

LICENSE HEARING MINUTES
University of St. Thomas, 2115 Summit Avenue
Thursday, September 29, 2011, 10:00 a.m.
330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:00 a.m.

Staff Present: Christine Rozek and Larry Zangs, Department of Safety and Inspections (DSI)

Applicant: Doug Hennes, Vice President of Government Relations, University of St. Thomas (UST)

Others Present: Leo Viktora and David Redmond, representing Mac-Groveland Community Council and West Summit Neighborhood Advisory Committee (WSNAC); Barbara Olson, 85 Cretin Avenue N; and Tom Malone, 2027 Ashland Avenue

University of St. Thomas: Liquor On Sale - 291 or more Seats

Ms. Vang stated that this was an informal legislative hearing for a license application. This particular license required a Class N notification which means the neighborhood was notified and people had the chance to voice their concerns. The City received thirteen (13) letters of concern which triggered the hearing. There were three possible results from this hearing: 1) she may recommend that the City Council issue this license without any conditions; 2) she may recommend that the City Council issue this license with agreed upon conditions; or 3) she may recommend that the City Council not issue this license but refer it to the city attorney to take an adverse action on the application, which could involve review by an administrative law judge. The applicant will be required to sign a Conditions Affidavit demonstrating the understanding of the conditions.

DSI staff will explain their review of the application and state their recommendation. Ms. Vang will then ask the applicant to discuss their business plan. At the end of the hearing, she will make a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

Mr. Zangs stated that DSI was suggesting the following license conditions:

1. The liquor service area is restricted to the specific indoor and outdoor University of St. Thomas (UST) on-campus locations stated in the St. Paul Campus Liquor License Locations list on file with the Department of Safety and Inspections (DSI) dated 7/25/11. The service of liquor in any additional indoor or outdoor area(s) on the campus will require prior written approval from DSI.
2. The licensee is responsible for taking all appropriate measures to ensure that the sale/service/consumption of alcohol is contained within the designated UST campus liquor service area(s) on file with DSI.
3. There shall be no permanent bar and/or liquor service area established by UST. The intent of this condition is to prohibit UST from conducting business in a manner similar to operations such as, but not necessary limited to the following: a restaurant with regular hours which also serves alcohol, a bar, etc.

4. All employees/managers/servers providing alcoholic beverages under the UST license shall undergo yearly Alcohol Awareness Training through an agency approved by DSI to operate such a program. All new employees/managers/servers shall be required to undergo training within two (2) weeks of their starting date. The licensee shall have proof of each person who has completed this training on-site, and this proof shall be made available to DSI upon request.
5. Licensee will adopt procedures to ensure that alcohol is not served to anyone under the age of twenty-one (21).

(NOTE: The sale/service of alcoholic beverages on Sunday is permitted with this license.)

The Union Park District Council (District 13) submitted a letter of support for the addition of this license with the following recommendation: That no outdoor alcoholic beverage sales shall be permitted, except the University of St. Thomas may sell alcoholic beverages at the homecoming weekend outdoor beer tent at either one of the following locations: Monahan Plaza or the lower academic quadrangle.

WSNAC submitted a letter of support with a recommendation that the following two conditions are added: (1) No outdoor alcoholic beverage sales shall be permitted, except UST may sell alcoholic beverages at the homecoming weekend outdoor beer tent at either one of the following locations: Monahan Plaza or the lower academic quadrangle. (2) WSNAC requests the City and St. Thomas to conduct an annual review of the license and conditions and WSNAC reserves the right to request license modification and/or additional conditions at any time should a violation or disruptive event occur.

Mr. Zangs explained that the state legislature enacted a new provision to the law which allows private, non-profit colleges to apply for a liquor license to serve alcohol for events held on campus. The intention is to allow liquor service be provided on campus at various locations, including locations that are not specifically within a building. The city ordinance was then amended to accommodate the new state law.

Ms. Vang invited Mr. Hennes to explain the plans, the events, the locations, etc. the university had with the granting of the liquor license. She also asked whether he had the authority in his capacity to represent the university and whether he was in agreement with the proposed license conditions.

