

★ Roll Call Number

10-315

Agenda Item Number

53

Date February 22, 2010

PUBLIC HEARING ON ASSESSMENT OF A \$500.00 PENALTY TO VAUDEVILLE MEWS, LLC, 212 4TH STREET FOR ALLOWING A MINOR IN A BAR AFTER 9:00 P.M.

WHEREAS, an employee of the Vaudeville Mews located at 212 4th Street did on 7/17/09 allow a person under legal age into the licensed premises after 9:00 P.M. in violation of Des Moines Municipal Code section 10-8(1) and Iowa Code section 123.49(j); and

WHEREAS, Iowa Code Section 123.49(2)(j) states a license holder shall not knowingly permit or engage in any criminal activity on the premises covered by the license or permit; and

WHEREAS, the employee charged with the simple misdemeanor crime of allowing an underage person into the bar after 9:00 P.M. plead guilty to the charge in Polk County District Court on October 1, 2009 (conviction attached); 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, revocation or civil penalty; and

WHEREAS, this violation for allowing an underage person into the licensed premises is a first violation; and

WHEREAS, Iowa Code Section 123.39 authorizes a civil penalty of up to \$1,000.00 on each violation, and/or suspension of license up to 1 year, or license revocation; and

WHEREAS, the police and legal departments recommend a \$500.00 civil penalty for this first violation; 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. Vaudeville Mews, LLC. Is assessed a \$500.00 civil penalty for allowing a person under legal age into the licensed premises after 9:00 P.M. as alleged.
2. Failure to pay the \$500.00 civil penalty within 30 days of this resolution will result in an automatic 14-day liquor license/permit suspension commencing at 6:00 a.m. on the 25th day of **March** 2010 and ending at 6:00 a.m. on the **8th** day of April 2010.
3. The \$500.00 civil penalty is due and owing even if the automatic 14-day suspension is served.
4. The City Clerk is directed to notify the license holder by sending through ordinary mail a copy of this resolution as soon as possible.
5. This City Council action may be appealed within thirty (30) days to the Administrator of Alcoholic Beverages Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

MOVED BY
TO ADOPT

Hensley

FORM APPROVED:

[Signature]
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
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
T. M. Franklin Mayor

Diane Rauh City Clerk