



CITY COUNCIL AGENDA ITEM

Date: February 15, 2012

To: John Szerlag, City Manager

From: Gary Mayer, Chief of Police *JGM*
 Captain Gerard Scherlinck *CSH*
 Sergeant George Zielinski *GZ #227*

Subject: Application regarding Class C Liquor License for El Charro Restaurant

Background

Marty Martin Enterprises, Inc. requests to transfer ownership of escrowed 2010 Class C License, Food Permit, and Sunday Sales Permit, excluding the SDM licensed business, Dance-Entertainment Permit, and three Bars Permit, from United Bank and Trust; transfer location and governmental unit (MCL 436.1531(1) from 25750 Novi, Suite 104, Novi, MI 48375, Oakland County, to 3651 Rochester Road, Troy, MI 48083, Oakland County {MLCC Req. #625705}. This is the El Charro Restaurant.

On February 13, 2012, attorney Frank Palazzolo and shareholders Donna Martin and Jeff Martin were present to answer questions from the Liquor Advisory Committee. Mr. Palazzolo advised the Committee that this is a family-owned business with three other locations in Fraser, Macomb, and St. Clair Shores. Since the business started in 1971, they have received only one sale-to-minor violation. The 3,500 square foot Troy facility seats approximately 90 people. Current management has liquor experience and all employees will be trained on February 23, 2012. There is a drive-up window, but no alcohol sales will be allowed at the window. A SDM license, dance-entertainment permit and three bars permit were all on the request when the City initially received it, however, Mr. Palazzolo stated that the Martin family was not interested in the SDM license, the dance-entertainment permit, and the three bars permit.

The Police Department conducted an investigation into this application. The investigation did not reveal any issues that would cause us to recommend against this request based upon the guidelines outlined by the MLCC and the Troy City Ordinance Chapter 101. In addition, the Liquor Advisory Committee unanimously approved the request.

The request complies with all applicable Troy City Ordinances and Michigan Liquor Control Commission Rules.

Recommendation

Recommend approval of the request from Marty Martin Enterprises, Inc., pending the approval of the fire inspection at El Charro Restaurant.

Prepared by: Jeff Oberski

*Fire Inspection
 Approved
 on 2/14/12*

A regular meeting of the Liquor Advisory Committee was held on Monday, February 13, 2012 in the Lower Level Conference Room of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 6:56 p.m.

ROLL CALL:

PRESENT: Max K. Ehlert, Chairman
W. Stan Godlewski
Patrick C. Hall
Andrew Kaltsounis
David S. Ogg
Timothy P. Payne
Bohdan L. Ukraineec

ALSO PRESENT: Sergeant George Zielinski
Susan Lancaster, Assistant City Attorney
Jesse Pappas, Student Representative
EunJoo Scherlinck, Student Representative
Pat Gladysz

Resolution to Approve Minutes of January 9, 2012 Meeting

Resolution #LC2012-02-004
Moved by Hall
Seconded by Ukraineec

RESOLVED, That the Minutes of the January 9, 2012 meeting of the Liquor Advisory Committee be **APPROVED**.

Yes: 7
No: 0
Absent: 0

Agenda Items

1. **Marty Martin Enterprises, Inc.** requests to transfer ownership of escrowed 2010 Class C and SDM licensed business with Dance-Entertainment Permit, Food Permit, and 3 Bars Permit from United Bank and Trust; transfer location and governmental unit (MCL 436.1531(1) from 25750 Novi, Suite 104, Novi, MI 48375, Oakland County, to 3651 Rochester Road, Troy, MI 48083, Oakland County {MLCC Req. #625705}. *This is the El Charro Restaurant.*

Present to answer questions from the Committee were attorney Frank Palazzolo and shareholders Donna Martin and Jeff Martin.

Mr. Palazzolo advised the Committee that this is a family-owned business with three other locations In Fraser, Macomb, and St. Clair Shores. Since the business started in 1971, they have received only one sale-to-minor violation. The 3,500 Troy facility seats approximately 90 people. Current management has liquor experience and all employees will be trained on February 23, 2012. There is a drive-up window, but no alcohol sales will be allowed at the window.

Mr. Palazzolo also stated that the Martin family was not interested in the SDM license, the dance-entertainment permit, and the three bars permit.

Sergeant Zielinski stated that the Police Department had nothing to report. The Fire Department inspection approval is still pending.

