

City Council Agenda Memo

From: Bonnie Foster, City Clerk

Council Meeting: May 11, 2021

Subject: Malt License Transfer

Person(s) Responsible: Bonnie Foster, City Clerk

Summary:

The City of Brookings has received an application to transfer an On-Off Sale Malt License, with Video Lottery, from ERL LLC, dba The Depot, Kathy McClemans and Robb McClemans, owners, to MG Oil Company, dba The Depot Casino, Marlyn Erickson and Troy Erickson, owners. All required documents have been submitted for this application.

Background:

A public hearing and action by the local governing body is required to approve all alcohol licenses. The On-Off Sale Malt License, with Video Lottery, would be effective 2021, and would be subject to an annual renewal. If approved, the application would be forwarded to the State Department of Revenue for final action and transfer of the license.

This business located at 921 20th Street South, holds a current On-Off Sale Malt License, with 10 video lottery machines.

Item Details:

MG Oil Company, Marlyn Erickson and Troy Erickson, owners, have purchased The Depot, located at 921 20th Street South, from ERL LLC, Kathy McClemans and Robb McClemans, owners.

Chapter 6, Article 2, Section 6-42 of the City Code of Ordinances pertains to the Application Review Procedure. The city council shall review all applications submitted to the city for available on-sale alcoholic beverage agreements and for all alcoholic beverage licenses in accordance with SDCL Chapter 35-2 (SDCL 35-2-1 et seq.) and in accordance with the following factors:

- 1) Type of business which applicant proposes to operate:
- 2) The manner in which the business is operated:
- 3) The extent to which minors are employed in such a place of business:
- 4) Adequacy of the police facilities to properly police the proposed location:
- 5) Other factors: The hours that business is conducted

(Code 1996, § 5-20) State Law reference - Local license approval, SDCL 35-2-1.2.

SDCL 35-2-1.2. Applications submitted to local governing body--Fee--Approval or disapproval. Any applicant the transfer of an existing license shall submit an application to the governing body of the municipality in which the applicant intends to operate, The applicant shall submit the required fee with the application. The governing body may approve the transfer of an existing license if the governing body considers the applicant suitable to hold the license and the proposed location is suitable.

The governing body may disapprove an application for the transfer of an existing license issued under subdivision 35-4-2(4), (6), or (13) if:

- 1) The approval of the application permits a person, corporation, or business entity to possess more than one-third of the licenses available to be issued in the jurisdiction; and
- 2) The governing body determines that possession of more than one-third of licenses available is not in the public interest.

Complete City Code and SDCL References are in the attached document.

Legal Consideration:

None

Strategic Plan Consideration:

None

Financial Consideration:

The On-Off Sale Malt License would be effective 2021. There is a \$150 annual fee. The Video Lottery machines require a \$50/machine annual fee.

Options and Recommendation:

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny
4. Refer to a Study Session
5. Do nothing

Staff recommends approval.

Supporting Documentation:

Legal Notice

City Code and SDCL References

Location Map