

**Item 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**  
**Safety and Licensing Committee**

Wed, Feb 12, 2025 5:30PM

**Aldersperson Alex Schultz (District 9) 01:12**

We have no public hearing or appearances. That will bring us to action items, the first of which is 24-0420 the Class B beer and reserve Class B liquid license application for Delaires LLC, doing business as Delaire's, David Boulanger agent located 823, West College Avenue.

**Aldersperson Denise Fenton (District 6) 01:31**

Move to deny.

**Aldersperson Chad Doran (District 15) 01:35**

I'll second just for discussion.

**Aldersperson Alex Schultz (District 9) 01:37**

We have a motion to deny and a second for discussion. This particular item has a long history with the committee, all the way back to October 9, when it was first introduced. It's bounced back and forth between here Council and back to committee, I think primarily because members of this committee, I have not been fully comfortable with a final vote, because we haven't understood precisely what the intent is, and we're provided with a lot of information about previous attempts by the applicant to open similar establishments that have given us pause. So, we're back here primarily because the last time we were going to have a vote on this, there was some information about a video that was acquired that suggested that the issue that this committee basically has with the gambling machines might still be an issue that hasn't been disposed of, despite the testimony from the applicant who, let the rec—records reflect, is not able to attend the night. He did ask that we attempt to hold this so that they could appear. I'm going to allow this committee to have a discussion about this, because we've been bouncing it back and forth for some time, and because of the requesting the last meeting date to get some information, additional information, from legal on this video, I guess I'd like to hear that before working through any other process to either hold this or take this vote up. So, I'd like, I'd like a bit of a discussion. Alder Fenton, if you'd like to—

**Aldersperson Denise Fenton (District 6) 03:25**

Thank you, chair. May I address Attorney Buruin or the city clerk? I understood that we voted to hold this at our last meeting because we had understood that either the police department or the attorney's office had obtained the information about the contractor who was, um, talked to the neighboring tenant, and that we had either been able to find out that person's name or find out some more information about that. Is that true? Do we have that information now?

**Zak Buruin (Assistant City Attorney) 04:06**

I will get to the question momentarily, but I just want to follow up on something that was said previously. There was a request from the applicant and their attorney that was sent to the city attorney's office earlier today to hold the matter based on the travel conditions. That was communicated to Alderman Croatt, who had no issue with it. So, I bring that just for clarity of information so everybody's on the same page about that. He had indicated he wanted to be present for that. It was communicated to them, and it was communicated that I would share that with the committee here today.

**Zak Buruin (Assistant City Attorney) 04:59**

To address the question directly, there is a memorandum from Lieutenant Goodin dated the 27th of January of this year. It's attached to the agenda. It indicates he was able to make contact with the person in the video who was identified as Chad Reichelt—R, E, I, C, H, E, L, T—from CR Structures, and spoke with him about the video. He confirmed he was the person on the video. He's also a landlord and part owner of that building. Indicated he recalled the conversation, and he indicated to Lieutenant Goodin that although it was not explicitly told to him that they were going to be gambling machines, that was his understanding of the situation. He was also aware that they were going to be installed in that the applicant had other similar establishments with gambling machines. He had indicated that he would cooperate with the Safety Licensing Committee if they wanted to hear further from him. So, he is familiar with the video. It was him. He essentially confirmed that he was referencing gambling machines being in that location as his understanding as far as it went.

**Alderman Alex Schultz (District 9) 06:05**

Yeah, go ahead.

**Alderman Denise Fenton (District 6) 06:07**

And I will say that I, we—I talked to Attorney Buruin and Clerk Lynch earlier and asked that we—that video be available to be played here. So, could we do that at this time?

**Clerk Kami Lynch 06:29**

I believe we can pull it up through and use Click Share. So, if the screens can be....I'm not sure how sound will work, but we will try this out here.

[They played a video from NBC 26 that can be viewed here: <https://www.nbc26.com/appleton/liquor-license-application-for-controversial-board-game-bar-sent-back-to-committee>. On the video shared with the news station by salon owner Jamie Pappenfuss of her conversation with Mr. Reichelt which went as follows:

**Jamie Pappenfuss: What is that that's going in there?**

**Chad Reichelt: Uh, it's like a bar? But not really to sell drinks [door slams] gambling machines.]**

**Alderman Denise Fenton (District 6) 09:21**

Thank you. I think the video is enough. I don't know that we need to give the news station full.

