

**MINUTES OF THE REGULAR MEETING OF THE
ALCOHOL, GAMBLING & TOBACCO COMMISSION**

July 12, 2017

The regular meeting of the Alcohol, Gambling & Tobacco Commission was held on Wednesday, July 12, 2017, at 4:45 p.m., in the City Council Chamber, 3rd Floor, City Hall.

ROLL CALL: Present: Ryan Stauber, Patricia Stolee, Adam Wisocki,, Mark Osthus, Jeff Rosenthal

Absent; Lon Hanson, Bjorn Braaten

June Meeting Minutes – Motion made to approve by Commissioner Rosenthal, second made by Commissioner Stauber. Motion carried.

COMMUNICATIONS:

CITY ATTORNEY SUBMITTING NOTICE OF ACTION BY THE MINNESOTA DEPARTMENT OF HEALTH TO DECIDE WHAT, IF ANY DISCIPLINARY HEARING SHOULD BE CALLED REGARDING THE ON SALE INTOXICATING LIQUOR LICENSE OF THE DUKE PARTNERS, LLC, d/b/a SPURS ON 1ST, 109 WEST 1ST STREET, PURSUANT TO DULUTH CITY CODE SECTION 8-9(a) #17-01

President Wisocki requested the Communication be moved to the end of the meeting.

LAWFUL GAMBLING:

EPILEPSY FOUNDATION OF MINNESOTA – APPLICATION FOR EXEMPT RAFFLE PERMIT – a representative from the Epilepsy Foundation appeared on behalf of the application and explained that it was for their Park Point walk, and that there would be a drawing at the end of the event. Commissioner Osthus made a motion to approve and a second was made by Commissioner Ryan. Motion carried.

NORTHERN LIGHTS FOUNDATION – APPLICATION FOR EXEMPT RAFFLE PERMIT – a representative from the Northern Lights Foundation appeared to ask for permission for a permit for a pre-sale raffle before the event. This is for the Guns and Hoses Event between the Duluth Fire Department and the Duluth Police Department. Commissioner Rosenthal made a motion to approve and a second was made by Commissioner Stauber. Motion Carried.

NEW BUSINESS:

D&D ENTERPRISE OF CLOQUET (MR. D'S BAR AND GRILL) 5622 GRAND AVENUE – APPLICATION FOR TEMPORARY EXPANSION OF THE DESIGNATED SERVING AREA OF THEIR ON SALE INTOXICATING LIQUOR LICENSE FOR AUGUST 2-4, 2017 VARIOUS TIMES WITH AI TERWEY, OWNER. Owner Al Terwey appeared on behalf of Mr. D's and John Omundson from the KOM ON INN. Mr. Terwey explained that they have been working with the Duluth Police Department, and that everything about the event would be the same as previous

years. He also explained that no under age kids would be allowed and that there would only be one entrance to the event. A motion was made by Commissioner Rosenthal to approve the application and a second was made by Commissioner Stolee. Motion carried.

JMMP. ENT. LLC (KOM ON INN) 332 N 57TH AVENUE WEST –

APPLICATION FOR TEMPORARY EXPANSION OF THE DESIGNATED SERVING AREA OF THEIR ON SALE INTOXICATING LIQUOR LICENSE FOR AUGUST 2-4, VARIOUS TIMES. Mr. Terwey was spokesperson for the KOM ON INN also. A motion to approve was made by Commissioner Stauber and a second was made by commissioner Rosenthal. Motion carried.

HOSPITALITY ASSOCIATES OF DULUTH (ACES ON 1ST) 113 W 1ST STREET –

APPLICATION FOR TEMPORARY EXPANSION OF THE DESIGNATED SERVING AREA OF THEIR ON SALE INTOXICATING LIQUOR LICENSE FOR JULY 14, 2017 FROM 8-1:00 P.M. WITH NICK PATRONAS, OWNER.

Mr. Patronas was present on behalf of the application. Note from clerk's office explained that the application went forward without AGT recommendation. City Council approved at their July meeting.

