

August 2<sup>nd</sup> 2017 – Alcohol, Gambling & Tobacco Commission Meeting.

Clerk Cox: Patricia Stolee (here). Bjorn Braaten. Mark Osthus (Here). President Adam Wisocki (Here). Ryan Stauber. Lon Hanson (Here). Jeff Rosenthal. 4 present three absent.

Clerk Cox: Communications – City Attorney submitting hearing to decide what, if any, disciplinary action should be taken regarding the on sale intoxicating liquor license for Duke Partners LLC. Operating as Spurs on 1<sup>st</sup>, 109 West 1<sup>st</sup> Street, Duluth, MN 55802, we will mark that received. Old Business – Hearing continued to decide what, if any, disciplinary action should be taken regarding the on sale intoxicating liquor license of Dukes Partners, LLC, doing business as Spurs on 1<sup>st</sup>, 109 West 1<sup>st</sup> Street, Duluth, MN 55082.

President Wisocki – Alright, recommendation to the commission that we move communications and old business to the end and start with new business.

Clerk Cox: Red Herring, LLC, Red Herring Lounge, 208 E 1<sup>st</sup> St. application for temporary expansion of the licensed premises of their on sale intoxication liquor license for August 19, 2017 from 12 p.m. to 10 p.m. for “super big block party”.

Speaker (Red Herring) – Super Big Block Party, it is our annual.

Clerk Cox: Board members, you have the paperwork in front of you. I’ll just explain that Men as Peacemakers are going to be applying for the special events permit as they are a qualifying organization to close the street and that is an administrative license reviewed by the traffic division and any other necessary barricades, etc, etc. So obviously anything approved here would be contingent upon that being approved but that is an administrative issue.

Board Member – Inaudible (any changes from last year?)

Speaker (Red Herring) – No, other than we are hiring an outside security company this year. Just as an added precaution.

President Wisocki – Checking IDs? Have wristbands at all?

Speaker (Red Herring) - Yep we are going to be wrist banding. I believe that the police officers that we are hiring will be in charge of ID-ing and other volunteers to wrist band and stuff like that.

President Wisocki – Any further questions?

Patricia Stolee – I would move to approve

Board Member – I’ll second

President – Alright. Motion made and seconded. All those in favor signify by saying “I”.

Clerk Cox: AAD Shriners (art in the park) Bayfront Park, application for temporary on sale intoxicating liquor license from August 19<sup>th</sup> 2017 from 11 a.m. to 7 p.m. and August 20 2017 from 11 a.m. to 5 p.m. in Bayfront Park.

Paul – Hi ladies and gentlemen. I am Paul XXXX, I am on the board of directors at the AAD Shrine. We are going to represent Myth Incorporated (?). They have run this art at Bayfront for the last 7 years. We are just going to sell beer, wine and soda.

President – Same question for you. Any changes from last year?

Paul – No. We are going to hire off-duty police officers as well and wristband.

Board Member – Inaudible.

Paul – I am not sure; this is the seventh year. That is all that she told us.

Board Member – But this is the first year you guys have involved.....

Paul – Yep

Board Member – Okay. They got the paperwork in, we will have the officer down there.

President – Any questions?

Board Member – move to approve

Patricia Stolee – Second

President - Motion made and seconded. All those in favor signify by saying "I". Thank you very much

Clerk Cox: We have a little correction on the next one, I just talked to the applicant. The applicant is Martha's Daughter LLC. Application for an on sale intoxicating liquor license for the period ending August 31<sup>st</sup> 2018. With Anika XXXX as 100% owner

Anika – I am the owner of Martha's Daughter which is taking over the Coney Island on Superior Street. We will be open as a full service restaurant so I am applying for a full service liquor license to go along with that

President – Questions from the commission?

Clerk Cox – You might want to identify for the record what experience you have in alcohol beverages.

Anika – I have worked in the service industry for 20 years. I have worked in restaurants in bars in WI, New York, Massachusetts and California and Minnesota. I have worked at Pizza Luce on and off for the past 12 years as a server/bartender. And I have run/managed kitchens/restaurants before. I feel very comfortable in all areas of restaurant service.