**Alderman Alex Schultz (District 9) 09:27**

Thank you.

**Alderman Denise Fenton (District 6) 09:27**

Thank you, Clerk Lynch. We appreciate it.

**Alderman Alex Schultz (District 9) 09:34**

Sure you can—

**Alderman Denise Fenton (District 6) 09:34**

Thank you, Chair.

**Alderman Alex Schultz (District 9) 09:35**

—take the floor [...] you want it.

**Alderson Denise Fenton (District 6) 09:38**

Couple of things, in terms of, as the Chair noted, we've been at this since October, including a change in business plan, a lecture from the applicant's attorney, and I appreciate that the weather is bad. I didn't enjoy my one mile drive, but I don't think that the applicant or his attorney can say another thing to me that is going to give me any more information that I would need to make my decision here. I—with apologies to Chair Croatt, I think we can move on, and we don't need to go out another several weeks to make the decision.

**Alderson Denise Fenton (District 6) 10:28**

As the attorney's office has told us, we have wide latitude in granting these licenses, and our latitude in granting a license is really far greater than in revoking a license, and so I think that we should do our due diligence before we grant a license. And I will be honest with the chair and my colleagues on the committee, I have no confidence that the applicant is telling us the truth about his intentions. These machines are against our city code, and I, the—notwithstanding the fact that we have residential units above bars in alts—other places in the city, they've either been at the same time or later. This is a residential building that we're in. It's populated by businesses that are really not compatible with what I call a gambling establishment. We've all seen on our own, notwithstanding that I've been told I wasn't allowed to do my own research, that the bar that he used as an example advertises the amount of their gambling payouts, owned by a relative. He—the applicant said he wanted to have a board game establishment like the Boardroom in West Bend. So, I've heard everything that I need to hear, and I don't think we need this gentleman operating this business in our town. Thank you.

**Alderson Alex Schultz (District 9) 12:09**

Thank you, Alder Fenton. I'm gonna keep it at committee. Anybody else want to chime in here before we throw it out to other alders in attendance? Alder Siebers.

**Alderson William Siebers (District 1) 12:19**

I agree with everything Alderson Fenton says; however, I see—

**Alderson Alex Schultz (District 9) 12:25**

Thanks, Bill.

**Alderson William Siebers (District 1) 12:26**

I don't see anything that would harm it if we held this until the next meeting.

**Alderson Alex Schultz (District 9) 12:34**

Alder Doran, do you have an opinion on whether we should hold this?

**Alderson Denise Fenton (District 6) 12:40**

Point of order. We don't have a motion to hold on the floor.

**Alderson Alex Schultz (District 9) 12:43**

My apologies. We have a motion to deny. So, let's speak to that motion.

**Alderson Denise Fenton (District 6) 12:46**

Yeah.

**Alderson Alex Schultz (District 9) 12:47**

Thank you.

**Aldersperson Denise Fenton (District 6) 12:47**

I mean, if we want to go that, we can ask the attorney how we could proceed. But what's on the floor is a motion to deny.

**Aldersperson Chad Doran (District 15) 12:53**

I don't have anything to add at the moment. I guess if other—our other colleagues here wanted to speak to it. Just thinking about a few different things.

**Aldersperson Alex Schultz (District 9) 12:54**

I'm going to throw it out to our other colleagues in attendance. Alder Hartzheim, do you want to?

**Aldersperson Sheri Hartzheim (District 13) 13:12**

Thank you, Chair. Up to this point, I've been—as a libertarian, I've been the defender of all applicants for licenses and trusting and believing that they're going to follow all the rules and etc., and really, while skeptical, personally felt as though it's okay for a business to choose to change their plan midway. And so, what the this applicant has been doing up to this point was very much a "Okay, I'll give you the benefit of that doubt." But in the follow up memo that we received from Lieutenant Goodin, the person who was who was interviewed, who was shown on that short video clip, on that closed caption—or not closed cap—but the security footage is a part owner of this building and a contractor. There's no reason for him to make up a story that he doesn't truly believe is what is to be expected.

