

PURCHASING AND LICENSING COMMITTEE

10-0072R

RESOLUTION IN THE MATTER OF THE OFF SALE INTOXICATING LIQUOR LICENSE OF GOLDEN EAGLE LIQUORS, LLC, (SPORTSMEN'S LIQUOR), 3904 GRAND AVENUE.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On December 2, 2009, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Golden Eagle Liquors, LLC, d/b/a Sportsmen's Liquor, 3904 Grand Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. \_\_\_\_\_;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on February 8, 2010, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. \_\_\_\_\_ regarding any suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of Golden Eagle Liquors, LLC, d/b/a Sportsmen's Liquor, 3904 Grand Avenue, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the city council impose a \$850 civil penalty payable within 60 days of final council action with no portion of which shall be stayed; a one day license suspension to be served on the second Monday following council action; and payment of the \$250 civil

penalty that was stayed for one year pursuant to Resolution 09-0066, payable within 60 days of final council action.

Approved as to form:

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Attorney

CLERK JJC:mao 1/27/2010

STATEMENT OF PURPOSE: The alcohol, gambling and tobacco commission (AGTC) held a hearing on December 2, 2009, regarding the liquor license of Sportsmen's Liquor, 3904 Grand Avenue. On May 4, 2009, the police department conducted an alcohol compliance check and an employee of the licensee sold intoxicating liquor to a person under the age of 21 which is in violation of City Code and state law. Section 8-34 of City Code provides that the licensee is responsible for the conduct of its place of business. This licensee was previously disciplined in January 26, 2009, as a result of a similar violation that occurred in June 2008. As a result of that violation, a \$500 penalty was imposed, however, \$250 was stayed for one year pending no further same or similar violations. (Resolution 09-0066 approved on 1/26/09). The violation that took place on May 4, 2009, took place during the one year abatement period and within the one year of the June 30, 2008, violation.

The AGTC decided that aggravating factors exist which justify an upward departure from the presumptive penalty in Section 8-9 of City Code which is a \$750 fine and a one day suspension for a second offense in one year. The licensee was granted a conditional off sale license allowed by the State which reduces the license fee by \$100. The conditional license is based on the agreement that the licensee would post a policy requiring identification checks for all persons appearing to be 30 years old or younger. Sportsmen's Liquor has posted an age verification policy, however, the employee failed to ask the underage person for identification and therefore did not enforce its own posted policy which is a specific condition of the licensee's conditional license. The AGTC is recommending a \$750 fine and a one day suspension, plus an additional \$100 for the violation of the licensee's posted policy. Payment of the \$250 fine that was stayed for one year is also due with all fines payable within 60 days of final council action with no portion stayed. The one day suspension to be served on the first Monday following council action.