Mr. Hennes responded that he did have the authority in his capacity to represent the university and that UST was in agreement with all of the license conditions proposed by DSI. UST was not in agreement with the conditions proposed by Union Park and WSNAC to limit the outdoor sale of alcohol to one event and in one location. He explained that he represented UST as a member of WSNAC which was a neighborhood committee in existence for the past seven years with members representing the different neighborhood groups. The group encompassed members from St. Thomas, Union Park Community Council, Macalester-Groveland Community Council, Summit Avenue Residential Preservation Association, and Neighbors United. He explained that in the past, UST had given complimentary alcoholic beverages when served in conjunction where food is also served at no cost to patrons. This would include donor events or institutional events such as the President's Christmas Party, alumni events, retirement parties, etc. The plan was to continue to hold these types of events and the license would essentially not affect these types of events. In 2009, they had obtained a one-day permit in order to sell alcoholic beverages by the glass in conjunction with the homecoming football game. They also hosted events, such as conferences,

where a fee was charged, primarily to cover the cost of food, and where alcohol was also served which was included as part of the cost charged. Legal counsel advised that they should have a permit for these types of events as it may be construed as also being a sale of alcohol. The city restricts the number of temporary permits they will issue to one every 30 days. Since they held more than one event in any given 30 days, they determined it would be best to obtain the liquor license so as not to be restricted by the number of events they could host. Currently, they contracted with an external vendor, who holds a state-issued caterers' permit, in order to host events where alcohol is served. This circumvents the need to obtain a temporary permit, limit the number of events, and limit the locations on campus where events can be held which include serving/selling alcohol. The cost of using an external vendor can sometimes be as much as three times the amount than if they had their own service and estimated they could save up to \$2,000 per event if they had their own license. They decided to pursue obtaining liquor licenses for the Minneapolis and St. Paul campus' to achieve greater cost savings, have greater efficiencies with their own food service, and to ensure better control over events concerning security and enforcement where alcohol is served. For the past 21 months, St. Thomas has worked very closely with the WSNAC on this issue. The committee appointed an ad hoc subcommittee to shape the language, which was included in the enabling legislation, which the legislature approved this past May. The committee also had several lengthy discussions concerning license conditions and after discussing the issue at 14 separate meetings over 21 months, the committee decided to support the application for St. Thomas. Mr. Hennes went on to address the specific issues/complaints raised in letters which had been submitted as well as issues which had been raised by neighbors at community meetings. 1) Concern that there will be a bar on campus. It had never been the intention of UST to open a bar on campus and condition #3 recommended by DSI prohibits the operation of a bar. 2) That UST will increase the number of events that serve alcohol including the opening of the new student center, Anderson Student Center, in January. They are unsure how many events in 2012 will include the sale of alcohol. With the exception of weddings, they do not book events more than a couple months in advance. There were 88 events involving the sale of alcohol over the past three years, 26 in 2008, 30 in 2009 and 32 in 2010. Last year, they turned away approximately 12 events because of the external vendor's higher price structure and people did not want to pay that much money. The primary use of the student center will be for student activities which will not include the sale of alcohol. 3) That UST wants a liquor license to raise money; this is false. They want the license to save money as the cost of using an external vendor is significantly higher than if they host the event themselves. They will also have greater control over catering, security and enforcement with having their own license. 4) That a license will lead to more drinking by students; this is also false. The vast majority of people who attend events where alcohol is sold are alumni, donors and other adults; not students. They will be able to card people and monitor the amount of alcohol consumption more closely with their security detail if they have their own license. 5) That inebriated guests at these events will park and drive on neighborhood streets and cause disturbances. UST is aware that there are undergraduate students who consume too much alcohol. There has never been any concern with alumni, donors or other adults who attend these events where alcohol is served; people park on campus and do not cause disturbances. 6) That it is not appropriate to sell alcoholic beverages outdoors. WSNAC and Union Park have requested outdoor sales be limited to homecoming weekend with a beer tent in one of the following locations: Monahan Plaza or the lower academic quadrangle. They would like to have the same flexibility to serve alcohol as they do using their external vendor. Alcohol has been served outside the student center prior to football games and the service area is confined to a small roped off area near the center. Security monitors the area and checks identification; they do not allow beer to be removed from the area. Sales are modest; it simply allows people to enjoy a beer with their burger or brat before a football game;

