

AGENDA

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF ST. LOUIS COUNTY, MINNESOTA



Tuesday, July 3, 2012, 9:30 A.M.

**County Board Room, Second Floor
St. Louis County Courthouse
100 N. 5th Avenue West
Duluth, Minnesota**

**KEITH NELSON, Chair
Sixth District**

**FRANK JEWELL
First District**

**STEVE O'NEIL
Second District**

**CHRIS DAHLBERG
Third District**

**MIKE FORSMAN
Fourth District**

**PEG SWEENEY, Vice-Chair
Fifth District**

**STEVE RAUKAR
Seventh District**

County Auditor
Donald Dicklich

County Administrator
Kevin Gray

County Attorney
Mark Rubin

Clerk of the Board
Patricia Stolee

The St. Louis County Board of Commissioners welcomes you to this meeting. This agenda contains a brief description of each item to be considered. The Board encourages your participation. If you wish to speak on an item contained in the agenda, you will be allowed to address the Board when a motion is on the floor. If you wish to speak on a matter which does not appear on the agenda, you may do so during the public comment period at the beginning of the meeting. Except as otherwise provided by the Standing Rules of the County Board, no action shall be taken on any item not appearing in the agenda.

When addressing the Board, please sign in at the podium and state your name and address for the record. Please address the Board as a whole through the Chair. Comments to individual Commissioners or staff are not permitted. The St. Louis County Board promotes adherence to civility in conducting the business of the County. Civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issue before the Board. Tools of civility include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility [County Board Resolution No. 560, adopted on September 9, 2003]. Speakers will be limited to five (5) minutes.

****In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify Property Management 72 hours prior to the meeting at (218)725-5085.****

All supporting documentation is available for public review in the County Auditor's Office, 100 North 5th Avenue West - Room No. 214, St. Louis County Courthouse, Duluth, MN, during regular business hours 8:00 A.M. - 4:30 P.M., Monday through Friday. Agenda is also available on our website at <http://www.stlouiscountymn.gov/GOVERNMENT/BoardofCommissioners.aspx>

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9:30 A.M. Pledge of Allegiance
Roll Call

AT THIS TIME CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD ON ITEMS NOT ON THE AGENDA. [Speakers will be limited to 5 minutes each.]

FOR ITEMS ON THE AGENDA, CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD AT THE TIME A MOTION IS ON THE FLOOR.

9:40 A.M. Pursuant to Resolution No. 12-150, adopted March 13, 2012, the St. Louis County Board is requested to consider bids received for the sale of surplus fee owned land and authorize the sale of the land to the party submitting the highest bid. {12-276}

9:45 A.M. Public hearing, pursuant to Resolution No. 12-310, adopted June 5, 2012, to consider allegations of a liquor law violation by Belo Enterprises, Inc., d/b/a Crossroads Convenience and Liquor Store, Clinton Township. {12-277}

CONSENT AGENDA

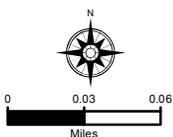
Approval of business submitted on the consent agenda.

REGULAR AGENDA



Proposed Fee Land Sale

Parcel 380-0010-04730 Pt of SW 1/4 of NW 1/4 Section 23, T51N, R16W



Prepared By: St. Louis County
Property Management

Source: St. Louis County, Minnesota

Map Created: 3/7/2012

Disclaimer: This is a compilation of records as they appear in the St. Louis County Offices affecting the area shown. This drawing is to be used only for reference purposes and the County is not responsible for any inaccuracies herein contained.

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Parcel is Approximately 6.1 Acres with approximately 630 feet of frontage on Munger Shaw Rd. Parcel is irregular in shape.

Parcel is zoned MUNS-4 and meets zoning requirements.

Parcel is wooded and is predominantly upland with the eastern most area lying within past gravel excavation area.

BOARD LETTER NO. 12 - 277

FINANCE & BUDGET COMMITTEE

JULY 3, 2012 BOARD AGENDA 9:45 A.M. PUBLIC HEARING

DATE: July 3, 2012

RE: Public Hearing to Consider
Allegations of Liquor Law
Violation – Crossroads
Convenience and Liquor Store
(Clinton Township)

FROM: Kevin Z. Gray
County Administrator

Donald Dicklich
County Auditor

Mark Rubin
County Attorney

RELATED DEPARTMENT GOAL:

Provide mandated and discretionary licensing services in a timely manner.

