

AGENDA

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



Tuesday, October 23, 2012, 9:30 A.M.

Virginia City Hall
327 First Street South
Virginia, 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
Roberta Museta

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 that 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>

AGENDA
St. Louis County Board
October 23, 2012
Page 2

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 LISTED ON THE BOARD AGENDA OR COMMITTEE OF THE WHOLE AGENDA, CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD AT THE TIME A MOTION IS ON THE FLOOR.

9:40 A.M. Public hearing, pursuant to Resolution No. 12-523, adopted October 2, 2012, to consider allegations of a liquor law violation by Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township. **{12-398}**

9:45 A.M. Public hearing, pursuant to Resolution No. 12-524, adopted October 2, 2012, to consider imposing the remaining penalties previously ordered against Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township. **{12-399}**

CONSENT AGENDA

Approval of business submitted on the consent agenda.

REGULAR AGENDA

ADJOURNED:

NOTE: The Board will recess and reconvene to consider items passed at the Committee of the Whole meeting.

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 County Board receive testimony at the public hearing and consider suspension, revocation, or other sanctions of the liquor licenses issued to Vermilion Ventures, LLC d/b/a Bayview Lodge, including but not limited to, imposition of civil penalties for the violation.

**Public Hearing to Consider Allegations of Liquor Law Violation –
Bayview Lodge (Greenwood Township)**

BY COMMISSIONER _____

WHEREAS, the St. Louis County Liquor Licensing Committee met on September 11, 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 12, 2012, against Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township; and

WHEREAS, the Liquor Licensing Committee recommended a twenty (20) day suspension and \$2,000 civil penalty, with fourteen (14) days of the suspension and \$1,400 of the civil penalty stayed, through the end of calendar year 2013, with no same or similar violations during that year; and

WHEREAS, after hearing testimony on the matter at a public hearing conducted on October 23, 2012, at 9:40 a.m., City Hall, Virginia, 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 Combination On/Off-Sale Intoxicating Liquor License No. CMB13139 and Sunday On-Sale Intoxicating Liquor License No. SUN13139, issued to Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township, are hereby suspended for twenty (20) days and a \$2,000 civil penalty is due, with fourteen (14) days of the suspension and \$1,400 of the civil penalty stayed through the end of calendar year 2013, with no same or similar violations during that period.

RESOLVED FURTHER, that the dates of suspension of the liquor licenses will be November 1, 2012, through November 7, 2012.

RESOLVED FURTHER, that a new violation within the next year (ending December 31, 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 licenses of the licensee pursuant to St. Louis County Ordinance Number 28, Section 13.

ST. LOUIS COUNTY LIQUOR LICENSING COMMITTEE MEETING

The meeting was called to order at 8:36 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, Lt. Dave Rolland, Sheriff's Office; Commissioner Steve O'Neil arrived a few minutes late

Dicklich/Dahlberg moved to approve the minutes of the September 4, 2012, meeting. (5-0)

There was discussion regarding the liquor law violation at Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township. Lt. Rolland said on August 10, 2012, a loud music complaint was received by the Sheriff's Office.

Lt. Rolland described two separate incidents/complaints at Vermilion Ventures, LLC, not related to the liquor violation reported on April 12, 2012, at which the Sheriff's office had been called and responded.

Attorney Nephew said the two pieces to consider were 1) the new violation; and, 2) the imposition of the existing un-imposed or un-executed portion of the penalty for the first violation, both requiring a public hearing. Attorney Nephew said there was sufficient evidence to prove the violation of the condition of no same or similar activity occurring.

Commissioner Dahlberg, supported by Auditor Dicklich, made a motion that the stayed suspension of seven (7) days and \$700.00 fine be imposed in regards to the first violation within 12 months of the October 15, 2011, incident which Board action took place on January 10, 2012; and recommended a suspension of twenty (20) days and \$2,000.00 fine shall be imposed, fourteen (14) days and \$1,400.00 fine, shall be stayed if no same or similar through the end of 2013, for the second violation April 12, 2012.

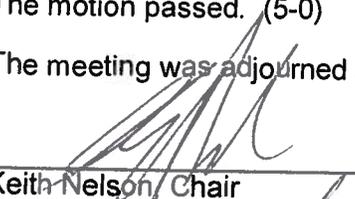
Erik Lietz and his attorney, Shawn Reed, appeared on behalf of Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township, regarding liquor law violation, sale to minor, which occurred on April 12, 2012. Chair Commissioner Nelson said there have been numerous calls for various incidents that have occurred at the establishment and that the Liquor Licensing Committee was informed that Mr. Zak was not an employee but that on August 10, 2012, Mr. Zak said he was representing the bar, according to the Deputy Sheriff's report. Mr. Lietz said he is aware of the August 10, 2012, incident, and said that he cannot control the actions of bar patrons.