they wanted to continue this practice. 7) That UST wants too many locations on campus for sale of alcohol – 15 indoor and 11 outdoor for sales. UST believes the number of proposed locations is reasonable especially considering there are currently no restrictions using external vendors. They did not anticipate they would sell in all areas of the campus. This past year, they only sold at four indoor and two outdoor events over the past three years. They listed 26 locations because there currently are no location restrictions and because the city requested they include all potential locations for sale. They did not want to be restricted on where they can hold events which include service of alcohol. 8) Sunday sales are not appropriate. UST disagrees and have only sold alcohol at five events in the past three years; three of those events were annual student fundraisers for Listening House in downtown St. Paul. They typically did not have events on Sundays but did not want to be restricted from being able to host events serving alcohol if requested. 9) Restriction of hours. UST originally proposed 10 a.m. to midnight sales; the advisory committee supports these hours. Historically, sale of alcohol at events have occurred late afternoon and midevening except for a handful of events such as wedding receptions and some football events. UST agrees to a 10 a.m. to midnight sales restriction as a condition to the license, with last call being at 11:30 p.m. 10) Conduct an annual review of the license conditions. UST was agreeable to have an annual review of the license conditions as proposed by WSNAC. UST was also willing to provide WSNAC, on a monthly basis, a log of events where alcoholic beverages were sold. He again pointed out that currently when UST has events where alcohol is served, they hire an external vendor where there are no restrictions concerning location, hours of service, or number of events. Under this license request, they were agreeing to the license conditions as stated in the spirit of compromise and what made sense.

Ms. Vang asked what vendor was typically contracted to sell alcohol at campus events, how many events had been held on campus, and whether the vendor had pulled the necessary permits from the city in order to sell alcohol at these events. Mr. Hennes responded that they had held 32 events where alcohol was served in 2010 and Complete Beverage Services was the vendor who catered these events. It was their contention that the vendor had the responsibility to pull any necessary permits and he was unaware if they did or did not do so. If they were granted the liquor license with reasonable conditions, UST would use their own caterer that currently serves food and non-alcohol beverages on campus. Their caterer would become responsible for serving alcohol for campus events and UST would discontinue contracting with the external vendor. He asked that if the license was restricted on outdoor sales to only the homecoming football game at the two designated locations, whether they would be able to contract with the external vendor to serve at any other outdoor events on campus.

Mr. Zangs responded that it was DSI's opinion that UST would be prohibited from hiring an external vendor to cater events if granted the liquor license with conditions. Mr. Hennes asked whether they would then have to offer alcoholic beverages at no cost if they were restricted on locations and number of events. Mr. Zangs responded that this was a legal question that he didn't believe he had the authority to offer a definitive answer; however, he believed that the license conditions would be enforced whether alcohol was served at a cost or was offered complimentary. He said he would have to defer to the deputy director or the city attorney for clarity on this issue.

Mr. Hennes explained that UST had decided to experiment this past football season by offering beer for sale at home games, in conjunction with a food sale, in a roped off area outside of the stadium and was limited to only sales prior to the game. No beer could be removed from the area and security was present to monitor behavior and to check identification. They would like to continue

to be allowed to offer beer for sale in this manner, at all home football games, and not be restricted to sales only at the homecoming game and to only one location on campus.

Ms. Vang invited the audience to provide testimony.

