

PURCHASING AND LICENSING COMMITTEE

11-0025R

RESOLUTION IN THE MATTER OF THE ON SALE INTOXICATING LIQUOR LICENSE OF PIZZA LUCE III, INC. (PIZZA LUCE), 11 EAST SUPERIOR STREET.

CITY PROPOSAL:

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

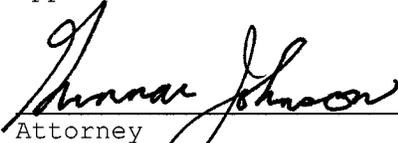
a) On October 6, 2010, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Pizza Luce III, Inc. d/b/a Pizza Luce, 11 East Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. _____;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on January 24, 2011, 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 on sale intoxicating liquor license of Pizza Luce III, Inc. d/b/a Pizza Luce, 11 East Superior Street, 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 \$500 civil penalty payable within 30 days of final council action.

Approved as to form:



Attorney

CLERK JJC:mao 1/12/2010

STATEMENT OF PURPOSE: The alcohol, gambling and tobacco commission (AGTC) held a hearing on October 6, 2010, regarding the liquor license of Pizza Luce. On May 9, 2010, a police squad drove by the restaurant at 2:38 a.m. and noticed that there were 30-40 people standing outside the restaurant with alcohol containers in their hands. The licensee was ticketed for allowing alcohol beverages outside on public property and allowing alcohol to be consumed after 2:30 a.m. This is the first offense for the licensee, and Section 8-9 provides that the presumptive penalty for a first offense is a \$500 penalty. The recommendation of the AGTC is to impose a civil penalty of \$500 payable within 30 days of council action.

CITY OF DULUTH
ALCOHOL, GAMBLING AND TOBACCO COMMISSION

REPORT TO THE CITY COUNCIL

PIZZA LUCE III, INC., 11 East Superior Street, Duluth, Minnesota 55811.

The above-entitled matter came on for hearing before the Duluth Alcohol, Gambling and Tobacco Commission on October 6, 2010, in the City Council Chambers in Duluth, Minnesota. The hearing record closed on October 6, 2010, upon completion of the hearing.

Steven B. Hanke, Assistant City Attorney, City of Duluth, Office of the City Attorney, 410 City Hall, Duluth, Minnesota, 55802, appeared on behalf of the City licensing staff. Licensee appeared through its managing agent, Paige Lunsford, and employee, Emily W. Brown.

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. The above-identified Licensee is licensed by the City of Duluth to sell

intoxicating liquor “on-sale” and for “late hours” at a premises located at 11 East Superior Street, Duluth, Minnesota 55811.

2. On May 9, 2010, an employee of the Licensee allowed persons upon Licensee’s premises to consume alcoholic beverages after 2:30 a.m. in violation of Duluth City Code Section 8-19(a).
3. On May 9, 2010, the employee also permitted alcoholic beverages purchased in the Licensee’s premises to be consumed and carried outside Licensee’s premises on a public sidewalk and street in violation of Duluth City Code Section 8-22.
4. The employee was issued a City of Duluth administrative citation for both violations. The employee was convicted of both offenses on May 27, 2010. *See City of Duluth Ordinance Violation Ticket Nos. LP10001753 and LP1000174; City of Duluth Administrative Court Hearing Officer’s Decision ICR# 10-277475.*
5. The Licensee was cited for the Licensee’s liability for the offenses pursuant to Duluth City Code Section 8-35. Licensee was convicted of violation of Duluth City Code Section 8-22 on September 15, 2010. The charge of violation of Duluth City Code Section 8-19(b) was dismissed. *See State of Minnesota vs. Pizza Luce III, St. Louis County District Court File No. 69DU-VB-10-6353.*
6. The Commission then issued its Notice and Order for Hearing and set a hearing date of October 6, 2010.
7. Section 8-9(b)(1) of the Duluth Legislative Code provides that grounds for disciplinary action include the operation of a liquor establishment in violation of any law. Section 8-35 provides that every licensee shall be responsible for the conduct of the licensee’s place of business and that any violation of Chapter 8 of the Duluth Legislative 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.

CONCLUSIONS

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

1. That the violation as alleged in the Notice of Hearing occurred.
2. That the Licensee is responsible for the violation.
3. This is the Licensee's first violation for purposes of the presumptive penalty schedule provided for in Duluth City Code 8-9.
4. That pursuant to Duluth City Code Section 8-9, absent aggravating or mitigating circumstances, the presumptive penalty for the violation is a \$500.00 civil penalty as a "first offense".

RECOMMENDATION

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

1. Payment of a \$500.00 penalty within 30 days of final council action.

Dated: 11/3/2010

**DULUTH ALCOHOL, GAMBLING
AND TOBACCO COMMISSION**

By: 

George Hanson, President

CITY OF DULUTH

ALCOHOL, GAMBLING AND TOBACCO COMMISSION

NOTICE OF AND ORDER FOR HEARING

TO: PIZZA LUCE III, INC., 11 East Superior Street, Duluth, Minnesota 55811.

PLEASE BE ADVISED that on **October 6, 2010, at 4:45 p.m.** in the Council Chambers at City Hall in the City of Duluth, the Duluth Alcohol, Gambling and Tobacco Commission will hold a hearing, pursuant to Minnesota Statutes §340A.415 and Section 8-9 of the Duluth City Code, to consider what, if any, disciplinary action, including suspension or revocation or a civil fine of not to exceed \$2,000, will be recommended to the Duluth City Council with respect to your intoxicating liquor license.

If you do not appear at said hearing, the Alcohol, Gambling and Tobacco Commission may, in your absence, recommend that the Duluth City Council consider the allegations contained herein to be true.

At the above-mentioned hearing, you may, at your option, be represented by legal counsel.

The Rules for Contested Case Hearings Minnesota Rules Chapter 1400, Part 5550, *et. seq.*, to the extent applicable, and Minnesota Statutes §14.57 thru §14.69 govern. Copies of these laws and rules may be obtained at the Duluth Public Library or online from the official web site of the State of Minnesota.

The City will present its case, and then you will have an opportunity to present your case. At the time of the hearing, you should be prepared to produce any evidence and arguments you feel are relevant to the issues raised. You or your attorney will be allowed

to cross-examine all adverse witnesses. If needed, subpoenas are available (Minnesota Rules 1400.7000).

You must advise the Commission if you seek to admit evidence that is classified not public. If data that is not public is admitted, it may become public. Relief is available under Minnesota Statutes §14.60, subd. 2. If an interpreter is needed, you must inform the Commission and one will be appointed.

