



CITY OF CAPE TOWN
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GENERAL APPEALS COMMITTEE

11 OCTOBER 2024

ITEM NUMBER: GENAP 04/10/24

SUBJECT / ISIHLOKO / ONDERWERP

CONFIRMATION OF MINUTES: 13 SEPTEMBER 2024

UKUQINISEKISWA KWEMIZUZU: 13 EYOMSINTSI 2024

BEKRAGTIGING VAN NOTULE: 13 SEPTEMBER 2024

The minutes are submitted for confirmation.

**ANNEXURE A: MINUTES OF THE GENERAL APPEALS COMMITTEE MEETING
HELD ON 13 SEPTEMBER 2024 SUBMITTED FOR CONFIRMATION**

MINUTES

OF THE MEETING OF THE GENERAL APPEALS COMMITTEE HELD ON FRIDAY, 13
SEPTEMBER 2024 AT 10H00 VIA THE CITY'S DIGITAL PLATFORM (SKYPE).

PRESENT: COMMITTEE MEMBERS

DEMOCRATIC ALLIANCE (DA)

Ald J van der Merwe (Acting Chairperson)
Cllr W Harris
Cllr S P Liell-Cock
Ald S Moodley
Cllr M Nikelo
(Vacant)

AFRICAN NATIONAL CONGRESS (ANC)

Cllr N Matutu
Cllr S C Thompson

GOOD

Cllr S Van Nelson

OTHER COUNCILLORS

None

OFFICIALS

C Petersen	Environmental Health
M Russia	Environmental Health
S Ngethu	Environmental Health
X Erasmus	Legal Services
K Nicol	Office of the Speaker
N Meissenheimer	Executive Committee Services

PRESS

None

PUBLIC

None

ABSENT WITH APOLOGY

Ald F Purchase

ABSENT WITHOUT APOLOGY

Cllr B Yeko

GENAP 01/09/24 OPENING AND MOMENT OF SILENCE

In the absence of the Chairperson, Ald F Purchase, who submitted an apology for this meeting, nominations for an Acting Chairperson were requested. Cllr S Liell-Cock nominated Ald J van der Merwe to act as Chairperson for the meeting. The nomination was seconded by Cllr W Harris.

Ald J van der Merwe was duly elected to act as Chairperson.

The Acting Chairperson, Ald J van der Merwe welcomed the members and officials present at the meeting, whereupon a moment of silence was observed.

GENAP 02/09/24 APPLICATIONS FOR LEAVE OF ABSENCE

It was noted that Ald F Purchase extended her apology for this meeting.

No further applications for leave of absence were received via the Office of the Chief Whip.

ACTION: N MEISSENHEIMER

GENAP 03/09/24 DECLARATION OF INTEREST

None

NOTED.

GENAP 04/09/24 CONFIRMATION OF MINUTES: 16 AUGUST 2024

RESOLVED that the minutes of the meeting held on 16 August 2024, be confirmed.

[Proposed by Cllr S Liell-Cock and seconded by Cllr S Thompson]

ACTION: N MEISSENHEIMER

GENAP 05/09/24 SCHEDULE OF INVALID APPEALS

It was noted that no late appeals were received since the previous meeting held on 16 August 2024.

NOTED.

GENAP 06/09/24 GENERAL DISCUSSION

Cllr S Liell-Cock mentioned that subsequent to the previous meeting, there was a court case and ruling on applications for extended liquor trading hours in another Province. He requested that such ruling be obtained and be discussed at this Committee in the near future.

Ald J van der Merwe advised that such ruling was made in this Province and requested Legal Services, in consultation with Cllr Liell-Cock, to obtain this judgement for discussion by the Committee.

ACTION : X ERASMUS, CLLR S LIELL-COCK

GENAP 07/09/24 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – DOWN THE HATCH LIQUORS: ERF 17134, NORTHPINE CONVENIENCE CENTRE, SHOP NO. 3, CORNER OF OLD PAARL ROAD AND HOWARD DRIVE, NORTHPINE, BRACKENFELL

The Acting Chairperson, Ald J van der Merwe informed the Committee that at the previous meeting, it was resolved that the subject appeal be deferred, in order to afford the appellant the opportunity to respond to the additional information contained in the report, which response was included as pages 65 to 72 of the agenda for the meeting. It was further noted that the appellant and the Ward Councillor were afforded the opportunity to address the Committee on subject matter at the previous meeting.

Mr M Russia of the Environmental Health Department indicated that he did elaborate on this application and also gave a brief explanation on the content of the report at the previous meeting, and therefore had nothing to add at this stage.

