

1 CITY OF APPLETON
2 SAFETY AND LICENSING COMMITTEE

3 IN RE: THE NON-RENEWAL HEARING FOR
4 ANDREW L. CARR

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9 Non-renewal hearing taken before me at
10 Appleton City Hall, Appleton, Outagamie County,
11 Wisconsin, on the 15th day of August, 2013, A.D.
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APPEARANCES

MR. KOLE OSWALD, Chairman
MR. MICHAEL SMITH, Vice Chairman
MS. SARAH GARB
MS. STACEY DOUCETTE, Assistant City Attorney
CHIEF PETE HELEIN
LIEUTENANT STEVE ELLIOTT
SERGEANT CHAD PROBST
ANDREW L. CARR

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INDEX TO EXHIBITS

EXHIBIT NUMBER PAGE MARKED

- A - Division of Motor Vehicles record
- B - Certified Court Disposition
- C - Traffic court record
- D - Judgment of Conviction
- E - WCCA record

A - Note from Kathy Ward 14

Original exhibits placed with original transcript.

***Exhibit A retained by Ms. Doucette.**

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(Exhibits A, B, C, D, and E were marked prior to the hearing.)

(The hearing began at 5:02 p.m. on August 15th, 2013.)

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MR. OSWALD: I'm going to call the meeting of -- the special meeting of the Safety and Licensing Committee to order. Let the record reflect that Alderpersons Smith, Oswald, and Garb are present. Alderperson Plank is excused, and former Alderperson Matill's (phonetic spelling) spot on the Committee has not yet been filled. And I'd like to begin by having everyone at the table introduce themselves and state their role. So beginning with the man to my left.

MR. SMITH: I am Alderperson Smith, I represent District 10, and I'm vice chair of the Safety and Licensing Committee.

MR. OSWALD: I'm Alderperson Cole Oswald, I represent District 8, and I'm the chairman of the Safety and Licensing Committee.

MS. DOUCETTE: Attorney Stacy

1 Doucette. I'm going to be the attorney for
2 the Committee, advising them today.

3 MS. GARB: I'm Alderperson Sarah
4 Garb. I represent District 5.

5 MR. OSWALD: And I'm going to have
6 the police introduce themselves as well.

7 CHIEF HELEIN: Chief Pete Helein of
8 the Appleton Police Department.

9 LT. ELLIOTT: Lieutenant Steve
10 Elliott with the Appleton Police Department.
11 I serve as a liaison for the Department of
12 the Safety and Licensing Committee. My
13 duties are to make sure that licensed
14 premises comply with ordinance and the law,
15 and also I conduct background checks on all
16 our licensees.

17 SGT. PROBST: I'm sorry. I'm Chad
18 Probst with the police department. I act as
19 co-liaison between the police department and
20 the Committee.

21 MR. OSWALD: Thank you. At this time
22 I'd like to advise everyone present that we
23 do have a court reporter transcribing our
24 proceedings tonight. And first I'd like to
25 call the hearing of -- the nonrenewal hearing

1 for the operator's license of Andrew L. Carr
2 at 2205 Cloudview Court. And we will first
3 have -- you can have a seat, Andrew. The --
4 we will first have the police department
5 present its case, and then after that -- or
6 I'm sorry. The police department will make
7 an opening statement and then the -- then
8 Andrew, you'll have an opportunity to give
9 an opening statement as well. So Lieutenant
10 Elliott?

11 LT. ELLIOTT: Would the court reporter
12 like to swear me in?

13 MS. DOUCETTE: Well, this is your
14 opening statement, so it's technically not
15 testimony.

16 LT. ELLIOTT: Okay.

17 MS. DOUCETTE: It's just an overview
18 of what you're going to present. You'll be
19 sworn in when you present your case.

20 LT. ELLIOTT: I'll wait for your cue
21 then. Our opening statement is this: The
22 Appleton Police Department will ask the
23 Committee to recommend to the Common Council
24 that it not renew the operator's license
25 issued to Andrew Carr. We ask for such a

1 recommendation, as Mr. Carr was recently
2 convicted of a second offense of operating
3 while intoxicated violation, and he also has
4 prior OWI and drug convictions from 2009 and
5 2005 respectively.