Chair Nelson said he is very concerned over the establishment's pattern of behavior. Mr. Lietz said they had passed the last compliance check conducted by the Sheriff's Office. Attorney Reed said he was unaware of the incident that occurred on August 10, 2012, and the conversation which took place between Mr. Zak and the Deputy Sheriff. He said they don't have enough information at this time, to accept the recommendation without having the report. Chair Nelson said that Vermilion Ventures, LLC, will have an opportunity to address the issue with Attorney Nephew or in an appearance before the Board. Lt. Rolland gave a copy of the incident report to Attorney Reed.

Auditor Dicklich clarified that the committee is taking action on the violation of April 12, 2012, and not the August 10, 2012, incident. Commissioner Dahlberg said it is important to comment that the Board gives great credence to the recommendation of the Liquor Licensing Committee, but it is not always accepted. A Public Hearing will be scheduled for October 23, 2012.

The motion passed. (5-0)

The meeting was adjourned at 9:24 A.M. (Nelson/Dahlberg) (5-0)


Keith Nelson, Chair


Wendy M. Johnson, IS II

days of suspension and \$700 civil penalty be imposed on the licensee as a consequence for violating the term and condition of no same or similar violations.

A public hearing was scheduled before the St. Louis County Board on October 23, 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 the no same or similar provision of its January 10, 2012, liquor law violation determination and, if so, what remainder of the stayed penalty should be imposed upon the licensee. Seven (7) days of license suspension and a \$700 civil penalty were stayed and could be imposed.

RECOMMENDATION:

It is recommended that the County Board receive testimony at the public hearing and consider suspension, revocation, or other sanctions of the liquor licenses issued to Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township, including but not limited to, imposition of civil penalties for the violation.

Public Hearing to Consider Imposing Remainder of Penalties from Liquor Law Violation – Bayview Lodge (Greenwood Township)

BY COMMISSIONER _____

WHEREAS, the St. Louis County Liquor Licensing Committee met on September 11, 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 12, 2012, against Vermilion Ventures, LLC. d/b/a Bayview Lodge, Greenwood Township; and

WHEREAS, the Liquor Licensing Committee recommended imposing the remaining, stayed seven (7) day license suspension and \$700 civil penalty for the violation that occurred on October 15, 2011; and

WHEREAS, after hearing testimony on the matter at a public hearing conducted on October 23, 2012, at 9:45 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 violating the provision to have no same or similar liquor law violation.

NOW, THEREFORE, BE IT RESOLVED, that the Combination On/Off-Sale Intoxicating Liquor License No. CMB13139 and Sunday On-Sale Intoxicating Liquor License No. SUN13139, issued to Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township, are hereby suspended for seven (7) days and a \$700 civil penalty is due.

RESOLVED FURTHER, that the dates of suspension of the liquor licenses will be October 25, 2012, through October 31, 2012.

ST. LOUIS COUNTY LIQUOR LICENSING COMMITTEE MEETING

The meeting was called to order at 8:36 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, Lt. Dave Rolland, Sheriff's Office; Commissioner Steve O'Neil arrived a few minutes late

Dicklich/Dahlberg moved to approve the minutes of the September 4, 2012, meeting. (5-0)

There was discussion regarding the liquor law violation at Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township. Lt. Rolland said on August 10, 2012, a loud music complaint was received by the Sheriff's Office.

Lt. Rolland described two separate incidents/complaints at Vermilion Ventures, LLC, not related to the liquor violation reported on April 12, 2012, at which the Sheriff's office had been called and responded.

Attorney Nephew said the two pieces to consider were 1) the new violation; and, 2) the imposition of the existing un-imposed or un-executed portion of the penalty for the first violation, both requiring a public hearing. Attorney Nephew said there was sufficient evidence to prove the violation of the condition of no same or similar activity occurring.

Commissioner Dahlberg, supported by Auditor Dicklich, made a motion that the stayed suspension of seven (7) days and \$700.00 fine be imposed in regards to the first violation within 12 months of the October 15, 2011, incident which Board action took place on January 10, 2012; and recommended a suspension of twenty (20) days and \$2,000.00 fine shall be imposed, fourteen (14) days and \$1,400.00 fine, shall be stayed if no same or similar through the end of 2013, for the second violation April 12, 2012.

