



Meeting: Village Board
Meeting Date: 9/12/11
Agenda Item: 6f

Mission Statement

Delivering quality services in a courteous, cost-effective and efficient manner.

VILLAGE BOARD MEETING STAFF REPORT

REPORT TO: Burt R. McIntyre, President
Village Board of Trustees

REPORT FROM: Paul F. Evert, Village Administrator

AGENDA ITEM: Review and take action on the Operator License application for Lisa M. Keith

POLICY ISSUE

Does the village board desire to grant an operator's license to an individual who has multiple felony convictions of manufacturing and delivering non-narcotics and manufacturing and delivering a controlled substance, as well as three convictions for operating while intoxicated?

BACKGROUND INFORMATION

In recent months, the Village Board has held lengthy discussions on various operator license applications. Certain board member(s) do not desire to vote to approve applications when the applicant has certain convictions records. The board has not adopted any policies related to the granting of operator license applications. State law prohibits discrimination of license applicants in some circumstances but allows municipalities to not grant licenses based on certain convictions.

Wis. Statutes 111.335(1)(cs)3 reads: "Notwithstanding s. 111.322, it is not employment discrimination because of conviction record to revoke, suspend or refuse to renew a license or permit under ch. 125 if the person holding or applying for the license or permit has been convicted of one or more of the following:

1. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. 961.41 (1)."

In addition, state law provides in Wis. Statutes 125.04(5)(b):

Criminal offenders. No license or permit related to alcohol beverages may, subject to ss. 111.321, 111.322 and 111.335, be issued under this chapter to any person who has habitually been a law offender or has been convicted of a felony unless the person has been duly pardoned.

The attached applicant, Lisa M. Keith, was convicted in 1986 of two felony counts of manufacturing/delivering non-narcotics. In 1989, she was convicted of two felony counts of manufacturing/delivering controlled substances.

Most recently, the applicant was convicted of OWI 2nd on Sept. 2, 1997, and of OWI 3rd on Nov. 11, 2002. She pled guilty to a charge of criminal disorderly conduct on Oct. 13, 2009. That charge was

dismissed after she successfully completed a deferred prosecution agreement. Her complete criminal background check is included with her application.

PRIOR ACTION/REVIEW

The board has not taken any previous action on this specific application. However, at the Aug. 8 Village Board meeting, the board voted to table a similar application until that applicant, Andrea L. Finch, can produce documentation indicating her conviction was wrongful.

RECOMMENDED ACTION

Staff is recommending the Village Board deny the operator license application for Lisa M. Keith. Also, staff is asking for direction as to how to handle future operator's license applications that involve felony convictions for drug manufacturing/delivering.

ATTACHMENTS

- I.** Excerpts from Wisconsin State Statutes
- II.** Operator's License Application for Lisa M. Keith

ATTACHMENT I

125.17

125.17 Issuance of operators' licenses.

125.17(1)

(1) Authorization. Every municipal governing body shall issue an operator's license to any applicant who is qualified under [s. 125.04 \(5\)](#). Operators' licenses may not be required other than for the purpose of complying with [ss. 125.32 \(2\)](#) and [125.68 \(2\)](#). Operators' licenses may be issued only upon written application.

125.17(2)

(2) Validity. Operators' licenses are valid only within the issuing municipality.

125.04(5)(a)1.

1. Do not have an arrest or conviction record, subject to [ss. 111.321](#), [111.322](#), [111.335](#) and [125.12 \(1\) \(b\)](#).

111.335

111.335 Arrest or conviction record; exceptions and special cases.

111.335(1)

(1)

111.335(1)(a)

(a) Employment discrimination because of arrest record includes, but is not limited to, requesting an applicant, employee, member, licensee or any other individual, on an application form or otherwise, to supply information regarding any arrest record of the individual except a record of a pending charge, except that it is not employment discrimination to request such information when employment depends on the bondability of the individual under a standard fidelity bond or when an equivalent bond is required by state or federal law, administrative regulation or

established business practice of the employer and the individual may not be bondable due to an arrest record.

111.335(1)(b)

(b) Notwithstanding [s. 111.322](#), it is not employment discrimination because of arrest record to refuse to employ or license, or to suspend from employment or licensing, any individual who is subject to a pending criminal charge if the circumstances of the charge substantially relate to the circumstances of the particular job or licensed activity.

111.335(1)(c)

(c) Notwithstanding [s. 111.322](#), it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensing, any individual who:

111.335(1)(c)1.

1. Has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity; or

111.335(1)(c)2.

2. Is not bondable under a standard fidelity bond or an equivalent bond where such bondability is required by state or federal law, administrative regulation or established business practice of the employer.

111.335(1)(cg)

(cg)

111.335(1)(cg)1.

1. Notwithstanding [s. 111.322](#), it is not employment discrimination because of conviction record to deny or refuse to renew a license or permit under [s. 440.26](#) to a person who has been convicted of a felony and has not been pardoned for that felony.

111.335(1)(cg)2.

2. Notwithstanding [s. 111.322](#), it is not employment discrimination because of conviction record to revoke a license or permit under [s. 440.26 \(6\) \(b\)](#) if the person holding the license or permit has been convicted of a felony and has not been pardoned for that felony.

111.335(1)(cg)3.

3. Notwithstanding [s. 111.322](#), it is not employment discrimination because of conviction record to refuse to employ a person in a business licensed under [s. 440.26](#) or as an employee specified in [s. 440.26 \(5\) \(b\)](#) if the person has been convicted of a felony and has not been pardoned for that felony.

111.335(1)(cm)

(cm) Notwithstanding [s. 111.322](#), it is not employment discrimination because of conviction record to refuse to employ as an installer of burglar alarms a person who has been convicted of a felony and has not been pardoned.

111.335(1)(cs)

(cs) Notwithstanding [s. 111.322](#), it is not employment discrimination because of conviction

record to revoke, suspend or refuse to renew a license or permit under [ch. 125](#) if the person holding or applying for the license or permit has been convicted of one or more of the following:

111.335(1)(cs)1.

1. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under [s. 961.41 \(1\)](#).

111.335(1)(cs)2.

2. Possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under [s. 961.41 \(1m\)](#).

111.335(1)(cs)3.

3. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law that is substantially similar to [s. 961.41 \(1\)](#) or [\(1m\)](#).

111.335(1)(cs)4.

4. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under the law of another state that is substantially similar to [s. 961.41 \(1\)](#) or [\(1m\)](#).

111.335(1)(cs)5.

5. Possessing any of the materials listed in [s. 961.65](#) with intent to manufacture methamphetamine under that section or under a federal law or a law of another state that is substantially similar to [s. 961.65](#).

111.335(1)(cv)

(cv) Notwithstanding [s. 111.322](#), it is not employment discrimination because of conviction record to refuse to employ in a position in the classified service or in a position described in [s. 230.08 \(2\) \(k\)](#) a person who has been convicted under 50 USC, Appendix, section 462 for refusing to register with the selective service system and who has not been pardoned.

111.335(1)(cx)

(cx) Notwithstanding [s. 111.322](#), it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensure, any individual who has been convicted of any offense under [s. 38.50 \(13\) \(c\)](#).