ACTION REQUESTED:

The St. Louis County Board is requested to consider penalties and/or suspension of liquor license for an alleged violation, sale to minor on April 10, 2012, of the liquor law by Belo Enterprises, Inc., d/b/a Crossroads Convenience and Liquor Store, Township of Clinton.

BACKGROUND:

The County Attorney and the County Auditor have received reports from the St. Louis County Sheriff's Office concerning liquor law violation by Belo Enterprises, Inc., d/b/a Crossroads Convenience and Liquor Store, Clinton Township.

On May 8, 2012, the St. Louis County Liquor Licensing Committee met to discuss the alleged liquor law violation against Crossroads Convenience and Liquor Store. After consideration of the allegations and circumstances, the committee recommended a ten (10) day license suspension and \$1,000 civil penalty, with nine (9) days and \$1,000 of the civil penalty stayed for one (1) year on the condition that the licensee has no same or similar violations during that year. The date of the one (1) day suspension will be July 9, 2012.

A public hearing was scheduled before the St. Louis County Board on July 3, 2012. The purpose of the hearing, pursuant to St. Louis County Ordinance No. 28, Section 13.01, is for the County Board to determine whether the licensee violated any liquor laws,

regulations, or provisions of Ordinance No. 28, and, if so, what consequence should be imposed upon the licensee. Ordinance No. 28 permits that a liquor license may be suspended or revoked for up to sixty days, a civil penalty of up to \$2,000 may be imposed for each violation, or a combination of any of these sanctions.

RECOMMENDATION:

It is recommended that the St. Louis County Board receive testimony at the public hearing and consider suspension, revocation, or other sanctions of the liquor license issued to Belo Enterprises, Inc., d/b/a Crossroads Convenience and Liquor Store, including but not limited to, imposition of civil penalties for the violation.

Public Hearing to Consider Allegations of Liquor Law Violation – Crossroads Convenience and Liquor Store (Clinton Township)

BY COMMISSIONER _____

WHEREAS, the St. Louis County Liquor Licensing Committee met on May 8, 2012, to consider recommending action to be taken by the County Board as a result of an alleged liquor law violation, sale to minor, on April 10, 2012, against Belo Enterprises, Inc., d/b/a Crossroads Convenience and Liquor Store, Clinton Township; and

WHEREAS, the Liquor Licensing Committee recommended a ten (10) day suspension and \$1,000 civil penalty, with nine (9) days of the suspension and \$1,000 of the civil penalty stayed for one (1) year with no same or similar violations during that year; and

WHEREAS, after hearing testimony on the matter at a public hearing conducted on July 3, 2012, at 9:40 a.m. in the Courthouse, Duluth, MN, the St. Louis County Board determined the recommendation of the St. Louis County Liquor Licensing Committee to be an appropriate penalty for the liquor law violation.

NOW, THEREFORE, BE IT RESOLVED, that the Off-Sale Intoxicating Liquor License No. OFSL122, issued to Belo Enterprises, Inc., d/b/a Crossroads Convenience and Liquor Store, Clinton Township, is hereby suspended for one (1) day and a \$1,000 civil penalty is due, with nine (9) days of the suspension and \$1,000 of the civil penalty stayed for one (1) year with no same or similar violations during that period.

RESOLVED FURTHER, that the date of suspension of the liquor license will be July 9, 2012.

RESOLVED FURTHER, that a new violation within the next year (ending July 3, 2013), will result in the imposition of the remainder of the suspension and civil penalty, and may also be cause for additional action against the liquor license of the licensee pursuant to St. Louis County Ordinance Number 28, Section 13.

**Minutes
May 8, 2012
ST. LOUIS COUNTY LIQUOR LICENSING COMMITTEE MEETING**

The meeting was called to order at 8:16 a.m. by Commissioner Keith Nelson, Chair, with the following members present: Commissioner Chris Dahlberg, County Auditor Donald Dicklich, Sheriff Ross Litman, James Nephew, Attorney's Office, and Lt. Dave Rolland, Sheriff's Office

Dahlberg/Dicklich moved to approve the minutes of the May 1, 2012, meeting. (4-0)

Commissioner Steve O'Neil arrived at 8:21 a.m.