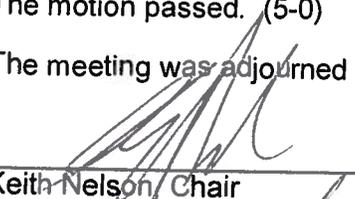
Erik Lietz and his attorney, Shawn Reed, appeared on behalf of Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township, regarding liquor law violation, sale to minor, which occurred on April 12, 2012. Chair Commissioner Nelson said there have been numerous calls for various incidents that have occurred at the establishment and that the Liquor Licensing Committee was informed that Mr. Zak was not an employee but that on August 10, 2012, Mr. Zak said he was representing the bar, according to the Deputy Sheriff's report. Mr. Lietz said he is aware of the August 10, 2012, incident, and said that he cannot control the actions of bar patrons.

Chair Nelson said he is very concerned over the establishment's pattern of behavior. Mr. Lietz said they had passed the last compliance check conducted by the Sheriff's Office. Attorney Reed said he was unaware of the incident that occurred on August 10, 2012, and the conversation which took place between Mr. Zak and the Deputy Sheriff. He said they don't have enough information at this time, to accept the recommendation without having the report. Chair Nelson said that Vermilion Ventures, LLC, will have an opportunity to address the issue with Attorney Nephew or in an appearance before the Board. Lt. Rolland gave a copy of the incident report to Attorney Reed.

Auditor Dicklich clarified that the committee is taking action on the violation of April 12, 2012, and not the August 10, 2012, incident. Commissioner Dahlberg said it is important to comment that the Board gives great credence to the recommendation of the Liquor Licensing Committee, but it is not always accepted. A Public Hearing will be scheduled for October 23, 2012.

The motion passed. (5-0)

The meeting was adjourned at 9:24 A.M. (Nelson/Dahlberg) (5-0)


Keith Nelson, Chair


Wendy M. Johnson, IS II

Minutes
November 16, 2011

ST. LOUIS COUNTY LIQUOR LICENSING COMMITTEE MEETING

The meeting was called to order at 1:02 p.m. by Commissioner Keith Nelson, Chair, with the following members present: County Auditor Donald Dicklich, County Sheriff Ross Litman, James Nephew, Attorney's Office, Lt. Dave Rolland, Sheriff's Office, and Patricia Stolee, Auditor's Office

The minutes of the September 26, 2011, meeting, were approved.

(Dicklich/Nelson) (3-0)

There was discussion of County Attorney Rubin's penalty recommendations for liquor law violations. Attorney Nephew presented two documents to committee members, a chart outlining a new approach in treating violations/penalties and a memo regarding a conversation that took place with Mr. Tony Bronson of Grandma's Restaurant Corporation, regarding liquor training programs. He gave an overview of the grid outlining the penalty for a first, and then subsequent violations. A second violation would include mandatory training of all employees. He said the idea is to integrate some training into this, and his purpose of speaking with Mr. Bronson was to find out if we have local resources to provide competent experience in training, to encourage compliance in the future. Chair Nelson asked the committee members to take time in reviewing the recommendations. Auditor Dicklich said a 30 day suspension would put an establishment out of business. Chair Nelson talked about training programs and said a program should have an industry standard. Chair Nelson requested a Liquor License Committee meeting in January 2012 and a Board Workshop in March 2012, to discuss penalties.

There was discussion regarding the liquor law violations at Vermilion Ventures, LLC d/b/a Bayview Lodge, Greenwood Township, sale to minor and open after hours on October 15, 2011. Lt. Rolland said a Sheriff's Deputy drove by the establishment and observed two people consuming alcohol in the bar around 3:00 a.m. The bartender admitted to after hour sales and consumption. The Sheriff's Office interviewed the second individual, who admitted to consuming alcohol at Bayview Lodge and said the bartender did not ask for identification. Lt. Rolland advised the Committee of numerous nuisance calls at Bayview Lodge over the past year. Chair Nelson said the violations appear to be more egregious than the recent compliance check violations. Attorney Nephew asked if there are two violations for the committee to consider. Lt. Rolland said the two violations could be rolled up as one incident for the Committee to consider. There was some question as to whether either owner of the establishment had any criminal charges pending from this incident. At 1:51 p.m., Chair Nelson called for a recess, to allow Attorney Nephew time to check on the matter.

