



CITY COUNCIL ACTION REPORT

April 1, 2010

TO: John Szerlag, City Manager

FROM: Gary Mayer, Chief of Police
 Captain Gerard Scherlinck, Services Division
 Lieutenant Michael Lyczkowski
 Sergeant Russel Harden
 Officer James Feld

SUBJECT: Application for Transfer Ownership of 2009 Class C & New SDM Liquor License.

Background:

- Mercmiles, Inc. requests to transfer ownership of 2009 Class C Licensed Business with Outdoor Service (1 Area), Official Permit (Food), located at 3946 Rochester, Troy, MI 48083, Oakland County from Rochester Road Ventures, LLC., requests New Dance-Entertainment Permit, and New SDM Permit {MLCC Request #519373}.
- On January 11, 2010, Applicant Maria Tokar, answered questions for the Liquor Advisory Committee.
- Ms. Tokar explained to the Committee that she purchased Mr. B's Food and Spirits – Troy. She states she will continue the current menu but will add some specialties to it. She would like to utilize the current stage for some occasional live band, disc jockey, and karaoke music. The parquet floor will also be utilized for dancing by having the tables re-arranged. She would like to add a New SDM to the Liquor License. She will abide by all the Michigan Liquor Control Commission Rules and City of Troy Ordinances regarding when/how that alcohol can be served / sold.
- Ms. Tokar previously owned and operated the 88th Avenue Lounge in Hamtramck for 9 years, the Checker's Lounge in Sterling Heights for 11 years and Club 54 in Clinton Township for 2 ½ years.
- The Committee unanimously approved this request.
- Also on January 11, 2010, Mayor Schilling, the Troy City Council, and Police Chief Mayer all received an anonymous complaint that Ms. Tokar has been conducting illegal acts while managing Mr. B's, and while awaiting for the official transfer of the business. These acts included illegally purchasing alcohol, watering-down the liquor, filling empty beer bottles to be re-sold, and serving her own "moonshine" to friends. The State of Michigan Liquor Control Commission was notified by Officer Feld of the complaint and the Commission stated that they had received an anonymous complaint of their own on or about 10/6/09 alleging the same allegations. The Liquor

Control Commission was conducting their own investigation and on 2/4/10, two investigators performed an on-site inspection of the business. No evidence was found of any wrongdoing and the complaint could not be substantiated. The investigators recommended that this complaint be closed.

- The Police Department received additional complaints from confidential informants accusing Ms. Tokar of transferring spirits from larger sized containers to the fifth sized bottles, pouring cheaper spirits into the higher brand spirit bottles, using less than adequate cleaning products to sterilize the bar glasses, and violating State of Michigan Department Health Codes by re-using discarded food including condiments, lettuce, and French fries.
- Ms. Tokar was contacted by Sergeant Harden and Officer Feld regarding the allegations and stated that to the best of her knowledge, the business is following all the Michigan Liquor Control Commission Rules and the State of Michigan Health Department Rules. She denies all the allegations stated by the confidential informants and believes them to be disgruntled employees that may soon lose their jobs if she is granted the liquor license. The Michigan Liquor Control Commission has conducted their own inspection and did not observe any violations. The Oakland County Health Department has conducted several investigations, both routine and follow-ups and their concerns have been addressed to their satisfaction.
- The Police Department Inspection included talking to 5 confidential informants, speaking with Ms. Tokar with her attorney present, speaking with the Michigan Liquor Control Commission, and speaking with the Oakland County Health Department. The Police Department has not found any evidence to substantiate the allegations made by the confidential informants. Unless the Police Department receives any more allegations and these can be substantiated, Ms. Tokar has passed this Inspection.
- Ms. Tokar has passed all the necessary City Inspections including the Building, Fire, Health Planning, and Police Departments, and the Treasurer's Office.
- The Troy Police Operations Division Patrol Section conducts six yearly liquor license inspections and the Special Operations conducts quarterly liquor license compliance inspections using student enforcement aides at the establishment. These divisions will be notified of the information received from the confidential informants, and will ensure that no such violations are occurring during their inspections.

