

It is expected that a Quorum of the Personnel Committee, Board of Public Works, and Common Council will be attending this meeting: (although it is not expected that any official action of any of those bodies will be taken)

**CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
July 18, 2011
6:30 PM
or immediately following Common Council
AGENDA**

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
 - 1. [Administration Committee, 7/5/11](#)
- D. ACTION ITEMS
 - 1. [Appeal of Denial of Operator's License – Dylan Kollman](#)
 - 2. [Appeal of Denial of Operator's License – Tina Liotta](#)
 - 3. [Nationwide Retirement Solutions Amendments to Plan Document](#)
- E. ADJOURNMENT

"Menasha is committed to its diverse population. Our Non-English speaking population and those with disabilities are invited to contact the Menasha City Clerk at 967-3603 24-hours in advance of the meeting for the City to arrange special accommodations."

CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
July 5, 2011
MINUTES

A. CALL TO ORDER

Meeting called to order by Chairman Klein at 8:10 p.m.

B. ROLL CALL/EXCUSED ABSENCES

PRESENT: Aldermen Benner, Klein, Taylor, Sevenich, Langdon, Krueger, Zelinski, Englebert

ALSO PRESENT: Mayor Merkes, CA/HRD Captain, Lt. Brunn, DPW Radtke, C/T Stoffel, Fire Lt. Schultz, PP Kester, MUGM Krause, Clerk Galeazzi and the Press

C. MINUTES TO APPROVE

1. [Administration Committee, 6/20/11](#)

Moved by Ald. Langdon, seconded by Ald. Zelinski to approve minutes.

Motion carried on voice vote.

D. ACTION ITEMS

1. [R-29-11 Resolution Protecting Menasha's Ability to Collect Unpaid Utility Bills Through the Tax Roll \(Recommendation of Utility Commission\) \(Introduced by Ald. Benner\)](#)

MUGM Krause explained the resolution and the plan the Menasha Utilities has in place for collecting delinquent utilities. Some bills are uncollectable and the only other recourse for collecting without charging it back to the rate payers is to put it as a special assessment against the property. An Assembly Bill that was recently introduced would prohibit public owned utilities like Menasha Utilities from collecting unpaid utilities using the tax roll. Ms. Krause explained the breakdown of amounts put on the tax roll annually.

Moved by Ald. Benner, seconded by Ald. Englebert to recommend approval to the Common Council.

Motion carried on roll call 5-3.

Ald. Taylor, Sevenich, Langdon, Englebert, Benner – yes

Ald. Klein, Krueger, Zelinski - no

E. ADJOURNMENT

Moved by Ald. Zelinski, seconded by Ald. Krueger to adjourn at 8:35 p.m.

Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk



MEMORANDUM

Date: July 8, 2011

To: Ronald Bouchard, Lieutenant of Investigations

From: ^{PA} Pamela A. Captain, City Attorney

RE: Alcohol Operator's License Application – Dylan Kollman

The alcohol operator's license application of Mr. Kollman has been forwarded to me for review as required by Sec. 7-2-21(b) of the City of Menasha code of ordinances due to a felony conviction that has not been pardoned.

On the application the applicant checked "yes" to the following questions: Have you ever been charged with a felony? Have you ever been convicted of a felony? Have you ever been convicted of a misdemeanor? Have you ever been convicted of any law, statute, or ordinance pertaining to the use or sale of alcohol or illegal drugs? The applicant indicated on his application that in 1999 he was found guilty of delivery and possession of THC, in 2003, possession of THC and in March 2011, sold to underage.

This applicant has been convicted of offenses, the circumstances of which substantially relate to the licensing privilege he seeks.

Applicant has been convicted of the following offenses:

7/6/2000	Manufacture/delivery THC, felony Possession THC, misdemeanor
7/22/2004	Possession of THC, misdemeanor Possession of drug paraphernalia, misdemeanor
3/2011	Sale of alcohol to underage, municipal ordinance violation

Applicant has been convicted of two (2) offenses within the last seven (7) years which are directly related to the license for which applicant applies: possession of THC and sale of alcohol to an underage person. Under City of Menasha policy guideline #3, this applicant's operator's license renewal should be denied.



