



Roll Call Number

09-1446

Agenda Item Number

34

Date August 10, 2009

RESOLUTION FIXING DATE, TIME AND PLACE FOR PUBLIC HEARING
ON ASSESSMENT OF \$500.00 PENALTY TO
THE DEN, 4369 MERLE HAY ROAD,
FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, An employee of MGCM, LLC, d/b/a The Den, sold an alcoholic beverage to a person under legal age at 4369 Merle Hay Road in violation of Iowa Code Section 123.49(2)(h); 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 violation is the first violation for MGCM, LLC; 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 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 MGCM, LLC an opportunity 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 MGCM, LLC by sending through ordinary mail a copy of this resolution at least 10 days in advance of the scheduled hearing.
3. The MGCM, LLC 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 it does not wish to be heard.

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