



1. ITEM NUMBER :

2. SUBJECT 08SUB15/01/21

LIQUOR LICENCE APPLICATION: DECISION TAKEN UNDER SUBDELEGATED AUTHORITY BY THE SUBCOUNCIL MANAGER, THE WARD COUNCILLOR AND THE CHAIRPERSON IN RESPECT OF: ZWENI ENERGY REF. NO.: LLA20120002

ISICELO SEPHEPHA-MVUME LOKUTHENGISA UTYWALA: ISIGQIBO ESIGQITYWE PHANTSI KWESIGUNYAZISO ESISEZANTSI NGUMPHATHI WEBHUNGANA, UCEBA WEWADI NOSIHLALO NGOKUJOLISWE KWABE-ZWENI ENERGY: INOMBOLO YESALATHISO .: LLA20120002

AANSOEK OM DRANKLISENSIE: BESLUIT GENEEM DEUR DIE SUBRAADSBESTUURDER, DIE WYKSRAADSLID EN DIE VOORSITTER KRAGTENS GESUBDELEGEERDE BEVOEGDHEID TEN OPSIGTE VAN: ZWENI ENERGY: VERWYSINGSNO.: LLA20120002 (M3277)

3. PURPOSE

To report on an application for a liquor license received in terms of SECTION 36 NEW APPLICATIONS of the Western Cape Liquor Act, 2008, as amended by the Western Cape Liquor Amendment Act, 2010 and Western Cape Liquor Regulations, 2011 and to inform the Subcouncil of the outcome of public participation conducted on the application and recommendation submitted to the Liquor Authority in terms of sub delegated authority.

4. FOR DECISION BY

For information. Original decision taken by Subcouncil Manager in conjunction with Chairperson and Ward 86 Councillor in terms of sub-delegated authority.

5. EXECUTIVE SUMMARY

The Western Cape Liquor Act, 2008, as amended by the Western Cape Liquor Amendment Act, 2010 and Western Cape Liquor Regulations, 2011 were implemented on 1 April 2012. In terms of the Act, certain obligations were put on the City Manager. The City Manager ruled that all applications for liquor licenses received within the City be received at a central venue and delegated his authority to the Manager: Subcouncils to receive such applications from the various Designated Liquor Officers.

4(1) To comment on applications for liquor licences in terms of the Western Cape Liquor Act, 2008, as amended.

Where time or legal constraints do not allow the timeous submission of the matter to the Subcouncil, the Subcouncil manager, in conjunction with the chairperson and relevant ward councillor, has the sub delegated authority to deal with the matter.

6. RECOMMENDATION

It is recommended that:

It be **NOTED** that an application for a liquor licence received from ZWENI ENERGY was considered in terms of sub delegated authority and that the following recommendation was forwarded to the Liquor Authority in terms of the Western Cape Liquor Act, 2008, as amended:

SubCouncil 08 recommends that the application for a Consumption OFF Premises Liquor Licence, reference no. LLA20120002, for the business Zweni Energy; **NOT SUPPORTED** in view of the following:

SAPS:

The application is not supported by SAPS based on the objections received from the community as well as crimes of domestic violence that prevail in the area.

LIQUOR CONTROL:

This application is NOT SUPPORTED – Premises not zoned for business. Upon arrival a copy of Form 3B was not displayed. The premises are being renovated. Currently operating as a tuck shop.

COD DATABASE – COMMUNITY:

Evidence of an objection by way of petition against the application was received from the community. Correspondence from another community member was received which opposes this objection.

EMERGENCY SERVICES:

There must be an Approved Building / Fire Protection Plans for the Buildings / Structures – And all the Fire Safety Requirements as per this Approved Fire Protection Plan for the Buildings / Structures shall be implemented.

SUBCOUNCIL CHAIRPERSON: CLLR C CERFONTEIN:

The Subcouncil Chairperson is in support of the objections received.