Clerk Cox – Can you explain a little of the nature of the operation there?

Anika – We will be doing dinner, full service, sit down and then also my intention is also to cater to the late night food crowd as well. So ideally weekends we would be selling food until 1am in the morning. In terms of the liquor license, my intention is not to have a full bar but to have the ability to provide people

with options for their wine and liquor. So the idea right now is that we will actually only have about 4 spirits in house at a time. And then beer and wine

President – Are you planning on having training for the other staff members?

Anika – Yes. The person that is the front of the house staff is already trained in the MN liquor service. I have also got through that training. It is important to me that everyone is cross trained in that way. We will be ID-ing people at all times and monitoring consumption. The intention is not to be a bar but to offer alcohol.

President – Questions? Motion made and seconded. All those in favor signify by saying “I”.

Cox – Would you like to do the renewals or would you like to do the hearing first?

President – Should we get through the renewals?

Clerk Cox – Those are the list of the annual period for intoxicating licenses. I won't read the various categories. And you have the hard copy of the licensees. Obviously some are not as punctual for the deadline which was July 15. Those that are straggling in now are paying a late penalty. And then will follow up with the insurance requirements that have to be on file and all departmental approvals. Everything in order and then we will notify them in the next week or two of the deficiencies and basically tell them if it is not resolved by August 31<sup>st</sup> you are selling coke. I mean you do not have a liquor license and with that notification they usually comply. Your recommendation and council approval is contingent upon all these things happening. So a lot of times it is the eleventh hour we resolve it. There is nothing to note on the renewals to stand out because if there was a new licensee that would stand out as a new issue. Like the license that you just had before you, she is not going to start until September but it is new so it was standing out.

President – Any questions from the commission?

- Inaudible talking -

President - Motion made and seconded for the annual liquor license for the City of Duluth. All those in favor signify by saying “I”.

Clerk Cox – I will let you and staff lead into the hearing

Steve Hanke – Good evening commissioners. My name is Steve Hanke for those who weren't here last time. I am the Assistant City Attorney and have been tasked with presenting the facts on behalf of City Administration in this matter. And I believe where we left off last month was this commission had actually requested the presence of somebody from the Department of Health. Mark Pelican (?) I did reach out to him, I invited him to attend. I asked him to attend because the commission wanted him to attend, he declined. I provided an email copy. I have no authority to force him to be here. I also consulted with the Duluth Police Department, Officer Vang and representative Stauber had requested CAD comments. There are no CAD comments relevant to this matter. I believe the time would be for where we are at now would be for you to interact with Mr. Patronas and ask him any questions you might have. Or have him clarify any facts for you.

Nick – I don't have much more to say then I did last time. You probably weren't here last time were you Mr. Hanson? No? I am sure you read all about it. My big thing was, Commissioner Stauber wanted to

know if I had spoken to Cha Vang, and I hadn't talked to him. When I did talk to him he told me that I wasn't in compliance. That is when I closed that day until I went to pay the bill. Then I got the OK from Mr. Pelican (?). I did get a letter from him that I signed. I don't know who signed the other ones, it is a weird signature like I said before. No one can sign any more stuff for me. I guess I am here to say that I didn't operate when I was told not to. I did talk to Mr. Pelican and he never said anything to me. He just told me to pay my payments on this date. I was late one time but we did get it. We both agreed on a date and he told me so. That is all I had to say. Unless anyone has any questions for me.

President – Commissioners do you have any questions?

Patrice – Just looking at the records of the receipt of the certified mail. It looks like you did receive one back in January. I don't see the signatures on the other ones. The fact that it was delivered it is assumed that it was served to you. Have you talked to your staff about getting that type of mail to you? And how important it is and how it can impact your liquor license?

Nick – Yes. I am assuming that it was a cleanup guy that lives upstairs. We don't get the mail sometimes because we are closed on Monday, Tuesday and Wednesday and we don't open until 4. So a lot of times we don't get the mail only once every 10 days. But I have talked to everyone.

President – So from here do we go onto recommendation?

