

1 CITY OF APPLETON  
2 SAFETY AND LICENSING COMMITTEE

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3 IN RE: THE NON-RENEWAL HEARING FOR  
4 DAVID A. GLASER

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8 Non-renewal hearing taken before me at  
9 Appleton City Hall, Appleton, Outagamie County,  
10 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

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INDEX TO EXHIBITS

<u>EXHIBIT NUMBER</u>		<u>PAGE MARKED</u>
A -	Division of Motor Vehicles record	
B -	Judgment of Conviction	
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D -	Affidavit of service	11

\*\*\*Original exhibits A, B, and C placed with original transcript.\*\*\*

\*\*\*Exhibit D retained by Ms. Doucette.\*\*\*

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(Exhibits A, B, and C marked prior to hearing taking place.)

(The hearing began at 7:00 p.m. on August 15th, 2013.)

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MR. OSWALD: I would now call the hearing for the nonrenewal of the operator's license of David A. Glaser, 2424 East Main Street, Kaukauna. Mr. Glaser is not present. I would just make that statement for the record. So I'd like to have Officer Probst give -- maybe go straight to -- actually Lieutenant Elliott go straight to presenting the case after he is sworn in.

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Said LIEUTENANT STEVE 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. I should note that although Mr. Glaser is not present, he did receive a copy of the Summons and Complaint regarding this case on July 25th, and he was served that at the Appleton

1 Police Department. The Appleton Police  
2 Department will ask that the committee  
3 recommend to the Common Council -- I'll  
4 start that again. The Appleton Police  
5 Department will ask the committee to  
6 recommend to the Common Council that it not  
7 renew the operator's license issued to David  
8 Glaser. We ask for such a recommendation,  
9 as Mr. Glaser was recently convicted for a  
10 fourth offense operating while intoxicated  
11 violation. He also has prior OWI  
12 convictions in 2002, 1998, and 1999.

13 MR. OSWALD: Thank you. Do you have  
14 any exhibits that you wish to submit?

15 LT. ELLIOTT: You'll see before you  
16 three particular exhibits. The first will  
17 be David Glaser's certified driving record.  
18 If you open that to Page 2 of 4, you'll see  
19 highlighted on the bottom of that page his  
20 third offense violation. Violation date is  
21 March 13th, 2002, conviction date is  
22 June 14th, 2002. Near the top of Page 3 of  
23 4, you'll see the second offense listed  
24 there. The violation is April 18th of '98  
25 and July 30th of 1998. On the bottom of

1 Page 3 of 4 you'll see his first offense,  
2 violation date July 14th, 1997 with a  
3 conviction of November 26, 1997. Because of  
4 the recency of his fourth offense, it has  
5 not yet made it onto the certified driving  
6 record. I'll then turn your attention to  
7 Exhibit B, this would be the Judgment of  
8 Conviction out of Winnebago County for  
9 Mr. Glaser's third offense. Date committed  
10 is March 13th, 2002, conviction date of  
11 June 4th, 2002. And then if you'll turn to  
12 Exhibit C, this is where you'll see that  
13 Judgment of Conviction for that fourth  
14 offense. This is out of Outagamie County.  
15 Date of conviction is June -- July 15th of  
16 2012.

17 (Brief discussion off the record.)

18 MR. OSWALD: All right. We're all  
19 good.

20 LT. ELLIOTT: All right. Thank you.  
21 Again, that fourth offense was July 15th of  
22 2012, with a conviction date of June 12th,  
23 2013. We'll give you some facts regarding  
24 that most recent case. This occurred, as  
25 indicated, July 15th, 2012 at approximately

1           midnight. Officer Sarez with the Fox Valley  
2           Metro Police Department was targeting the  
3           downtown area of Appleton, working with the  
4           Outagamie County Sheriff's Department Drunk  
5           Driving Task Force. Officer Sarez was  
6           traveling on College Avenue when she  
7           observed a Chevy Cavalier without any lights  
8           illuminating the license plate and pulled  
9           her [sic] over for that violation. She then  
10          encountered Mr. Glaser operating that  
11          vehicle, and noted that his speech was  
12          slurred and there was a moderate odor of  
13          intoxicant coming from his breath.  
14          Mr. Glaser informed Officer Sarez that he  
15          was returning home from work at the Wooden  
16          Nickel, which is located in downtown  
17          Appleton. Mr. Glaser then was given field  
18          sobriety tests by Officer Sarez, which he  
19          failed. His blood test resulted in a .225  
20          alcohol content. If we look at Mr. Glaser's  
21          application, he reported an OWI which he  
22          says was 10 years ago, and then he reports  
23          the OWI that's pending. He does not report  
24          either of his two other OWIs. And that's  
25          all I have.

1 MR. OSWALD: Thank you, Lieutenant  
2 Elliott. I would ask if you would explain  
3 the circumstances of his recent  
4 incarceration, where he is right now.