6 MR. OSWALD: Thank you. Andrew, do
7 you have any opening statement you'd like to
8 issue? At this time this is not testimony,
9 it's kind of an opportunity to introduce
10 yourself and give something generally
11 similar to what you heard.

12 MR. CARR: Okay. My name is Andrew
13 Carr. I am a student at Oshkosh. I'm
14 graduating this December. I've been working
15 behind a bar for eight years. I have never
16 had any other offenses behind the bar,
17 serving under age or anything like that.
18 And I entered myself into a treatment
19 program, which I successfully completed, and
20 have a letter from the director of the
21 program which I'll be sharing with you
22 today.

23 MR. OSWALD: Thank you. We will have
24 the police department present their case
25 first. So at this time I ask that the

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Lieutenant Elliott be sworn in by the court reporter.

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Said LIEUTENANT ELLIOTT, having been first duly sworn by me to testify the truth, the whole truth, and nothing but the truth relative to said cause, testified as follows:

LT. ELLIOTT: I do. You'll see before you that I presented you with a number of exhibits regarding this case. We'll be going over each one of those shortly, but first I'd like to make a point of clarification on the Complaint. If you look at the bottom portion of the Complaint where it indicates the date of conviction, there's a clerical error that occurred while we were collecting these from the Clerk of Courts. The conviction for the first OWI is actually July 30th, 2009 and not June 30th, 2009. And the possession of marijuana and paraphernalia is actually January 26th of 2005 and not January 22nd. Minor changes to the dates there. Otherwise the Complaint itself is complete.

1 I'd like to turn your attention first
2 to Exhibit A. And that would be the
3 certified record from the Department of
4 Motor Vehicles. If we look at Page 3 of 6,
5 you'll see highlighted in the upper part of
6 that page Mr. Carr's most recent OWI
7 violation. DMV indicates the violation
8 occurred on July 28th, 2012, and there was a
9 conviction December 12th of 2012. We then
10 turn to Page 5 of 6. You will observe
11 highlighted there at the top of the page his
12 first offense, which was violated on
13 June 30th, 2009 with a conviction on July 30
14 of 2009.

15 And then turn your attention to
16 Exhibit B. This is from the New Berlin
17 Municipal Court. This indicates that
18 Mr. Carr was cited for possession of THC.
19 Date of violation is July 30th, 2004. He
20 was convicted of that violation on
21 January 26th of 2005.

22 We'll then have a look at Exhibit C.
23 Exhibit C is a conviction record from
24 Milwaukee County Circuit Court. This would
25 be in reference to Mr. Carr's first OWI.

1 You can see the date committed there,
2 June 30th, 2009. And then near the bottom
3 of the document, while it does not say
4 conviction, that would indicate the
5 conviction being a dispositional order on
6 July 30th, 2009.

7 I'll then move to Exhibit D.
8 Exhibit D is a document supplied us by the
9 Winnebago County District Attorney's office.
10 This indicates Mr. Carr's second OWI was
11 committed on July 28th, 2012, with that
12 conviction being December 12th of 2012.
13 Information regarding his most recent OWI
14 would be that an Officer Michael Weinberger
15 (phonetic spelling), while patrolling in the
16 Town of Menasha, observed a vehicle
17 exceeding the speed limit on West American
18 Drive. This was at about 2:52 a.m. on
19 July 28th, 2012. Officer Weinberger pulled
20 that vehicle over and he found the driver to
21 be Andrew Carr. He observed that Andrew
22 Carr appeared intoxicated and asked him
23 about that level of intoxication. Mr. Carr
24 indicated that he had just gotten off of
25 work and was heading home, and he said he

1 had been drinking at work. That would be
2 The Melting Pot here in Appleton, and that
3 would be Mr. Carr's current place of work,
4 according to his application.

5 Subsequent to that questioning, he
6 failed the field sobriety tests that were
7 provided, and he showed an alcohol
8 concentration of .102 grams. The legal
9 limit in Wisconsin is .08. On Mr. Carr's
10 application for renewal, he lists the OWI
11 from 2012 and also the previous OWI, so it
12 does list both his OWIs. He does not list
13 the possession of THC charge. That's all.