A notice of appearance must be filed with the City Clerk within 20 days of the date of service of the notice of hearing if you intend to appear at the hearing, unless the hearing date is less than 20 days from the issuance of the notice of hearing.

The person representing the City, who you should contact to discuss settlement or other concerns is **Steven B. Hanke, Assistant City Attorney.**

The hearing will be open to the public.

The following facts give rise to the inquiry and hearing mentioned above:

1. The above-identified licensee is licensed by the City of Duluth to sell intoxicating liquor “on-sale” and for “late hours” at a premises located at 11 East Superior Street, Duluth, Minnesota 55811.
2. On May 9, 2010, Emily Woodward Brown, a manager of the Licensee, allowed persons upon Licensee’s premises to consume alcoholic beverages after 2:30 a.m. in violation of Duluth City Code Section 8-19(a). On May 9, 2010, Brown also permitted alcoholic beverages purchased in the Licensee’s premises to be consumed and carried outside said premises on a public sidewalk and street in violation of Duluth City Code Section 8-22. Brown was issued a City of Duluth administrative citation for both violations. Brown appealed both citations but was subsequently convicted of both offenses on August 23, 2010. *See City Docs. No. 1-2 (Duluth Police Department Report Case No. 10277476; City of Duluth Ordinance Violation Ticket Nos. LP10001753 and LP10001754.)*

3. Licensee was cited for the Licensee's liability for the offenses pursuant to Duluth City Code Section 8-35. Licensee pled guilty to violation of Duluth City Code Section 8-22. The charge of violation of Duluth City Code Section 8-19(b) was dismissed. *See City Doc. Nos. 1, 3, and 4 (Duluth Police Department Report Case No. 10277476, State of Minnesota vs. Pizza Luce III, St. Louis County District Court File No. 69DU-VB-10-6353, Petition to Enter Plea of Guilty in Petty Misdemeanor Case Pursuant to Rule 15.)*
4. This is the Licensee's first violation for purposes of the presumptive penalty schedule provided for in Duluth City Code 8-9.
5. Pursuant to Duluth City Code Section 8-9, absent aggravating or mitigating circumstances, the presumptive penalty for a first offense is a \$500.00 civil penalty.

Pursuant to City Code Sections 8-9(a) and (b)(1) the Alcohol, Tobacco and Gambling Commission will consider whether the violation alleged is good cause for suspension or revocation of the liquor license or for the imposition of a civil penalty.

(Records Supporting This Notice Are Attached As City Documents Nos. 1-4).

Dated: August 26, 2010

JEFFREY J. COX, Secretary
Alcohol, Gambling and Tobacco
Commission

and



STEVEN B. HANKE (0387429),
Assistant City Attorney

Gunnar B. Johnson, City Attorney
Attorneys for the Alcohol, Gambling and
Tobacco Commission

EXHIBIT NO. 1

**Duluth Police Department
Main Office**

Reported Date: 05/09/2010 Time: 02:38 Case No.: 10277476
Code: DU8.27(b) Crime: DPD-LIQUOR-POSS UNDER THE AGE OF 21
Class: M4140 Occurrence Date: 05/09/2010
Location: 11 SUPERIOR ST E, 1DU, DULUTH (CITY), , ,

===== NARRATIVE =====

SYNOPSIS:

On 05/09/2010 at 0238 hours Officers passed Pizza Luce and saw that there were many people coming and going, some with alcohol containers. Officers went in to investigate why the bar still had patrons drinking. We found one person that had been ejected from the bar, was unable to care for himself, brought him to detox and did an informational report.

NARRATIVE:

On 05/09/2010 at 0238 hours, I, Officer Thamm, (Squad 36) drove by Pizza Luce at Lake Avenue and Superior Street and saw that there were approximately 30 to 40 people standing outside, some with alcohol containers in their hand. I knew that the bar should have stopped serving at 0200 and that nobody should have any alcohol containers after 0230. I made an on-view and asked for Sergeant Shene and Officers Hurst and Neitzel to assist me in investigating what was still going on there.

On the way into the restaurant I took three beers from three different people and brought them in the bar and threw them in the garbage can. I went back to the kitchen area where I was directed by employees to find any manager that might be on duty. I was directed further into the kitchen where I waited and while I was standing there two people who I presumed to be Pizza Luce employees were carrying a male off the dance floor to the kitchen, they had him by the arms and he was just barely able to keep up because of his intoxicated state so they half dragged him and half walked him out to the bar where they walked past the bar out of the kitchen where I lost sight of him.

I was later met by a person who identified herself as EMILY WOODWARD BROWN, dob:10/18/87. She said that she was the manager on duty that evening. I asked her why so many people had beers. She and another employee started explaining to me that they had quit serving at 0200 a.m. but that it was impossible to get everybody's alcohol away from them by 0230. I reported this information to Sergeant Shene and he wanted to come back in and talk to BROWN.

We talked to BROWN who said that a band had just started a set of music and that they were scheduled to play until an unknown time. She said that she didn't book the band and had no idea how long they planned to play. She said that her employees were trying to get the alcohol cleared up and there were employees in fact collecting beers after the

Police Officers arrived. It should be noted that this was about 0250 hours and there were still many people out on the dance floor that had containers of alcohol but it was not safe and almost not physically possible for me to go in and collect the alcohol without shutting down the entire show.

It was later found that the male who I had seen being carried through the kitchen area had been brought out the front door and laid down on the sidewalk outside of Pizza Luce. Officer Hurst saw the employees bring this male out. A routine investigation revealed that he was only 20 years old. His name was BRANDON VICTOR SAARELA, dob:02/05/1990. SAARELA told us that he had been drinking underage inside Pizza Luce for several hours and had never once been asked for ID.

Upon arrival at detox with SAARELA we PBT'D him and the result of the PBT showed he was a .217 blood alcohol. SAARELA said that he was there with friends who may also have been underage. SAARELA was unable to speak clearly, he couldn't remember his own phone number or address. We got his address off of his driver's license, he was violently vomiting while at detox being admitted and was completely unable to care for himself.

After getting SAARELA checked in at detox Officer Hurst and I went back to Pizza Luce where we explained to BROWN what had happened and told her that we would be doing a report to document how the bar had been serving people underage to excess and that they in fact served SAARELA underage to access and then put him out of the bar and onto the sidewalk to fend for himself. It should be noted that SAARELA also received City ordinance violation for underage consumption of alcohol.

