

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

**December 6, 2017**

The regular meeting of the Alcohol, Gambling & Tobacco Commission was held on Wednesday, December 6, 2017, at 4:45 p.m., in the City Council Chamber, 3rd Floor, City Hall.

ROLL CALL: Present: Patricia Stolee, Lon Hanson, Ryan Stauber,  
President Wisoki, Jeff Rosenthal, Bjorn Braaten, Mark Osthus

Absent:

The minutes of the November 1, 2017, Alcohol, Gambling and Tobacco Commission meeting were unanimously approved.

**COMMUNICATONS:**

CITY ATTORNEY SUBMITTING NOTICE OF HEARING TO DECIDE WHAT, IF ANY DISCIPLINARY ACTION SHOULD BE TAKEN REGARDING THE ON-SALE INTOXICATING LIQUOR LICENSE FOR ROTO OF DULUTH, INC, OPERATING AS UNIVERSITY LIQUOR, 1603 WOODLAND AVENUE, DULUTH, MINNESOTA 55803. 17-03 – The Commission moved the hearing to the end of the meeting.

**LAWFUL GAMBLING:**

**ANIMAL ALLIES HUMANE SOCIETY**

**Application for Exempt Permit –  
Raffle at Figters Building for January  
26, 2018**

Vickie Erickson appeared on behalf of the application. Commissioner Wisoki made a motion to approve the permit and a second was made by Commissioner Stolee. Motion carried.

**NORTHERN LIGHTS FOUNDATION**

**Application for Exempt Permit –  
Raffle at Grandma’s Sports Garden  
for January 11, 2017**

Melissa Blade appeared on behalf of the application. Commissioner Hanson made a motion to approve the permit and a second was made by Commissioner Braaten. Motion carried.

**Irving Community Association Premise Permits - Alpine Bar & Lounge /**

**GB Schneider** - Erica John appeared on behalf of Irving Community Association. Commissioner Hanson made a motion to approve and a second was made by Commissioner Braaten. Motion carried.

**NEW BUSINESS:**

**APPLICATION FOR THE TRANSFER OF THE BREWERY MALT LIQUOR OFF SALE (GROWLER), AND BREWERY MALT LIQUOR ON SALE (TAPROOM) AND ON SALE SUNDAY LICENSE (TAPROOM ONLY) AND 2:00 A.M. (TAPROOM ONLY) OF BENT PADDLE BREWING COMPANY, FROM 1912 WEST MICHIGAN STREET TO 1832 WEST MICHIGAN.**

– Lars Kuehnow and Laura Mullen appeared on behalf of the application. A discussion was held on whether or not there would be brewing in the new location, and Mr. Kuehnow explained that there would be brewing in that building and that the old building would be used for distribution of product. Laura Mullen stated that she would be sending a drawing of the new space to the City Clerk's office. Commissioner Rosenthal made a motion to approve and a second was made by Commissioner Braaten. Motion carried.

**APPLICATION FOR THE TRANSFER OF STOCK OF THE BREWERY MALT LIQUOR OFF SALE (GROWLER), AND BREWERY MALT LIQUOR ON SALE (TAPROOM) AND ON SALE SUNDAY LICENSE (TAPROOM ONLY) AND 2:00 A.M. (TAPROOM ONLY) OF LAKE SUPERIOR BREWING COMPANY, LLC, 2711 WEST SUPERIOR STREET WITH LARS KUEHNOW 50 PERCENT AND PARK**

**PROPERTIES 50 PERCENT** - A motion to approve was made by Commissioner Stolee and a second was made by Commissioner Hanson. Motion carried.

**SOUND DULUTH, LLC (SOUND) 132 EAST SUPERIOR STREET, SUITE 2A - APPLICATION FOR AN ON SALE INTOXICATING LIQUOR AND ON SALE SUNDAY AND AFTER HOURS ENTERTAINMENT LICENSE FOR PERIOD BEGINNING DECEMBER 11, 2017 AND ENDING AUGUST 31, 2018 WITH ALLISON UNDERTHUN, MANAGER/OWNER.**

– Alison Underthun appeared on behalf of the application. Alison is the owner of the establishment. Also present was Patrick Scot Stanley Moore, Executive Chef. "Sound" will concentrate on bringing internationally touring artists to a small venue that has really good food focusing on sustainable seafood and a raw bar with oysters. Commissioner Osthus made a motion to approve and a second was made by Commissioner Stolee.