The Committee reconvened at 1:59 p.m., with Commissioner Dahlberg present. Attorney Nephew reported that there were no open criminal charges on either owner.

Alissa Sundberg and her attorney Shawn B. Reed appeared before the Committee. Chair Nelson asked Ms. Sundberg to explain what transpired on October 15, 2011. She said her employee finished work and while cleaning, allowed a patron to remain on premises, while both consumed alcohol. Attorney Reed said unfortunately alcohol was part of it and Ms. Sundberg learned later that the patron was underage. He advised the Committee that she wasn't on the premises at the time, but had received a copy of the complaint from the Sheriff. Auditor Dicklich said only employees can be in an establishment after hours. At this point Attorney Reed presented to the Committee a copy of the employee's corrective action notice, Alcohol Awareness Test, identification/carding instructions, the corporation's Standards of Conduct and a document verifying receipt of the Employee Handbook. Further, the employee was suspended for two weeks and will be on 90 days probation when he returns to work.

Chair Nelson asked Ms. Sundberg if she has any violations at the other establishment she owns, The Sawmill Saloon & Restaurant in the City of Mt. Iron. She said in 2009, she was fined for sale to a minor and the second violation was for an after hours violation. Ms. Sundberg said that on the after hours citation, the bar patron was waiting for her to give him a ride and was not being served. Chair Nelson said there is a section in our

ordinance that talks about good moral character and added the bartender made some huge mistakes. Sheriff Litman said the actions by the bartender are egregious and asked how long he had been employed by Bayview Lodge, to which Ms. Sundberg answered 1 ½ years, but otherwise he was a good employee. She said further the bartender took advantage of her not being on premises. She added that she was informed of the violation two days later, but the bartender did notify her partner, Erik Lietz, before that. Sheriff Litman asked who manages the establishment in her absence and she said her partner. Ms. Sundberg acknowledged it is a privilege to have a license to sell alcohol.

Sheriff Litman said that there have been 6-7 calls for service this past year and asked if Ms. Sundberg was aware of the calls. She answered yes. Lt. Rolland was concerned that the bartender stated the establishment had been open after hours several times during the summer. Sheriff Litman said he would be available to meet with her to review the incidents, so she can take action to ensure this won't happen next year. Attorney Reed said they would be more than happy to meet with the Sheriff. Lt. Rolland asked how the bartender knew the person that was allowed to remain on premises after hours. Ms. Sundberg said he was working in the area and was staying at the lodge during the months of May through August 2011. Commissioner Dahlberg said he finds this troubling as there is now an employee serving after hours and Ms. Sundberg did the same thing, yet she is the one who is suppose to be instructing employees. Commissioner Dahlberg reminded Ms. Sundberg about the discussion on good moral character and running a liquor license establishment.

Chair Nelson asked Ms. Sundberg if she has implemented any changes to prevent future violations. Ms. Sundberg said that employees are given the Employee Handbook, which includes a section that goes over checking identification/carding and identifying intoxicated patrons, Sheriff Deputy and Minnesota Licensed Beverage Association (MLBA) training, and a 30 question quiz from the Restaurant Association is given to each employee. In addition, a training session with MLBA will take place on December 21, 2011, at 10:00 a.m. Chair Nelson asked if there are any changes in regard to training and Ms. Sundberg said she will be talking to the staff.

Chair Nelson made a motion, seconded by Commissioner Dahlberg, to recommend to the County Board a ten (10) day suspension and \$1,000.00 fine, seven (7) days and \$700.00 stayed, if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for January 2012. Motion passed. (4-0)

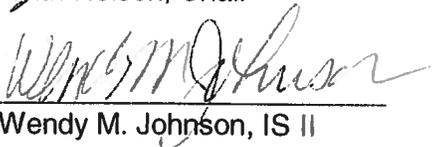
Auditor Dicklich informed the Committee that there are six establishments that have not paid their second ½ real estate taxes, that two reminder notices have been sent, and a public hearing will be held on December 13, 2011.

Commissioner Dahlberg handed out copies of a letter from the Carlton-Cook-Lake-St. Louis Community Health Board. The letter outlines the Community Health Board's recommendation supporting a comprehensive approach to prevent underage alcohol sales and consumption, including a) annual responsible beverage server training, b) consistent and ongoing alcohol compliance checks, and c) enforcement of consequences per local ordinances for all alcohol related violations.

The meeting was adjourned at 2:51 p.m. (Dicklich/Litman)



Keith Nelson, Chair



Wendy M. Johnson, IS II