City of Menasha • Police Department

Date: July 12, 2011

To: Dylan Kollman
52 Racine St #3
Menasha, WI 54952

Re: City of Menasha Alcohol Operators License Application

Mr/Ms; Dylan Kollman

I have reviewed your application for an alcohol operator's license in the City of Menasha and in doing so it was discovered that you were previously convicted of a Felony. As such this matter has been referred to the City Attorney Pamela Captain, for her review and opinion. The opinion has been rendered by the City Attorney and I would like to note the following convictions:

On July 6, 2000 you were convicted of manufacturing/delivery of THC which is a felony and Possession of THC which is a misdemeanor.

On July 22, 2004 you were convicted of Possession of THC which is a misdemeanor and Possession of drug paraphernalia which is a misdemeanor.

In March 2011 you were convicted of Sale of alcohol to an underage person under the municipal ordinance in the City of Menasha.

Since you have been convicted of two or more offenses within the last 7 years which are directly related to the license for which you applied and also do the fact that you have a felony conviction I am denying your request for

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www.menashapolice.org



an alcohol operator license with the City of Menasha. This is based on Menasha policy guidelines for operators license in the City of Menasha.

I would like to further advise you that you may appeal this decision, by contacting the Menasha City Clerk's Office at (920)967-3603 within 30 days of this denial to request an appeal before the common council. At this appeal you have the right to be represented and to be heard and to present evidence in favor of granting the license and to rebut the evidence presented in opposition to the granting of this license at a hearing held within 45 days of the filing of such appeal.

Sincerely,

Lt. Ron Bouchard
Investigative Services
Menasha Police Department

PR

CITY OF MENASHA
ALCOHOL OPERATORS LICENSE APPLICATION

Establishment of Employment Club Liquor
SPECIAL EVENT _____ PROVISIONAL (TEMP) _____ REGULAR _____ RENEWAL X

Name Kollman Dylan M.
Last First Middle

Address 52 Racine St #3 Menasha WI 54952
Street City State/Zip Code

Phone _____ Social Security _____

Height 5'4" Weight 230 Eyes Blue Hair Brown Sex male Race white

Birth Date _____ Age _____ Birthplace Green Bay WI

Scars, Marks, Tattoos Y shaped above eye

Drivers License No. _____ State of Issue WI

Expiration Date 12-8-17

NOTE: A license may be denied if applicant fails to provide accurate information or if the information is incomplete! Please read this section carefully.

Please explain all yes answers completely on the back of this form!

Have you ever been **charged** with a felony? yes
Have you ever been **convicted** of a felony? yes
Have you ever been convicted of a misdemeanor? yes
Have you ever been convicted of operating a motor vehicle while under the influence of an intoxicant or drug? no
Have you ever been convicted of any law, statute or ordinance pertaining to the use or sale of alcohol or illegal drugs?
yes

I UNDERSTAND THAT THE APPLICATION FEE WILL NOT BE RETURNED IF LICENSE IS DENIED.

SIGNATURE [Signature] Date 6-28-11

WITNESS _____ Date _____

Approved _____ Denied X Expiration Date _____
Chief of Police [Signature] Date 6/28/11
Comments: Convicted Felon

REVOKED FOR VIOLATION: _____

Please answer all yes questions from the front of this form completely! Include correct charges, date of offense, and sentence. Failure to include all information or inaccurate information may result in the denial of your application!

Del and possession of THC 1999

Possion of THC 2003

Sold to underage March 2011



Date: July 14, 2011

To: Tina Liotta
124 Plummer Ct.
Neenah, WI 54956

Re: City of Menasha Alcohol Operators License Application

Ms. Liotta

I have reviewed your application for an alcohol operator's license in the City of Menasha and in doing so it was discovered that there were several issues with your alcohol operator's license application. The first issue is that you provided inaccurate information on the application.

