life simulation
 - Fox Valley Technical College exchange of service agreement
 - Invitations to physician-lead training lectures
 - ThedaCare-Trauma Team
 - Heart and Vascular Institute Cardiology training
 - Neuro-Science Group
 - Ascension Intensive Care Team
- AFD hosted a rescue task force training in August which included multiple ambulance and leadership participation by GCA

VII. Dispatch and Response Time Goals

AFD Data <4:59

	Emergency 90th	Non-Emergency 90th	Emergency %	Non-Emergency%
October				
November	5:29	7:04	79%	54.20%
December	6:15	6:58	72.2%	50.9%
January	6:07	7:59	69%	40%
February	5:08	7:46	73.3%	43.1%
March	7:09	12:51	52.7%	21.2%
April	5:48	7:19	77.1%	47.4%
May	5:52	7:13	74.2%	48.2%
June	6:28	7:35	65.5%	50.0%
July	6:06	7:17	73.1%	47.2%
August	5:54	7:14	70.5%	61.0%

GCA Data <8:59

	Emergency 90th	Non-Emergency 90th	Emergency %	Non-Emergency %
October	8:18	11:59	94.58%	68.66%
November	8:06	12:04	94.90%	70.00%
December	9:16	11:34	89.50%	72.20%
January	8:41	12:32	92.46%	71.60%
February	8:17	10:53	96.63%	76.11%
March	8:22	10:53	94.70%	75.67%
April	8:56	11:07	91.05%	76.17%
May	8:49	12:08	91.39%	65.38%
June	8:01	11:41	92.90%	70.60%
July	8:37	12:02	92.40%	74.13%
August	8:36	11:46	93.85%	71%

VII. Communications

- Gold Cross has expanded its dispatch center to improve communications with hospitals and public safety partners.
- Increased staffing levels to better monitor communication and improve dispatch processing efficiency.
- 24/7 coverage of an Operations Manager to improve overall inter-agency communication, collaboration, and real-time problem-solving

IX. Local Medical Directors

- Monthly meetings/communication between Dr. Rose and Dr. Westfall
- Joint education being conducted in May
- Collaboration between Dr. Bope, Dr. Westfall, and Dr. Rose at the AFD RTF training exercise.

XII. Operational Plans and Reports

Appleton Requests for Service

Month	Emergency	Non-Emergency	Private Calls	Monthly Total
October	287	227	112	626
November	250	226	110	586
December	308	227	94	629
January	297	226	105	628
February	280	212	96	588
March	269	234	83	586
April	257	248	92	597

May	287	245	93	625
June	294	205	97	596
July	273	239	110	622
August	299	275	106	680
Annual	3101	2564	1098	6763

- Additional Appleton station opened at Ballard Rd and Evergreen Dr.
- 24/7 Paramedic Rapid Response Vehicle began in February 2024
 - EMS Branch Director
 - Advanced Skillset
 - Rapid Sequence Intubation
 - EMT Basic Support
 - Whole Blood Administration (Fall 2024)
- Patient Care Metrics:
 - Total number of stroke activations: 72
 - Total number of over-triaged stroke activations: 14
 - On-scene time for stroke patients- (Goal=<15:00)
 - 6 month: 15:49
 - 12 month: 14:53
 - Total number of STEMI activations: 22
 - Total number of over-triaged STEMI activations: 7
 - At patient o EKG time: (Goal=<5:00)
 - 6 month: 10:43
 - 12 month: 7:30
 - On-scene time for STEMI patients:
 - 6 month: 21:13
 - 12 month: 18:40
 - Total number of trauma patients: 23
 - On-scene time for trauma patients: (Goal=<10:00)
 - 6 month= 11:04
 - 12 month= 10:54
 - Total number of cardiac arrests: 99
 - Total number of survivors: 7
- Collaboration ongoing to help improve efficiency on the scene to get under our goal time for specific benchmarks.

Conclusion: We are pleased with the first year's results operating under this service agreement. Information has been exchanged efficiently, and collaboration between AFD and GCA has improved. We look forward to fine-tuning our operational teamwork as we strive to meet the healthcare needs of the citizens in the City of Appleton.