14 MR. OSWALD: Thank you, Lieutenant
15 Elliott. At this time, Mr. Carr, you'd be
16 allowed to question Lieutenant Elliott about
17 anything he presented.

18 MR. CARR: I don't have any questions
19 for the Lieutenant.

20 MR. OSWALD: Thank you. Then does
21 the Committee have any questions for
22 Lieutenant Elliott? Alderperson Smith.

23 MR. SMITH: Thank you. Lieutenant
24 Elliott, you mentioned -- with
25 reapplication, he didn't mention the 2005

1 THC conviction. Do you know, being that
2 this is a renewal, did he have it on his
3 previous...

4 LT. ELLIOTT: If the documents that I
5 would have received previously were correct,
6 that would have been one of the items that
7 would have been listed, but I don't have the
8 previous documents that we would have
9 reviewed back then, but it probably was
10 there previously, for his original, it
11 probably was there, yes.

12 MR. SMITH: All right. Thank you.

13 MR. OSWALD: Alderperson Garb?

14 MS. GARB: It says here a habitual
15 offender warning letter then went out? Can
16 you explain the standard for that and what
17 that means?

18 LT. ELLIOTT: I cannot explain the
19 standard for that. I'm sorry.

20 MS. GARB: Okay. I'll ask the
21 attorney to explain it to me.

22 MS. DOUCETTE: That actually means
23 that on his driving record that he's a
24 habitual traffic offender. So if you have
25 so many violations within a certain amount

1 of time, you'll get a habitual traffic
2 warning letter from the DMV. So that
3 doesn't necessarily -- the OWI probably is
4 related to that, but it's bigger than that.
5 I think it's 12 convictions within a certain
6 timeframe that you're considered a habitual
7 traffic offender.

8 MS. GARB: So it's not necessarily a
9 criminal --

10 MS. DOUCETTE: No, it's not.

11 MS. GARB: Okay. Thank you.

12 MR. OSWALD: My question for the
13 Lieutenant would be, does the -- did the
14 police department know how long Mr. Carr has
15 held an operator's license in the City of
16 Appleton?

17 LT. ELLIOTT: I do. He has
18 consistently held a license since 2010.

19 MR. OSWALD: Thank you. And,
20 Lieutenant, are you aware of whether or not
21 Mr. Carr is on probation or parole?

22 LT. ELLIOTT: He is not.

23 MR. OSWALD: He is not. Thank you.
24 Of the exhibits presented to the Committee --
25 you received copies, Mr. Carr -- do you

1 object to any of these exhibits?

2 MR. CARR: No, sir.

3 MR. OSWALD: Okay. At this time
4 then, is there any further questions from
5 the Committee for the Police Department?
6 Okay. At this time, Mr. Carr, you can come
7 to the podium and present your evidence --
8 present your case.

9 - - - - -

10 Said ANDREW L. CARR, having been
11 first duly sworn by me to testify the truth,
12 the whole truth, and nothing but the truth
13 relative to said cause, testified as
14 follows:

15 MR. CARR: I do. I do believe that I
16 did put the THC on my first application. I
17 didn't put it on the second one for renewal
18 because I put down the pressing matter that
19 I knew at this point was an issue, it was on
20 the second OWI. The incident in question
21 was a terrible mistake, and after that, I
22 enrolled in an alcohol treatment program at
23 St. Elizabeth's Hospital. I have a letter
24 from the director of the program right here.
25 I successfully completed the program, and I

1 took it seriously, and it really -- it was
2 the first step in me making some very, very
3 significant changes in my life. Since I've
4 been in the program, I have not had any
5 alcohol, I no longer drink, I quit smoking
6 cigarettes, I exercise, and have a much
7 better diet. Really, I'm just trying to
8 take care of myself. I'm a full-time
9 student, which is why I try to work at night
10 so I can go to class during the day. I'm
11 looking forward to returning to Oshkosh,
12 starting the beginning of September.

13 MR. OSWALD: Would you like me to --
14 would you like to admit that as evidence?

15 MR. CARR: Yeah. It's just a note
16 saying that I have minimal relapse potential
17 at this time, and my prognosis is good from
18 Kathy Ward (phonetic spelling) LTC, CS60.