DUKES PARTNERS, LLC (SPURS ON 1ST) 109 W 1ST STREET –

APPLICATION FOR TEMPORARY EXPANSION OF THE DESIGNATED SERVING AREA OF THEIR ON SALE INTOXICATING LIQUOR LICENSE FOR AUGUST 25, 2017 FROM 9-1:00 P.M. WITH NICK PATRONAS, OWNER.

Mr. Patronas stated that he does not fence in the area where the event is, but that he cards all

GRIZZLY'S MILLER HILL MALL (GIZZLY'S) 1722 MILLER TRUNK HWY –

APPLICATION FOR TEMPORARY EXPANSION OF THE DESIGNATED SERVING AREA OF THEIR ON SALE INTOXICATING LIQUOR LICENSE FOR AUGUST 19, 2017 FROM 1-7:00 P.M. WITH APRIL CERVANTEZ, MANAGER.

April Cervantez was present on behalf of the application. The event will be to celebrate the Leinenkugel's 150th anniversary and will be bringing in a trailer from Leinenkugel's and will have the area fenced off in their parking lot only. They are currently working with Officer Stovern to be in compliance. Commissioner Stolee made a motion to approve and a second was made by Commissioner Rosenthal.

HEARING TO DECIDE WHAT, IF ANY, DISCIPLINARY ACTION SHOULD BE TAKEN REGARDING THE ON SALE INTOXICATING LIQUOR LICENSE OF HOSPITALITY ASSOCIATES OF DULUTH, LLC d/b/a SPURS ON 1ST, 109 WEST SUPERIOR STREET, DULUTH, MINNESOTA 55802

Attorney Alison Lutterman gave an explanation of what the hearing process is. She explained that Attorney Steve Hanke was present representing the City's Administration and that she was there as advisor to the AGT, not administration. The boards responsibility is to make a motion and recommendation to the council as to what it believes is the appropriate discipline is warranted in the case. Then that recommendation would be sent to City Council and they would make the final decision as to accept, or not accept the AGT's recommendation.

Attorney Hanke explained that we are here regarding Spur's on First not having a current Food and Beverage Establishment License that is administered by the State of Minnesota Department of Health. On January 26th, 2017 Mr. Patronas was notified that his check had bounced and he received a penalty order. He also received a reminder on March 1, 2017. On May 4th, he received

a certified letter ordering him to discontinue operating Spurs on 1st until the corrective actions had been completed. A few days before June 7th, the commission chose to pursue the hearing and Mr. Patronas was notified. Attached are the Notice of and Order for Hearing. Attorney Hanke stated that he is advocating for the fine of \$1000 and one-day penalty.

Mr. Patronas spoke on his behalf stating that he did not receive any of the letters that were talked about and that they were delivered to the bar, and he did not sign for them, nor did he receive them. Mr. Patronas stated that he runs a decent establishment and that he complies with the law. He explained that he had someone paying his bills while he was laid up for the winter. He stated didn't even know about any of this until he spoke with Officer Vang and was told he could not be open. Mr. Patronas said, that when he was told this, he closed the bar. Mr. Patronas spoke with Mr. Peloquin and payed the fine and permit by the renewal date in June, on the 14th all monies owed were paid, and Mr. Patronas was then reinstated and able to reopen on the 15th.

The issue Mr. Hanke takes, on behalf of the city is that Mr. Patronas received a letter on May 4th, telling him he must close his business until he could be reissued his permit.

Mr. Patronas stated that since this incident, there is a rule in place that nobody at the bar can sign for him.

President Wisoki asked for clarification on dates of notice and dates that the fines were paid. He also asked Mr. Patronas if he was aware at all of the letters, and he stated that he did not receive any of the letters, and that he did not know about the notices.

Attorney Hanke made the suggestion that there was no rush to make a decision today if they needed more time to research evidence.

Commissioner Rosenthal made a motion to table the hearing until the August 2nd meeting so that the Commission can have time to speak with Mr. Peloquin and request a statement and to also have Officer Vang present to question. A second was made by Commissioner Stauber. Motion carried.

There being no further business to bring before the commission, the meeting was declared adjourned at 5:32 p.m.