

A Regular Meeting of the Troy City Council was held Wednesday, February 7, 2007, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:32 P.M.

ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Mayor Pro Tem Cristina Broomfield (Absent)
Wade Fleming
Martin F. Howrylak (Absent)
David A. Lambert
Jeanne M. Stine

Council Member Beltramini gave the Invocation and the Pledge of Allegiance to the Flag was given.

Vote on Resolution to Excuse Council Members Broomfield and Howrylak

Resolution #2007-02-045
Moved by Stine
Seconded by Fleming

RESOLVED, That Council Members Broomfield and Howrylak's absence at the Regular City Council meeting of February 7, 2007 is **EXCUSED** due to Council Member Broomfield's employment commitments and Council Member Howrylak's absence from the county.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

OUTLINE OF PUBLIC HEARING PROCEDURE

Under the Laws of the State of Michigan, Council is vested with the authority to take adverse action against a liquor licensee that has committed a violation of the Liquor Code or the local or state laws. However, prior to any adverse action, the licensee is entitled to a due process hearing to challenge the charged violation. For those licensees that choose to challenge the charged violation, the following procedure is recommended for the hearing.

1. The Mayor calls the licensee whose case is to be heard.
2. The licensee and/or his attorney should be asked to the front of the Chamber to acknowledge their presence for the record and can be seated.
3. The Assistant City Attorney makes a very short opening statement regarding the violation(s), and presents proofs.
4. When witnesses are called, they should be sworn by the City Clerk to tell the truth.
5. Once the witness is sworn, the Assistant City Attorney will question the witness.
6. The police report and other documents may be offered into evidence as part of the case and should be kept by the City Clerk as part of the records.

7. At the conclusion of the City’s case, the licensee or his attorney should be asked to offer an explanation for the violations if they choose, make a statement, offer evidence, or otherwise make their presentation.
8. If the licensee offers evidence from witnesses who have not been previously sworn, the City Clerk should swear those witnesses.
9. Once the licensee has concluded his presentation, the Assistant City Attorney should be given an opportunity for rebuttal, if any is desired.
10. City Council members may ask questions at any time, but it is suggested that this questioning by Council members be conducted after the parties conclude their presentations.
11. When the presentation of evidence is concluded, the matter returns to the City Council for discussion, deliberation, and resolution.

PUBLIC COMMENT:

A. Items on the Current Agenda

PUBLIC HEARINGS

The following named licensees have been given notice to appear for this series of Public Hearings regarding alleged violations:

1.0 Liquor Violations (SDD):

- a) Name: Rite Aid of Michigan (dba: Rite Aid of Michigan Inc. #4268)
Address: 3986 John R, 48083
License No.: SDD (111763-2006 SS)
- b) Name: MK2, LLC (dba: Lucky’s Market & Delicatessen)
Address: 4835 John R, 48085
License No.: SDD (134567-2006 SS)
- c) Name: Nino Salvaggio International Marketplace (dba: Nino Salvaggio’s)
Address: 6835 Rochester, 48085
License No.: SDD (106341-2006 SS)

2.0 Liquor Violations (Resort B-Hotel):

- a) Name: Courtyard Management Corporation (dba: The Courtyard by Marriott)
Address: 1525 E. Maple, 48083
License No.: Resort B-Hotel (39238-2005)

1.0 Liquor Violations (SDD): (a) Rite Aid of Michigan, Inc. (dba: Rite Aid of Michigan Inc. #4268); (b) MK2, LLC (dba: Lucky’s Market & Delicatessen); and (c) Nino Salvaggio International Marketplace (dba: Nino Salvaggio’s)

(a) **Rite Aid of Michigan (dba: Rite Aid of Michigan Inc #4268)**

The Mayor opened the Public Hearing for public comment.

The Mayor closed the Public Hearing after receiving comment from the licensee's attorney and the licensee. There was no public comment.

Resolution #2007-02-046

Moved by Beltramini

Seconded by Fleming

WHEREAS, The following liquor licensee operates within the City of Troy:

Name: Rite Aid of Michigan (dba: Rite Aid of Michigan Inc. #4268)

Address: 3986 John R, 48083

License No.: SDD (111763-2006 SS);

WHEREAS, The licensee has entered into a contract with the City of Troy, where the licensee authorizes the Troy City Council to review the licensee's violations of the laws and regulations governing the sale of alcoholic liquor, and determine the appropriate course of action for any such violation that is allowed under Michigan law;

WHEREAS, The City Council has given public notice that the licensee has been charged with the following violation of the laws and regulations governing the sale of alcoholic liquor:

SALE TO MINOR (Compliance Test) (Pending) on June 22, 2006;

WHEREAS, The City provided notice that the charges against the licensee would be reviewed and Council would determine if any action should be taken against the licensee at a Public Hearing, scheduled for Wednesday, February 7, 2007;