CITY OF DULUTH CITY ORDINANCE VIOLATION	
This Citation charges you with a violation of a Duluth City Ordinance.	
For more information, see the reverse side of this ticket.	
ICR Number 10-277476	Date/Time Issued 5-27-10 @ 0910
Alleged Violator's Name Emily Woodward BROWN	
Address City State Zip Code 742 Ridgewood Rd Duluth, MN. 55804	
DOB 10-18-1987	Phone Number
Vehicle Information	
License No.	State Reg. Expires
Vehicle Make	Model Color
Violation Information	
Date of Violation 5-9-2010	Time of Violation 0238
Location 11 E. Superior st	
Charge Alcoholiz bev. in Public	Ordinance No. 8-22
Description allowed alcoholiz beverages to be brought out onto the sidewalk	
Officer Signature <i>Cha Vang</i>	
Officer Name (Print) Vang	Badge No. 375
Served: in person <input type="checkbox"/> By mail <input checked="" type="checkbox"/>	Positively Identified <input type="checkbox"/>
Date Due: June 10, 2010	Minimum Fine Amount Due: <input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> \$400.00
Ticket Number: LP10 001754	

CITY OF DULUTH CITY ORDINANCE VIOLATION	
This Citation charges you with a violation of a Duluth City Ordinance.	
For more information, see the reverse side of this ticket.	
ICR Number 10-277476	Date/Time Issued 5-27-10 @ 0910
Alleged Violator's Name Emily Woodward BROWN	
Address City State Zip Code 742 Ridgewood Rd Duluth, MN. 55804	
DOB 10-18-1987	Phone Number
Vehicle Information	
License No.	State Reg. Expires
Vehicle Make	Model Color
Violation Information	
Date of Violation 5-9-2010	Time of Violation 0238
Location 11 E. Superior st	
Charge Hours for Consumption	Ordinance No. 8-19
Description allowed patrons to consumed alcoholiz beverages after 0230	
Officer Signature <i>Cha Vang</i>	
Officer Name (Print) Vang	Badge No. 375
Served: In person <input type="checkbox"/> By mail <input checked="" type="checkbox"/>	Positively Identified <input type="checkbox"/>
Date Due: June 10, 2010	Minimum Fine Amount Due: <input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> \$400.00
Ticket Number: LP10 001753	

STATE OF MINNESOTA
 COUNTY OF ST. LOUIS
 DISTRICT COURT

COMPLAINT

Court Number

DIVISION CO, CD

DRIVER LICENSE NUMBER	STATE <input type="checkbox"/> MN	ICR NUMBER 10277476
NAME - FIRST/MIDDLE/MAIDEN Pizza Luce III, Inc.		LAST
STREET ADDRESS 11 E. Superior St		
CITY Duluth	STATE ZIP CODE MN 55802	

DATE OF BIRTH	EYES	HEIGHT	WEIGHT	SEX	JUV.PAR./GUAR.
VEHICLE LICENSE PLATE	STATE	MAKE	MODEL	COLOR	

DATE OF OFFENSE 5-9-2010	TIME 8:38 A.M.	<input type="checkbox"/> Endanger Life or Property <input type="checkbox"/> Unsafe Conditions (2 or more) <input type="checkbox"/> Accident Type: <input type="checkbox"/> PD <input type="checkbox"/> Injury <input type="checkbox"/> Fatal <input type="checkbox"/> PED	<input type="checkbox"/> Hazardous Material <input type="checkbox"/> Commercial Vehicle
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LOCATION & CITY (IF APPLICABLE) 11 E. Superior St	MILEPOST Duluth
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OFFENSE DESCRIPTION NO. 1 DRIVER OWNER PASSENGER OPERATE PARK

STATUTE ORDINANCE 8-19	SPEED (Over Limit) 1004 mph in zone
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OFFENSE DESCRIPTION NO. 2 DRIVER OWNER PASSENGER OPERATE PARK

Alcohol/bew. prohibited in Public Places

STATUTE ORDINANCE 8-22

OFFENSE DESCRIPTION NO. 3 DRIVER OWNER PASSENGER OPERATE PARK

STATUTE ORDINANCE

OFFENSE DESCRIPTION NO. 4 DRIVER OWNER PASSENGER OPERATE PARK

STATUTE ORDINANCE

COURT NAME AND LOCATION:
 COURT ADMINISTRATOR - 100 N. 5th AVE. W. - ROOM 109
 DULUTH, MN 55802 (218) 726-2464

COURT DATE June 22, 2010	COURT TIME 8:15 A.M.	NOTE: Refer to Back of Summons For Further Information	D053605
The Undersigned being duly sworn, deposes and says that the person named on this complaint did commit the above offense(s).			
OFFICER Vam	BADGE 375		

REGISTER OF ACTIONS
CASE NO. 69DU-VB-10-6353

State of Minnesota vs PIZZA LUCE III

§
§
§
§
§

Case Type: Crim/Traf Non-Mand
 Date Filed: 06/23/2010
 Location: - St. Louis-Duluth

PARTY INFORMATION

Defendant PIZZA LUCE III	Lead Attorneys
Jurisdiction State of Minnesota NONE	MARY E ASMUS 218-730-5490(H)

CHARGE INFORMATION

Charges: PIZZA LUCE III	Statute	Level	Date
1. DPD-LIQUOR-DRINKING IN PUBLIC	DU8.22	Petty Misdemeanor	05/27/2010
2. DPD-LIQUOR-HOURS FOR CONSUMPTION	DU8.19(b)	Petty Misdemeanor	05/27/2010

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS
 06/23/2010 Citation E-Filed
 06/29/2010 Notice-Pay or Appear

FINANCIAL INFORMATION

Defendant PIZZA LUCE III	
Total Financial Assessment	0.00
Total Payments and Credits	0.00
Balance Due as of 07/02/2010	0.00

State of Minnesota

District Court

County ST. LOUIS

Judicial District:	SIXTH
Court File Number:	69DU-VB-10-6353
Case Type:	Criminal

STATE OF MINNESOTA
Plaintiff

vs.