Cllr S Liell-Cock mentioned that according to information in the report, Law Enforcement indicated that no complaints were received with regard to this establishment, which is untrue, as there is evidence in the report of a complaint received. With reference to the fact that the Subcouncil's decision hinged on whether the applicant should be allowed to continue trading on Sundays, Cllr Liell-Cock stated that the liquor license for Sunday liquor trading has expired and therefore the Committee does not have to justify Sunday liquor trading. He further mentioned that the extension of trading hours was not a permanent approval or a license condition and therefore this establishment should not expect to be given extended liquor trading hours every year. He mentioned that the behaviour of the patrons were also of concern, as the sale of liquor at this establishment caused other nuisances and inappropriate behaviour in the area. It is also experienced that alcohol abuse is one of the main the factors which increases such behaviour of patrons. The reference put forward by the appellant that the responsibility of the licenced holder for patrons drinking in open public spaces and urinating against the wall, should also not be shifted to the City of Cape Town.

In conclusion, Cllr Liell-Cock indicated that an official of the City Health Department inspected the subject property on a Sunday and

noticed that the establishment was trading illegally, which was in direct violation of their stipulated approved hours.

Ald S Moodley indicated that there is another liquor outlet in this Convenience Centre, which trades on a Sunday, but in terms of this particular establishment and given the input and complaints on this matter, he would not support this application for extended liquor trading hours.

The inputs and the content of the report, which included the additional response from the appellant, were duly considered.

After due consideration of the above, the appeal was put to the vote, with results as follows:

UNANIMOUSLY RESOLVED WITH 8 VOTES IN FAVOUR: [Cllrs S Liell-Cock, W Harris, M Nikelo, N Matutu, S Thompson, A van Nelson, Ald S Moodley and Ald J van der Merwe] that:

(a) the appeal submitted by the appellant, Danie Cronje Attorneys on behalf of Down The Hatch Liquors on Erf 17134, Northpine Convenience Centre, Shop No.3, Northpine, Brackenfell, **BE DISMISSED** for the following reasons:

- The liquor outlet is situated in a residential area.
- There are 2 churches within a 100 metre radius of the outlet.
- There is no control of patrons of the liquor outlet in terms of noise, hygiene and loitering, which affects the abutting residents, especially those directly behind the outlet.
- The situation is damaging residential character.
- Based on the above, the application for Sunday trading in respect of Down the Hatch Liquors could not be supported until these issues have been addressed.
- Additional liquor availability would only add more problems to the current situation.

(b) the decision taken by Subcouncil 2 in terms of their subdelegated authority on 07 June 2024 to refuse the application for extended liquor trading hours for off consumption on Sunday from 11H00 to 18H00 in respect of Down The Hatch Liquors on Erf 17134, Northpine Convenience Centre, Shop No.3, Corner of Old Paarl Road and Howard Drive, Northpine, Brackenfell, **BE CONFIRMED**.

ACTION: D WILLIAMS, M RUSSIA, G HEUGH

**GENAP 08/09/24 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS –
DANSKRAAL : ERF 4443, UNIT 2, NORTHUMBERLAND ROAD,
BELLVILLE**

Ms C Petersen of the Environmental Health Department elaborated on the content of the subject report for extended liquor trading hours and gave a brief background of the appellant's grounds for the appeal, as well as the respective Subcouncil's reasons for refusal of the application.

Ald J van der Merwe enquired about the conditional consent use approval granted by the Land Use Management Department, one of which being the limited operating hours of 19H00 to 04H00 from Wednesdays to Saturdays. He mentioned that a copy of the consent use approval was not included in the report as evidence, in order to make an informed decision. Ald S Moodley enquired about the expiry date of the consent use approval, whereupon the case officer responded that it is still in existence, but not sure of the expiry date. She indicated that she would source the relevant documentation from the relevant Department for submission to the Committee.

Cllr S Liell-Cock mentioned that the applicant is trading with a liquor license, which is actually not suitable to their business. He was of the view that the applicant should sort out his application for land use on the subject property, whereupon the liquor license in accordance to the aforementioned should follow. Cllr Liell-Cock mentioned that the issue of the land use conditions for subject property should be clarified by the relevant Land Use Department.

Ald S Moodley therefore proposed that the appeal report be deferred to the next meeting, in order to obtain the required documentation from the relevant department for submission to the Committee for consideration.

After due consideration of the above, the proposal by Ald S Moodley was put to the vote, with results as follows:

UNANIMOUSLY RESOLVED WITH 8 VOTES IN FAVOUR: [Cllrs S Liell-Cock, W Harris, M Nikelo, N Matutu, S Thompson, A van Nelson, Ald S Moodley and Ald J van der Merwe] that the appeal report be deferred for further information on the land use conditions for the subject property and be submitted to the next meeting for consideration.

ACTION: S NGETHU, C PETERSEN, A LUCAS, E PLAATJIES

GENAP 09/09/24 OUTSTANDING MATTERS

None

THE MEETING ENDED AT 10:26.

**ALD J VAN DER MERWE
ACTING CHAIRPERSON**

DATE