19 MR. OSWALD: All right.

20 (Brief discussion off the record.)

21 (Exhibit A marked.)

22 MR. CARR: Yeah, I was going to say,
23 I don't really have any negative behavior.
24 All I was going to say is that my record of
25 serving behind a bar, I've been licensed in

1 Appleton, Oshkosh, Town of Menasha,
2 Milwaukee, Brookfield. I have never had a
3 single incident at any bar that I've worked
4 at. I've never had any incidents with
5 underagers, I never had any incidents of
6 overserving patrons, fights, anything of --
7 anything of that nature at any bar I've
8 worked at. I take my job very seriously.
9 And I can assure you that nothing like this
10 will ever happen again. I no longer drink,
11 and I'm very happy with the changes that
12 I've made in my life one way or another.
13 It's honestly fantastic. And I don't feel
14 like I would have gone down this road, if I
15 didn't make the stupid mistakes that I've
16 made. I ask that you take that into
17 consideration, my conviction and my
18 seriousness about everything that's happened
19 and everything that's going to happen.

20 MR. OSWALD: Thank you.

21 MR. CARR: Thank you.

22 MR. OSWALD: Any questions from the
23 Committee for Mr. Carr? Alderperson Garb.

24 MS. GARB: When did you enter
25 treatment and when did you finish it?

1 MR. CARR: I entered treatment at the
2 end of February, I finished the middle of
3 April, and I've been in contact with Kathy
4 Ward since then.

5 MS. GARB: Okay.

6 MR. OSWALD: Alderperson Smith?

7 MR. SMITH: Thank you. Mr. Carr, the
8 program that you entered, that was part of
9 your plea agreement from the court, I take
10 it?

11 MR. CARR: Yes. Well, it was -- it
12 was required that I enter a program. I
13 selected that one, and -- essentially I
14 really took it to heart. It meant a lot to
15 me. I didn't necessarily think it was going
16 to when I first entered the program, and as
17 it started, I learned a lot more about
18 healthy living, about really the stupid
19 situations that I was putting myself in.
20 Alcohol isn't the problem. It was me that
21 was the problem, and it was my use of
22 alcohol, and I've realized that it's fine
23 for some people, but not for me. I just
24 don't drink anymore. It's just -- it never
25 caused me anything but problems.

1 MR. SMITH: Now, with that second,
2 Lieutenant Elliott read that when you were
3 picked up in the Town of Menasha, you said
4 you were leaving work --

5 MR. CARR: Yes, sir.

6 MR. SMITH: -- and were you drinking
7 at Supples' --

8 MR. CARR: Off the clock, sir, after
9 work. The employee's are allowed to have a
10 beer or two after work, and I --

11 MR. SMITH: Okay.

12 MR. CARR: -- had three beers after I
13 got done at 1:30, between 1:30 and about
14 2:30 before I left. Off the clock.

15 MR. SMITH: The Supples still own The
16 Melting Pot?

17 MR. CARR: Yes, sir.

18 MR. SMITH: Your position there is a
19 bartender, I take it, or just -- you need
20 the license to --

21 MR. CARR: I'm the head bartender.

22 MR. SMITH: You're the head
23 bartender.

24 MR. CARR: I'm in charge of the bar.

25 MR. SMITH: All right. So the

1 responsibility you have as the head
2 bartender is to watch the consumption of
3 patrons, but you slipped on your own self.

4 MR. CARR: I did. I did.

5 MR. SMITH: Now you're asking this
6 Committee to look beyond that?

7 MR. CARR: Yes, sir, I am. I made a
8 mistake. I made a terrible mistake. But I
9 wouldn't -- I wouldn't have allowed someone
10 else to do that. But I thought I knew
11 better. I thought I was smarter.

12 MR. SMITH: And in my looking at the
13 documents, you're still -- you don't have a
14 license yet, is that still revoked, a
15 driving license?