There was discussion regarding the alleged liquor law violation, sale to minor, which occurred on April 12, 2012, at Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township. Wendy Johnson, Auditor's Office, notified the committee members that the applicant did not record the alleged violation on the liquor license renewal applications. Attorney Nephew presented to each committee member the following documents, prepared by the applicant's attorney, Mr. Shawn Reed: Cover letter summarizing the events of April 12, 2012, affidavits from Laura Griffiths, bartender, Brian Zak, who allegedly served the minors, and applicants Erik Lietz and Alissa Sundberg. Attorney Nephew said the individual that served the minors was not an employee, but was a bar patron, and at the time Mr. Lietz was working alone in the kitchen and bar. Mr. Lietz asked Mr. Zak to hold down the bar or watch the bar, something to that effect, but did not mean to take orders, but to watch that no one steals anything. Mr. Zak appeared to be an employee and did card the minors before taking their money and allegedly serving the alcohol. Commissioner Dahlberg said that Mr. Zak acknowledged that occasionally he'd helped them before.

Chair Nelson asked if the alleged violation will be contested because Mr. Zak is not an employee. Attorney Nephew said both the ordinance and statute use the term "employee", and unless you can define somebody as an employee, it's difficult to attach liability. Auditor Dicklich said he is troubled that a pattern seems to be developing where owners are not available and/or asking for help from bar patrons on a regular basis, which is not acceptable. Lt. Rolland concurred. Commissioner Dahlberg asked when the remainder of the first penalty should be imposed, to which Attorney Nephew answered that due process needs to take place, which is outlined in Ordinance No. 28. He stated further that the alleged violation on April 12, 2012, must be proven before the Board imposes the remaining seven (7) days of suspension and \$700.00 fine for the violation that occurred on October 15, 2011. Chair Nelson said if this is to be contested in court, the committee should delay making a decision. He asked if there is a possibility of criminal charges being filed against the owners. Sheriff Litman said it wasn't considered.

At this time, applicant Erik Lietz and his attorney Shawn Reed appeared before the committee. Attorney Reed said during the past six months, the applicants have taken significant steps to prevent these types of situations from happening, which include, for each employee:

1. Minnesota Licensed Beverage Association training, with another session scheduled for the end of the month
2. County Sheriff's Department training
3. One on one, half hour training sessions with each employee

In addition, a wrist band program will be initiated for larger crowds, where identification will be

required at the door and no untrained person is allowed behind the bar.

Chair Nelson said he appreciates the steps taken.

At this time, Attorney Reed asked the committee not to consider license revocation or suspension, because, 1) the violator was not an employee; 2) the economic impact, not only to his clients, but would have a large impact on employees and surrounding community; and 3) contracted parties and weddings would have to be cancelled. He said that if a penalty is considered, a monetary fine, only, would allow the applicants to continue operation of the business. Mr. Lietz said that Mr. Zak was not in any position to bartend, was not an employee, but a three-four day per week customer. He said that the incident was not purposeful.

Commissioner O'Neil left the meeting to attend the Board meeting.

Commissioner Dahlberg and Mr. Lietz had the following conversation:

Dahlberg: Did you specifically tell Mr. Zak to make sure nobody takes any liquor?
Lietz: No I did not.
Dahlberg: Did you tell Mr. Zak anything about the liquor, what to do or not to do?
Lietz: No, I didn't tell him anything specific.
Dahlberg: How often does Mr. Zak empty garbage for the business?
Lietz: Once a month in the summer, if it's busy, it depends if a girl is working and cannot lift the garbage, because it's full of bottles.
Dahlberg: How often does he walk female employees to their car?
Lietz: I can't say, I am not there at bar close all the time, it varies, depends on who is bartending, could be a couple times a week or it could be once a month
Dahlberg: Does he help with the docks in the spring and fall?
Lietz: Yes, in the spring and fall.
Dahlberg: You stated to Deputy Harris that regular customers occasionally assist with emptying the garbage cans. How many customers?
Lietz: That was misunderstood. Mr. Zak is the only one that helps.
Dahlberg: Have any other regular customers done other work for you, beyond emptying the garbage or placing of the docks or any type of work/remodeling projects?
Lietz: Mr. Zak has helped with putting siding up.
Dahlberg: Have you ever given Mr. Zak any cash for any of the work?
Lietz: No.
Dahlberg: Have you given Mr. Zak free food/drinks?
Lietz: Bought him a drink here and there and a couple of meals.
Dahlberg: Has Mr. Zak stayed overnight at your cabins?
Lietz: I don't believe so.