Mr. Viktora stated that he was appointed to serve on WSNAC as a representative of the Mac-Groveland Community Council (MGCC; District 14). He explained that the membership on WSNAC comprised of eight members representing the district councils and five members representing UST for a total of 13 individuals serving on the committee. WSNAC was formed in order to facilitate communication between the district council groups and the university. The MGCC Land Use Committee had met the previous evening and voted to support the WSNAC position on limiting the outdoor sale of alcohol. WSNAC, and the district councils, had concern about the unrestricted outdoor sale of alcohol particularly with the undergraduate students on campus most of whom were not of legal drinking age. They did, however, wish to support those alumni students, who may attend the homecoming football game, by offering sale of alcohol for that event and in one of two locations for that day only. Other universities and colleges have limited their sale of alcohol to indoor sales only or have eliminated the sale of alcohol all together. It was their contention that UST would set a precedent for other universities and colleges to follow. WSNAC was also of the position that they be allowed to participate in the annual review process of the liquor license, if granted, to UST. WSNAC also wished to reserve the right to apply additional conditions in the event problems or issues arise prior to the annual review process.

Mr. Redman stated that he also was appointed to serve on WSNAC as a representative of MGCC and wished to confirm all of the comments made by Mr. Viktora as representing the position of WSNAC and the district councils.

Mr. Hennes responded that the issue of limiting outdoor sales of alcohol was perplexing since they did not plan to have functions every weekend and the sale of alcohol would be limited to perhaps five to eight home football games per year, depending upon whether the team participated in the playoffs. He had encouraged members of WSNAC to come to the stadium for a home football game on the Saturday after they had met so they could observe those who participated in the consumption of an alcoholic beverages; none of the members showed up. The area designated for serving alcohol was a small, roped-off area where people had to show identification before they could purchase a beer and at the most, he observed someone may be having two beers which they had to consume before they could leave the area and go to enjoy the game. Many college campuses had a similar set up as UST for serving alcohol at their sporting events, and from his experience in what he had observed, tailgating prior to a game was rampant where the consumption of alcohol was difficult to control. They had listed 11 outdoor locations on campus where the potential for alcohol could be sold; however, realistically, it would likely be limited to the two outdoor areas where alcohol would be sold prior to a football game.

Ms. Vang asked how close in location the outdoor area was to the nearest residential neighbors. Mr. Hennes responded that they were approximately 300 feet from Cretin and Summit Avenue, approximately 1,000 feet from the south side of Grand Avenue and 1,000 feet from the east side of Cleveland Avenue. He offered to draw the area on a map of the campus for Ms. Vang.

Mr. Viktora stated that it was the desire of the neighborhood to take a slow approach in allowing UST to be licensed to sell alcohol on campus which was why they requested the outdoor locations

to sell be limited to the one event at the one location for the first year. He asked what the process would be if UST in the future wanted to expand the number of locations to be able to sell alcohol at outdoor events. Mr. Zangs responded that in order to modify the license to expand locations, it would again require neighborhood notification which may or may not require a hearing, depending upon the receipt of any objections. Mr. Hennes stated that UST was informed that if they desired to modify any conditions on the license, such as the ability to add locations to serve alcohol, they would be required to go through the same process which he had found to be a long and exhausting process. City staff had encouraged UST to be as inclusive as possible in listing the locations where alcohol may be served, now or in the future, to avoid having to go through this process again so soon.

Ms. Vang asked whether UST would be agreeable to an annual review as a condition on the license. Mr. Hennes responded that UST was agreeable to this as a condition and would provide an on-going report on the number of events, how many people attended, any issues that may have arisen, etc; it was their desire to be as transparent as possible and they were willing to share this information whenever requested. Ms. Vang asked whether a neighborhood notification would be required as part of the annual review process. Mr. Zangs responded that the license was renewed annually which did not necessarily trigger a hearing. Mr. Hennes stated that it was his understanding that as a part of the review process, they would have to submit a written report to the district councils, WSNAC, the city, and any other interested parties. If the district councils or neighborhood groups had any issues or wished to modify any of the conditions to the license, they could contact the city regarding their concerns which would then trigger another hearing process.

