

**LICENSE HEARING MINUTES**  
**The Gnome, 498 Selby Avenue**  
**Thursday, August 6, 2020, 1:00 p.m.**  
**Room 330 City Hall, 15 Kellogg Boulevard West**  
**Nhia Vang, Deputy Legislative Hearing Officer**

In light of the COVID-19 health pandemic, a remote hearing was held by telephone or other electronic means. It was called to order at 1:10 p.m. A roll call was made to confirm attendees.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI); Yaya Diatta, DSI Zoning

Licensee: Lucas Miller (CFO), on behalf of the Applicant/Owner

License Application: Liquor On Sale - 101-180 Seats, Liquor On Sale - Sunday, Liquor On Sale - 2 AM Closing, Liquor Outdoor Service Area (Patio), Entertainment (B)

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a license application. This license application required a Class N notification to inform neighbors and the District Council about the application and provide them with an opportunity to submit comments. The City received correspondence of concern/objection, which triggered this hearing.

The hearing will proceed as follows: DSI staff will explain their review of the application and state their recommendation. The applicant will be asked to discuss their business plan. Members of the community will be invited to testify as to whether they object to or support the license application. At the end of the hearing, the Legislative Hearing Officer will develop a recommendation for the City Council to consider. The recommendation will come before the City Council as a resolution on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

There are three possible results from this hearing: 1) a recommendation that the City Council issue this license without any conditions; 2) a recommendation that the City Council issue this license with agreed upon conditions; or 3) a recommendation 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.

Ms. Vang noted that a 45-day waiver of the notice requirement was approved by the City Council on June 24, and the license had been issued recently. She explained her role to determine whether additional license conditions were warranted. Ms. Vang also confirmed with Mr. Miller that he was authorized to speak about the business and make decisions about possible license conditions on behalf of the applicant.

Minutes:

Jeff Fischbach, Department of Safety and Inspections (DSI) gave a staff report. DSI recommended no license conditions be attached. The Summit University Planning Council

submitted a letter of support, including a 45-day waiver. Building had been finalled, License recommended approval with conditions, Zoning approved, DSI recommended approval with conditions. On June 24<sup>th</sup> the City Council approved a waiver of the 45-day notification waiting period, and the license was issued on July 29<sup>th</sup>.

Ms. Vang noted that Mr. Miller was the Chief Financial Officer; she asked him to speak about his role with the business. Mr. Miller said they had two licenses and were in the process of getting a third in St. Paul. He said he helped Brian (Ingram, applicant) run his company. Ms. Vang confirmed with Mr. Miller that he understood how the business was being operated. Mr. Miller said yes. He said he did everything from dishwasher on up, and they were a very hands-on group. He said it was Mr. Ingram and Mr. Ingram's wife, and each location had a general manager.

Ms. Vang asked about Mr. Ingram's other restaurants. Mr. Miller said they currently own and operate Hope Breakfast Bar and New Bohemia Wurst & BierHaus. They are also in the process of opening a place on West Seventh called Elotes, which used to be In Bloom in the Keg and Case building.

Ms. Vang asked how The Gnome would be run. Mr. Miller said they had a general manager, and managers. They were a restaurant and served taps, and fun tiki cocktails. They were open for lunch through the evening, posted until 12:00 a.m. They would see how business worked on the weekend; they had a 2:00 a.m. license currently. They were aware of and had discussed problems at other establishments in the area. It was something they were concerned about, but he and Mr. Ingram had over 50 years of experience and 60 restaurants between the two of them. They were very hands on, and they tried to anticipate and head off potential problems. They were very involved with the community and what people had to say. They couldn't do everything for everyone, but it was very important to him and Mr. Ingram; they have been a good team so far. As far as The Gnome, they always had a manager on duty, a chef in the kitchen, they followed code, and then some. COVID provided an opportunity for re-training and ensuring procedures were consistent across their restaurants, including food service, liquor handling, COVID handling, employee relations, guest and neighborhood relations. He said they would reach out directly to respond to any complaints; they had talked to Ms. Frank (a neighbor who had submitted a letter of objection) and that conversation went well.

Ms. Vang asked about work shifts under normal circumstances; she said she understood they weren't operating fully now. Mr. Miller said the upstairs would serve customers in addition to having a pool table or two but it is not allowed now. Currently only the patio was open; they might open inside at 50% capacity the next week. With everything open they would have host staff at the front desk, and people could go to the bar or upstairs. Patio, dining, and bar tables would be seated by host staff. They had very hands-on managers; he was the only one with an office in the building because he ran the company out of that building. Guest issues – they were on it. Mr. Ingram was very involved with every piece of guest feedback. As far as liquor service, they had some stronger beers and had put restrictions on how many a table could order. They didn't stack drinks or do doubles. If there was an issue of over-service, they supported their staff 125%. They had talked around the problems happening in the near area and in the past, and if those folks were coming to the door, they were just not going to let them in or they were going to

watch them. They were good at professionally and nicely letting people know this wasn't the place for them to party and hang out. If people got to the point of over-service, they would stop serving. It wasn't worth their license.