Sheriff Litman said the man behind the bar poured the beer and money was tendered, which was more than just helping out. Mr. Lietz said Mr. Zak spends a lot of time in the bar and knows the cost of a beer. Sheriff Litman said there seems to be more than a casual relationship between Mr. Lietz's operation and Mr. Zak. He said he appreciates the steps they have taken to be compliant with Minnesota laws.

Auditor Dicklich said he is concerned that Mr. Lietz is not available at closing. The violation that occurred last year involved after hour sales and sale to a minor and it doesn't seem there is accountability to oversee. Auditor Dicklich said it seems Mr. Lietz has a casual operation and he can't afford to be casual. Mr. Lietz said he is available at closing about half the time.

Sheriff Litman and Mr. Lietz had the following conversation:

Litman: Has Mr. Zak ever been told not to go behind the bar?
Lietz: Absolutely, absolutely.
Litman: Are the garbage cans behind the bar?
Lietz: There are garbage cans sitting right in front of the tappers, which isn't behind the bar, but over to the side. He was not supposed to be behind the bar. I scolded him, and thought he was going to cry. He was only trying to help, it was the only thing he did all night, and he was absolutely not supposed to be pouring beer.

Chair Nelson said that a decision is not going to be made today because of the unusual circumstances. Attorney Reed said he will continue to; 1) cooperate with this committee and so will his client and; 2) communicate with Attorney Nephew. He said they would be willing to appear before the Liquor Licensing Committee to continue the dialogue.

Lt. Rolland, Attorney Nephew, Attorney Reed, Commissioner Dahlberg, and Mr. Lietz had the following conversation:

Rolland: The Sheriff's Report states when asked if you let other customers go behind the bar, you said, when it's busy.
Lietz: No, I did not say that. I said, absolutely not, absolutely not, do I ever let customers behind the bar or serve alcohol. I trust Mr. Zak, he has never done anything that would give me cause to question him.
Rolland: Reference that statement, you are stating you did not say that?
Lietz: I did not say that.
Reed: We looked over the police reports in detail, and there are a few areas that are not exactly accurate. We are talking with other people that were within ear shot of the conversations, but my client firmly did not make that particular statement.
Lietz: I don't consider this a casual operation and I don't take this lightly. Alissa and I have both worked really, really, really hard, ever since what happened with a previous bartender.
Nephew: Do you deny being asked if you let other customers go behind the bar?
Lietz: I am not denying that the Deputy asked the question.
Dahlberg: Have you ever given Mr. Zak cash for any of the work he's done?
Lietz: No.

Mr. Lietz said he is installing cameras, should be fully staffed now that winter is over, and he is devastated that the incident occurred. In conclusion, the committee delayed action pending review and recommendation from the County Attorney.

There was discussion regarding the liquor law violation, sale to minor, which occurred on April 10, 2012, at Belo Enterprises, Inc. d/b/a Crossroads Convenience and Liquor Store, Clinton Township. Lt. Rolland said the clerk did not ask for identification because she knew him and thought that he was the same age as her daughter.

Lisa Sweet, Auditor's Office, took over for Wendy Johnson.

At this time Gary Bielejeski and Kent Bielejeski appeared before the committee. Chair Nelson said the reason for attending this meeting today is because the Sheriff's Office conducted a compliance check and an employee did not follow the correct protocol. Chair Nelson asked if any changes had

been implemented. Mr. Kent Bielejeski said he has placed three new signs visible at the till, one that says "card everybody" and two that say "We ID", with dates that change that they received from their liquor distributor. Mr. Gary Bielejeski said both his wife Euphrosine and Kent instruct employees and implore on them how important it is that they don't sell to minors. He said they totally understand that they are to card everybody, and understand just because a person may look of age doesn't mean they are of age. Commissioner Nelson said on a personal level he knows the establishment does card people. Auditor Dicklich made a motion, seconded by Commissioner Dahlberg, to recommend to the County Board, a ten (10) day suspension and \$1000.00 fine, nine (9) days and \$1000.00, stayed, if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. After lengthy discussion, a public hearing will be scheduled for July 3, 2012. Recommended suspension date is July 9, 2012. Motion passed. (4-0)

The meeting was adjourned at 9:30 a.m. (Nelson/Dicklich) (4-0)


Chris Dahlberg, Acting Chair


Wendy M. Johnson, IS II