Legal Considerations:

- The request complies with all applicable Troy City Ordinances and Michigan Liquor Control Commission Rules.
- The Police Department did not find any disqualifying factors for this request.

Policy Considerations:

- This action supports Council's Outcomes Statement III: "Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world."

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this day of , 20 , 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 Mercmiles, Inc. the Applicant, 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 request to transfer ownership of 2009 Class C with Outdoor Service (1 Area) and New Dance-Entertainment Permit and New SDM Perit license to be located at 3946 Rochester Road, Troy MI.
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: Dywanne Charles By: Marie Tokar
Lucie M. Robertson Minde Tokar
51 Notary Public

Subscribed and sworn to before me this 31st day of August 2009
 Notary Public, Oakland County, MI
 Acting in the County of Oakland
 My commission expires: 10-13-2011

KENNETH J. WROBEL, JR.
 Notary Public, State of Michigan
 County of Oakland
 My Commission Expires Oct. 13, 2011
 Acting in the County of Oakland

Kenneth J. Wrobel Jr. - Notary Public

CITY OF TROY

Witnesses: _____ By: _____
 _____ Louise Schilling, Mayor
 _____ By: _____
 _____ Tonni Bartholomew, 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: _____



FOR MLCC USE ONLY

Request ID # 519373

Business ID # 219159

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

MAILED 07/08/09

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

MERCIMILES, INC. REQUESTS TO TRANSFER OWNERSHIP OF 2009 CLASS C LICENSED BUSINESS WITH OUTDOOR SERVICE (1 AREA), LOCATED AT 3946 ROCHESTER, TROY, MI 48083, OAKLAND COUNTY, FROM ROCHESTER ROAD VENTURES, LLC; REQUESTS NEW DANCE-ENTERTAINMENT PERMIT, *& NEW SDM PERMIT 7/8/09*

Section 1. APPLICANT INFORMATION

APPLICANT #1:
 MARIE TOKAR
 37747 GREGORY DRIVE,
 STERLING HEIGHTS, MI 48312
 B(248) 689-6070, H(586) 826-9555

APPLICANT #2:

DATE FINGERPRINTED ****NO FINGERPRINTS REQUIRED**

DATE FINGERPRINTED**:

DATE OF BIRTH:
 Is the applicant a U.S. Citizen: Yes No*
 *Does the applicant have permanent Resident Alien status?
 Yes No*
 *Does the applicant have a Visa? Enter status:

DATE OF BIRTH:
 Is the applicant a U.S. Citizen: Yes No*
 *Does the applicant have permanent Resident Alien status?
 Yes No*
 *Does the applicant have a Visa? Enter status:

Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: Felony Misdemeanor
 Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

ARREST RECORD: Felony Misdemeanor
 Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?
 No Yes, complete LC-1636

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

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? Yes No **If No**, indicate which state and local ordinances the location does not meet: Building Plumbing Zoning Fire Sanitation Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed? Yes No*
2. Should the MLCC grant this request? Yes No*

*If **any** of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? Yes No

4. Is this recommendation subject to any other conditions? Yes No

If **Yes**, list the conditions below or on an attached signed and dated sheet if more space is needed

Signature (Sheriff or Chief of Police)

Date

TROY POLICE DEPARTMENT



Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
 7150 Harris Drive, P.O. Box 30005
 Lansing, Michigan 48909-7505

MAILED 07/08/09

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Business ID # 219159

LAW ENFORCEMENT RECOMMENDATION

[Authorized by MCL 436.1916, R 436.1105(2)(d) and R 436.1403]

June 16, 2009

TO: TROY POLICE DEPARTMENT
 CHIEF OF POLICE
 500 W BIG BEAVER ROAD
 TROY, MI 48084-5285

Re: MERCMILES, INC.