Question one of the application asks if you were ever charged with a Felony and you responded with a "no" answer. However, a criminal history check indicates that you were charged with a felony on May 26, 1995 in Outagamie County and subsequently convicted of misdemeanor Theft as a result of this charge. The criminal history check also reflects that on September 29, 2004 you were convicted of possession of THC and possession of Cocaine, which are misdemeanors.

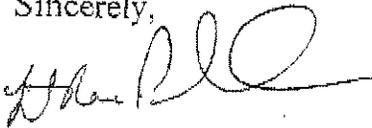
On June 4, 2010 you were approved and issued a City of Menasha alcohol operator's license. A records check further reflects that on September 27, 2010 you were convicted of operating a motor vehicle while intoxicated as a result of being arrested on June 25, 2010.

Since you are convicted of two or more offenses on separate incidents within the last 7 years that substantially relate to the circumstance of the license that you seek, under Menasha city guideline number 3, you do not qualify for an operator's license. Additionally, since you did not provide accurate information on the application by omitting that you have been charged with a felony in the past, under guideline number 4, you are not eligible for an operator's license.

Based on these circumstances, I will be denying your application for an alcohol operator's license in the city of Menasha.

I would like to further advise you that you may appeal this decision by contacting the Menasha City Clerk's Office at 920-967-3603 within 30 days of this denial to request an appeal before the common council. At this appeal you have the right to be represented and to be heard and to present evidence in favor of granting the license and to rebut the evidence presented in opposition to the granting of this license at a hearing held within 45 days of the filing of such appeal .

Sincerely,



Lt. Ron Bouchard
Investigative Services
Menasha Police Department

CITY OF MENASHA
ALCOHOL OPERATORS LICENSE APPLICATION

Establishment of Employment Navy's landing
SPECIAL EVENT PROVISIONAL (TEMP) REGULAR RENEWAL

call

Name Liotta Tina Marie
Last First Middle

Address 124 Plummer Ct. Neenah, WI
Street City State/Zip Code

Phone (920) 707-2095 Social Security _____

Height 5'1" Weight 150 Eyes HAZ Hair BR Sex f Race WH

if denied call

Birth Date _____ Age _____ Birthplace Chicago

Scars, Marks, Tattoos _____
Drivers License No. _____ State of Issue WI
Expiration Date 9-28-11

NOTE: A license may be denied if applicant fails to provide accurate information or if the information is incomplete! Please read this section carefully.

Please explain all yes answers completely on the back of this form!

Have you ever been charged with a felony? NO
Have you ever been convicted of a felony? NO
Have you ever been convicted of a misdemeanor? yes
Have you ever been convicted of operating a motor vehicle while under the influence of an intoxicant or drug? yes
Have you ever been convicted of any law, statute or ordinance pertaining to the use or sale of alcohol or illegal drugs?
yes

I UNDERSTAND THAT THE APPLICATION FEE WILL NOT BE RETURNED IF LICENSE IS DENIED.

SIGNATURE Jane M. [Signature] Date 6-23-11

WITNESS _____ Date _____

Approved _____ Denied [Signature] Expiration Date _____
Chief of Police Lt. David [Signature] Date 6-27-11

Comments: DWI conviction 9/20/10, possession THC, possession cocaine 09/24/2004
Incomplete information on Application charged with felony

REVOKED FOR VIOLATION:
Attorney forgery / uttering 5/16/1995 Outagamie Co.
conv. of Misd. Theft.

Please answer all yes questions from the front of this form completely! Include correct charges, date of offense, and sentence. Failure to include all information or inaccurate information may result in the denial of your application!

DUI - # 6-25-10

Implied Consent - # 6-2001 - Illinois

Possession - 2005

Theft by fraud - 1995?