**Petition to Enter Plea of Guilty
in Petty Misdemeanor Case
Pursuant to Rule 15**

Pizza Luce III, Inc.
Defendant

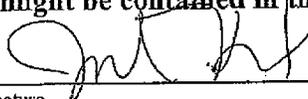
TO THE ABOVE-NAMED COURT

I wish to enter a plea of guilty in the above-entitled case and I hereby state to the Court the following:

1. I am the Defendant in this case, my full name is **Pizza Luce III, Inc.**.
2. I am charged with **Count 1: Alcohol beverages Prohibited in Public Places DCC 8-22**
Count 2: Hours for consumption DCC 8-19(b)
3. I hereby plead guilty to the offense of **Count 1: Alcohol prohibited in public place**
4. I am pleading guilty because on **May 9, 2010**, in the City of **Duluth**
County of **St. Louis**, State of Minnesota I committed the following acts (state sufficient facts to establish a factual basis for all elements of the offense to which the defendant is pleading guilty): **Pizza Luce III permitted alcohol in public place, the sidewalk in front of the restaurant.**
5. I understand that the maximum possible sentence for the City Ordinance Offense to which I am pleading guilty is a fine of \$1000.
6. **RIGHT TO AN ATTORNEY.** I understand that I have the right to be represented by an attorney and that an attorney will be appointed to represent me without cost to me if I cannot afford to pay for an attorney.
7. I have fully discussed the charge(s), my constitutional rights, and this petition with my attorney. **Klay C. Ahrens, Helmuth and Johnson PLLC. 10400 Viking Drive, Suite 500, Eden Prairie, MN 55344. (952) 941-4005**
8. I understand that I also have the following constitutional rights which I knowingly and voluntarily give up:
 - a. The right to a trial to the court or to a jury in which I am presumed innocent until proven guilty beyond a reasonable doubt and in which all jurors in a jury trial must agree I am guilty before the jury could find me guilty.
 - b. The right to confront and cross-examine all witnesses against me.

- c. The right to remain silent or to testify for myself.
 - d. The right to subpoena and present witnesses to testify for me in my defense.
 - e. The right to a pretrial hearing to contest the admissibility at trial of any confessions or admissions or of any evidence obtained from a search and seizure.
9. I am entering my plea of guilty freely and voluntarily and without any promises except as indicated in number 10 below.
10. I am entering my plea of guilty based on the following plea agreement with the prosecutor:
Count 2: Hours for Consumption, will be dismissed. I will pay a fine of \$300 plus court costs of \$85.
-
11. I understand that if the Court does not approve this agreement I have the right to withdraw my plea of guilty and have a trial.
12. I understand that if this plea of guilty is accepted I have the right to be present at the time of sentencing and to speak and to present evidence on my behalf.
13. I hereby request to be present at the time of sentencing, or
- 13a. I hereby knowingly and voluntarily give up my right to be present upon (entry of my plea and) sentencing and request that the court sentence me in my absence, but according to any plea agreement that might be contained in this petition.

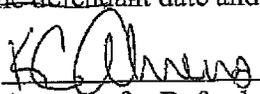
Dated: 7/16/10


 Signature
 Name: Julie Haywood For Pizzaluce III
 Street Address: 119 N 4th St #210 Mpls Mn 55401
 City/State/Zip: Mpls Mn 55401

discussed the Plea Petition with the defendant before the same was signed by the defendant.

I, KLAV C. (KC) ARENS state that I am the attorney for the defendant; and that I ~~personally observed the defendant date and sign the above petition~~

Dated: 8/10/10


 Attorney for Defendant

PETITION AND PLEA OF GUILTY ACCEPTED BY

Dated _____

 Judge of District Court



May 27, 2010

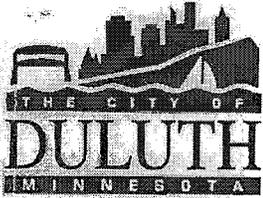
Emily Brown
742 Ridgewood Rd
Duluth, Mn. 55804

I am writing this letter to notify you that on 5/9/2010 at approximately 0238 hours, officers from the Duluth Police Department found numerous people with alcoholic beverages both inside and outside of Pizza Luce. During their investigation, they were informed that you were the manager on duty that night. As the manager on duty, you had a responsibility to control what goes on at the establishment. After my review of the police report left by the officer and by Duluth City ordinance, you are being cited for Hours of consumption (DCC 8-19) and Alcoholic beverages prohibited in public place (DCC 8-22). If you have any questions or concerns, you can reach me at 218-730-5421.

Sincerely

A handwritten signature in cursive script that reads "Cha Vang".

Officer Cha Vang
Duluth Police Licensing Office



May 27, 2010

Pizza Luce III, Inc.
C/O Scott Nelson
11 E Superior St
Duluth, Mn. 55802

I am writing this letter to notify you that on 5/9/2010 at approximately 0238 hours, officers from the Duluth Police Department found numerous people with alcoholic beverages both inside and outside of Pizza Luce. Along with this notice is a citation written out to the licensee, Pizza Luce III, Inc. for violation of Duluth City ordinance, Hours of consumption (DCC 8-19) and Alcoholic beverages prohibited in public place (DCC 8-22). If you have any questions or concerns, you can reach me at 218-730-5421.

Sincerely

Officer Cha Vang
Duluth Police Licensing Office



CITY OF DULUTH
CITY CLERK'S OFFICE
 330 City Hall • 411 West First Street
 Duluth, Minnesota 55802
 Phone: (218) 730-5500
 FAX: (218) 730-5923

FOR OFFICE USE ONLY	
DATE	<u>7-7-09</u>
LICENSE #	<u>57079</u>

LICENSE RENEWAL APPLICATION

GOVERNMENT DATA PRACTICES ACT - CLASSIFICATION WARNING: The data you supply on this form will be used to process the license you are applying for. You are not legally required to provide this data, but we will not be able to process the license without it. Some of the data will be classified as public data if and when the license is granted. Private financial information including a tax identification number and social security number are classified as private data and will be available to governmental personnel and other governmental agencies whose access is necessary to perform their official duties.

Period: 09/01/2009 - 08/31/2010

<u>License Type</u>	<u>Fee</u>	<u>Clerk's Fee</u>	<u>Total</u>
Liquor - Dancing	\$1,051.00	\$0.00	\$1,051.00
2:00 AM Closing Liquor	\$0.00	\$0.00	\$0.00
On Sale Intox Liquor	\$3,876.00	\$0.00	\$3,876.00
On Sale Sunday	\$166.00	\$0.00	\$166.00
AfterHours/Entertain-Liq	\$250.00	\$0.00	\$250.00
	Pay this Amount:		\$5,343.00

Licensee/Business Address/Premises

PIZZA LUCE III, INC
 11 E SUPERIOR ST
 GR FL/PATIO
 DULUTH, MN 55802

Tradename: PIZZA LUCE

Business Phone: 727-7400

Managers Name/Address/Phone

SCOTT H NELSON
 5802 JUNIATA ST
 DULUTH, MN 55804
 310-5823

Owner of Business Premises

A & L PTNSP
 4701 MIKE COLALLIO DR
 DULUTH, MN 55807

Plat/Parcel: 00910 / 00080

Comments:

JOSEPH B BAIER, DIR/PRES/57% STOCK; SCOTT NELSON
 VP/SEC/43% STOCK

I hereby state that all information here is true and correct and that I shall comply with all the provisions of the Ordinances of the City of Duluth and Laws of the State of Minnesota and their Amendments.