WHEREAS, The licensee has had prior violations dated: December 9, 1996 – SALE TO MINOR (Compliance Insp.); October 28, 1998 – SALE TO MINOR (Compliance Insp.); October 27, 1999 – SALE TO MINOR (Compliance Test); April 24, 2001 – SALE TO MINOR (Compliance Test) DISMISSED-Student Aid FTA; February 28, 2002 - SALE TO MINOR (Compliance Test); July 11, 2003 - SALE TO MINOR (MLCC Compliance Test); and June 30, 2004 - SALE TO MINOR (Compliance Test); and

WHEREAS, Licensee was given the opportunity to review these cited infractions, and the opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 7, 2007;

NOW THEREFORE, BE IT RESOLVED, That the Troy City Council, after the public hearing, **HAS DETERMINED** that the licensee did commit the above referenced violation of the laws and regulations governing the sale of alcoholic liquor;

BE IT FURTHER RESOLVED, That the Troy City Council **REQUIRES** the licensee (SDD License Number 111763-2006 SS in the name of Rite Aid of Michigan in the City of Troy), to have all its management and employees that are permitted to sell alcoholic liquor TIPS

AND/OR TAM trained, and to **PROVIDE PROOF** of this training to the Troy Police Department within 60 days; and

BE IT FURTHER RESOLVED, That the Troy City Council hereby **REQUIRES** that the Manager-on-Duty must assist with all alcohol sales; and

BE IT FURTHER REVOLVED, That notice of the above referenced violation **SHALL BE PUBLISHED** in a local newspaper of general circulation.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be **SENT** to the Michigan Liquor Control Commission for inclusion in the licensee's file.

Yes: All-5

No: None

Absent: Broomfield, Howrylak

(b) MK2, LLC (dba: Lucky's Market & Delicatessen)

The Mayor opened the Public Hearing for public comment.

The Mayor closed the Public Hearing after receiving comment from the licensee's attorney and the licensee. There was no public comment.

Resolution #2007-02-047

Moved by Beltramini

Seconded by Lambert

WHEREAS, The following liquor licensee operates within the City of Troy:

Name: MK2, LLC (dba: Lucky's Market & Delicatessen)

Address: 4835 John R, 48085

License No.: SDD (134567-2006 SS);

WHEREAS, The licensee has entered into a contract with the City of Troy, where the licensee authorizes the Troy City Council to review the licensee's violations of the laws and regulations governing the sale of alcoholic liquor, and determine the appropriate course of action for any such violation that is allowed under Michigan law;

WHEREAS, The City Council has given public notice that the licensee has been charged with the following violation of the laws and regulations governing the sale of alcoholic liquor:

SALE TO MINOR (Compliance Test) on June 22, 2006;

WHEREAS, The City provided notice that the charges against the licensee would be reviewed and Council would determine if any action should be taken against the licensee at a Public Hearing, scheduled for Wednesday, February 7, 2007;

WHEREAS, The licensee has had no prior violations; and

WHEREAS, Licensee was given the opportunity to review these cited infractions, and the opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 7, 2007;

NOW THEREFORE, BE IT RESOLVED, That the Troy City Council, after the public hearing, has **DETERMINED** that the licensee did commit the above referenced violation of the laws and regulations governing the sale of alcoholic liquor;

BE IT FURTHER RESOLVED, That the Troy City Council **REQUIRES** the licensee (SDD License Number 134567-2006 SS in the name of MK2, LLC in the City of Troy), to have all its management and employees that are permitted to sell alcoholic liquor TIPS AND/OR TAM trained, and to **PROVIDE PROOF** of this training to the Troy Police Department within 90 days; and

BE IT FURTHER REVOLVED, That notice of the above referenced violation **SHALL BE PUBLISHED** in a local newspaper of general circulation.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be **SENT** to the Michigan Liquor Control Commission for inclusion in the licensee's file.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

(c) Nino Salvaggio International Marketplace (dba: Nino Salvaggio's)

The Mayor opened the Public Hearing for public comment.
The Mayor closed the Public Hearing after receiving comment from the licensee's attorney and the licensee. There was no public comment.

Resolution #2007-02-048
Moved by Stine
Seconded by Beltramini

WHEREAS, The following liquor licensee operates within the City of Troy:

Name: Nino Salvaggio International Marketplace (dba: Nino Salvaggio's)
Address: 6835 Rochester, 48085
License No.: SDD (106341-2006 SS);

WHEREAS, The licensee has entered into a contract with the City of Troy, where the licensee authorizes the Troy City Council to review the licensee's violations of the laws and regulations governing the sale of alcoholic liquor, and determine the appropriate course of action for any such violation that is allowed under Michigan law;

WHEREAS, The City Council has given public notice that the licensee has been charged with the following violation of the laws and regulations governing the sale of alcoholic liquor:

MLCC SALE TO MINOR (Compliance Test) (Pending) on December 21, 2006;

WHEREAS, The City provided notice that the charges against the licensee would be reviewed and Council would determine if any action should be taken against the licensee at a Public Hearing, scheduled for Wednesday, February 7, 2007;

WHEREAS, This licensee has had prior violations dated: December 11, 1997 – SALE TO MINOR (Compliance Test); May 10, 2001 – MLCC SALE TO MINOR (Compliance Test); and

