

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
March 15, 2010
6:20 PM
or immediately following Common Council**

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
 - 1. [Administration Committee, 3/1/10](#)
- D. ACTION ITEMS
 - 1. [Appeal of Denial of Operator's License - Nicholas Duda.](#)
 - 2. [Acknowledgement, Release and Hold Harmless Agreement for use of Oshkosh School District Property by Menasha Police Department, May 3-7, 2010, and authorized signature.](#)
- 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
March 1, 2010
MINUTES

A. CALL TO ORDER

Meeting called to order by Chairman Wisneski at 6:28 p.m.

B. ROLL CALL/EXCUSED ABSENCES

PRESENT: Alderman Wisneski, Pack, Hendricks, Zelinski, Englebert, Benner, Roush, Taylor

ALSO PRESENT: Mayor Merkes, Attorney Jim Godlewski, Lt. Brunn, DPW Radtke, CDD Keil, C/T Stoffel, Clerk Galeazzi, and the Press.

C. MINUTES TO APPROVE

1. [Administration Committee, 2/15/10](#)

Moved by Alderman Pack, seconded by Alderman Roush to approve minutes.

Motion carried on voice vote

D. ACTION ITEMS

1. [Authorization to Participate in Wisconsin Tax Refund Intercept Program \(TRIP\)](#)

The Dept. of Revenue is authorized to intercept taxpayer refunds, other refundable credits, and lottery prizes to be applied against certain debts a taxpayer owes to local governments. The Finance Dept. will be assigned the task of keeping accurate and updated information on TRIP. The City is responsible to notify the debtor in writing of the certification of a debt to DOR and provide for an appeal process.

Moved by Alderman Pack, seconded by Alderman Zelinski to recommend approval
To Common Council

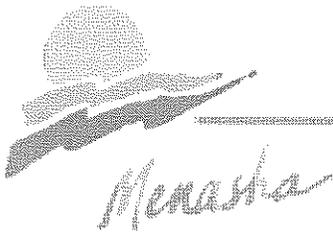
Motion carried on voice vote.

E. ADJOURNMENT

Moved by Alderman Pack, seconded by Alderman Roush to adjourn at 6:31 p.m.

Motion carried on voice vote.

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



MEMORANDUM

Date: February 18, 2010

To: Robert Stanke, Chief of Police
From: Pamela A. Captain, City Attorney *PA*

RE: Alcohol Operator's License Application – Nicholas S. Duda

The alcohol operator's license application of Mr. Duda 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? An applicant is required to provide accurate and complete information about all "yes" answers to the questions, including charges, dates of offenses and sentences. This applicant failed to provide complete information about the charges, offenses and sentences.

This applicant did indicate that in 2002 he was convicted of a felony for theft in a business; in 2006 he was convicted of a misdemeanor for theft in a business with a sentence that included a fine, community service and restitution; and in 2007 he was convicted of a misdemeanor for getting into a fight with his brother-in-law, possibly disorderly conduct.

In fact, applicant's record is as follows:

2002 Count 1 felony-larceny(theft)-conviction
 Count 2 felony-larceny(theft)-conviction
 Count 3 felony-larceny(theft)- dismissed
 Count 4 felony-larceny(theft)-dismissed
 Count 5 felony-larceny(theft)-dismissed
 Count 6 felony-larceny(theft)-dismissed

Sentence: 18 months probation; jail

2006 Count 1 misdemeanor-theft(business)-conviction
 Count 2 misdemeanor-theft(business)-conviction

Sentence: 2 years probation, sentence withheld; 50 hours community service; restitution; maintain absolute sobriety; subject to random drug/UA testing

2007 Count 1 misdemeanor A-battery-dismissed, but read in
 Count 2 misdemeanor B-disorderly conduct-conviction

Sentence: 12 months probation, sentence withheld; 30 hours
community service; letter of apology to victim

In addition to the recent criminal convictions, this applicant has had 9 municipal ordinance or traffic related convictions between April 2006 and July 2008, including multiple convictions for the same types of offenses such as operating a motor vehicle while suspended and unregistered motor vehicle violations. *See attached.*

In my opinion, based upon the facts as presented above as well as §125.04(5), Wis. Stats., and Smith v. City of Oak Creek, 139 Wis. 2d 788 (1987), this applicant is a habitual law offender.

For the reasons set forth herein, the applicant's request for an alcohol operator's license should be denied. Pursuant to §125.04(5), Wis. Stats., an alcohol operator's license may not be issued.

**ACKNOWLEDGMENT, RELEASE AND HOLD HARMLESS
AGREEMENT
FOR USE OF OSHKOSH SCHOOL
DISTRICT PROPERTY**

In order to use the vacant Lincoln Elementary School as a training site for the NTOA Tactical Response Training, On May 3rd-7th, 2010 the Menasha Police Department, agrees and understands that, IT VOLUNTARILY AND WILLINGLY ASSUMES THE RISK OF PERSONAL INJURY AND LOSS OF PROPERTY THAT MAY OCCUR AS A RESULT OF PARTICIPATING IN SUCH TRAINING.

The City of Menasha agrees to indemnify, defend and hold harmless the Oshkosh School District, their officers, agents, employees, affiliates, successors and assigns from and against any and all losses, liabilities, damages, claims, fines, causes of action deficiencies, costs and expenses (including reasonable attorneys' fees and other litigation expenses) based upon, arising out of or otherwise related to such training. The City of Menasha also agrees to release Oshkosh School District from any and all liabilities, damages, claims, fines, causes of action, including but not limited to negligence, gross negligence, deficiencies, costs and expenses based upon, arising out of or otherwise related to the Menasha Police Department's use of the facility in such training, including but not limited to the loss of any property the Menasha Police Department may use or bring to the training.

Agency Name: Menasha Police Department
Date: _____
Printed Name: _____
Title: _____
Signature: _____

Agency Name: Oshkosh School District
Date: _____
Printed Name: _____
Title: _____
Signature: _____