Joseph B. Baier
 (Signature of Applicant)

PIZZA LUCE III, INC
 DBA: PIZZA LUCE
 119 N 4TH ST #508
 MPLS, MN 55401

AUG 2⁵ 2009 a6T
 AUG 24 2009 CC
 H ✓
 SF ✓
 IV ✓
 001556

**CITY OF DULUTH
CITY ORDINANCE VIOLATION**

This Citation charges you with a violation
of a Duluth City Ordinance.

For more information, see the reverse side of this ticket.

ICR Number 10-277476	Date/Time Issued 5-27-10 @ 0910
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Alleged Violator's Name Emily Woodward BROWN			
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Address 742 Ridgewood Rd	City Duluth, MN	State MN	Zip Code 55804
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DOB 10-18-1987	Phone Number
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Vehicle Information

License No.	State	Reg. Expires
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Vehicle Make	Model	Color
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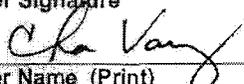
Violation Information

Date of Violation 5-9-2010	Time of Violation 0238
--------------------------------------	----------------------------------

Location 11 E. Superior st

Charge Alcoholic bev. in Public	Ordinance No. 8-22
-------------------------------------------	------------------------------

Description allowed alcoholic beverages to be brought out onto the sidewalk

Officer Signature 

Officer Name (Print) Vang	Badge No. 375
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Served: In person <input type="checkbox"/>	Positively Identified <input type="checkbox"/>
By mail <input checked="" type="checkbox"/>	

Date Due: June 10, 2010	Minimum Fine Amount Due: <input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> \$400.00
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Ticket Number:	LP10 001754
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**CITY OF DULUTH
CITY ORDINANCE VIOLATION**

This Citation charges you with a violation
of a Duluth City Ordinance.

For more information, see the reverse side of this ticket.

ICR Number 10-277476	Date/Time Issued 5-27-10 @ 0910
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Alleged Violator's Name Emily Woodward BROWN			
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Address 742 Ridgewood Rd	City Duluth, MN	State MN	Zip Code 55804
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DOB 10-18-1987	Phone Number
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Vehicle Information

License No.	State	Reg. Expires
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Vehicle Make	Model	Color
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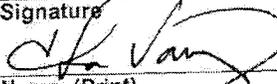
Violation Information

Date of Violation 5-9-2010	Time of Violation 0238
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Location 11 E. Superior st

Charge Hours for Consumption	Ordinance No. 8-19
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Description allowed Patrons to consumed alcoholic beverages after 0230

Officer Signature 

Officer Name (Print) Vang	Badge No. 375
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Served: In person <input type="checkbox"/>	Positively Identified <input type="checkbox"/>
By mail <input checked="" type="checkbox"/>	

Date Due: June 10, 2010	Minimum Fine Amount Due: <input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> \$400.00
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Ticket Number:	LP10 001753
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STATE OF MINNESOTA
COUNTY OF ST. LOUIS
DISTRICT COURT

COMPLAINT

Court Number

DIVISION CO, CD

DRIVER LICENSE NUMBER	STATE <input type="checkbox"/> MN	ICR NUMBER 10277476
NAME - FIRST/MIDDLE/MAIDEN Pizza Luca III, Inc.		LAST
STREET ADDRESS 11 E. Superior St		
CITY Duluth	STATE ZIP CODE MN 55802	

DATE OF BIRTH	EYES	HEIGHT	WEIGHT	SEX	JUV.PAR./GUAR.
VEHICLE LICENSE PLATE	STATE	MAKE	MODEL	COLOR	

DATE OF OFFENSE 5-9-2010	TIME 8:38 A.M. P.M.	<input type="checkbox"/> Endanger Life or Property <input type="checkbox"/> Unsafe Conditions (2 or more) <input type="checkbox"/> Accident Type: <input type="checkbox"/> PD <input type="checkbox"/> Injury <input type="checkbox"/> Fatal <input type="checkbox"/> PED	<input type="checkbox"/> Hazardous Material <input type="checkbox"/> Commercial Vehicle
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LOCATION & CITY (IF APPLICABLE) 11 E. Superior St	MILEPOST Duluth
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OFFENSE DESCRIPTION NO. 1 DRIVER OWNER PASSENGER OPERATE PARK
Hours for Consumption

STATUTE ORDINANCE 8-19	SPEED (Over Limit) 1004 mph in zone
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OFFENSE DESCRIPTION NO. 2 DRIVER OWNER PASSENGER OPERATE PARK
Alcohol bev. prohibited in Public Places

STATUTE ORDINANCE 8-22

OFFENSE DESCRIPTION NO. 3 DRIVER OWNER PASSENGER OPERATE PARK
STATUTE ORDINANCE

OFFENSE DESCRIPTION NO. 4 DRIVER OWNER PASSENGER OPERATE PARK
STATUTE ORDINANCE

STATUTE ORDINANCE

STATUTE ORDINANCE

COURT NAME AND LOCATION:
 COURT ADMINISTRATOR - 100 N. 5th AVE. W. - ROOM 109
DULUTH, MN 55802 (218) 726-2464

COURT DATE June 22, 2010	COURT TIME 8:15 A.M.	NOTE: Refer to Back of Summons For Further Information
The Undersigned being duly sworn, deposes and says that the person named on this complaint did commit the above offense(s).		
OFFICER Van	BADGE 375	D053605

Alcohol, Gambling, and Tobacco Hearing
October 6, 2010
Pizza Luce III, Inc., d/b/a Pizza Luce, 11 E. Superior Street

Oswald: If there is any disciplinary action to be taken in the Liquor License of Pizza Luce at 11 East Superior Street.

Hanson: Welcome.

Lunsford: Paige Lunsford, General Manager at Pizza Luce.

Hanson: And who do you have with you?

Brown: Emily Brown. I was the manager on duty that night.

Hanson: So, Emily, you were the one who was at the premises at the time of the incident and Paige, you are her out of town manager?

Lunsford: I was the day manager, but I am speaking on behalf of the company today cause we had gotten the notice.

Hanson: Emily reports to you then.

Lunsford: Yes. She does.

Hanson: Okay. All right. Normally, Counselor Lutterman could you do what you did for us last month and just kinda go over our procedures so everybody's clear on what we are going to do?