16 MR. CARR: No, sir. I've got my
17 occupation license, which I've maintained.

18 MR. SMITH: With an interlocking?

19 MR. CARR: Yes, sir.

20 MR. OSWALD: Thank you. If I could
21 ask, Mr. Carr, in 2009 for your first OWI
22 conviction, I see that the Milwaukee County
23 Courts ordered an alcohol assessment. Did
24 you have a similar opportunity at that time
25 to go through what you did with

1 St. Elizabeth's?

2 MR. CARR: The program that I was
3 enrolled in was very different. It was more
4 of a class, an educational class, instead of
5 really addressing my own personal issues
6 with that. They just kind of went over just
7 that alcohol, it could cause these problems.
8 It really didn't have the same impact for me
9 that this program did. It was a lot more
10 serious, it was lot more involved. The
11 program that I was in at St. Elizabeth's I
12 was attending three times a week, three
13 hours a day, so nine hours a week, for six
14 weeks, and then there is an aftercare
15 program that I voluntarily entered that was
16 not required by the either the program or
17 the court, and -- it was just a lot more
18 intense and small individual groups, where I
19 really got to talk to someone and examine
20 how this not just affects people but
21 affected me personally. I saw the changes
22 and the impact on my life and that really --
23 it really hit home.

24 MR. OSWALD: Thank you. Further
25 questions from the Committee? Alderperson

1 Garb.

2 MS. GARB: Maybe this is obvious, but
3 will you have a job at all at this
4 restaurant if you are not renewed?

5 MR. CARR: I'm not sure. It is a big
6 part of my job, having my license.

7 MS. GARB: Right. Okay.

8 MR. OSWALD: Anything further from
9 the Committee? At this time the police
10 department is just looking over the exhibit
11 that you submitted. And I would ask if
12 Lieutenant Elliott has any objections to the
13 admission of that exhibit.

14 LT. ELLIOTT: I have none.

15 MR. OSWALD: Thank you. Okay. There
16 being no objection from the police
17 department, at this time the police
18 department would have the opportunity to
19 rebut the arguments made by Mr. Carr. And
20 before that, though, I'd ask if the police
21 department has any questions for Mr. Carr.

22 LT. ELLIOTT: I do. Mr. Carr, have
23 you received a copy of the Summons and
24 Complaint regarding this case?

25 MR. CARR: I believe I have it right

1 here, sir.

2 LT. ELLIOTT: Thank you. Were you
3 cited for possession of drug paraphernalia
4 last November in Washington County?

5 MR. CARR: I was, sir. I spoke to
6 the DA about that. It was something that I
7 did not realize. I have not smoked
8 marijuana for quite some time.

9 LT. ELLIOTT: Were you convicted of
10 that in February of this year?

11 MR. CARR: I pled no contest to that,
12 because the fact of the matter is, it
13 involved somebody that I allowed to be in my
14 car. That's my own fault for giving that
15 person a ride to work.

16 LT. ELLIOTT: Okay. With that
17 affirmation, I have an exhibit that I'd like
18 to enter. This would be a CCAP, which is
19 the Wisconsin Court Access record, of that
20 conviction and that arrest.

21 MR. OSWALD: Alderperson Garb.

22 MS. GARB: Do you know anything more
23 about the circumstances of this?

24 LT. ELLIOTT: This only came to light
25 recently, because the original criminal

1 history that we received did not include
2 this, but recently rechecking his criminal
3 history prior to this case, or I should say
4 this hearing, this came to light. So
5 because we don't have a notice of conviction
6 from the Clerk of Courts from Washington
7 County, I addressed it with Mr. Carr and he
8 did admit to it.

9 MS. GARB: Okay. Thank you.

10 MR. OSWALD: Thank you, Alderperson
11 Garb. I would ask why only at this moment
12 is this Committee learning of this. How
13 recently is recently for you, Lieutenant?

14 LT. ELLIOTT: When I collect the
15 criminal histories for each of the
16 individuals that we're looking at
17 non-renewing, I get a packet of information
18 that includes CCAP, it includes driving
19 record, their personal criminal history, and
20 99.9 percent of those are complete. In
21 checking to make sure that these documents
22 reflected everything correctly, just within
23 the last 24 hours this particular offense
24 was located on CCAP. So it was always
25 there, it just was not something that was

1 turned over to me originally.

2 MR. OSWALD: And when you say you
3 consulted with Mr. Carr, are you referring
4 to what we just heard now or prior to this
5 meeting?