**Aldersperson Sheri Hartzheim (District 13) 14:23**

So again, up to this point, I've been very understanding and wanting to say, we as a city should be very open to granting a license because be a business and do what you what you want to do, provided you stay within the demerit point system, and don't, you know, defy all those rules, but this gives much more solid evidence to me to say I can't—the benefit of the doubt is now beyond me a little bit, and I think this actually potentially warrants a denial. Thank you.

**Aldersperson Alex Schultz (District 9) 14:59**

Uh, Alder Smith.

**Aldersperson Martyn Smith (District 4) 15:08**

I'd like to go along with the opinion of Alder Hartzheim as well that thanks to the memo that we have from Attorney Buruin, we do have the power to—we don't have to prove intent, but we can have the preponderance of evidence, "more than a mere scintilla". We can put together a narrative of what's happening. And I don't feel comfortable with the testimony of the person on video, with the past attempts to open gambling establishments. You know, I think we have plenty of evidence to say this is not going in the right direction, and I would like to not approve this. And I also think it's unfair to the Appleton Police Department to put it—to okay a an establishment which would require constant checking to make sure that the business plan is going forward. When we when we okay a business plan, we should have in our in our self a strong confidence in the direction it's going, and not go into it thinking, well, we're going to have to check up on this on a regular basis. I don't think that's something that we should do, that we should ask of the police department. So, thank you.

**Aldersperson Alex Schultz (District 9) 16:31**

Alder Firkus, you want to?

**Alderson Brad Firkus (District 3) 16:33**

Sure. Thank you, chair. I have to believe at this point you've all seen enough and heard enough to make a decision. I can understand wanting to have the applicant here to give them one last chance, but at every given opportunity up to this point in the last five months, it's hard to say that this applicant has been honest with you, any of us. You've all seen the video that I was presented to five months ago when I made the refer back originally. You've all seen the stories of the applicant's conduct when trying to get a approval from the Village of Grafton. I don't know what else you would want to see or want to hear to say, hey, let's bring this person back in. Let's have their attorney drive all the way up from Milwaukee again. And maybe the weather will be nicer in two weeks; maybe it won't. If they really don't agree with the action this committee takes if this committee goes ahead with this denial, they're free to come here next week, Wednesday for the Common Council meeting. They can talk about this item at public participation. They can make their case. If they've got a really good case and somebody feels this has to come back to committee in two weeks, refer it back then. Otherwise, I don't know what else you want to see, other than maybe to give the applicant another opportunity to be less than honest with you. Thank you.

**Alderson Alex Schultz (District 9) 17:54**

Thank you. Alder Wolff first and then Alder Hartzheim.

**Alderson Nate Wolff (District 12) 17:58**

Thank you, Chair. As I've been watching this unfold, I do think, with all of the evidence before you, I do think that we should take a vote—or you should take a vote on this tonight, um, at committee and allow Council to make a decision. I think there's been a remarkable amount of evidence and dedication to this to get a good, solid answer on what we're dealing with. So, I think that we should vote on that tonight. Thank you.

**Alderson Alex Schultz (District 9) 18:32**

Thank you. Go ahead.

**Alderson Denise Fenton (District 6) 18:35**

Thank you, Chair Schultz.

**Alderson Alex Schultz (District 9) 18:36**

One more.

**Alderson Denise Fenton (District 6) 18:39**

I just wanted to make the point, I think other people have mentioned it. Express my gratitude to the police department and to the attorney's office and Attorney Buruin in particular, who have taken a lot of extra time, made extra trips to visit the location, answered questions, taken meetings with us, just to make sure that we were very clear on what had happened and what our responsibilities were. And appreciate it.

**Alderson Alex Schultz (District 9) 19:13**

Thank you. Alder Siebers.

**Alderson William Siebers (District 1) 19:15**

Chair, would it be appropriate for me to make a motion to hold for two weeks?

**Alderson Alex Schultz (District 9) 19:22**

You can make that motion. I'd like to make a couple comments before that.

**Alderson William Siebers (District 1)** 19:26

May I make that motion? Just...

**Alderson Alex Schultz (District 9)** 19:29

You can make the motion. Is there a second for the motion to hold?