Ms. Vang invited others to testify. Ms. Olson submitted a letter of concern prior to the hearing which is made a part of this record. Her major concern was with student drinking and believes that with the granting of the license, events would be more frequent and would get out of control. She said she didn't have a problem with alcohol consumption by alumni; however, student drinking across college campuses throughout the nation was a serious problem. She was requesting stricter conditions on the license to prevent undergraduate consumption of alcohol on campus, whether the student was 21 years of age or older.

Ms. Vang asked Mr. Hennes how many events they scheduled where undergraduate students were invited to attend. Mr. Hennes responded that alumni hosted an annual senior banquet in which a \$5 fee was paid entitling the student to two drink tickets. In 2010, 400 people attended this banquet. Most of the events were reunion in nature or sporting-oriented fundraising events in which students would not be interested in attending. For wedding events, there were strict controls on any underage drinking. He acknowledged that student drinking was a problem and UST offered a student wellness center which emphasized and educated on drinking in moderation, if students chose to drink.

Ms. Olson again requested that undergraduate students be banned from consuming alcohol at campus events. Ms. Vang asked that if this were a condition on the license, how it could be enforced. Mr. Zangs responded that it would be impossible to determine and monitor whether anyone 21 or older could be a student at UST which would prevent them from purchasing alcohol at a campus event.

Ms. Olson then suggested that any events where undergraduate students may attend be limited to two drink tickets per student. Mr. Hennes responded that they could consider this as a possibility; however, students typically did not attend a majority of events hosted on campus.

Mr. Malone submitted a letter of concern prior to the hearing which is made a part of this record. He was opposed to UST being granted any liquor license as he did not want to see the campus turn into a total “party” atmosphere. Parking was a problem in the neighborhood which will only increase with an unlimited number of events on campus where alcohol was served. He believed that UST was currently limited on the number of events which were hosted on campus due to the prohibitive cost by hiring an outside vendor. This was an acceptable alternative as opposed to UST being granted the liquor license.

Ms. Vang asked Mr. Hennes to address the parking issue. Mr. Hennes responded that with the construction of two new buildings, some surface parking had been lost. However, a parking ramp, which accommodates approximately 700 vehicles, had been built prior to the construction of the new buildings. Surface parking has been installed and will become available once the new buildings are open for business. For football games, people were directed to the parking ramp which was offered for free for most home games. Mr. Hennes also stated that he believed the problem with student drinking could not be completely attributable to events where alcohol was served on campus. He again acknowledged that underage student drinking was a problem; however, they had strict policies for those who lived in residence halls and that if they are caught drinking, they would be required to go through a hearing process which could ultimately result in being suspended or being expelled from living on campus. They had limited control over students who lived off campus but they were actively involved with the Police Department, as well as employing their own security staff, in identifying “party houses” wherein students’ behavior is disciplined by university staff. UST had also purchased a Segway for police officers to use in patrolling the neighborhoods which they did within a one-mile radius of the campus. If a neighbor complains to the school about behavior of students who reside off campus, staff follows up on each and every complaint. The “social host” ordinance was also a measure to curb off-campus student drinking wherein an adult could be prosecuted for serving to underage individuals. UST offered services and programs for students with chemical dependency issues through the Wellness Center and a Drug and Alcohol Committee; every college campus has to deal with the issue of student drinking. As far as events on campus, they had their own public safety staff who monitor events by carding individuals and dealing with infractions and in the case of home football games, they hired off-duty St. Paul Police Officers to assist with security detail given the large number of attendees.

The hearing was recessed from 11:45 a.m. to 12:10 a.m. Ms. Rozek arrived at the hearing when the hearing resumed.

Mr. Hennes asked whether an external vendor could be hired to host outdoor events if their license restricted them from serving in other locations on campus which would not otherwise be allowed under their license. Mr. Zangs responded that it was staff’s opinion that an external vendor could not be hired to serve alcohol at events if and when UST was granted a liquor license and they would be required to abide by the conditions on locations issued under the license.

