LIQUOR ADVISORY COMMITTEE MINUTES – FINAL FEBRUARY 12, 2007

A regular meeting of the Liquor Advisory Committee was held on Monday, February 12, 2007 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 7:00 p.m.

ROLL CALL:

PRESENT: Max K. Ehlert, Chairman
Henry W. Allemon
W. Stan Godlewski
Patrick C. Hall
David S. Ogg
Bohdan L. Ukrainec
Kelsey Brunette, Student Representative
Allan Motzny, Assistant City Attorney
Sergeant Christopher Stout
Sergeant Robert Cantlon
Pat Gladysz

ABSENT: Timothy P. Payne
Clark Yuan, Student Representative

Resolution to Excuse Committee Member Payne

Resolution #LC2007-02-004
Moved by Allemon
Seconded by Hall

RESOLVED, that the absence of Committee member Payne at the Liquor Advisory Committee meeting of February 12, 2007 BE EXCUSED.

Yes: 6
No: 0
Absent: Payne

Resolution to Approve Minutes of January 8, 2007 Meeting

Resolution #LC2007-02-005
Moved by Allemon
Seconded by Ukrainec

RESOLVED, that the Minutes of the January 8, 2007 meeting of the Liquor Advisory Committee be approved.

Yes: 6
No: 0
Absent: Payne

Agenda Items

1. **Target Corporation** requests a new SDM license to be located at 1301 Coolidge, Troy, MI 48084, Oakland County. [MLCC REQ# 276146]

Present to answer questions from the Committee was Jason Hatkowski, assistant store manager of the Target store. Mr. Hatkowski explained to the Committee that Target is interested in offering wine sales to guests in an effort to simplify the shopping experience by stocking most everything a shopper would need in one store. Currently 600 stores sell wine. The wine will be shelved in an area of approximately 55 square feet in the food area near the soft drinks. There are no plans for television advertisement.

In response to a question from the Committee, Mr. Hatkowski explained the checkout procedure for cashiers under the age of 18. Target's computer system links an employee's log-in with his birth date. If wine is presented for purchase at a register operated by an underage employee, a supervisor is required to log in and complete the sale. In-store training will be scheduled for all employees.

Sergeant Stout stated that the Police Department has no objection to this SDM license. There have been no problems in the past at the Target store. Mr. Hatkowski indicated that Target has had no liquor violations in the state of Michigan.

Resolution #LC2007-02-006
Moved by Allemon
Seconded by Hall

RESOLVED, that Target Corporation be granted a new SDM license to be located at 1301 Coolidge, Troy, MI 48084, Oakland County.

Yes: 6
No: 0
Absent: Payne

There was a brief discussion regarding the violation history of the Rite-Aid stores.

In response to a question at a previous meeting, Sergeant Stout informed the Committee that the Farmer Jack store on John R does not have liquor offered for sale. That store possesses only a SDM license and would not have the ability to order liquor.

Sergeant Stout advised the Committee that Sergeant Cantlon would be replacing him in March as the Services Section Sergeant.

Mr. Ukrainec asked how many violations a business is allowed to have before their license is reviewed or temporarily penalized. Allan Motzny responded that a Liquor Violation Hearing is held annually and every violation is on the agenda. After that Hearing, a City Council Resolution is sent to the MLCC recommending revocation or renewal of the license. The City's authority is stronger with the on-premise licenses. Under the law, revocation of a SDD or SDM license cannot be recommended until they have received three violations in one calendar year.

With regard to a leniency comparison between the City and the MLCC, Mr. Hall commented that the MLCC defers the decision to the City. As such, if a municipality recommends revocation or renewal, generally the MLCC supports the decision.

Mr. Ukrainec stated that he feels strongly about the Michigan Legislature becoming stricter on liquor violation enforcement. He suggested the possible formation of a root committee to persuade the legislature become much more stringent in issuing violations or temporary restraints against the establishments that continuously and habitually violate the liquor laws. For example, "three strikes and you're out" for a period of six months or a year. He feels that would wake up a lot of people.

With regard to the "three strikes and you're out" suggestion, Mr. Ogg stated that it was his understanding that the City does not have the authority to pull a license, that would have to come from the MLCC. Mr. Motzny agreed. Mr. Ogg further stated that with the regard to the suggestion of changing the law, there would be substantial political considerations.

Sergeant Stout noted that there were only three sales to minor violations at the recent Liquor Violation Hearing. Thus, It appears that the establishments in Troy are acting much more diligent in their training of employees.

There was discussion about the penalty imposed upon Chammps after several violations.

There was further discussion about the Hooters issue. Mr. Motzny stated that the Federal Court Hearing on the Motion to Dismiss is scheduled for February 28

before Judge Julian Cook. One of the main issues is collateral estoppel or claim preclusion. There are Federal and Michigan legal doctrines that obligate a person filing a lawsuit to raise all possible issues. If someone files a new lawsuit, they are precluded from raising those claims that could have been raised in a prior suit. Thus, one of the main arguments is that Hooters could have raised all the issues in the State court proceeding that they are now raising in Federal Court. If the Judge denies the Motion, then the case goes to trial. If the Judge grants the Motion, then the City wins the case, but Hooters may appeal to the U. S. Circuit Court of Appeals in Cincinnati. Mr. Motzny further stated that the Judge might not issue a decision on February 28. He may take the case under advisement and a written opinion could take several months. There is still no date set for a hearing in the Michigan Court of Appeals case.

Mr. Godlewski asked whether Buscemi's would need to request a license transfer since they are moving. Sergeant Stout stated since there is no change in ownership, they do not have to appear before the Committee and City Council.

Mr. Motzny and Sergeant Stout clarified the issue of an available quota license. The MLCC stated that the Jumbo Buffet has pending litigation which puts the license back into escrow. Thus, at this time, there is not an available quota license. For clarification, when there is a cancellation of a quota license, the applicant has to appear before the City first as opposed to going to the State. The City must pass a resolution agreeing to refill the quota and recommending one applicant "above all others." At that point, the application goes to the State.

Sergeant Stout clarified that The Palm's license was a resort license and cannot be transferred to a different location. It is in escrow and has to stay at that location.

The meeting adjourned at 7:33 p.m.

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Max K. Ehlert, Chairman

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Patricia A. Gladysz, Secretary II