5 LT. ELLIOTT: I was going to put that  
6 together during my closing remarks, if that  
7 would be okay.

8 MR. OSWALD: Well, it might be  
9 relevant if I hear it now.

10 LT. ELLIOTT: Sure. That makes  
11 sense. Absolutely. This is very recent  
12 information. Because this was Mr. Glaser's  
13 fourth offense OWI, he was placed on the  
14 Outagamie County GPS program. This means he  
15 is essentially under house arrest, only  
16 allowed to leave home to work at his place  
17 of employment, which is the Wooden Nickel.  
18 His probation agent, Jason Hind, informed me  
19 today that Mr. Glaser violated his rules of  
20 probation this week. According to Agent  
21 Hind, Mr. Glaser drank in excess at the  
22 Wooden Nickel, his place of employment, and  
23 then returned home. This was discovered  
24 during a random GPS check by county  
25 deputies. Because of this, Mr. Glaser was

1 removed from the GPS program and is now  
2 confined at the Outagamie County Jail.  
3 Additionally, Agent Hind is restricting  
4 Mr. Glaser from working at any bar while on  
5 probation, and Mr. Glaser will not be off  
6 probation until June of 2015 at the  
7 earliest.

8 MR. OSWALD: So just for the record,  
9 again to make it very clear, he was not  
10 incarcerated, he was serving his time, he  
11 knew about this tonight, he was not  
12 incarcerated at that time, but he's  
13 incarcerated right now.

14 LT. ELLIOTT: Correct, he was on the  
15 GPS program --

16 MR. OSWALD: Yes.

17 LT. ELLIOTT: -- at the time he was  
18 served the Summons and Complaint, and now he  
19 is fully incarcerated.

20 MR. OSWALD: And did you receive any  
21 communication from -- obviously his agent  
22 has restricted him from being in a licensed  
23 establishment, but did you hear anything  
24 from him from jail?

25 LT. ELLIOTT: I did not, no.



1 MR. OSWALD: Okay. Anything from the  
2 committee for the police department?

3 Alderperson Garb?

4 MS. GARB: I have a question. So the  
5 circumstances that gave rise to his  
6 incarceration, he got drunk at work and then  
7 he went home. Is there indication that he  
8 drove home then?

9 LT. ELLIOTT: There's no indication  
10 whatsoever that he drove.

11 MS. GARB: Okay.

12 LT. ELLIOTT: It's just that he can't  
13 be drinking. When the deputy checked on him  
14 and interviewed him, he admitted that he was  
15 coming from work and that he had been  
16 drinking.

17 MS. GARB: Okay. And I know I always  
18 ask about this, but there's a full year  
19 between commission and the conviction. Is  
20 there -- was there a deferred prosecution  
21 agreement or is that just how long it took?

22 MS. DOUCETTE: I can answer that.

23 MS. GARB: Okay.

24 MS. DOUCETTE: Generally for a  
25 criminal violation, it can take some time,

1 and a year is not unusual.

2 MS. GARB: Thank you. And that's all  
3 I have.

4 MR. OSWALD: All right. If that's  
5 all there is from the committee, now would  
6 have been the time for Mr. Glaser to speak.  
7 Being that he's not here, I suppose it's  
8 appropriate for the police department to  
9 issue their closing statement.

10 LT. ELLIOTT: In light of what I've  
11 already informed you about, this most recent  
12 violation, this fourth offense, his fourth  
13 OWI, and with all the other evidence I  
14 brought before you today, I believe this  
15 clearly shows that Mr. Glaser does not  
16 exhibit the responsibility necessary to  
17 function as a bartender nor to uphold the  
18 reputation of excellence expected by our  
19 community. Getting drunk at his place of  
20 employment and then choosing to drive  
21 through our community shows clear disregard  
22 for the safety of our citizens. As such,  
23 the Appleton Police Department will ask the  
24 committee to recommend to the Common Council  
25 that it not renew the operator's license

1 issued to David A. Glaser.

2 MR. OSWALD: Thank you. I do have  
3 one final question. Just to split hairs,  
4 has he been convicted of a parole violation  
5 or a probation violation? We know he's  
6 incarcerated and we've heard what happened.  
7 Is that pending in court?

8 LT. ELLIOTT: It's probably pending.  
9 Because it's so recent, I think it hasn't  
10 even had a chance to go through the court  
11 process yet. But the agent still has the  
12 authority to confine based upon -- with the  
13 information that he has at hand.

14 MR. OSWALD: And it's fair to say you  
15 were prepared this evening to recommend  
16 denial without that recent news.

17 LT. ELLIOTT: Yes, sir.

18 MR. OSWALD: All right. At this time  
19 I would ask that the court reporter --

20 MS. DOUCETTE: Mark the affidavit of  
21 service.

22 MR. OSWALD: -- mark the affidavit of  
23 service as an exhibit submitted by the  
24 Appleton Police.

25 (Exhibit D marked.)

