

LICENSE HEARING MINUTES
Moonshine Saloon, 1179 7th Street East
Thursday, May 17, 2012, 2:00 p.m.
330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 2:10 p.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Applicant: Sean Thao, owner and applicant; David Heu, general manager and nephew of Mr. Thao; Chu Xiong, manager of bar and operations

Others Present: Mary Benton-Hummel, 1199 7th Street East

Moonshine Saloon: Request to add a Liquor On Sale - 2AM Closing license to the existing Liquor On Sale - 100 seats or less, Liquor On Sale - Sunday, Restaurant (3) - 13-50 Seats, Restaurant (D) - Add-on, Entertainment (A), and Gambling Location licenses

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 two (2) letters of concern which triggered the hearing. There were three possible results from this hearing: 1) recommend that the City Council issue this license without any conditions; 2) recommend that the City Council issue this license with agreed upon conditions; or 3) 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. Fischbach stated that the existing license conditions were as follows:

1. Per City of Saint Paul Legislative Code 411.02, the definition of Entertainment A is, "Amplified or nonamplified music and/or singing by performers without limitation as to number, and group singing participated in by patrons of the establishment." (includes karaoke). Entertainment A license does not allow for patron and/or performance dances.
2. The licensee will limit requests for outdoor extensions of service to four per year.
3. Licensee will apply for outdoor event licenses at least three weeks in advance. Notice of the license application will be provided to the District Council at least three weeks prior to the event.
4. Outdoor extensions of service will be limited to eight hours duration and will be permitted only until 9:00PM Sunday through Thursday and 11:00PM on Friday and Saturday.
5. Licensee will provide notice of outdoor extensions to all neighbors within a one block radius of the establishment. Notices will be written in Spanish, Hmong, and English.
6. The doors to the establishment will be closed at all times that amplified music is playing.

The Dayton's Bluff District 4 Community Council submitted a letter in opposition to the addition of the liquor on sale - 2 a.m. closing.

Ms. Vang asked whether any changes had been made to the operation of the business since their inception. Mr. Heu responded, speaking on behalf of the owner, that he is the general manager and has hired additional staff to help with security in the evenings, Tuesday through Saturday nights, in addition to the six security staff working Friday and Saturday nights. Security checked IDs and wanded patrons when they entered; they would also stamp the hand of anyone exiting to go out to smoke. Upon re-entry, patrons were again wanded even if their hand had been stamped. In addition to working the doors and the floor, security also patrolled the parking lot every 30 minutes. They had six video cameras in the interior on the main floor and were considering adding cameras to the exterior of the building, especially in the parking lot. The upstairs was rented for private parties only and was only open when an event had been booked. They employed approximately 12 additional employees to work as bartenders and wait staff and hired additional security and wait staff when a private party was held. The current hours of operation were 5 p.m. to 1 a.m. and they were open Sunday through Saturday. Mr. Heu also pointed out that he lived immediately across the street from the establishment and was always available to help out on days that he was not scheduled to work.

Ms. Vang asked why they were requesting a 2 a.m. closing. Mr. Heu responded that with the state of the economy, it was more advantageous to stay open an hour later serving food to later-hour diners. The average age of their clientele base was 24 to 28 years of age. They currently had entertainment, generally karaoke Wednesday, Friday and Saturday nights, and sometimes would hire a band on the weekends for special events. It was their intention to only serve food and water to patrons past 1 a.m. and all entertainment would cease at 1 a.m.

Ms. Vang asked what type of training was offered to staff. Mr. Xiong, manager of bar and operations, responded that most of the bartenders were licensed bartenders or had previous experience working as a bartender. He met with staff frequently to discuss security procedures and expectations of the owner of the establishment. Management also met with security personnel every two weeks to discuss procedures.

Ms. Vang reviewed the police incident reports and noted police presence due to a fight that had occurred at the business in April 2012. Mr. Heu explained that the incident occurred when people were leaving after a private party and one family member became combative with another family member outside in the parking lot. Security personnel went outside and brought the victim inside while other security personnel remained outside making sure all the other parties had left the premises. The victim in this case had called the police the next day after the incident had occurred wanting to press charges against the relative.

Ms. Vang stated that she was concerned as to how they would handle situations if they were to remain open until 2 a.m. Mr. Heu responded that if a fight occurred between two parties, security would escort one of the individuals to their car and wait until that party left. The other party would remain on the premises inside the building until a reasonable time after the first party left. Security always patrolled the parking lot and exterior of the premises to make sure no problems or fights occurred. Staff was instructed to contact the police when any incident got too out of control.

Ms. Vang asked about trash service and how often the area around the establishment was cleared of any discarded litter. Mr. Xiong responded that the trash and recycling were picked up once per week on different days since they were loaded in separate receptacles and assured that glass was not emptied at night but was done later in the morning. The staff that cleaned the interior of the building also picked up any debris on the exterior around the building every morning and security picked up any discarded litter at night when they patrolled the parking lot. They also had an agreement with the carpet store next door to their business to use the parking lot on the condition that they keep the parking lot clean of any trash.