Lutterman: Thank you. In this particular matter, the City presents it's case in chief and after it's completed it's presentation of the case, then the licensee has the opportunity to present any evidence it wishes to present if it's presenting testimonial evidence, the witnesses need to be sworn in. The City has the right to cross examine any witnesses that are presented on behalf of the licensee. When the licensee is done presenting the evidence that it wishes to offer, the City has the opportunity to present any rebuttal evidence that it wishes to present. Then it rests its' rebuttal case. Then if the licensee has any new information in response to the rebuttal information, it has an opportunity to present that evidence. That's called sur rebuttal. What happens is that the parties go back and forth on these type of evidentiary issues but only as to new information that is raised. So, as you go back and forth, the scope of inquiry narrows down. Typically you end up with probably only one round of evidence in most cases.

Once everybody has presented all of the evidence that they want to present, then the evidentiary portion of your hearing closes. As the fact finder, then it is your opportunity to discuss the evidence. At some point in time, once the membership has finished its' discussion of the evidence, the presiding officer can close that discussion, and then ask for any motion on any conclusion that the body wishes to make. Such as they find that the violation has occurred or if the motion is that the violation did not occur. If the mover presents a motion that the violation occurred, they could also include in their motion what they believe an appropriate penalty would be. Although it's not necessary in a motion to offer what you believe a penalty should be. That motion can be divided into two motions. One finding a violation occurred or not occurred, and then a separate motion offering a suggested penalty. Obviously if the motion is finding of no violation, there wouldn't be a motion offering what the penalty would be.

Typically this body has taken the process of the person making a motion, finding a violation or not a violation, and then if the motion is finding a violation, then also offering a suggested penalty. But it doesn't have to be that way. Each motion as it's made and seconded then there is an opportunity for the body to discuss that motion. In some point in time the question is called, and a vote is made on the motion. At the conclusion of the proceeding, a finding is prepared for the President's signature that is consistent with the determination that the body made. That report is presented to the City Council along with the record of the hearing so that the City Council can make a final conclusion.

Hanson: Thank you, Counselor. I asked for it to be repeated for the benefit of a couple of our Commissioners that weren't here last month and for the benefit of the defendants. So what we're gonna do is we're gonna start with the City's story on this first. Counselor Hanke.

Hanke: Thank you, President Hanson. Good evening, Commissioners. We're here on the matter of Pizza Luce, III, Incorporated. Pizza Luce III, Inc. does business as Pizza Luce and is licensed by the City of Duluth to sell intoxicating liquor on sale and late hours at its premises located at 11 East Superior Street in Duluth, Minnesota. On May 9th of this year, Emily Woodward Brown, manager of the licensee allowed persons upon the licensee's premises to consume alcoholic beverages after 2:30 a.m. in violation of Duluth City Code, Section 8-19, Subdivision 8. On May 9th, 2010, Brown also permitted alcoholic beverages purchased in the licensee's premises to be consumed and carried outside the premises on a public sidewalk and street in violation of Duluth City Code Section 8-22. Brown was issued a City of Duluth Administration citation for both violations. Brown appealed both citations but was subsequently convicted

of both offenses on August 23rd, 2010. She did appeal her citations. Her appeals were denied. The licensee was cited for licensee's liability for the offenses pursuant to Duluth City Code Section 8-35. The licensee pled guilty to a violation of Duluth City Code Section 8-22. The charge of violation of Duluth City Code Section 8-19b was dismissed. Under the presumptive penalty language of Duluth City Code Section 8-9, this would be the licensee's first violation, and a first violation under the presumptive penalty is a \$500.00 civil penalty. The evidence that I've submitted to this Commission was also submitted to the licensee. That's Exhibit #1, Duluth Police Department report and copies Exhibit II of the City ordinance violation citation. Exhibit III would be the complaint to Pizza Luce, III Incorporated. Exhibit IV would be the register along with Exhibit III is a register of actions indicating that, at this point, with Pizza Luce the charges. Exhibit IV would be the petition to enter plea of guilty. This is filed with the court and accepted. That's the evidence that I've presented to this Commission at this point. I don't have witness testimony to provide you. I'd like to rest on these police reports and the criminal conviction.

Hanson: So, now it would be appropriate for any questions from the Commissioners.

Lutterman: In an administrative proceeding such as this where the Commission is sitting as a fact finder, the administrative procedure act does allow for the fact finders to ask questions of the City representatives.

Hanson: Do we have any? Commissioner Peterson.

Peterson: I see Officer Vang's signature here. Were you involved in this as well?

Vang: No. What happens is that the report was dictated by the officer at the scene that night and they forward that to me.

Pekkala: I see there was two citations. One for serving after 2:30 and one for allowing them to drink outside ,but then there's also talk about somebody being served that was 20. Why was there no citation for that? Was that just something that was decided not to pursue?

Hanke: I believe in this instance, the police report indicates that the individual was cited for underage consumption. I don't know if it was charged as they were served inside Pizza Luce.

Pekkala: And so there wasn't enough proof so they didn't go forward with that probably?

Hanke: There was no criminal charge filed against Pizza Luce for serving to an

underage person in this case.

Peterson: Do we know why?

Hanke: I don't.

Hanson: Would you care to enlighten us there, Paige?

Lunsford: I would. Yes. There was no evidence that he drank at Pizza Luce. Emily and our head security guard pulled him out of the restaurant immediately. He was obviously intoxicated and brought him out to the street where there was a police officer on duty and the police officer took over from there. It was after hours. We weren't charging a cover at the door any more so he wandered in. We took him out.

Hanson: And then the police got him to detox then?

Lunsford: Yes.

Hanson: All right. Would it be appropriate for the defendant's to offer any questions up now for the plaintiff?

Lutterman: City has rested on documentary evidence and therefore, there's no witness to question. Essentially what's going on here is that the City is asking the body to take what we call judicial notice of the public record.

Hanson: So the defendants can go ahead and present, and if they dispute any of the evidence presented, they can do so during their presentation.

Lutterman: That is correct. The City has the arrest on the public record and now the licensee has an opportunity to present the case.

Hanson: All right. Thank you.

Lunsford: Okay. I'm not here to dispute the charges. We have pled guilty on all of the violations and have paid all fines. Having said that, I would like to apologize for these violations. On behalf of the management and the staff, I want you to know we take our responsibility as a purveyor of alcohol very seriously. We have set protocols in place for service of alcohol. We train our staff annually on alcohol awareness classes, and we have on-going training when necessary. Until this incident, for the last nine years, we have not had any violations. We feel that our protocols have been successful up until this night. The schedule of events for this year's Home Grown Festival, this is when this occurred, presented some very difficult challenges for us a restaurant. The two biggest bands played

at 7:00 p.m. at the Northshor. People began drinking early and continued drinking throughout the night creating a crowd that posed a huge liability to not only us as a restaurant, but other venues and the city in general. My staff was trying to control this challenge as best they could that evening. This event turned out to be bigger than anyone could have imagined. I personally was notified of this situation the following morning with owners, Scott Nelson and J. J. Haywood. We took immediate action to investigate what exactly happened and to change our alcohol service protocols to prevent situations like this in the future. As a result, we will no longer be the closing venue for Home Grown Music Festival in the future.