CIAA -

May 16, 1995 (charged w/ forgery, driving - Felony, 943.31(c2))

Conv. Misd. Theft

DC

9/2007

Non Prosecuted

OWI

6/2010

Convict

9/2010

Poss. Firearm 9/29/2004 - Convict

Illinois



Date: July 12, 2011
To: Pam Captain
From: Brenda Taubel *Brenda*
Subj: Section 457(b) Deferred Compensation Plan/Nationwide Retirement Solutions
Re: Amendments to Plan Document

Changes in federal legislation and regulations require the City to update the plan document for the deferred compensation program.

Nationwide drafted the amendments to be consistent with the final 457(b) regulations and IRS model amendments which incorporate provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, final regulations and other pertinent IRS rules and related legislation.

The amendments affect portions of the plan document relating to definitions, deferrals, contributions, distributions, transfers, domestic relations orders and investments. An explanation of the changes is attached.

Nationwide has implemented all requested changes to be in compliance with the current law and regulations.

Explanation of Substantive Changes

The IRS issued model amendments incorporating the provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the final regulations, and other pertinent IRS rulings and related legislation. Although the model amendments are for guidance only and do not have the effect of law, they have been incorporated into your 457(b) governmental Plan to the extent applicable.

The following is a brief description of modifications to the Plan document consistent with the final 457(b) regulations, the 457(b) model amendments, subsequent IRS guidance, proposed regulations, and other pertinent legislation. The specific Plan section is included so that you can refer to the Plan document. The Plan Document will be effective January 1, 2006.

ARTICLE I

Definitions

Account Balance – Account balance is a new term adopted by the IRS in the model amendments. The account balance is defined as the bookkeeping account maintained for each participant in the Plan. Within the account balance are sub-accounts, such as Plan Sponsor contributions, eligible rollover account(s), and plan-to-plan transfers into the Plan. Beneficiaries and alternate payees have separate account balances. [Section 1.01(b)]

Alternate Payee – An alternate payee is a person entitled to receive a benefit through a Domestic Relations Order (DRO). DROs are now a standard feature of your Plan. [Section 1.01 (c)]

Includible Compensation – This Plan adopts the model amendments' definition of includible compensation, to determine 100% of includible compensation contribution limit. Includible compensation is defined as W-2 compensation adjusted for elective deferrals. [Section 1.01 (j)]

Normal Retirement Age – The normal retirement age has not been modified and remains age 65, unless otherwise designated. However, the Plan now includes the special rule for determining normal retirement age applicable to police and firefighters. The final 457 regulations permit qualified police and firefighters to use an earlier normal retirement age, but no earlier than age 40. [Section 1.01 (m)]

Definition of Spouse – The Plan adopts the definition of spouse under the federal Defense of Marriage Act (DOMA), which is a person of the opposite sex who is a husband or wife. [Section 1.01 (u)]

ARTICLE II

Election to Defer Compensation

Deferrals During Leaves of Absence and Disability – Participants on leave of absence and participants who are disabled may continue to make deferrals to the extent that compensation continues to be paid. Disability benefits do not constitute a continuation of compensation. [Section 2.07 and 2.08]

ARTICLE III

Limitations on Amounts Deferred

Aggregation with Other 457(b) Plans – The 2003 final regulations require aggregation of 457(b) governmental plan contributions whether or not the plans are related. If the participant is contributing to an unrelated 457(b) governmental plan as well as to your 457(b) Plan and the contributions cause the participant to exceed the limits, the plans will not lose their tax-favored status. The Plan places the responsibility on the participant to provide participation information to the Plan Sponsor to monitor annual deferral limits. [Section 3.04]

Correction of Excess Deferrals – The model amendments permit the Plan to unilaterally correct excess deferrals during the plan year. Nationwide will distribute the excess deferrals at your direction as soon as administratively practicable. [Section 3.05]

Deferrals from Certain Sick Pay, Vacation Pay, and Back Pay – The proposed regulations recently issued by the IRS regarding Internal Revenue Code, as amended, Section 415 include a proposed amendment to Treasury Regulations 1.457-4(d) regarding deferrals of sick, vacation and back pay for former employees. Such deferrals may be made within 2 ½ months following severance from employment. This applies also to compensation paid to participants who are permanently and totally disabled, and compensation paid to participants relating to qualified military service under IRS Code section 414(u). [Section 3.06]

ARTICLE IV

Plan Sponsor Contributions

Plan Sponsor Contributions – Although not included in the model amendments, the Plan continues to permit the Plan Sponsor to make contributions should it desire to do so. [Section 4.01]

ARTICLE V

Distribution of Benefits

Benefit Distributions under Annuity – The model amendments assume that there is a trust for an eligible 457(b) governmental plan is a trust. However, this Plan permits the use of a trust, custodial agreement and/or an annuity contract.