Resolution #LC2012-02-005

Moved by Ukrainec

Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of Marty Martin Enterprises, Inc. to transfer ownership of escrowed 2010 Class C License, Food Permit and Sunday Sales Permit, excluding the SDM licensed business, Dance-Entertainment Permit, and three Bars Permit from United Bank and Trust; transfer location and governmental unit (MCL 436.1531(1) from 25750 Novi, Suite 104, Novi, MI 48375, Oakland County, to 3651 Rochester Road, Troy, MI 48083, Oakland County be **APPROVED**.

Yes: 7
No: 0
Absent: 0

Assistant City Attorney Susan Lancaster informed the Committee that the Michigan Liquor Control Commission issued orders for each of the Smoker’s Express violations with graduated penalties. The first violation resulted in a fine and the final violation resulted in the liquor license being revoked for five (5) business days beginning March 9, 2012. The business owner has been ordered by our District Court judge to spend five (5) days in the Oakland County Jail. This sentence must be served sometime within the next 60 days. He was also fined \$2,000 and received a two-year probation.

Mr. Hall questioned Ms. Lancaster about the City’s efforts to revoke the liquor license from Smoker’s Express. She replied that the Revocation Hearing will be scheduled and the City Attorney will attend.

Ms. Lancaster also advised the Committee that they could recommend to City Council that the City Attorney's Office research the possibility of establishing an Ordinance that will restrict the delivery of beer and wine in Troy. There was a brief discussion on this matter.

The meeting adjourned at 7:25 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Secretary II

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

Re: Applicant: Jeffrey Martin (El Charro)
Marty Martin Enterprises Date: _____
Address: 3051 Rochester Rd Type of License/s: Class C
City/State/Zip: Troy, MI 48063 MLCC Request ID: 625705

This Agreement, made by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and the Applicant as indicated above, hereinafter known as APPLICANT.

1. The City Council of the City of Troy, for and in consideration of the following covenants and conditions, agrees to recommend to the Michigan Liquor Control Commission Approval of the requested Liquor License to be located as indicated above in Troy Michigan.
2. In consideration of the City of Troy's recommendation for approval of the request, the applicant hereby agrees that:
 - (a) It has read and is aware of the provisions of City of Troy Ordinances, Chapter No. 67, Chapter No. 68, Chapter No. 98 and Chapter No. 101, and agrees that it shall be deemed to have knowledge of any subsequent amendments to said Chapters which may become effective during the term of this agreement.
 - (b) It agrees to observe and comply with all laws, statutes, ordinances, rules, regulations or resolutions of the United States government, State of Michigan, and the City of Troy, or any department or agency of the governmental entities, as well as the rules and regulations of the Michigan Liquor Control Commission as they pertain to the operation of a liquor licensed business in the City of Troy.
 - (c) It agrees to immediately require all employees who serve/sell alcohol to attend a recognized alcohol awareness program, and forward the names of each certified employee to the Troy Police Department. The alcohol awareness program must either be recognized by the Troy Police Department (i.e. TIPS, TAMS), or the program must be reviewed by the Troy Police Department to insure that the program is comparable to the recognized programs.
3. Applicant agrees that the recommendation for Approval agreed upon by the City Council is not a property right and is approved upon the express and continuing condition that no violation as set forth in paragraph 2 of this agreement shall occur.
4. Applicant agrees that the recommendation for Approval agreed upon by the City Council is approved upon the express and continuing condition that the physical characteristics (including but not limited to the inside layout, building design and engineering, seating capacity, parking space allocations, fire exits, and other physical attributes); and also the nature and type of business intended to be conducted remain virtually the same.
5. Applicant agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.

LICENSEE AUTHORIZED REPRESENTATIVE

Witnesses: [Signature] By: Lynn Cacchione

Subscribed and sworn to before me this 12 day of October 2001
Notary Public, Washtenaw County, MI
Acting in the County of Washtenaw
My commission expires: 11-18-2014

Judy Gottage
JUDY GOTTAGE
CITY OF TROY

Witnesses: _____ By: _____
Louise Schilling, Mayor
By: _____
Terri Bartholemew, City Clerk

Subscribed and sworn to before me this _____ day of _____ 200 ____
Notary Public, _____ County, MI
Acting in the County of Oakland
My commission expires: _____



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505
(517) 322-1400 - toll free (866) 813-0011 - www.michigan.gov/lcc

FOR MLCC USE ONLY

Business ID: 227215

Request ID: 625705:rlb

Police Investigation Report
[Authorized by MCL 436.1217 and R 436.1105; MAC]

Date: Dec 8, 2011

Troy Police Department
Chief of Police
500 West Big Beaver Road
Troy, MI 48084-5285

Please conduct your investigation as soon as possible. Complete all sections of this report and return it, along with the finger print cards (if requested) to the Michigan Liquor Control Commission at the address listed above.