Allison – At this point in time if all the evidence has been received then the evidentiary portion of the hearing is closed. Each party has an opportunity to provide you with a closing argument if they wish. Basically summarizing their position based on the evidence that has been received and once that is completed then it is Commission's duty to deliberate. It is done here on the record and decision is made as to whether or not conclude that the licensee is in violation and if so what penalty is appropriate. Obviously if you do not believe that the licensee is in violation then that would be a separate resolution. Both you and your conclusion is a recommendation to the city council. Once you completed your deliberations and made your recommendation through a motion the clerk's office will prepare a transcript of the hearing the city attorney's office will prepare a document that reflects your recommendation and that packet will go to the city council. The licensee will get notice of when that mater will be on the council agenda and then the city council will make the final decision on whether the licensee has violated our city codes, alcohol laws and two if so, what is the appropriate penalty.

President – Do you have any closing argument or statement Mr. Patronas?

Nick – Not so much on this just that I try to abide by all the rules. I have door guys, police officers, 15 years in the business. Went through countless stings and passed everything. Spend extra money on door guys. I make sure everything is run right. Obviously I have some financial difficulties. I didn't pay the bill. But I did pay the state 1500 in penalties and I do owe them more. I have paid a lot of penalties for a 360 dollar bill on this.

Hanke – Just to sum up how we get here. I don't consider myself a prosecutor in this matter. We were contacted by the department of health. They notified us that this business was operating without the required license and violation of state laws and city code. I do think in this matter it is unfortunate that nobody notified him personally that he wasn't to continue operating. I do acknowledge that he did try to pay the renewal and he got some paperwork that did not get back to him. His signature was not on any

of the certified mail. So he did not actually sign for it. It did get delivered, but I think that in his defense when he was personally notified by Officer Vang he did cease operations.

Commissioner – I have known Mr. Patronas. I know of him. He has been an outstanding business man in this community. He has employed a lot of people and he has done nothing but good as far as I can see. Was there any intent or deviousness? What you just said made it sound as if there was not. This becomes more of a state issue than a local issue.

Hanke – Yes the state the tries to utilize local leverage to get their bills paid.

Commissioner – It sounds like don't shoot the messenger. Is what I am hearing

Hanke – we don't go through the list every year to see who has the state requirements licensure. We simply enforce our own licensure. We check on the renewals. We only act on the state issues when they contact us and then we are on duty to follow up with that. What I did was the May AGT meeting. I notified the board of the letter that we received from the Department of Health and this board requested to hear the matter as an investigative disciplinary matter

Commissioner – As far as I am concerned. Somebody working hard, he and his partners, and they provided incomes and employment for the community. These people pay taxes. I could not in good conscious say that we should add extra above what the state is already giving him and if the City is going to look at it in any way the might have a different opinion then mine for sure. I would move that we drop this case.

Allison – I believe that your motion would be more characterized as a motion to recommend to the city council that a violation has not been established and no penalty should be imposed.

Commissioner – Thank you! Those are exactly the words I was looking for

President – Motion made and seconded

Allison – Once a motion is seconded there is an opportunity for discussion on the motion before you vote on the motion

President – I agree with the motion as far with the other commissioners here. As far as the evidence, the mail and the missing signatures, it does state clearly that we can't assume someone gets the certified mail if their signature isn't on it. That is what the signature is intended for. I also agree that the fine to the State of MN, since it has been paid, there are still some outstanding penalties to be paid, that as far as the city, \$1000 fine and closing for a day. I don't think that this is necessarily beneficial to any of the parties involved. That means that the employees are out of working for a day. The city is out of taxes, Mr. Patronas is out of funds to pay the fines with the State of MN. I don't see how we are benefiting a local business owner or local employees in our community by recommending to the City Council that we do fine. So I do agree.

Patricia – I agree and I would like to add that Mr. Patronas did close his business when he did believe he was in potential violation. He did actually voluntarily close his business. I am in agreement.

Commissioner – I would have to agree. Between the state and the local issue. When local authority became involved everything was followed through on our end completely. Mr. Patronas was notified and there were no further local violations that were done.

President – all those in favor of the motion signify by saying “I”. Now do I have a motion to adjourn.

Clerk Cox – Just for clarification. That is your recommendation to the City Council? We also have the process the attorney described.

President – Motion to adjourn.