

★ Roll Call Number
08-1130

Agenda Item Number
39

Date June 23, 2008

RESOLUTION CONTINUING 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, at the June 9 council meeting this matter was set for public hearing on June 23, 2008; and,

WHEREAS, the notice of public hearing did not get mailed within the required 10 days in advance of hearing; and,

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

1. A public hearing previously set for June 23, 2008 is hereby continued to July 14, 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 proving 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 wish to be heard.

MOVED BY Kiernan to continue the public hearing until July 14, 2008 at 5:00 P.M.

FORM APPROVED

[Signature]
Douglas P. Philip
Assistant City Attorney

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

[Signature]
Mayor

[Signature]
City Clerk