**Zak Buruin (Assistant City Attorney)** 19:32

I think there needs to be a vote on the motion that's—

**Alderson Alex Schultz (District 9)** 19:33

Oh, I'm sorry, there is a standing motion.

**Alderson Denise Fenton (District 6)** 19:35

Yeah, there's a motion.

**Alderson Alex Schultz (District 9)** 19:36

We'd have to dismiss that motion first, which would mean a—

**Alderson William Siebers (District 1)** 19:40

Okay.

**Alderson Alex Schultz (District 9)** 19:41

—pulling. So, the motion on the floor is to deny. I'd like to make a couple comments, but we can—we can certainly....

**Alderson Denise Fenton (District 6)** 19:49

I'm not willing to withdraw my motion.

**Alderson Alex Schultz (District 9)** 19:51

Who seconded that?

**Alderson Chad Doran (District 15)** 19:53

I did.

**Alderson Alex Schultz (District 9)** 19:54

Chad second? Okay. So that the motion on the floor stands, uh, a motion to deny. We're going to continue discussion. I mean, I guess at this point I can chime in. While I'd like to defer to our chair who's not able to be this evening in his desire to be here for this vote, I understand why he would want to be here. I do look at sort of what's ordinary and what is extraordinary. The legislative history of this particular license application is pretty extraordinary that we've been at this for five months. That, in and of itself, suggests that, number one, this committee isn't comfortable with what's been presented, that we are not—we're not comfortable with what has been presented by the business or his attorney.

**Alderson Alex Schultz (District 9)** 20:45

I think the other extraordinary thing is, when this was first brought to this committee, the applicant appeared with attorney who specializes in gambling law, which I guess to me, is something of a red flag. Why would you come before this committee if this was a typical application for a liquor license? That was sort of a starting point for me trying to figure out where to go, and I—I, like many of my committee members and council members,

like to defer to and give the opportunity for businesses, give them the benefit of the doubt. And we know that we have policies and practices in place where, if they violate the law or conduct business not according to what they said they were set out to do, that we can assess demerit points and pull that license. But at the same time, the initial granting of the license is, much easier to manage than trying to pull it once that license has been granted to a licensee. So, I'm inclined to ask for this motion, a vote on it and dismiss this this evening, regardless of you know the fact that the applicant and his attorney weren't able to make it this evening. I think I agree with many of my colleagues that we've heard everything we've needed to hear, and I don't think all of us are still comfortable, regardless of whether it was a revised business plan and assurances that there would be no gambling machines.

**Alderman Alex Schultz (District 9) 22:15**

We have a lot of history. Typically, some comes before this committee for a new license, they don't have the history of being shot down in other communities near us for something similar, and there are—nor do they come before us and say, I've got a tie with another business that promotes gambling, you know, three counties away, and that's their business model. So as much as I'd like to give deference to the applicant and give them the benefit of the doubt as I've been trying to do here through five months of this process, I think I'm inclined to vote in favor of denial as well, rather than hold this, because I feel like we're going to—as many have said, we're going to be in the same situation if we hold this for two weeks or not. So that's where I stand. Anybody else want to comment? Alder Siebers.

**Alderman William Siebers (District 1) 23:06**

In regards to my vote, I just want to make sure that it does not imply that I'm necessarily in favor of the license. My no vote would imply that I'm asking that it'd be held for two weeks. So, I'm not implying that I'm in favor of the license.

**Alderman Alex Schultz (District 9) 23:25**

Understood. And has been said a week from now, this will go to council, and if that applicant and his attorney want to appear there and make another case, there is that opportunity. So. Alder Doran.

**Alderman Chad Doran (District 15) 23:41**

Thank you. I just two things, I guess. First of all, just wanted to ask if Chief Olson had anything that she wanted to add based on the new evidence that we have. Okay, okay.

**Police Chief Polly Olson 23:58**

Thank you for asking. But in addition to the memo that was provided by Lieutenant Goodin, I think he clearly outlined, you know, the investigation in terms of what he found when he went back and contacted that individual in the video. So, I don't have anything additional.

**Alderman Alex Schultz (District 9) 24:14**

Thank you, Chief.

