

CITY OF APPLETON
SAFETY AND LICENSING COMMITTEE

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

Non-renewal hearing taken before me at
Appleton City Hall, Appleton, Outagamie County,
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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<u>EXHIBIT NUMBER</u>	<u>INDEX TO EXHIBITS</u>	<u>PAGE MARKED</u>
A -	Division of Motor Vehicles record	
B -	Judgment of Conviction	
C -	Judgment of Conviction	
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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1 (Exhibits A, B, and C marked prior to
2 hearing taking place.)

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

5 - - - - -

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

15 - - - - -

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

21 LT. ELLIOTT: I do. I should note
22 that although Mr. Glaser is not present, he
23 did receive a copy of the Summons and
24 Complaint regarding this case on July 25th,
25 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

1 saying aye. Aye.
2 MS. GARB: Aye.
3 MR. SMITH: Aye.
4 MR. OSWALD: Meeting is adjourned
5 then.
6 (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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