6 LT. ELLIOTT: What we just heard now.

7 MR. OSWALD: Okay. Thank you.

8 Alderperson Garb.

9 MS. GARB: Can I ask you -- I'd like
10 to ask you about this.

11 MR. CARR: Yep.

12 MS. GARB: In terms of what
13 paraphernalia was found in your car.

14 MR. CARR: Someone -- an acquaintance
15 of mine left a marijuana pipe in my car.

16 MS. GARB: Okay. Thank you.

17 MR. OSWALD: I would ask Mr. Carr, do
18 you object to the admission of this exhibit?

19 MR. CARR: No. It -- like -- as I
20 said, it was my responsibility for who I
21 allowed to be in my car.

22 MR. OSWALD: Thank you. Is there
23 anything further from the Appleton Police?

24 LT. ELLIOTT: I have nothing further.

25 MR. OSWALD: Mr. Carr, do you have

1 any questions for the Appleton Police?

2 MR. CARR: No, I do not.

3 MR. OSWALD: Thank you. Alderperson
4 Smith.

5 MR. SMITH: Thank you. I don't know
6 how we do this, but is there a way the court
7 reporter can go back to Mr. Carr's comments
8 about how his life had turned around. Can
9 you read that out to us?

10 (Partial read back of requested
11 portion.)

12 MR. SMITH: The reason I ask is
13 looking at this admission dated, with the
14 timeframe of your more recent OWI, the
15 treatment programs, trying to turn your life
16 around, I would have thought that might have
17 something to do with the type of people you
18 hang out with too.

19 MR. CARR: Yes, sir. This was before
20 I entered the treatment program. It was --
21 and also I never thought that someone would
22 do that to me.

23 MR. SMITH: All right.

24 MR. CARR: But I also would like to
25 clarify, it was a co-worker, not just an

1 acquaintance or someone -- a social contact.
2 It was someone -- I was giving them a ride
3 to work and it got left in my car.

4 MR. SMITH: Also from The Melting
5 Pot?

6 MR. CARR: Yes, sir.

7 MR. SMITH: Thank you. Any further
8 questions from the Committee? At this time
9 then I would ask the police department to
10 present their closing statement.

11 LT. ELLIOTT: We're proud that so
12 many people from the Fox Valley and beyond
13 choose Appleton as a destination to come and
14 have a great time. Our City's reputation
15 for safety, quality of life, and excellence
16 is second to none. This is in great part
17 due to the high standards that our community
18 requires of its employees, its elected
19 official, and its licensees. Appleton's
20 bartenders, in particular, represent many of
21 those licensees who have critical
22 responsibilities; the safety of your
23 patrons, success of their employer's
24 business, and the reputation of the City of
25 Appleton rests upon their shoulders. For a

1 bartender, being personally and
2 professionally responsible is of utmost
3 importance. As you know very well, being
4 the Safety and Licensing Committee, these
5 bartenders or accountable for who they let
6 into these establishments, who gets served,
7 and how much they consume. They're expected
8 to cooperate with the police and to closely
9 follow all state and local laws and
10 ordinances related to the service of alcohol
11 on a licensed premises. The bartender
12 license itself issued by our City should
13 serve as a clear indicator that the person
14 holding it is responsible, is competent, and
15 of excellent reputation.

16 I believe that the evidence brought
17 before you today clearly shows that Mr. Carr
18 does not exhibit the responsibility
19 necessary to function as a bartender, nor to
20 uphold the reputation of excellence that's
21 expected by the community. Getting drunk at
22 his place of work and then choosing to drive
23 through our community shows a clear
24 disregard for the safety of our citizens.
25 Additionally, we need to bring to light that

1 he was recently convicted of possession of
2 drug paraphernalia. That was not listed on
3 his application along with his OWIs. And
4 that's his own admission that he was
5 convicted of it. Now, I don't know the
6 details of the case, and he tells us that it
7 wasn't his, it was his friend's. If I had a
8 dime for every time I heard that through the
9 years... All this in mind, the Appleton
10 Police Department will ask that the
11 Committee recommend to the Common Council
12 that it not renew the operator's license
13 issued to Andrew Carr.

