

★ Roll Call Number

08-995

Agenda Item Number

34

Date June 9, 2008

RESOLUTION FIXING DATE, TIME AND PLACE FOR PUBLIC HEARING
ON ASSESSMENT OF \$500.00 PENALTIES TO ALCOHOLIC BEVERAGE
LICENSE/PERMIT HOLDERS LISTED ON ATTACHMENT FOR VIOLATION
OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, employees of alcoholic beverage license/permit holders listed on Attachment "A" have sold alcoholic beverages to persons under legal age at their respective places of business in violation of Iowa Code Section 123.49(2)(h); and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city counsel) 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, Iowa Code Section 123.39(4) provides that for a first violation of Iowa code Section 123.49(2)(h) a local authority 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.

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(2)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that:

1. A public hearing is hereby set for June 23, 2008 at 5:00 P.M. in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, IA, for the purpose of providing the alcoholic beverage license/permit holders listed in attachment "A" to be heard concerning the proposed assessment of a \$500.00 penalty for sale of alcoholic beverages to persons under legal age.
2. The City Clerk is directed to notify the license/permit holders by sending through ordinary mail a copy of this resolution at least 10 days in advance of the scheduled hearing.
3. The license/permit holders may pay the \$500.00 civil penalty to the City of Des Moines at the City Clerk's Office in advance of the scheduled public hearing if they do not wish to be heard.

MOVED BY Hensley TO ADOPT.

FORM APPROVED:

Douglas P. Philiph
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLISSIS	✓			
TOTAL	7			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

Y. M. Franklin Cooney Mayor

Diane Rauh City Clerk