ISINDULULO (H3064)

Kundululwe ukuba:

MAKUQATSHELWE ukuba isicelo selayisenisi yotywala esifunyenweyo esivela kwaZweni Energy saqwalaselwa ligunyana elinikwe isigunyaziso nokuthi esi sindululo silandelayo sadluliselwa kuGunyaziwe woTywala ngokoMthetho woTywala waseNtshona Koloni, ka2008, njengoko uhlehlengiswe ngolu hlobo: IBhungana 08 lenza isiphakamiso sokuba esi sicelo seLayisenisi yokuSelela uTywala kwiNdawo ekuthengiselwa kuyo, inom. yalo mba enguLLA20120002, weshishini lakwaZweni Energy; **ASIXHASWA** ngenxa yezi zinto zilandelayo:

INKONZO YAMAPOLISA ASEMZANTSI AFRIKA:

Esi sicelo asixhaswanga yiNkonzo yamaPolisa aseMzantsi Afrika ngenxa yokukhatywa kwaso luluntu nangenxa yezenzo zolwaphulo mthetho lobundlobongela obenzeka emakhayeni ezixhaphakileyo kule ndawo.

ULAWULO LOTYWALA:

Esi sicelo ASIXHASWANGA – Indawo elikuyo eli shishini asiyondawo yamashishini. Ekufikeni kwethu ikopi yeFomu eyi3B yayingaxhonywanga ukuba ibonwe nguwonkewonke. Le ndawo isalungiswa ngokutsha. Ngokwangoku isebenza njengesirhoxo.

UVIMBA WEENKCUKACHA ZE-COD – ULUNTU:

Kufunyenwe eluntwini ubungqina besibongozo sokukhatywa kwesi sicelo. Kwafunyanwa nembalelwano evela kwilungu lomnye ummandla elichasa oku kukhatywa.

IINKONZO ZONGXAMISEKO:

Kufanele kubekho isaKhiwo esiVunyiweyo okanye iziCwangciso zoKhuseleko loMlilo kwezo zaKhiwo – Yaye zonke iziNto eziyiMfuneko zoKhuseleko loMlilo ngokwesiCwangciso esiVunyiweyo soKhuseleko loMlilo kwezo Zakhiwo zifanele zimiliselwe.

USIHLALO WEBHUNGANA: UCEBA uCERFONTEIN :

USihlalo weBhungana uyakuxhasa naye oku kukhatywa kufunyenweyo kwesi sicelo.

AANBEVEELING:

DAAR WORD AANBEVEEL DAT:

Daarvan **KENNIS GENEEM WORD** dat 'n aansoek om 'n dranklisensie wat van Zweni Energy ontvang is, kragtens gesubdeleerde bevoegdheid oorweeg is en dat die volgende aanbeveling ingevolge die Wes-Kaapse Drankwet, 2008, soos gewysig, aan die drankowerheid gestuur is:

Subraad 08 beveel aan dat die aansoek om 'n dranklisensie vir verbruik op die perseel, verwysingsnommer LLA20120002, vir die sakebedryf Zweni Energy; **NIE GESTEUN WORD NIE** in lig van die volgende:

SAPD:

Die aansoek word nie deur SAPS ondersteun nie, gegrond op die besware wat van die gemeenskap ontvang is, asook gesinsgeweld wat in die omgewing heers.

DRANKBEHEER:

Hierdie aansoek word NIE GESTEUN NIE – die perseel is nie vir sake gesoneer nie. By aankoms is 'n afskrif van vorm 3B nie vertoon nie. Die perseel word opgeknop. Dit word tans as 'n snoepwinkel bedryf.

COD-DATABASIS – GEMEENSKAP:

Bewyse van 'n beswaar deur middel van 'n petisie teen die aansoek is van die gemeenskap ontvang. Korrespondensie van 'n ander gemeenskapslid is ontvang wat die beswaar teenstaan.

NOODDIENSTE:

Daar moet 'n goedgekeurde gebou/brandbeskermingsplan vir die geboue/strukture in plek wees – en al die brandveiligheidsvereistes kragtens hierdie goedgekeurde brandbeskermingsplan vir die geboue/strukture moet geïmplementeer word.

SUBRAADSVOORSITTER: RDSL. C. CERFONTEIN:

Die subraadsvoorsitter steun die besware wat ontvang is.