In-Service Distributions from Eligible Rollover Accounts – IRS Revenue Ruling 2004-12 permits distributions of rollovers to the extent such rollovers are maintained in a sub-account. The Plan maintains separate accounting for rollovers into the Plan making such rollovers eligible for in-service distributions. [Section 5.08]

Unforeseeable Emergency Distributions – The 2003 final regulations permit participants and beneficiaries to take unforeseeable emergency distributions. The model amendments provide that only participants are eligible for unforeseeable emergencies. Presumably this is because beneficiaries are entitled to take distributions at any time. For this reason, the Plan refers only to participants being eligible for unforeseeable emergency distributions; beneficiaries are eligible for distributions at any time. [Section 5.09]

Due to emergency legislation enacted as a result of Hurricanes Katrina, Rita, and Wilma, a provision has been incorporated that permits the Plan to amend its criteria for unforeseeable emergency distributions accordingly without the need to further amend the Plan document.

Voluntary In-Service Distributions – The 457(b) regulations permit distribution of smaller accounts of \$5,000 or less be distributed if there have been no prior voluntary de minimis distributions and no deferrals made in the prior two years. The model amendments assume mandatory de minimis in-service distributions. However, the Plan does not adopt this provision and continues to permit de minimis in-service distributions on a voluntary basis. [Section 5.10]

ARTICLE VI

Eligible Rollovers and Plan-to-Plan Transfers

Sub-Account for Eligible Rollover Contributions – IRS Revenue Ruling 2004-12 permits distributions of rollovers to the extent such rollovers are maintained in a separate account. The Plan maintains separate accounting for rollovers into the Plan and such rollovers are eligible for in-service distributions. [Section 6.01 (b)]

Loans – The model amendments related to loans are not included in the Plan document. Loans continue to be an available feature that may be added on to your Plan. If your Plan currently offers loans, the loan amendment continues to be part of your Plan document and is incorporated in this Plan document accordingly.

ARTICLE VII

Domestic Relations Orders

Domestic Relations Orders – The Plan now includes the acceptance of DROs as a standard Plan feature. The previous DRO amendment has been incorporated into the Plan document. The Administrator will continue to review and process DROs submitted to the Plan. [Sections 7.01-7.05]

ARTICLE IX

Investment of Deferred Amounts

Limitations on Transfers and Exchanges – Although generally the Plan permits participants, beneficiaries, and alternate payees to self-direct its investment selections with minimum limitations, there are some investment options that have restrictions that will be imposed. In addition, the Plan provides for market timing restrictions in accordance with restrictions imposed by a funding provider, the Administrator, and/or a regulatory agency. [Section 9.04]

ARTICLE XII

Miscellaneous

Non-Assignability – 457(b) governmental plan assets remain non-assignable. With certain exceptions, such assets cannot be transferred. However, the model amendments permit the Plan to attach the assets of a participant, beneficiary, or alternate payee to pay a federal income tax levy. Under the Bankruptcy Abuse Protection and Consumer Protection Act of 2005, assets in an eligible 457(b) plan may be exempted from bankruptcy proceedings. [Sections 12.01 and 12.02]

Mistake of Fact Rule – The model amendments extends and adopts the mistake-of-fact rule found in IRS Revenue Ruling 91-4 applicable to ERISA qualified plans. Although not subject to ERISA, 457(b) governmental plans are permitted by the IRS to refund mistaken contributions within one year after the payment of the mistaken contribution. [Section 12.03]