Legislation Details (With Text)

File #:	RES PH 18-259 **Version:** 1		
Type:	Resolution-Public Hearing	**Status:**	Passed
		In control:	City Council
		Final action:	9/19/2018

Title: Considering and adopting adverse licensing action against the Cigarette/Tobacco license held by Dollar Plus Inc., d/b/a Dollar Plus at 560 University Avenue West. (Public hearing continued from September 5)

Sponsors: Dai Thao

Indexes:

Code sections:

Attachments: 1. Notice of Council Hearing with Affidavit of Service dated August 21st 2018.pdf, 2. ALJ's Findings of Fact, Conclusion of Law and Recommendation dated August 20th 2018.pdf, 3. Exhibits 1-18 with supporting ordinances.pdf, 4. Notice of Intent to Revoke License with Affidavit of Service dated April 17th 2018.pdf

Date	Ver.	Action By	Action	Result
9/25/2018	1	Mayor's Office	Signed	
9/19/2018	1	City Council	Adopted	Pass
9/5/2018	1	City Council	Continue Public Hearing	Pass

Considering and adopting adverse licensing action against the Cigarette/Tobacco license held by Dollar Plus Inc., d/b/a Dollar Plus at 560 University Avenue West. (Public hearing continued from September 5)

WHEREAS, Dollar Plus Inc., d/b/a Dollar Plus for the premises located at 560 University Avenue West (License ID #20080000589) (hereinafter “Licensee”), received a Notice of Intent To Revoke License dated April 17, 2018 (hereinafter “Notice”); and

WHEREAS, on November 17, 2016, Saint Paul Police sent an undercover officer into Dollar Plus to attempt to buy synthetic marijuana in an attempt to investigate complaints from members of the community that the licensee was selling synthetic marijuana that caused members of the community to overdose and become ill and the licensee told the undercover officer “that’s the other dude” and to check back in the morning; and

WHEREAS, the licensee further told the undercover officer that the other individual “doesn’t even know that I know. I didn’t even know that he does that I heard from a customer. That’s his own privacy”; and

WHEREAS, Saint Paul Police used a Confidential Reliable Informant (CRI) to purchase a substance later identified by a forensic scientist from the Minnesota Bureau of Criminal Apprehension (“BCA”) as synthetic marijuana on September 20, 2017, September 25, 2017, and October 3, 2017; and

WHEREAS, following the controlled buys Saint Paul Police obtained a search warrant which was executed on November 21, 2017; and

WHEREAS, during the execution of the search warrant, Saint Paul Police found, recovered and photographed a 9MM loaded and cocked hand gun behind the clerk's counter, numerous rounds (37 boxes) of ammunition for the handgun, a high powered long-gun or AK-47, "magazines" or ammunition for the AK-47, a large knife and a bullet proof vest; and

WHEREAS, due to the serious nature of the illegal activity that the licensee allowed at the licensed premises and the danger that the illegal activity and the weapons posed to the community, the licensing office recommended an upward deviation on penalty matrix to revocation of the Cigarette/Tobacco license; and

WHEREAS, licensee disputed the allegations and requested a hearing before an Administrative Law Judge; and

WHEREAS, a Notice of Prehearing Conference and Notice of Administrative Hearing were sent to all parties on June 6, 2018, scheduling the prehearing conference before an Administrative Law Judge on June 15, 2018 and the administrative hearing on July 31, 2018; and

WHEREAS, the administrative hearing was held on July 31, 2018 with the licensee present; and

WHEREAS, the Administrative Law Judge issued her Findings of Fact, Conclusions of Law and Recommendation on August 20, 2018, and

WHEREAS, the Administrative Law Judge found that weapons and narcotics dealing are often related because narcotics dealers often keep weapons for protection and these weapons posed a danger to the community; and

WHEREAS, the Administrative Law Judge also found the handgun inside the Dollar Plus posed a danger to the public because the handgun was cocked, loaded and easily accessible to the public in its location behind the counter which could have easily been bumped or dropped and accidently discharged; and

WHERAS, the Administrative Law Judge also found that the AK-47 and ammunition were of great concern to the police because it was not safely stored and that it was atypical for this type of gun to be found in a business; and

WHEREAS, the Administrative Law Judge also found that the neighborhood was put at risk by the synthetic

marijuana being sold in Dollar Plus because it was chemically made and the producers were constantly altering the formula and hence the contents of the drug, making it easy for people to overdose or have an adverse reaction to the drug; and

WHEREAS, the Administrative Law Judge found the City showed substantial and compelling reasons to deviate from the penalty matrix and revoke the licensee' s Cigarette/Tobacco license for reasons identified in Saint Paul Legislative Code §§ 310.06 (b) (6) (a) and (c) and 310.06 (b) (8); and

WHEREAS, the Administrative Law Judge recommended the City of Saint Paul revoke the licensee's Cigarette/Tobacco license; and

WHEREAS, the Department of Safety and Inspections agrees with the Findings of Fact, Conclusions of Law and Recommendation submitted by the Administrative Judge and the revocation of the licensee's Cigarette/Tobacco license; and

WHEREAS, the licensee was sent a Notice of Council Hearing on August 22, 2018; stating a public hearing would be held before the City Council on September 5, 2018, at which time licensee would have an opportunity to present oral or written arguments to the Council; and

WHEREAS, City Council reviewed the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommendation and found the report to be without error and the penalty appropriate, now therefore be it

RESOLVED, the Findings of Fact issued by the Administrative Law Judge on August 20, 2018, are hereby adopted as the Findings of Fact of the City Council in this matter and be incorporated herein by reference.

FURTHER RESOLVED, the Conclusions of Law issued by the Administrative Law Judge on August 20, 2018, are hereby adopted as the Conclusions of Law of the City Council in this matter and be incorporated herein by reference.

FURTHER RESOLVED, the Recommendation issued by the Administrative Law Judge on August 20, 2018, is hereby adopted as the Recommendation of the City Council in this matter and is incorporated herein by reference.

FINALLY RESOLVED, the Cigarette/Tobacco license held by Dollar Plus Inc., d/b/a Dollar Plus (License ID #20080000589) for the premises located at 560 University Avenue West in Saint Paul is hereby revoked.

A copy of this resolution, as adopted, shall be sent by first class mail to the Administrative Law Judge and to the license holder.