We have new protocols set in place for our restaurant. I have a copy of those if you would like to see them. The changes: We have tightened all times in which we start clearing alcoholic containers. Everything is to be cleared at 2:25 a.m. We had been resting on the 2:30 a.m. and it just didn't work for us. All live music ends at 2:00 a.m. now. Our license lets us go until 3:00 in the morning but we're changing that. The liability is too great. Immediately following this, we changed to a 21 plus venue only for all live music, and we have required that a security guard or some sort of staff person at the front door at all times to monitor that the alcohol stays in the premise and for overall behavior of the crowd. I humbly apologize for these violations. We're completely appalled that they happened. We obviously were trying to prevent them. I feel that Pizza Luce is a valuable member of this community and for the past nine years, offering great food, a reasonable a safe atmosphere for live music and giving back to the community when possible with fund raisers and community involvement. I also think we're a pretty vibrant part of downtown Duluth. We have made obvious significant changes to insure prevention of future incidents, and based on our previous record and responsible service, I ask that the Commission not take any adverse action against our license for this first offense. Thank you.

Hanson: Commissioners, any questions?

Pekkala: How often do you, I mean, how successful were you with clearing the drinks before 2:30? I know Home Grown is totally different, but generally speaking if you got a band going until 3:00? Were you usually pretty successful?

Lunsford: Yes, we are. We go around with large garbage cans and just armfuls and clear. This night the entire town had been on the street. We let in our maximum capacity, we stopped there as it was just too many people. It was pretty out of control. We don't normally have music until 3:00 a.m. Usually it ends at 2:00 at the latest. Lately, since this has happened, we've really been kinda ending at 1:30. This gives us ample time to clear

the bar and make sure we're safe. But really the only time we go until 3:00 in the morning with music is the Home Grown Festival and it hasn't posed as a problem in the past.

Hammack: In reading this through, it seems to me there was a set of circumstances there that night where a band started playing late and it was impossible to correct the situation. Is this something that goes on all the time there? And I would think it would be the responsibility of the management of the establishment to notify the local managers what their schedule and time frame was. I see some real neglect here somewhere that concerns me, because if there's no transformation of information from the establishment to the managers on duty, these kind of things can happen again. I'd hate to see you come in here for that again.

Lunsford: I fully agree. I was not the general manager at the time. We were kind of in limbo. We had just lost our general manager, so communication did kind of break down at this point. We have always scheduled a 2:00 a.m. start time. I don't think Emily was aware that they were going from 2:00 a.m. until 3:00 a.m. and I think that's where the communication broke down. So she wasn't able to present that to the officers when asked when the music would stop cause it was going to stop at 3:00 and it did stop at 3:00.

Hanson: How long was there this gap in communication because of the absence of a normal general manager? I mean, was it like that for months or was it like that for a week or six months or how long was that? Perhaps I should ask Emily. How long were you without a general manager?

Brown: We had an acting GM for probably about a month, but I would say there was a time frame when of about a month period when we lost our GM. We were working out the kinks to find where we were losing the communication link and where the mis-communication was.

Hanson: Thank you. John?

Donahue: Thank you, President. I have to say I've been on this Commission for a year and a half and I've never read anything as horrible as what I read in this report. I consider myself pro business in working with these businesses but really, I mean, do you really want to hear what I hear about the reputation of Pizza Luce?

Hanson: Perhaps we should wait until a little further on.

John: Okay. That's fine.

Hanson: I'm just thinking procedurally. This is not the right time for that. Is that correct?

Lutterman: Well, I believe what's happened is that the licensee has admitted a violation, and you essentially have a closure of the evidentiary portion of the hearing. It is appropriate to ask both sides whether they want to make some closing arguments to the body, and their opportunity to also advise the Board on what they believe an appropriate penalty would be. Then the Board has an opportunity, at that time, to discuss all of the evidence it's heard and decide what it's going to find in terms of whether a violation is alleged to have occurred or not, and if so, what is the appropriate penalty.

Hanson: Thank you. All right We need to hear closing arguments, but before that I want to ask the defendant, do you have any more to say regarding your situation?

Lunsford: I do not.

Hanson: All right. Counselor Hanke will present the City's closing arguments and then after hearing those, you will have an opportunity if there's any questions or whatever you'll have an opportunity to speak.

Hanke: Thank you, President Hanson. Commissioners. Pursuant to the Duluth City Code Section 8-9, this should be a first offense absent any aggravating or mitigating circumstances, the \$500.00 civil penalty. The city administration is recommending a \$500.00 civil penalty. In this case, Pizza Luce, the licensee, has admitted the violation has occurred. Since the violation occurred on the same night on the same incident, it would be my recommendation that those count as one violation for purposes of presumptive penalty, but they should be considered in the aggravating or mitigating circumstances.

Hanson: Say that again, please. They should be considered what?

Hanke: They should be considered as an aggravating circumstance in this case.

Hanson: Questions, Commissioners? Defense? Comments?

Lunsford: No.

Hanson: All right. It's open for discussion. John, would you like to finish?

Donahue: I would like to finish. Thank you. No, and I'm just giving this out of constructive criticism because I saw that you were coming to the table.

The word on the street is, as one woman told me that's older, that if you have a nice rack, good looking, and you know the bouncer and you're a minor, you're in. And pretty much we used to have a bar on Canal Park called the Warehouse, and if the bouncers knew these good looking young girls that were minors, in they came. I was down there for a concert one time and to be honest, I didn't know if I was at a Rush concert or Pizza Luce. I could smell marijuana in the air, and I could see the table where it was being smoked and no servers did anything to go out of their way to stop it. Which to each their own but I mean, I witnessed that. So, I mean, this is what I'm hearing when I ask people. I mean, we took action against the Northshor for a violation that wasn't anywhere near this extreme, and we came down hard on him. I thought a little too hard. This is what I'm hearing on the street because I like to think I work I'm good with working with businesses in the liquor industry, but this is totally inexcusable. I know it's Home Grown and that but you should have been ready.

