

1. ITEM NUMBER : 24SUB 16/05/2019

2. SUBJECT

LIQUOR LICENCE APPLICATION: DECISION TAKEN UNDER SUBDELEGATED AUTHORITY BY THE SUBCOUNCIL MANAGER, THE WARD COUNCILLOR AND THE CHAIRPERSON IN RESPECT OF: REF. NO.: LLA19010010: AMATUNGWA LIQUORS.

ISIHLOKO

ISICELO SEPHEPHA-MVUME LOKUTHENGISA UTYWALA: ISIGQIBO ESIGQITYWE PHANTSI KWESIGUNYAZISO ESISEZANTSI NGUMPHATHI WEBHUNGANA, UCEBA WEWADI NOSIHLALO NGOKUJOLISWE KWABE-AMATUNGWA LIQUORS, INOMBOLO YESALATHISO .: LLA19010010

ONDERWERP

AANSOEK OM DRANKLISENSIE: BESLUIT GENEEM DEUR DIE SUBRAADSBESTUURDER, DIE WYKSRAADSLID EN DIE VOORSITTER KRAGTENS GESUBDELEGEERDE BEVOEGDHEID TEN OPSIGTE VAN: AMATUNGWA LIQUORS: VERWYSINGSNO.: LLA19010010

3. PURPOSE

To report on an application for a liquor license received in terms of section 37 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 96 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. 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.

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 **Amatungwa Liquors** 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 24 recommends that the application for a a Consumption OFF Premises Liquor Licence, reference no. **LLA19010010**, for the business **Amatungwa Liquors** **BE SUPPORTED**

ISINDULULO

Kundululwe ukuba:

Kufuneka **KUQATSHELWE** ukuba isicelo sephepha-mvume lokuthengiswa kotywala esifunyenwe kwabe- **Amatungwa Liquors**, saye saqwalaselwa ngokwesigunyaziso esigunyazisiweyo kwakhona isindululo esilandelayo saye sagqithiselwa kuGunyaziwe ongezoTywala ngokungqinelana noMthetho ongezoTywala waseNtshona Koloni wango-2008, njengoko ulungisiwe:

IBhungana-24 malindulule ukuba **MASIXHASWE** isicelo sePhepha-mvume lokuthengisa utywala kwizakhiwo ekuselelwa kuzo, inombolo yesalathiso ngu- **LLA19010010**, elingeshishini labakwa **Amatungwa Liquors**.

AANBEVELING

Daar word aanbeveel dat:

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

Subraad 24 beveel aan dat die aansoek om 'n dranklisensie vir verbruik op die perseel, verwysingsnommer **LLA19010010**, vir die sakebedryf **Amatungwa Liquors**, **GESTEUN WORD**.

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;

LLA19010010
Sibongile Priscilla Msolo;
7201280377083
Amatungwa Liquors;
Consumption OFF Premises
Erf: 36167 HEMPE STREET, UMRHABULO TRIANGLE 53 HEMPE STREET
UMRHABULO TRIANGLE;

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

Ward 96 Councillor:

I do support the application for this place as long as they stick to the rules stipulated by the liquor board failing which will result in immediate disqualification and further fines or imprisonment.

Community Organizations: As per CBO Database

Provided the owner will respect the community and have tight security in her business from N. Tyalimpi Construction - Nonkungu Tyalimpi.
Supported from Mamane Holdings - Bongani Mamane

Ward Committee: Elected Members of Ward 96

No comment received

CPF: As per the Subcouncil 24 Organisation Database

No comment received.

Other interest and effected parties:

No comment received.

Internal departments:

Town Planning:

Supported see attached town planning document.

Health:

This department has the following conditions on the above mentioned application:

1. The premises must be made to comply with the requirements of the Tobacco products Control Act, 1993 (Act No 83 of 1993) and Notice Relating to Smoking of Tobacco products in public places, Regulation No R975 dated 29 September 2000.
 2. An integrated waste management approach must be used that is based on waste minimization and should incorporate reduction, recycling, re-use and disposal where appropriate.
 3. Applicant must comply with the Noise Control Regulations P.N. 200/2013 as promulgated under the Environment Conservation Act, 1989 (Act 73 of 1989) by not creating a disturbing noise and/or noise nuisance to surrounding property owners.
 4. Any noise producing plant or equipment must be adequately muffled so as not to create a disturbing noise or noise nuisance to any of the surrounding property owners such as churches, hospitals, educational buildings or offices.
- A block inspection, to check surrounding schools, religious establishments and creches revealed the following:
A creche about 50 metres away from the premises.

City Emergency Services: 2019/02/06

Supported

Law Enforcement Squad: 2019/02/06

Premises was closed after several inspections dates Thursday 07/02/2019 at approximately 10h20. Again on Tuesday 12/02/ 2019 12h40 premise was closed. premise zone for residential. No parking. not supported.

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.

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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: (Gerhard Hanekom & Asavela Gingcana)

City Health

Sub District: (Afikile Mxokwana)

Safety & Security

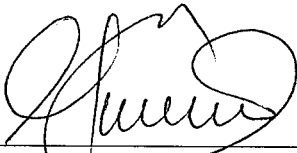
City Emergency Services: (Denzel Ramedies)

Safety & Security

Law Enforcement: (Marilyn Holding)

FOR FURTHER DETAILS, CONTACT:

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DIRECTORATE	Urban Management
DEPARTMENT	Area 2



SUBCOUNCIL MANAGER

Comments:

Date

04 April 2019