| Rolf Call Number   |  |
|--------------------|--|
|                    |  |
| Date July 29, 2013 |  |

| Agenda Item | Number |
|-------------|--------|
| 4           | 2      |

## PUBLIC HEARING ON ASSESSMENT OF \$500.00 PENALTIES TO LIQUOR LICENSE HOLDERS LISTED ON ATTACHMENT "A" FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, employees of liquor license holders listed on attachment "A" have sold alcoholic beverages to persons under legal age at their respective places of business in violation of Des Moines Municipal Code Section 10-6(9) and have been convicted of this charge; and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city council) to suspend, revoke, or impose a civil penalty upon license/permit holders who violate the alcoholic beverage laws; and

WHEREAS, Iowa Administrative Rule 185-4.8 (123) provides that violations of the alcoholic beverage laws by any employee, agent, or servant of a license or permit holder shall be deemed the act of the licensee or permittee and subject the license or permit holder to suspension or revocation; and

WHEREAS, the violations are first violations for each of the listed license/permit holders; and

WHEREAS, Des Moines Municipal Code Section 10-13(c)(1) provides that for a first violation of Municipal Code section 10-6(9) or Iowa code Section 123.49(2)(h) the city shall impose a civil penalty in the amount of \$500.00 in lieu of a suspension; and

WHEREAS, Iowa law provides that the local authority shall retain the civil penalties where the proceeding to impose the penalty is conducted by the local authority;

| *Roll C        | all Nu   | mber   |  |   | Agenda Item Number  |
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| Date July      | 29, 201  | 13   |  |   |   |
|                |  |  |  |   |   |
|                |  |  |  |   | (2)   |
| NOW, TH        | HEREFO   | RE, BE   | IT RES   | SOLVED  | by the City Council of the City of Des Moines, Iowa that:   |
| 2.<br>3.<br>4. | civil page. Failur autom of Au The \$ The C paid, This C Alcoh Anker | re to paynatic 14-gust 201 500.00 centry Clerby sendic Berry, Iowa | n the and the standard three t | mount of 500.00 ciruor licens ending at conalty is duected to n ugh ordin tion may Division | e/permit holders listed in attachment "A" are hereby assessed a \$500.00 for sale of alcoholic beverages to persons under legal vil penalty within 30 days of this resolution will result in an e/permit suspension commencing at 6:00 a.m. on the 29th day 6:00 a.m. on the 12th day of September 2013.  The and owing even if the automatic suspension is served. On the license/permit holders, except those that have already ary mail a copy of this resolution as soon as possible.  The appealed within thirty (30) days to the administrator of the of the Iowa Department of Commerce, 1918 S.E. Hulsizer,  MOVED BY  TO ADOPT |
| COUNCIL ACTION | YEAS   | NAYS   | PASS   | ABSENT  | CERTIFICATE   |
| COWNIE         |  |  |  |   | OBIGIN TOTAL  |
| COLEMAN        |  |  |  |   | I, DIANE RAUH, City Clerk of said City hereby   |
| GRIESS         |  |  |  |   | certify that at a meeting of the City Council of said City of Des Moines, held on the above date,   |
| HENSLEY        |  |  |  |   | among other proceedings the above was adopted.  |
| MAHAFFEY       |  |  |  |   | •   |
| MEYER          |  |  |  |   | IN WITNESS WHEREOF, I have hereunto set my  |
| MOORE          |  |  |  |   | hand and affixed my seal the day and year first above written.  |
| TOTAL          |  |  |  |   | abore militelli   |
| MOTION CARRIED |  |  | A  | PPROVED   |   |
|                |  |  |  |   |   |

Violations for Sale of alcohol to Under Age Person \$500 Penalty:

| i |  |  |            |            |             | •          | Fast Trip                      |            |           | #204        | Des Moines Valero       |          | Lounge     | Lot 33 Café Bar &       |            |           | #202        | Des Moines Valero       |            |            |            | Liquor      | Oasis Grocery &         |          |             |   | Licensee       |
|---|--|--|------------|------------|-------------|------------|--------------------------------|------------|-----------|-------------|-------------------------|----------|------------|-------------------------|------------|-----------|-------------|-------------------------|------------|------------|------------|-------------|-------------------------|----------|-------------|---|----------------|
|   |  |  |            |            |             |            | 1516 SE 1 <sup>st</sup> Street |            |           |             | 3733 Easton Blvd.       |          |            | 3701 ingersoll Ave.     |            |           |             | 821 E. Euclid Ave.      |            |            |            |             | 2917 Payne Rd.          |          |             |   | Address        |
|   |  |  |            |            |             |            | Des Moines, IA 50315           |            |           |             | Des Moines, IA 50317    |          |            | Des Moines, IA 50312    |            |           |             | Des Moines, IA 50316    |            |            |            |             | Des Moines, IA 50310    |          |             | (10) (10) (11) (11) (11) (11) (11) (11) | City State Zip |
|   |  |  |            |            |             | BC0030134  | LE0002340                      |            |           |             | BC0029805               |          |            | LC0039011               |            |           |             | BC0029785               |            |            |            |             | LE0001539               |          |             | !                                       | License No.    |
|   |  |  | (carryout) | Privileges | with B Wine | and C Beer | Class E Liquor                 | (carryout) | Privilege | with B Wine | Class C Beer            | premise) | Liquor (on | Class C                 | (carryout) | Privilege | with B Wine | Class C Beer            | (carryout) | Privileges | and B Wine | with C Beer | Class E Liquor          |          |             | License                                 | Type of        |
|   |  |  |            |            |             |            | 4-27-13                        |            |           |             | 5-11-13                 |          |            | 3-30-13                 |            |           |             | 3-30-13                 |            |            |            |             | 4-13-13                 |          |             | Violation                               | Date of        |
|   |  |  |            |            |             |            | 1 <sup>st</sup> Offense        |            |           |             | 1 <sup>st</sup> Offense |          |            | 1 <sup>st</sup> Offense |            |           | •           | 1 <sup>st</sup> Offense |            |            |            |             | 1 <sup>st</sup> Offense | in 3 yr. | 3yr. or 4th | yr.; 3 <sup>rd</sup> in                 | 1st : 2nd in 2 |
|   |  |  |            |            |             |            |                                | ,          |           |             |                         |          |            |                         |            |           |             |                         |            |            |            |             |                         |          |             | violation                               | Previous       |
|   |  |  |            |            |             |            |                                |            |           | Mastercard  | 7-22-13; R17902         |          |            |                         |            |           | Mastercard  | 7-22-13; R17902         |            |            |            | CK 2964     | 7-23-13: R17927         |          |             | !                                       | Date Paid      |