We all knew the bands that were playing down at the Northshore that night and you just knew that the overflow, it was trouble in the making. You were so woolly, you know, ill prepared for it. I know you want to stay open until three, but I found this really insulting. I just have a feeling that this 20 year old that was in there, I'm sure he was in the bar and I'm sure he was drinking. I can't prove it, I can't prove that he wasn't. You can't prove that he wasn't. I do like the actions that you took, and that's the one thing that I'm saying that as mad as I was, after everything that you've said and the actions that you're taking. You have some stuff that you would like to show the Commission. I'm just saying I really don't want to see Pizza Luce in here again. Really talk to your employees and find out that this Commissioner said that this is what he's heard on the street. This comes from people who frequent the place a lot more than I do. And, just take that into consideration and really. I don't want to see you in here again. I do like the pro-active steps that you've taken. I do appreciate it but really, we can't have this stuff going on. It takes time for the cops to take someone to detox and get em out while some woman's getting beaten up in Central Hillside, and the cops are being taken away from something that's really is really life changing as opposed to taking a dumb 20 year old drunk down to Detox.

Lunsford: Fully agree. With all due respect, you know, there is evidence against you saying that we will let anyone in. We haven't been fined in the last nine years. I do respect your opinion and what you have heard though. I feel like our venue has changed a lot over the last few years. It used to be a big party scene. It's really not the case any more. We still do conduct live music but it has changed a lot. We don't have sales until 3:00 a.m. We like to close at 2:00. That's when we like to close. We feel safe then

and that's what we're gonna stick with from now on. So, thank you.

Hammack: In the past we have initiated a \$500.00 fine for a first offense. You know, in some occasions, have deferred the \$250.00 pending no further action. My feeling is that it should be just the straight \$500.00 fine with no deferment so I make that motion.

Donahue: I second.

Hanson: Motion's been made and seconded. Do I have discussion?

Lutterman: Question on the motion.

Hanson: Okay. Question on the motion first.

Lutterman: Yes. Commissioner Hammack, typically the motions include a payable 30 days after Council action. Did you want to include that in your motion?

Hammack: Yes. I would like that included in my motion.

Donahue: I second that.

Hanson: Commissioner Peterson.

Peterson: Ah, thank you for the comments. This was a fairly egregious violation. I appreciate, Paige, your statements about how you're dealing with this, and how Pizza Luce is making sure that their protocol is up to speed. I do think that the \$500.00 is in order. I think that perhaps the City even might be a little light on that given that you agreed to the circumstances, and I will support the motion.

Hanson: Commissioner Pekkala.

Pekkala: Well, I think that most egregious part of this is something that cannot be proven at all. I mean a 20 year old is drunk and there is no way to prove he wasn't hammered that night somewhere else. At home. At a party or whatever and showing up at Luce for the music. I'm really not comfortable considering that as part of this offense. I mean what has to be considered, they served eight minutes after they were supposed to as far as getting rid of the beer and on one of the busiest nights of the year. Some people got out on the sidewalk, which is wrong, don't get me wrong, but I don't see it quite as badly as the other Commissioners. That's it.

Hanson: Other comments from the Commissioners? I have a little comment here. I'm a little concerned about some of the statements that were made in the

narrative, which I believe you received copies of. There was a statement made that there still many people out on the dance floor that had containers of alcohol, but it was not safe, and almost not physically possible for me to go in and collect the alcohol without shutting down the entire show. And, also that it was impossible to get everybody's alcohol away from them by 2:30. I believe these were statements made by Emily. Is that correct?

Lunsford: These were statements made by the officer. This is the officer's report.

Hanson: Did you make those statements, Emily?

Brown: I don't believe so.

Hanson: It's in the narrative here the officer stated that you had told them that it was impossible to get everybody's alcohol away from them by 2:30.

Brown: I never would have said that it was impossible. I don't agree with that statement.

Hanson: But the first part, you absolutely did not say that? It says "I asked her why so many people had beers. She and another employee started explaining to me that they had quit serving at 2:00 a.m., but that it was impossible to get everybody's alcohol away from them by 2:30"..

Brown: That was not my statement. That was the statement of one of my employees.

Hanson: So, with your corrective actions that you're taking, at 2:00 or whatever time you're gonna go out there with your big garbage cans, there's no question that there's gonna be time to clear the alcohol.

Brown: There's no question. This will not happen again.

Hanson: And, you've taken steps so that people that report to you like the one that made this statement understands that they are responsible?

Brown: Yes.

Lunsford: If I may, we had a all store meeting or all front of the house, all service staff meeting directly following this, probably about five or seven days afterwards. We rolled out all of these policies immediately. So, and that's when we start pulling drinks at 2:10 a.m. Last call is at 1:50, on our clock. 2:00 a.m. is the absolute last call, and then 2:10 is when we start clearing, and then everything is required to be pulled by 2:25 now. That way we

have a window.

Hanson: All right.

Lunsford: Would you like to see these?

Hanson: Do you want to see their new policies or are you comfortable with what has been stated?

Donahue: I'll take a look.

Hanson: Normally do you have your own security staff then, or do you have a police officer or who is your normal security at the door? I'm trying to figure out how this 20 year old would up in your bar passed out on the floor.

Lunsford: We have our own security. Usually on big shows, we also have, if the Trampled by Turtles ever plays at our restaurant, we always have a police officer, an off-duty officer with us as well. We did not have an off-duty officer that night. I feel like if we did, we could have prevented a lot of problems, and I really wish we could go back. But moving forward, we know from now on there will always be a cop at the door.

Hanson: You realize that could have very easily turned into a 20 year old that died of alcohol overdose.

Lunsford: Absolutely.

Hanson: And that would have not looked very good for your corporation at all.

Lunsford: Absolutely. But with all due respect, we were not charged with that.

Hanson: But, the person was there

Lunsford: Yes.

Hanson: They weren't teleported there.

Lunsford: I understand.

Hanson: Okay. I don't know how they got in the door but they got in the door.

Lunsford: Yes.

Hanson: Whether you're charged or not for that, it is what it is.

Lunsford: Correct and even though we weren't charged with it, it obviously was brought up, and we took it seriously. That is why we have gone to 21 plus as well.

Hanson: There are certain things that upset this community and upset the Commissioners probably more than anything. Underage stuff really bothers us. At least me. Any more discussion? All in favor of Commissioner Hammack's motion say aye.

Hanson: Motion passes 5-1 with Commissioner Pekkala voting no.

All right so our recommendation will go to the City Council and all we're making is a recommendation. It's up to them if they want to decide to treat it as mitigating or aggravating circumstances. They have the right to change the penalty if it's their wish. It might behoove you to attend. You'll be advised when that's going to happen and you would have the right to speak to them to, you know, argue your case. I strongly recommend you bring a copy of this to show evidence of the steps you've taken to make sure you it never happens again. So, cause we don't want to see you in here. You've been a good citizen for nine years. We don't want to see you again.

Lunsford: I don't want to be here again.

Hanson: Thank you.

Lunsford: Thank you.

Brown: Thank you.