Ms. Vang asked how many seats were on the patio, now and under normal circumstances. Mr. Miller said he didn't have the number in front of him, but they were currently at a fraction of capacity. He said he would send the exact capacity to Ms. Vang. It was reservations only; if they weren't at full capacity people could walk up and be seated. Right now, they had the good problem of not having the availability.

Ms. Vang asked how much staff there would be under normal circumstances besides the chef and managers. Mr. Miller said during the day they'd have a couple bartenders; in the evenings they'd have three. They'd have a drink runner, a food runner. With the hand-helds and nobody touching anything, they really wanted the servers to stay outside in their sections. There were two or three people at the door, with one always staying at the door. Right now, they had two bartenders during the day, four servers, a drink runner, a food runner, and floor manager. They currently had a large back-of-house staff while everyone was being trained. Normally it would be a half-dozen – a dishwasher, prep cook, a couple people on the line.

Ms. Vang asked about parking for staff and whether they were from the community. She noted that they had a parking lot, and there had been no additional parking requirements. Mr. Miller said most employees lived in St. Paul, some didn't have cars and carpooled or lived nearby. He said they hired a lot of families.

Ms. Vang asked about hours right now compared to in the future. Mr. Miller said the license application was for 11:00 a.m. to 2:00 a.m. seven days a week, and potentially brunch on Saturday and Sunday. They were currently running 11:00 a.m. to 12:00 a.m. Tuesday through Sunday and were closed Monday. They were going to feel it out. Red Cow and Handsome Hog closed a little earlier; on the weekends they were all open until midnight.

Ms. Vang asked if the patio was enclosed. Mr. Miller said there was one access plus an egress. People had been using the egress to go out and smoke, so they were closing that and putting signage on it. The only point of access was through the host stand at the front door.

Ms. Vang asked about the procedures for handling garbage pickup and cleaning at the end of the evening. Mr. Miller said they spoke to Ms. Frank about the noise from emptying garbage cans full of bottles. They had everything on draught but still served liquor out of bottles. Compost was picked up one day a week, garbage and recycling were a couple days a week. They'd been showing up between 7:00 a.m. and 9:00 a.m. in the morning. They agreed they could take the bottles outside and dump them in the morning if that needed to be addressed. Having those conversations with neighbors was important to them. There was an enclosed garbage area that fell down; they were having it rebuilt.

Ms. Vang said it sounded like they'd had some conversations with Ms. Frank about her concerns. Ms. Vang read Ms. Frank's letter into the record. The letter was dated June 19, 2020 from Sylvia Frank at 524 Selby Avenue, and expressed objection to the liquor sales and to music on the patio

until 2:00 a.m. Ms. Frank lived nearby and was concerned about noise on the patio. She believed that Happy Gnome (previous establishment at the location) was good neighbor and on a few occasions had outdoor entertainment in tents, and it was difficult for her to sleep at night because of the music. She was recommending that the application be denied for the outdoor entertainment 2:00 a.m., and to only allow special permits.

Ms. Vang said commend their effort and said that it was unfortunate that The Gnome would inherit that history; she asked about plans for outside events. Mr. Miller said they wanted to do things like a socially distanced outside beer tasting under a tent. Events wouldn't be every weekend, and he understood the concerns about late at night and partying. He said the patio was contained with a big wall and one point of access, and drinks didn't leave that area. Music now was purely background. For their opening they had a jazz quartet inside. They wanted to have events, but as far as events going to 2:00 a.m. – they were not a rock venue. He said they would have to ask Jeff (DSI staff) how late they could go. They would talk with DSI first. He said when they had events, they would want to know what they were allowed to do and what the neighbors did. They couldn't please everybody but were going to do their best to mitigate problems.

Ms. Vang said she assumed Mr. Miller was talking about special events taking place occasionally throughout the year, and they would need to apply for a permit. Mr. Miller said his understanding was that having small events on the patio was fine and that events happening in the parking lot they would reach out to DSI.

Ms. Vang asked whether they were planning to have live music outside. Mr. Miller said it was always going to be something like at Hope Breakfast Bar during weekend brunch, with one, two, or three-piece groups providing background music. If it was a problem, they wanted their neighbors to talk to them about it, and they would work with DSI to address it together.

