



Roll Call Number

09-1445

Agenda Item Number

33

Date August 10, 2009

RESOLUTION FIXING DATE, TIME AND PLACE FOR PUBLIC HEARING
ON ASSESSMENT OF A \$1,500.00 PENALTY AND A 30-DAY
SUSPENSION OF LIQUOR LICENSE FOR
SOUTHPORT CENTER SPORTS BAR, LLC. LOCATED AT
1101 ARMY POST ROAD FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, an employee of Southport Center Sports Bar, LLC located at 1101 Army Post Road sold an alcoholic beverage to a person under legal age at the place of business in violation of Iowa Code Section 123.49(2)(h) on 2/12/09, and plead guilty to the charge; 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 civil penalty, suspension or revocation; and

WHEREAS, the violation of Iowa Code Section 123.49(2)(h) is the second conviction within 2 years; An employee of Southport Center Sports Bar, LLC at 1101 Army Post Road was previously convicted of violating 123.49(2)(h) which offense occurred on 9/6/07; and

WHEREAS, Iowa Code Section 123.50(3) and Des Moines Ordinance 10-13(C)(2) provide that for a second conviction of Iowa Code section 123.49(2)(h) in a two-year period a local authority shall impose a civil penalty in the amount of \$1,500.00 in addition to a 30 day suspension of license/permit; 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 August 24, 2009 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 Southport Center Sports Bar, LLC on 1101 Army Post Road an opportunity to be heard concerning the proposed assessment of a \$1,500.00 civil penalty and a 30 day suspension of its Liquor License No. LC-0031095 for sale of an alcoholic beverage to a person under legal age.
2. The suspension is proposed to commence at 6:00 a.m. Monday August 31, 2009 and to end at 6:00 a.m. Wednesday September 30, 2009.
3. The City Clerk is directed to notify the license holder by sending through ordinary mail a copy of this resolution at least 10 days in advance of the scheduled hearing.
4. Southport Center Sports Bar, LLC may pay the \$1,500.00 civil penalty to the City of Des Moines at the City Clerk's Office in advance of the scheduled public hearing if it does not wish to be heard. The License holder may appeal from the City Council action imposing sanctions to the Alcoholic Beverages Division of the Iowa Department of Commerce.

MOVED BY Hensley TO ADOPT

FORM APPROVED:

Douglas P. Philip
Assistant City Attorney

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

MOTION CARRIED APPROVED
T. M. Franklin Mayor

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.

Diane Rauh City Clerk