14 MR. OSWALD: Thank you, Lieutenant.
15 At this time then, Mr. Carr, this is your
16 opportunity for a closing statement.

17 MR. CARR: All right. First of all,
18 as far as that, I do understand that, yeah,
19 everybody -- I have clean drug tests from
20 when I was in the treatment program. I do
21 not smoke marijuana. Also, I do admit I did
22 make a terrible mistake that day. I've
23 taken the necessary steps to correct it and
24 to make sure that nothing like this ever
25 occurs again. Aside from this incident, I

1 don't have any real like -- I don't have any
2 disorderly conducts, I don't have any other
3 real offenses of any sort, aside from my
4 other OWIs and stuff and I had the
5 possession in 2004, which I was convicted of
6 in 2005, the year before I went to college.
7 I believe that I am responsible. I'm
8 professionally responsible, and since I've
9 made these major life changes, and, you
10 know, these aren't changes in the last
11 month, these are changes in the last six
12 months. I am a responsible person. I am
13 doing what I need to do to make sure that my
14 life stays on the right track and that I can
15 be the person that I want to be. Finishing
16 school, maintaining my health and avoiding
17 behavior such as drinking and smoking
18 cigarettes, which really do nothing but
19 damage to your own body and to your health,
20 your reputation, and everything. I believe
21 that I am a responsible person. I believe
22 that I do a fantastic job, and that as a
23 bartender, I'm an asset to the City of
24 Appleton.

25 MR. OSWALD: Thank you.

1 MR. CARR: Thank you very much.

2 MR. OSWALD: At this time I'd like to
3 make a motion that, pursuant to State
4 statute 19.85 sub 1 sub A, the Special
5 Safety and Licensing Committee go into
6 closed session to discuss the non-renewal of
7 Andrew Carr's operator's license and then
8 reconvene into open session.

9 MS. GARB: Second.

10 MR. OSWALD: Motion made by
11 Alderperson Oswald and seconded by
12 Alderperson Garb to go into closed session.
13 All those in favor, state by saying aye.
14 Aye.

15 MR. SMITH: Aye.

16 MS. GARB: Aye.

17 (Committee in closed session.)

18 MR. OSWALD: At this time I'd
19 entertain a motion to come out of closed
20 session and rise and report.

21 MR. SMITH: So moved.

22 MS. GARB: Second.

23 MR. OSWALD: Motion by Alderperson
24 Smith and a second by Alderperson Garb. All
25 those in favor, state by saying aye.

1 MR. SMITH: Aye.
2 MS. GARB: Aye.
3 MR. OSWALD: Aye. Vote is three to
4 zero. The Special Safety and Licensing
5 Committee meeting is reconvened. At this
6 time the Safety and Licensing Committee for
7 the City of Appleton does hereby make the
8 following findings of fact and conclusions
9 of law and recommendation to the Common
10 Council in the matter of Andrew L. Carr's
11 non-renewal hearing for a bartender's
12 license. The first finding of fact, number
13 one, the Respondent, Andrew L. Carr, was
14 convicted on December 12th, 2012 of
15 operating while intoxicated, second offense,
16 for an incident which occurred in the Town
17 of Menasha, and was convicted for an
18 incident -- which -- then was convicted of
19 operating while intoxicated, second offense,
20 on July 30th, 2009 for an incident which
21 occurred in Milwaukee County. The second
22 finding of fact, the Respondent, Andrew L.
23 Carr, was also convicted of possession of
24 marijuana on January 26th, 2005 in
25 New Berlin, Wisconsin, and was convicted of

1 possession of drug paraphernalia on
2 February 20th, 2013 in Washington County.
3 At this time I'd entertain a motion on these
4 findings of fact as stated.

5 MS. GARB: Motion to approve.

6 MR. OSWALD: To approve?

7 MR. SMITH: Second.

8 MR. OSWALD: The motion to approve
9 the findings of fact by Alderperson Garb and
10 a second by Alderperson Smith. All those in
11 favor, state by saying aye. Aye.