WHEREAS, Licensee was given the opportunity to review these cited infractions, and the opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 7, 2007;

NOW THEREFORE, BE IT RESOLVED, That the Troy City Council, after the public hearing, has **DETERMINED** that the licensee did commit the above referenced violation of the laws and regulations governing the sale of alcoholic liquor;

BE IT FURTHER RESOLVED, That the Troy City Council **REQUIRES** the licensee (SDD License Number S106341-2006 SS in the name of Nino Salvaggio International Marketplace in the City of Troy), to have all its management and employees that are permitted to sell alcoholic liquor receive Nino Salvaggio International Marketplaces' in-house training [Responsible Alcohol Sales (RAS)], and **PROVIDE** an outline of the RAS program and **PROOF** of this training to the Troy Police Department within 90 days; and

BE IT FURTHER REVOLVED, That notice of the above referenced violation **SHALL BE PUBLISHED** in a local newspaper of general circulation.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be **SENT** to the Michigan Liquor Control Commission for inclusion in the licensee's file.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

2.0 Liquor Violations (Resort B-Hotel): (a) Courtyard Management Corporation (dba: The Courtyard by Marriott)

(a) Courtyard Management Corporation (dba: The Courtyard by Marriott)

The Mayor opened the Public Hearing for public comment.
The Mayor closed the Public Hearing after receiving comment from the licensee's attorney and the licensee. There was no public comment.

Resolution #2007-02-049
Moved by Stine
Seconded by Lambert

WHEREAS, The following liquor licensee operates within the City of Troy:

Name: Courtyard Management Corporation (dba: The Courtyard by Marriott)
Address: 1525 E. Maple, 48083
License No.: Resort B-Hotel (39238-2005);

WHEREAS, The licensee has entered into a contract with the City of Troy, where the licensee authorizes the Troy City Council to review the licensee's violations of the laws and regulations governing the sale of alcoholic liquor, and determine the appropriate course of action for any such violation that is allowed under Michigan law, which could include an objection to the annual renewal of the liquor license;

WHEREAS, The City Council has given public notice that the licensee has been charged with the following violation of the laws and regulations governing the sale of alcoholic liquor:

FAILURE TO DISPLAY LICENSE-BRAGG on February 3, 2006;

WHEREAS, The City provided notice that the charges against the licensee would be reviewed and Council would determine if any action should be taken against the licensee at a Public Hearing, scheduled for Wednesday, February 7, 2007;

WHEREAS, This licensee has had prior violations dated November 2, 1990 – Sale to Minor (Compliance Test); June 17, 1992 – Sale to Minor (Compliance Test); August 25, 1994 – Sale to Minor (Compliance Test) (2 Counts); and

WHEREAS, Licensee was given the opportunity to review these cited infractions, and the opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 7, 2007;

NOW THEREFORE, BE IT RESOLVED, That the Troy City Council, after the public hearing, has **DETERMINED** that the licensee did commit the above referenced violation of the laws and regulations governing the sale of alcoholic liquor;

BE IT FURTHER RESOLVED, That the Troy City Council **DOES NOT OBJECT TO THE ANNUAL RENEWAL OF THE LIQUOR LICENSE**, (B-Hotel License Number 39238-2005 in the name of Courtyard Management Corporation in the City of Troy, Michigan), as long as the licensee insures **that all its management and employees that may sell alcoholic liquor be TIPS and TAM trained and that the licensee provide proof of training to the Troy Police Department within 90 days**; and

BE IT FURTHER REVOLVED, That notice of the above referenced violation **SHALL BE PUBLISHED** in a local newspaper of general circulation.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be **SENT** to the Michigan Liquor Control Commission for inclusion in the licensee's file.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

PUBLIC COMMENT**Cancellation of Regular City Council Meeting/Liquor Violation Hearing Scheduled for Wednesday, February 28, 2007**

Resolution #2007-02-050

Moved by Lambert
Seconded by Stine

RESOLVED, That Troy City Council hereby **APPROVES** the **CANCELLATION** of the Regular City Council Meeting/Liquor Violation Hearing scheduled for Wednesday, February 28, 2007 as there are no cases to be placed before the City Council and that notice be **POSTED AND PUBLISHED**.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

REGULAR BUSINESS**F-1 Approval of Mon Jin Lau Fireworks Request**

Resolution #2007-02-051

Moved by Stine
Seconded by Beltramini

RESOLVED, That the City Council of the City of Troy does hereby **WAIVE** City ordinances Chapter 98, 98.05.16 Fireworks and Chapter 93, 3301.1.3 Fireworks for the purpose of celebrating Chinese New Year at the Mon Jin Lau restaurant, located at 1515 East Maple Road, on Wednesday, February 21, 2006; and

BE IT FURTHER RESOLVED, That the Fire Prevention Division personnel will inspect the fireworks to be used and the site to assure compliance with applicable standards for fireworks display.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

The meeting **ADJOURNED** at 8:38 PM.

Louise E. Schilling, Mayor

Barbara A. Pallotta, CMC
Deputy City Clerk