



1. ITEM NUMBER : 03SUB 24/09/2021

2. SUBJECT

LIQUOR LICENCE APPLICATION: DECISION TAKEN UNDER SUBDELEGATED AUTHORITY BY THE SUBCOUNCIL MANAGER, THE WARD COUNCILLOR AND THE CHAIRPERSON IN RESPECT OF: ELMARK CUISINE REF. NO.: LLA21080041

ISICELO SEPHEPHA-MVUME LOKUTHENGISA UTYWALA: ISIGQIBO ESIGQITYWE PHANTSI KWESIGUNYAZISO ESISEZANTSI NGUMPHATHI WEBHUNGANA, UCEBA WEWADI NOSIHLALO NGOKUJOLISWE KWABE-ELMARK CUISINE: INOMBOLO YESALATHISO .: LLA21080041 (H3064)

AANSOEK OM DRANKLISENSIE: BESLUIT GENEEM DEUR DIE SUBRAADSBESTUURDER, DIE WYKSRAADSLID EN DIE VOORSITTER KRAGTENS GESUBDELEGEERDE BEVOEGDHEID TEN OPSIGTE VAN: ELMARK CUISINE: VERWYSINGSNO.: LLA21080041 (H3064)

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 107 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 ELMARK CUISINE 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 03 recommends that the application for a Consumption ON Premises Liquor Licence, reference no. LLA21080041, for the business Elmark Cuisine **BE SUPPORTED**.

ISINDULULO (H3064)

Kundululwe ukuba:

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

IBhungana-3 malindulule ukuba isicelo sePhepha-mvume lokuthengisa utywala kwizakhiwo ekuselelwa kuzo, inombolo yesalathiso ngu-LLA21080041, elingeshishini labakwa- Elmark Cuisine.

AANBEVELING (H3064)

Daar word aanbeveel dat:

Daarvan **KENNIS GENEEM WORD** dat 'n aansoek om 'n dranklisensie wat van die Elmark Cuisine 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 3 beveel aan dat die aansoek om 'n dranklisensie vir verbruik op die perseel, verwysingsnommer LLA21080041, vir die sakebedryf Elmark Cuisine **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;

- LLA21080041
- Elmark Food and Kitchen PTY LTD;
- 2017/315240/07
- Elmark Cuisine;
- Consumption ON Premises
- Erf: 34109 Marine Circle Portfield North Point Centre Table View;

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

Ward 107 Councillor:
Supported.

Community Organizations: As per CBO Database
No comments received.

Ward Committee: Elected Members of Ward 107
No comments received.

CPF: Table View CPF
No comments received.

Other interest and effected parties:
No comments received.

Internal departments:

Town Planning:
Supported.

Health:
Supported.

City Emergency Services: 8/17/2021
Supported.

Law Enforcement Squad: 8/17/2021
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.

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: (Elmari Marais; Alicia Visagie)

City Health

Sub District: (Nolundi Adonis)

Safety & Security

City Emergency Services: (Benjamin Ellis)

Safety & Security
Law Enforcement: (Liquor Control)

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