**Alderman Chad Doran (District 15) 24:15**

Thank you. My other, I guess, question maybe for the attorney's office is, I feel like kind of the discussion here has gotten away from what we're actually dealing with, which is the alcohol license. We can deny the alcohol license, but that doesn't necessarily prevent the business owner from opening an establishment and still installing gambling machines anyway. Correct?

**Zak Buruin (Assistant City Attorney) 24:41**

That would not stop him from doing so. What would stop him is the fact that the gambling machines, regardless of anything we do, are illegal under city code and state statute.

**Alderson Chad Doran (District 15) 24:50**

Right. And I just want to make the point, I agree, like, I think we have—the evidence we have is seems pretty clear, um, what I think the intent is, and that he hasn't been forthcoming with this committee. But I'm just making the point that we can deny the alcohol license here, which I think is the right step, but it doesn't necessarily prevent the issue that everyone seems to have the problem with, so that might be an issue for another day, for the city to deal with.

**Alderson Alex Schultz (District 9) 25:22**

Thank you, Alder Doran. I do appreciate that sharing that view. It does—there's a separation there between the two, and appreciate that. Alder Fenton.

**Alderson Denise Fenton (District 6) 25:30**

Just because it's been five months—thank you Chair—just a couple of reminders. We already in this committee we held the item once because the applicant wasn't able to be here. At our last meeting, we took the fairly extraordinary measure of allowing his attorney to speak via telephone, and so I do not think that—I understand that due process is not required in this. I talked about our latitude. But I do believe that we have given this applicant every opportunity to make his case, and I appreciate my colleagues wanting to defer to the wishes of the chair and to the—but as we've all made pretty clear, notwithstanding the fact that we would be doing committee business in Council, the applicant has every opportunity to appear next week, and everybody will be—and we could either refer it back, if the full Council, but I would like us to take a vote on this tonight.

**Zak Buruin (Assistant City Attorney) 26:45**

Before we do that, I just—

**Alderson Alex Schultz (District 9) 26:48**

Attorney Buruin.

**Zak Buruin (Assistant City Attorney) 26:49**

Director one. I just want to briefly comment on there was a comment about due process, and as an attorney, that makes me very nervous.

**Alderson Denise Fenton (District 6) 27:01**

I should have backed off on that.

**Zak Buruin (Assistant City Attorney) 27:03**

Due process is appropriate. We are providing that process here. So, this is the due process. I don't want it to be said that due process is not required. It is, but we are engaging in that process right now, with him having the opportunity to participate. And that is provided for, and it continues to be provided for, as has been mentioned by a couple of different individuals, through the ability to appear at the Common Council, should this proceed there next week. So, I just wanted to clarify that, just to ease some minds.

**Alderson Denise Fenton (District 6) 27:35**

Thank you.



**Alderson Alex Schultz (District 9) 27:36**

Thank you. Alder Doran, would you entertain a question here? What—I mean, given your assessment of the predicament here where we're trying to take a vote on a liquor license for an establishment that that may still open, may still have games and gambling machines, do you see any other avenue of approach to this license where you would consider it appropriate, or does it essentially just want to make the point of separation between those two things?

**Alderson Chad Doran (District 15) 28:08**

I guess I'm in favor of denying the license. I don't see—but I think they're separate issues. I think the gambling issue that that many of our colleagues are concerned about, I don't think is solved by denying the liquor license. I still think that's the right thing to do based on, I guess, what you know, it—in my mind, it at least could prevent or make it more difficult to have an establishment that—you know, gambling and alcohol are pretty synonymous, I guess. So, I think it just makes it more challenging, you know, to operate a business like that by denying the license.

**Alderson Alex Schultz (District 9) 28:45**

Okay, I appreciate that. That's kind of what I want to get to. That there's, I would I would postulate there there's a connection between the two. And certainly, if the business decides to open without a liquor license, and they end up doing what we all fear they're going to do, and have gambling machines, then we have other avenues of to approach that. If they do it violate the laws and state statutes.

**Alderson Alex Schultz (District 9) 29:12**

So, if there's no other discussion, I think I'd entertain a vote on the motion to deny. Hearing none, all those in favor of denial say aye. Aye. Opposed?

**Alderson William Siebers (District 1) 29:26**

Nay.

**Alderson Alex Schultz (District 9) 29:26**

Motion carries three one. It will go to council with a motion to deny.