We have received a request from the above licensee for the type of permit indicated below. Please make an investigation and submit your recommendation to the offices of the MLCC at the above address. Questions about this request should be directed to the MLCC Licensing Division at (517) 322-1400.

<input type="checkbox"/> OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR: Weekdays _____ A.M. to _____ A.M. _____ Sundays _____ A.M. to _____ P.M. _____ <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended NOTE: If the applicant is requesting two separate extended hours permits and the permits are for different hours you must complete the box below. If additional space is needed please use reverse side of this form.
<input type="checkbox"/> OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR: Weekdays _____ A.M. to _____ A.M. _____ Sundays _____ A.M. to _____ A.M./P.M. _____ <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input checked="" type="checkbox"/> DANCE PERMIT <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input checked="" type="checkbox"/> ENTERTAINMENT PERMIT <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/> TOPLESS ACTIVITY PERMIT <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended

MAILED 07/08/09
I.D # 519373

<input checked="" type="checkbox"/> OUTDOOR SERVICE (1 AREA) <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/> PARTICIPATION PERMIT <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/> ADDITIONAL BAR PERMIT <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/> <input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended

Signed:

Signature and Title

Print Name and Title

TROY POLICE DEPARTMENT

Date: _____

RESOLUTION

MAILED
07/08/09
ID #
519373

At a _____ meeting of the _____
(Regular or Special) (Township Board, City or Village Council)

called to order by _____ on _____ at _____ P.M.

The following resolution was offered:

Moved by _____ and supported by _____

That the request to TRANSFER OWNERSHIP OF 2009 CLASS C LICENSED BUSINESS, LOCATED AT 3946 ROCHESTER, TROY, MI 48083, OAKLAND COUNTY, FROM ROCHESTER ROAD VENTURES, LLC; TO MERCMILES, INC. & REQUESTS NEW DANCE-ENTERTAINMENT PERMIT.

be considered for _____
(Approval or Disapproval)

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

It is the consensus of this legislative body that the application be:

_____ for issuance
(Recommended or Not Recommended)

State of Michigan _____)

County of _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
(Township Board, City or Village Council) (Regular or Special)

meeting held on _____
(Date)

SEAL

(Signed) _____
(Township, City or Village Clerk)

(Mailing address of Township, City or Village)

3. **Mermiles Inc.** requests transfer ownership of 2009 Class C Licensed Business with outdoor service (1 Area) located at 3946 Rochester Road, Troy, MI 48083 (*Mr. B's – Southeast Corner of Rochester and Wattles* – also requests new Dance – Entertainment Permit & new SDM Permit {MLCC Req. #519373}.

Present to answer questions from the Committee were Marie Tokar and John Zawadzki.

Ms. Tokar explained to the Committee that she is the new owner of Mr. B's. She previously owned 88th Avenue Lounge in Hamtramck for 9 years and Checkers Lounge in Sterling Heights for 11 years. Mr. Tokar plans to continue with the current menu, but will add some specialties. She would like to utilize the current stage for an occasional live band, disc jockey, karaoke, and dancing. The current parquet floor will be utilized for dancing when tables are re-arranged.

The Committee questioned the parking lot capacity. Ms. Tokar explained that the entire parking lot is available for their use, as well as the adjoining lot to the south.

The Committee questioned the size of the dance floor. Ms. Tokar and Mr. Zawadzki explained that the dance floor size will be dictated by the Michigan Liquor Control Commission and they will adhere specifically to their guidelines.

Resolution #LC2010-01-005

Moved by Godlewski

Seconded by Payne

RESOLVED, That the Liquor Advisory Committee recommends that the request of Mermiles, Inc. to transfer ownership of 2009 Class C Licensed Business with outdoor service (one area) located at 3946 Rochester Road, Troy, MI 48083 with new Dance-Entertainment Permit and new SDM Permit be **APPROVED**.

Yes: 6
No: 0
Absent: Ehlert