Mr. Hennes stated that in conferring with legal counsel, they were not agreeable with the suggestion to restrict students’ by limiting to two tickets for purchase of alcohol at events. It would be difficult to control as to those individuals who may be students at the university who were of legal age;

tickets could also easily be given away to anyone who may have already been granted their two-ticket limit.

Ms. Vang asked Mr. Hennes whether he was aware if the external vendor, hired to host events where alcohol was sold, had pulled permits from the city for these events. Mr. Hennes responded that he did not know whether vendors had pulled permits from the city or not. Ms. Rozek responded that any vendor selling liquor at any event in the city was required to pull a permit. Based on the list which was submitted on the number of events hosted at St. Thomas, the vendor had not pulled permits to sell at these events.

Ms. Vang read into the record letters/emails of concern regarding the issuance of the license from the following: Katherine Mitchell; Gregory Pavlick, 80 Exeter Place; Timothy and Nancy Hurley, 2222 Selby Avenue; Ken and Marla Guddal, 2225 Summit Avenue; Cherie Riesenberg; Luanne and Dallas Laurents, 2056 Summit Avenue; Tim Rowell, 2040 Laurel Avenue; Jim Nuessle, 2081 Lincoln Avenue; and Dorothy and Bruce Hyde, 24 Mississippi River Blvd N. Said letters/emails are made a part of this record.

Ms. Vang reviewed the proposed license conditions for clarification purposes and asked Mr. Hennes if he agreed to the conditions, 1-5, as proposed by DSI. Mr. Hennes responded that UST was in agreement with conditions 1-5. Ms. Vang asked Mr. Hennes if he was in agreement with an on-going annual review of the license conditions as proposed by WSNAC. Mr. Hennes responded that UST was in agreement of this condition. Ms. Vang stated that UST had requested they not be restricted on the outdoor locations for sale of alcohol. WSNAC and the district council had requested that sales be limited to sale only at the homecoming football game and service either at Monahan Plaza or the lower academic quadrangle. Mr. Hennes responded that Monahan Plaza and the lower academic quadrangle were actually one location that blended together. UST was opposed to limiting the outdoor sale of alcohol to one location and to one event, the homecoming football game. He did not anticipate that they would be selling alcohol outdoors at all 11 of the locations listed on the license request and primarily only anticipated sales would occur prior to home football games. Ms. Vang suggested that UST, for the first year, consider limiting outdoor sale of alcohol to only home football games and only the one location, Monahan Plaza/lower academic quadrangle. They could then review the number of events and locations at the annual review to consider adding additional events in addition to additional locations. Mr. Hennes responded that he would need to consult with legal counsel before he could agree to this as a condition. He asked whether UST would be prevented from hosting any other outdoor events at another location on campus, such as a class reunion in the spring, where alcohol would be served. Ms. Rozek responded that if the condition were put on the license limiting sales to one location to one specific type of event, home football games, then they would be required to request an exception to the license condition. Mr. Hennes responded that they be allowed to serve at all 11 outdoor locations so that they do not have to go through the bureaucracy of making a special request of the city every time a special event wished to serve alcohol outdoors. He requested that they be allowed to serve alcohol at all of the outdoor locations for the first year and if there were problems, the number of locations could be modified. He then suggested that rather than limiting the number of events, they may agree to limiting sales to the one location, Monahan Plaza/lower academic quadrangle. He would still need to take this request back to the upper administration at UST for their input and approval. Ms. Rozek stated that this condition could contain a clause wherein it would sunset after the first year for a review and reconsideration on any other locations for outdoor sales.

Mr. Viktora stated that he would like to take this back to the WSNAC committee for discussion on the location for outdoor sales.

Ms. Vang suggested laying this matter over in order for Mr. Hennes to confer with administration at UST and for Mr. Viktora to confer with WSNAC concerning the location for outdoor sales. Both parties were in agreement.

The hearing was continued to Thursday, October 6, 2011 at 2:00 p.m.

The hearing adjourned at 12:50 p.m.

Submitted by:
Vicki Sheffer