**HEARING:** Attached is the hearing summary to be presented to council.

**Adjourned**

CITY OF DULUTH  
ALCOHOL, GAMBLING AND TOBACCO COMMISSION

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**REPORT TO THE CITY COUNCIL**

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IN THE MATTER OF: **Roto of Duluth, Inc., d/b/a University Liquor**, 1603 Woodland Avenue, Duluth, Minnesota 55803.

The above-entitled matter came on for hearing before the Duluth Alcohol, Gambling and Tobacco Commission (the “Commission”) on December 6, 2017 in the City Council Chambers in Duluth, Minnesota. The hearing record closed on December 6, 2017 upon completion of the hearing.

Steven B. Hanke, Deputy City Attorney, City of Duluth, Office of the City Attorney, 410 City Hall, Duluth, Minnesota, 55802, appeared on behalf of the City licensing staff. The Licensee did not contact City of Duluth staff or the Commission; the Licensee did not appear at the hearing.

This Report is a recommendation, not a final decision. The Duluth City Council will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusion and Recommendations contained herein. Pursuant to Minn. Stat. §14.61, the final decision of the Council shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by the Report to file exceptions and present argument to the City Council. Parties should contact the City Clerk to ascertain the procedure for filing exceptions or presenting argument.

**FINDINGS OF FACT**

The commission makes the following findings of fact.

1. Licensee is licensed by the City of Duluth to sell intoxicating liquor “off-sale” at the premises located at 1603 Woodland Avenue, Duluth, Minnesota.
2. On August 31, 2017, an employee of Licensee was issued a citation for sale of intoxicating liquor to a person under the age of 21 in violation of Duluth City

Code section 8-28. The employee was convicted on October 2, 2017. The employee paid his fine of \$200, and a late payment penalty of \$50.

3. The Licensee was also issued a citation under Duluth City Code section 8-35 for the illegal sale and convicted of this offense on September 20, 2017. The Licensee paid its \$200 fine.
4. The Commission then issued its Notice of and Order for Hearing and set a hearing date of December 6, 2017.
5. The Licensee was served with the Notice of and Order for Hearing on October 18, 2017.
6. This is the Licensee's first violation for purposes of the presumptive penalty schedule provided for in Duluth City Code section 8-9.

### **CONCLUSIONS**

Based upon these facts, the Commission makes the following conclusions:

1. Section 8-9(a) and (b)(1) of the Duluth City Code provides that the violation of any law relating to the operation of a liquor establishment shall be deemed to be good cause for disciplinary action up to and including imposition of a civil penalty, license suspension or license revocation.
2. Section 8-35 of the Duluth City Code provides that the Licensee shall be responsible for the conduct of its place of business and any violation of Chapter 8 of the Duluth City Code committed on the licensed premises by an employee of the licensee shall be deemed the act of the Licensee as well as the employee.
3. The Licensee is liable for the violation occurring on its licensed premises on August 31, 2017.
4. Section 8-9(c) of the Duluth City Code provides that absent aggravating or mitigating circumstances, the presumptive penalty for the current violation is a \$500 civil penalty.
5. The Duluth Alcohol, Gambling and Tobacco Commission finds that the following aggravating circumstances exist in regards to the violation occurring on August 31, 2017:
  - a. The Licensee has failed every City of Duluth compliance check in at least

the past seven years regarding sales of intoxicating liquor to a person under the age of 21;

- b. The Licensee did not attend the hearing as requested by the Commission; and
- c. The Licensee has not provided evidence of any employee training in regards to identification verification to ensure purchasers are at least 21 years of age.

### **RECOMMENDATION**

It is the recommendation of the Duluth Alcohol, Gambling and Tobacco Commission that the Duluth City Council impose a civil penalty as follows:

- 1. Payment of a \$1,000 penalty; and
- 2. Pursuant to Duluth City Code Section 8-9(c), the civil penalty is due and payable within 30 days of council action.

Dated: December 6, 2017

DULUTH ALCOHOL,  
GAMBLING  
AND TOBACCO COMMISSION

By: /s/ Adam Wisocki  
President