Ms. Vang read an email received from Christopher Born, whose son resides at 1216 7th Street, into the record objecting to the license application. Said email is attached and made a part of this record. Ms. Vang also read a letter received from the Dayton's Bluff District 4 Community Council into the record objecting to the license application. Said email is attached and made a part of this record.

Ms. Benton-Hummel, 1199 7th Street East, stated that there were incidents which had occurred at Pub East and said that she was also present at the council meeting to discuss the applicant's request. She and the district council were concerned that the later closing time would attract a negative clientele similar to the problems that had occurred at Pub East. The Noose, the previous business, also had similar problems. She would prefer that the request for the 2 a.m. closing be deferred for another year in order for the neighborhood to feel comfortable with their operation. She acknowledged that the current ownership of the business ran an exemplary operation and the neighborhood had not experienced any problems as they had with previous owners.

Mr. Fischbach stated that it was his understanding that originally, the bar did not stay open until 1 a.m. He asked Mr. Heu how many nights per week they closed before 1 a.m. Mr. Heu responded that generally they will close earlier than 1 a.m. on Sunday, Monday and Tuesday nights when business was slower. The remainder of the week was usually busy and they stayed open until 1 a.m.

Ms. Benton-Hummel stated that she would be agreeable if they would consider revising their request to a 2 a.m. closing on Thursday, Friday and Saturday nights only especially since this was a residential neighborhood and there were families with small children. Mr. Heu responded that they would prefer to stay open on Wednesday nights until 2 a.m. as well. They did not experience any of the issues associated with the previous owners or with Pub East; they never had any issues with gangs or with shootings associated with their business.

Ms. Vang asked whether they attended the monthly district council meetings. Mr. Heu responded that they did not. Ms. Vang suggested that they make an effort to attend the district council meetings and whenever they planned to have an event, they could notify the neighborhood via the district council. Ms. Vang also suggested that Mr. Heu explain to Mr. Thao the option being offered from Ms. Benton-Hummel regarding 2 a.m. closing on Thursday, Friday, and Saturday nights. She believed that by accepting this condition, it would demonstrate their good-faith effort to be neighborhood-friendly particularly since the district council did not support their application for the 2 a.m. closing.

Mr. Fischbach suggested they could start with the 2 a.m. closing on Thursday through Saturday nights and they could then re-apply for a 2 a.m. closing for additional nights of the week after six months. This would give them time to determine whether they wanted to be open until 2 a.m. for

those additional nights per week. He noted that it would again require notification to the neighborhood.

The hearing was recessed to allow the applicant and his representatives to confer regarding the option being offered for the 2 a.m. closing.

Ms. Vang asked Mr. Heu whether Mr. Thao understood what was being offered and whether he was in agreement for the 2 a.m. closing on Thursday, Friday, and Saturday nights. Mr. Heu responded that Mr. Thao did understand and deferred to him to make the decision. He would still like to remain open until 2 a.m. on Wednesday night as well, but was willing to make the concession so long as they had the option to request a modification to the 2 a.m. closing after the six months time.

Mr. Fischbach responded that he would write up this condition and submit it for review and for Mr. Thao's signature.

After reviewing all of the documents of record, Ms. Vang said she will recommend to the City Council that they approve the license with conditions. The proposed conditions were agreed to by Mr. Thao, as explained by Mr. Heu, and are as follows:

Existing License Conditions

1. Per City of Saint Paul Legislative Code 411.02, the definition of Entertainment A is, "Amplified or nonamplified music and/or singing by performers without limitation as to number, and group singing participated in by patrons of the establishment." (includes karaoke). Entertainment A license does not allow for patron and/or performance dances.
2. The licensee will limit requests for outdoor extensions of service to four per year.
3. Licensee will apply for outdoor event licenses at least three weeks in advance. Notice of the license application will be provided to the District Council at least three weeks prior to the event.
4. Outdoor extensions of service will be limited to eight hours duration and will be permitted only until 9:00PM Sunday through Thursday and 11:00PM on Friday and Saturday.
5. Licensee will provide notice of outdoor extensions to all neighbors within a one block radius of the establishment. Notices will be written in Spanish, Hmong, and English.
6. The doors to the establishment will be closed at all times that amplified music is playing.

New License Conditions

7. Licensee shall close the establishment no later than 1:00 a.m. on Sunday, Monday, Tuesday and Wednesday. The establishment may remain open until 2:00 a.m. on Thursday, Friday, and Saturday. The licensee shall ensure that all customers/patrons have left the premises (including the parking lot area) no later than thirty (30) minutes after the establishment has closed. The licensee may request a modification of this license condition six (6) months after it's approved by the City Council.

The hearing adjourned at 3:30 p.m.

The Conditions Affidavit was signed and submitted on May 23, 2012.