1 MR. OSWALD: Okay. At this time I  
2 would entertain a motion for the special  
3 Safety and Licensing Committee to go into  
4 closed session pursuant to State statute  
5 19.85 sub 1, sub A, to discuss the  
6 nonrenewal of David Glaser's operator  
7 licence and then reconvene into open  
8 session.

9 MR. SMITH: So moved.

10 MS. GARB: Second.

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

15 MR. SMITH: Aye.

16 MS. GARB: Aye.

17 MR. OSWALD: We will now move into  
18 closed session.

19 (Committee in closed session.)

20 MR. OSWALD: I would entertain a  
21 motion to rise and report and to reconvene  
22 into open session.

23 MR. SMITH: I'll make that motion to  
24 rise and report.

25 MS. GARB: Second.

1 MR. OSWALD: Motion by Alderperson  
2 Smith and a second by Alderperson Garb to  
3 rise and report. All those in favor of  
4 rising and reporting, state by saying aye.  
5 Aye.

6 MR. SMITH: Aye.

7 MS. GARB: Aye.

8 MR. OSWALD: We are now reconvened  
9 into open session. At this time the Safety  
10 and Licensing Committee of the City of  
11 Appleton does hereby make the following  
12 finding of fact pursuant to law and  
13 recommendation to the Common Council in the  
14 matter of the Appleton Police Department,  
15 Petitioner, versus David A. Glaser,  
16 Respondent.

17 Findings of fact: First, the  
18 respondent, David A. Glaser, was convicted  
19 on July 12th of 2013 of operating while  
20 intoxicated, fourth offense, for an incident  
21 which occurred in the City of Appleton on  
22 July 15th, 2012; second, the respondent,  
23 David A. Glaser, had previously been  
24 convicted of operating while intoxicated,  
25 third offense, on June 4th, 2002, Winnebago

1 County; operating while intoxicated, second  
2 offense on July 30th, 1998 in Outagamie  
3 County; and operating while intoxicated,  
4 first offense, on November 26th, 1997 in  
5 Outagamie County. And I now would entertain  
6 a motion on the these findings of fact as  
7 stated.

8 MS. GARB: Motion to approve.

9 MS. SMITH: Second.

10 MR. OSWALD: Motion to approve by  
11 Alderperson Garb and seconded by Alderperson  
12 Smith. All those in favor, state by saying  
13 aye. Aye.

14 MS. GARB: Aye.

15 MR. SMITH: Aye.

16 MR. OSWALD: That is a three/zero  
17 recommendation to the Common Council. On  
18 the conclusions of law: First, the  
19 conviction for operating while intoxicated,  
20 fourth offense, is substantially related to  
21 the subject matter of the license; second,  
22 patterns and conditions are substantially  
23 related to Respondent's ability to  
24 responsibly hold an operator's license  
25 issued pursuant to Appleton ordinance 9-75,

1 sub A, sub 8, and Wisconsin statute 125.17;  
2 third, as a result of these convictions, the  
3 Respondent does not possess the requisite  
4 qualifications to hold an operator's license  
5 pursuant to the requirements of Wisconsin  
6 State statute 125.12, sub 2, sub AG, sub 4,  
7 and Wisconsin statute 125.04, sub 5,  
8 sub A-1, and B. And I would entertain a  
9 motion on those conclusions of law as  
10 stated.

11 MR. SMITH: So moved.

12 MR. OSWALD: To approve?

13 MR. SMITH: To approve.

14 MS. GARB: Second.

15 MR. OSWALD: Motion by Alderperson  
16 Smith to approve and a second by Alderperson  
17 Garb. All those in favor, state by saying  
18 aye. Aye.

19 MR. SMITH: Aye.

20 MS. GARB: Aye.

21 MR. OSWALD: And I would like to make  
22 a motion on the approval [sic] --

23 MR. SMITH: Motion to deny.

24 MR. OSWALD: The motion to deny and  
25 a --

1 MS. GARB: Second.

2 MR. OSWALD: -- second from  
3 Alderperson Garb. We're going to deny the  
4 application for renewal of David Glaser's  
5 operator's licence. Any comment from the  
6 committee? All those in favor of denial,  
7 state by saying aye. Aye.

8 MR. SMITH: Aye.

9 MS. GARB: Aye.

10 MR. OSWALD: The vote is three to  
11 zero to recommend denial to the Common  
12 Council. David Glaser's license will be up  
13 for vote from the full Common Council next  
14 Wednesday at the next regularly scheduled  
15 meeting of the Common Council. And with  
16 that, the hearing for David A. Glaser is  
17 closed. And that concludes the nonrenewal  
18 hearings of this Special Safety and  
19 Licensing Committee, and I would entertain a  
20 motion to adjourn.

21 MR. SMITH: Move to adjourn.

22 MS. GARB: Second.

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



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saying aye. Aye.

MS. GARB: Aye.

MR. SMITH: Aye.

MR. OSWALD: Meeting is adjourned  
then.

(Hearing adjourned at 7:19 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 7:00 p.m.; that LIEUTENANT ELLIOTT said was 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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