7. DISCUSSION

7.1.1 Section 37 of the Act address the Notice of Application process. Section 37(4), (5) and (6) of the Act reads as follows:

(4) The designated liquor officer in whose area of jurisdiction the proposed licensed premises are located must, within the prescribed period from the

date of lodgement of an application, serve a copy of the application in the prescribed manner on the municipality concerned in order for it to—

(a) where section 36(1)(c) applies—

- (i) allow the public to have access to, inspect or, upon payment of the prescribed fee, obtain a copy of the application;*
- (ii) obtain the comment of the ward councillor;*
- (iii) comment on the application; and*
- (iv) allow for the consideration of the planning application in relation to the application for a liquor licence; or*

(b) where section 36(1)(c) does not apply—

- (i) allow the public to have access to, inspect, upon payment of the prescribed fee, obtain a copy of the application;*
- (ii) obtain comment of the ward councillor; and*
- (iii) comment on the application.*

*(5) The designated liquor officer in whose area of jurisdiction the proposed licensed premises are located must or the municipality **may**, within the prescribed time, give notice of the application to—*

- (a) neighbouring residents or such persons who in his, her or its judgement may be affected by, or have an interest in, the granting or refusal of the application; and*
- (b) the community policing forum, if any, of the area in which the premises are located.*

(6) Notwithstanding subsection (1), where an applicant has to comply with section 36(1)(c), the notification done in terms of the applicable planning legislation is deemed to be in compliance with the notification requirements in terms of this section: Provided that the Liquor Licensing Tribunal may require such additional notification as it may deem appropriate.”

7.1.2 The following application for liquor license has been received by Subcouncil:

7.1.3 Details of applicant;

- LLA20120002
- Zweni Thomas;
- 2019/621038/07
- Zweni Energy;
- Consumption OFF Premises
- Erf: 21503 22 Fredericks Avenue Erijaville Strand;

7.1.4 Subcouncil Manager confirmation: Advertising extent (Community participation) - Notices served on and received the following Comments:

Ward 86 Councillor:
Support

Community Organizations: As per CBO Database
None

Ward Committee: Elected Members of Ward 86
None

CPF:
None

Other interest and effected parties:
None

Internal departments:

Town Planning:

Health:

City Emergency Services: 2020/12/21
No Objection, with conditions

Law Enforcement Squad:

7.2 Constitutional and Policy Implications

The Western Cape Liquor Act, 2008, as amended by the Western Cape Liquor Amendment Act, 2010 and Western Cape Liquor Regulations, 2011 were implemented on 1 April 2012. The Act was implemented in phases. In terms of the Act, certain obligations were put on the City Manager. The City Manager ruled that all applications for liquor licenses received within the City be received at a central venue and delegated his authority to the Manager of Subcouncils to receive such applications from the various Designated Liquor Officers.

5(1) To comment on applications for liquor licences in terms of the Western Cape Liquor Act, 2008, as amended.

Where time or legal constraints do not allow the timeous submission of the matter to the Subcouncil, the subcouncil manager, in conjunction with the chairperson and relevant ward councillor, has the sub-delegated authority to deal with the matter.

7.3 Sustainability Implications

No ☒ Yes ☐

7.4 Legal Implications

Public participation was conducted by the Subcouncil Manager, the circulation was distributed to the Ward Councillor, Community Organizations (as per the Community Based Organisation Database), Ward Committee, Community Police Forums (CPF's) and Internal Departments: Town Planning, Health, City Emergency Services and Law Enforcement Squad (Liquor Control Unit).

7.5 **Staff Implications**

Does your report impact on staff resources or result in any additional staffing resources being required?

No ☒ Yes ☐

7.6 **Other Services Consulted**

The following Internal Departments and officials were consulted:

Energy, Environmental and Spatial Planning

Planning and Building Development Management: (Nyameko Thuvana)

City Health

Sub District: (Samkelisiwe Biyela)

Safety & Security

City Emergency Services: (Edward Labuschagne)

Safety & Security

Law Enforcement:

FOR FURTHER DETAILS CONTACT:

NAME	<i>Elaine Noble</i>
CONTACT NUMBERS	<i>021 850 4107</i>
E-MAIL ADDRESS	<i>Elaine.noble@capetown.gov.za</i>
DIRECTORATE	<i>URBAN MANAGEMENT – AREA EAST</i>
FILE REF NO	



Comment:

SUBCOUNCIL CHAIRPERSON

NAME CLLR CHANTAL CERFONTEIN

DATE 14 JANUARY 2021

- ☐ REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.



SUBCOUNCIL MANAGER

NAME ERIKA THERON WILLIAMS

DATE 14 JANUARY 2021

Comment:

- ☐ REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.