Ms. Vang asked Mr. Fischbach whether Entertainment B allowed for dancing, both interior and exterior. Mr. Fischbach said he didn't know if they were proposing entertainment on the patio. He asked if the patio was large enough for music and dancing. Mr. Miller said there was space where they could put a small quartet, or if someone wanted to rent the patio, he would do it, but that wasn't something that was going to happen every weekend. Dancing just wasn't them and they didn't have a space for it. Mr. Fischbach said they could have music outside as long as it was contained within the approved liquor service area and complied with the noise ordinance regulations.

Ms. Vang asked Mr. Miller if he would be agreeable to a condition requiring compliance with the noise ordinance. Mr. Miller said he was not familiar with the noise ordinance language. Mr. Fischbach read the standard condition language and said he would email the code. Mr. Miller said he couldn't see them contesting it but would like to review it with Mr. Ingram. Mr. Fischbach said the ordinance limit was 65 dB as measured 50 feet from the source, which wasn't that loud. He said amplified music might be an issue. Mr. Miller said as long as it was what other establishments were doing and it was code, that's what they'd do. Mr. Fischbach said after 10:00 p.m. the limit was less. Mr. Miller said absolutely they would follow the decibel level, and if they ever got a complaint, they'd address it immediately.

Ms. Vang said she was glad Mr. Miller was willing to consider adding the condition related to the noise ordinance. She referred to the letter of objection from Mr. Carlson's expressing support for the business but concerns about noise, and specifically referencing the noise code chapter. (At this time, the proposed condition language was emailed to Mr. Miller for his review during the hearing. The noise ordinance language was attached to Mr. Carlson's letter and included in the hearing packet.) Mr. Miller reviewed the noise chapter and said he would review it with Mr. Ingram. He confirmed with Mr. Fischbach that it was already required by code unless a variance was applied for. Ms. Vang said having it as a license conditions reassured the community and informed staff. Mr. Miller said they could add it to the license, or they could let Mr. Carlson know it already was required. Mr. Fischbach said it was not uncommon to have it on the license when the City had gotten concerns during the notification period. It added awareness for staff. Mr. Miller said he liked to know others were being held to the same standard. He said he would have a conversation with Mr. Ingram.

Ms. Vang noted that Mr. Miller said staff received extensive training in alcohol awareness and managing health and safety; she asked how entertainment would be monitored. Mr. Miller said it would generally have to be an enclosed space; they would rent a barrier or put up tent with limited controlled access. He said often security was staffed for those events so they didn't have to worry about underage service, they may use wristbands, and would make sure they were insured property. This wasn't the kind of thing that would go to 2:00 a.m.; often they were during the day.

Ms. Vang noted that Mr. Miller had a lot of experience in opening, managing, and operating businesses. She asked how issues had been resolved or handled in the past. Mr. Miller said any issue, good and bad, they jumped on it. Ms. Vang asked whether they worked with police and trained staff to call police if there was an incident outside of their ability to manage or control. Mr. Miller said with a big event they would hire off-duty or have police close by. Staff never went to a situation alone but brought on a manager. Generally, they were a family place, but if necessary, they were on the phone with the police. The City and police department were an extension of their team. Ms. Vang asked whether they had ever had to exclude a patron for bad behavior. Mr. Miller said he was not a fan of a permanent 86 list. He said they just professionally and nicely said "this is not your night." They stayed on top of over-service; they were difficult conversations, but they had done it so many times, they weren't worried. Staff was trained, and they worked as a team.

Ms. Vang asked how many parking spaces there were. Mr. Miller said they were working on painting the spaces. They had marked the handicapped spots and the fire zone. He said he would send Ms. Vang the number of spaces. He said Ms. Frank expressed concerns about parking, and they addressed it. So far there hadn't been an issue and had been plenty of parking.

Ms. Vang asked whether they would hire someone for snow removal. Mr. Miller said yes, they had already hired a landscaping company that did year-round management.

Ms. Vang asked about patio lighting. Mr. Miller said there was plenty of lighting, but it wasn't obnoxious. There were light strands spaced every five or six feet, from the building to the patio

exterior, and a streetlight in parking lot in back. There were security cameras covering the entire premises.

Ms. Vang said she had no other questions. She said she was happy to hear they'd opened, and she wished them the best. She said she was happy they were investing in St. Paul. She encouraged them to continue to work with neighbors and the community to make sure they were minimizing any negative impact. She asked that Mr. Miller discuss the suggested condition; she said she felt it would reassure the two people who objected. If they agreed to it, Mr. Fischbach would send a draft of the condition for their approval, and it would be a modification to the license that had been issued. It would go before the City Council for their approval.

The hearing adjourned at 1:59 p.m.

The Conditions Affidavit was signed and submitted on August 7, 2020.