12 MS. GARB: Aye.

13 MR. SMITH: Aye.

14 MR. OSWALD: Vote is three to zero to
15 approve -- to recommend to the Common
16 Council that those findings of fact be
17 approved. Next we have the conclusions of
18 law. First conclusion of law is that the
19 convictions for operating while intoxicated,
20 first and second offense, are substantially
21 related to the subject matter of the
22 license. The second conclusion of law --
23 the -- I apologize. The convictions for
24 possession of marijuana and possession of
25 drug paraphernalia are not substantially

1 related to the subject matter of the
2 license. At this time I'd entertain a
3 motion on -- we have one more. As a result
4 of the convictions listed in the first
5 finding of fact, the Respondent does not
6 possess the requisite qualifications to hold
7 an operator's license pursuant to the
8 requirements of Wisconsin State statute
9 125.12 sub 2, sub AG, sub 4, and Wisconsin
10 State statute 125.04 sub 5, sub A, sub 1 and
11 B. Now at this time I'd entertain a motion
12 on the conclusions of law as stated.

13 MS. GARB: Motion to approve.

14 MR. SMITH: Second.

15 MR. OSWALD: A motion by Alderperson
16 Garb and a second by Alderperson Smith. All
17 those in favor, state by saying aye. Aye.

18 MS. GARB: Aye.

19 MR. SMITH: Aye.

20 MR. OSWALD: Vote is three to zero.
21 Having finished the conclusions of fact and
22 conclusions of law, I'd now entertain a
23 motion on the approval or denial of the
24 application for renewal of Mr. Carr's
25 operator's license.

1 MS. GARB: Motion to deny.

2 MR. SMITH: Second.

3 MR. OSWALD: Motion to deny from
4 Alderperson Garb and a second from
5 Alderperson Smith. Is there any comment
6 from the Committee? I'll say even though
7 I'm prepared to vote to deny this
8 application, I would say that I find the
9 transformation that you've described very
10 credible. It sounds as if you're very much
11 on the right path and recognize the error of
12 your past ways, and I believe that you're a
13 quality employee at The Melting Pot. The
14 trouble I've had and I have with this
15 license is the recency of that
16 transformation you've described. With more
17 time, I might be voting differently, but
18 given how recently what you described has
19 taken place, I can't support the application
20 tonight.

21 MS. GARB: May I speak?

22 MR. OSWALD: Alderperson Garb.

23 MS. GARB: With that being said, this
24 is for us largely a function of time, you're
25 a very impressive person overall, and were

1 -- I'm confident that you'll do just great.

2 MR. SMITH: And I, too. We had long
3 deliberations, and we wish you the best of
4 luck to stay on the way you're going, keep
5 working out, keep eating healthy, and
6 hopefully in another year or so we'll see
7 you back here and we'll be saying yes, if
8 things go well.

9 MR. OSWALD: Well, we have a motion
10 on the floor to deny the application. All
11 those in favor of denial, state by saying
12 aye.

13 MR. SMITH: Aye.

14 MR. OSWALD: Aye.

15 MS. GARB: Aye.

16 MR. OSWALD: Vote is three to zero.
17 Now, Mr. Carr, this goes only as a
18 recommendation to the full City council. Is
19 it a unanimous recommendation for denial.
20 Next week Wednesday at 7:00 p.m. in these
21 same chambers, full city council will take
22 action on this committee's recommendation,
23 and you're welcome, but it's not required to
24 come, and if you do come, it's a good idea
25 to come at least 15 minutes early, and the

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meeting starts at 7:00. Thank you.

MR. CARR: Yes, sir. Thank you very much for your consideration. Have a wonderful evening.

(Hearing adjourned at 6:16 p.m.)

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STATE OF WISCONSIN)
) ss.
COUNTY OF OUTAGAMIE)

I, Nicole M. Bissonnette, Court Reporter and Notary Public in and for the State of Wisconsin, do hereby certify that the attached and foregoing hearing was taken before me at Appleton City Hall, Appleton, Outagamie County, Wisconsin, on the 15th day of August, 2013 A.D., at 5:02; that said ANDREW L. CARR and LIEUTENANT ELLIOTT were sworn by me to tell the truth, the whole truth, and nothing but the truth relative to said cause.

Dated this 20th day of August, 2013.

HENES & ASSOCIATES
COURT REPORTING SERVICE

Nicole M. Bissonnette

My commission expires September 11, 2016.

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