Applicant Information

Name of applicant: Marty Martin Enterprises, Inc.

Business address: 3651 Rochester, Troy, MI 48083, Oakland County

Contact: _____

Request:

Request to transfer ownership of escrowed 2010 Class C & SDM licensed business with Dance-Entertainment Permit, Specific Purpose Permit (Food) & 3 Bars from United Bank and Trust; Transfer location & (Governmental Unit (MCL 436.1531(1) from 25750 Novi, Suite 104, Novi, MI 48375, Oakland County. (Step 4)

Section 1. Investigation of business and address to be licensed

Provide recommendation(s) for the specific permits checked below:

Dance Recommended Not Recommended

Entertainment Recommended Not Recommended

Topless Activity Recommended Not Recommended

Outdoor Service Recommended Not Recommended

of areas: _____

Participation permit Recommended Not Recommended

with (insert name): _____

Additional bars Recommended Not Recommended

of bars: 3

Living Quarters Recommended Not Recommended

Direct Connection Recommended Not Recommended

of areas: _____

Specific purpose permit for extended hours of operation requested for (indicate permit type): Food

Weekdays: 2:30 A.M. to 7:00 A.M.

Sundays: 2:30 A.M. to 12:00 P.M. A.M./P.M.

Recommended Not Recommended

***Note: If the applicant is requesting two separate extended hour permits and the permits are for different hours, you must complete the extra box provided. If additional space is needed, please attach additional pages.**

Specific purpose permit for extended hours of operation requested for (indicate permit type): _____

Weekdays: _____ A.M. to _____ A.M.

Sundays: _____ A.M. to _____ A.M./P.M.

Recommended Not Recommended

Are motor vehicle fuel pumps at, or directly adjacent to, the establishment? No Yes

If yes, explain the relationship below:

Section 2.

Applicant Investigation

Note: If this section is blank, please continue to Section 3.

***Attach the fingerprint card and \$30.00 fee payable to the State of Michigan (for each card), if requested by the MLCC, and mail to the Michigan Liquor Control Commission with this report.

Name: Lynn Cacchione, 54676 Woodcreek, Shelby Twp., MI 48314, H (586) 781-9474 / B (586) 598-7556

Position: Stockholder Date of birth: _____ Date fingerprinted: No fingerprints required

Is the applicant a U.S. Citizen? No Yes

If no, does the applicant have permanent Resident Alien Status? No Yes

Does the applicant have a Visa? No Yes If yes, enter date of expiration: _____

If other, enter status here: _____

Has the applicant ever been arrested? No Yes If yes, attach record history

Name: Jeffrey Martin, 52351 Ten Point, Macomb, MI 48042, H (586) 207-1806 / B (586) 294-3520

Position: Stockholder Date of birth: _____ Date fingerprinted: No fingerprints required

Is the applicant a U.S. Citizen? No Yes

If no, does the applicant have permanent Resident Alien Status? No Yes

Does the applicant have a Visa? No Yes If yes, enter date of expiration: _____

If other, enter status here: _____

Has the applicant ever been arrested? No Yes If yes, attach record history

Name: Donna Martin, 13348 Towering Oaks, Shelby Twp., MI 48315, H (586) 677-0982 / B (586) 294-3520

Position: Stockholder Date of birth: _____ Date fingerprinted: _____

Is the applicant a U.S. Citizen? No Yes

If no, does the applicant have permanent Resident Alien Status? No Yes

Does the applicant have a Visa? No Yes If yes, enter date of expiration: _____

If other, enter status here: _____

Has the applicant ever been arrested? No Yes If yes, attach record history

Section 3.

Recommendation

Is the request by the applicant recommended by your department at this time? No Yes

If you answered no, please provide an explanation as to why your department does not recommend this application. (List your reasons on the reverse side of this form, or attach a separate sheet if more space is needed.)

Authorized signature (Sheriff or Chief of Police)

Date