A regular meeting of the Liquor Advisory Committee was held on Monday, March 8, 2010 in the Council Board Room of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 7:03 p.m.

Roll Call

PRESENT: Max K. Ehlert, Chairman
W. Stan Godlewski
Patrick C. Hall
David S. Ogg

ABSENT: Andrew Kaltsounis
Timothy P. Payne
Bohdan L. Ukrainec

ALSO PRESENT: Captain Gerard Scherlinck
Officer James Feld
Susan Lancaster, Assistant City Attorney
Laurent Harden, student representative
Dane Lepola, student representative
Pat Gladysz

Resolution to Excuse Committee Members Kaltsounis, Payne, and Ukrainec

Resolution #LC2010-03-010
Moved by Hall
Seconded by Ogg

RESOLVED, That the absence of Committee members Kaltsounis, Payne, and Ukrainec at the Liquor Advisory Committee meeting of March 8, 2010 be **EXCUSED**.

Yes: 4
No: 0
Absent: Kaltsounis, Payne, Ukrainec

Resolution to Approve Minutes of February 8, 2010 Meeting

Resolution #LC2010-03-011
Moved by Hall
Seconded by Ogg

RESOLVED, That the Minutes of the February 8, 2010 meeting of the Liquor Advisory Committee be **APPROVED**.

Yes: 4
No: 0
Absent: Kaltsounis, Payne, Ukrainec

Agenda Items

1. **Smoker's Express, LLC** requests a New SDM License, to be located at 2981 East Big Beaver Road, Troy, MI 48083, Oakland County. {MLCC Req. #524881}.

   After the Committee met in February, the Police Department received the complete Eastpointe Police Report regarding Mr. Harris' Domestic Assault Arrest. The information on the report was somewhat different than what Mr. Harris provided to the Committee. Troy City Attorney Lori Bluhm was advised and requested the Committee be provided the new information and decide whether a new vote for approval or denial was needed.

Officer Feld informed the Committee as follows:

- Prior to the 02/08/10 Liquor Advisory Committee meeting, the background investigation of applicant Joseph Harris revealed four charges, as follows: Count 1, Misdemeanor Domestic Violence; Count 2, Misdemeanor Domestic Violence; Count 3, Felony Assault with Dangerous Weapon; and, Count 4, Misdemeanor Assault or Assault & Battery.

- Mr. Harris' criminal history indicated he pled guilty to Counts 1 and 4, and Counts 2 and 3 were dismissed.

- The Eastpointe Police Department was contacted and the report was requested. However, the report was not received prior to the meeting.

- Mr. Harris was contacted and the incidents were discussed, and he stated that the charges were a result of a domestic incident with his wife. He was informed that the Committee may request a statement as to the findings of our investigation. It was suggested that Mr. Harris address the Committee and give them details of the incident.

- After 02/08/10 meeting, the Eastpointe Police Department report was received. The details of the 30 page report are as follows:

  - The Police Investigation into the arrest indicates on 05/06/07 Eastpointe Police Officers responded to a large house party getting out of control which involved at least 30 people. A patron indicated the problem was caused by Mr. Harris. The homeowner was found to have swelling under her left eye but indicated she fell during the party. Officers left without further incident.

  - Officers arriving on the scene stated they observed an unknown male running through the backyard and over a fence. Two subjects then approached the officer, pointed toward the fleeing male and stated, "that's the guy who had the gun. He was pulling it out and threatening people." When subject Joseph Harris approached, several subjects began pointing toward him stating, "that's the guy who had the gun."

  - Mr. Harris stated to officers that he did not know anyone at the home.

  - Police Officers were dispatched to the residence 4½ hours later to take an Assault and Battery Report. The victim was the homeowner's daughter who alleged that she was assaulted by Mr. Harris. The victim indicated that Harris was yelling at her and her mother. Harris then grabbed the victim by the hair, slapped her in the face, and began to choke her. The victim also indicated that when officers were dispatched to the location the first time, it was due to Harris. She stated Harris and her uncle got into a heated argument and Harris pulled a gun on him. The uncle left the residence with Harris chasing and pointing his gun at him. The victim states her mother stepped in between both parties, and Harris reacted by punching her in the face, causing her left eye to swell. Officers indicated now that the victim's mother's eye was now almost completed swollen shut. She however indicated she had been involved in an argument with her daughter and she was slapped by her. She refused to have her eye photographed by the police.

  - Another victim came to the Eastpointe Police Department on 05/08/07 to file an Assault and Battery Complaint against Mr. Harris. This victim indicated she was attending the party when a fight broke out involving Harris. She states she

attempted to break up the fight when Harris shoved her, knocking her off the porch. The victim states the fall from the porch caused her right ankle to break.

- An investigation into the matter continued and the homeowner and her daughter came to the Eastpointe Police Department several days later and now stated a fight broke out between her and her sister, the second victim in the altercation who subsequently broke her ankle. When her daughter got between the two to intercede, she (her daughter) got struck by her mom. She also stated that her own daughter had given her the swollen black eye when she got between her mom and aunt. Her daughter added that she had lied to the police department earlier about being assaulted.

- On 07/09/07, Mr. Harris was charged by the Macomb County Prosecutor's Office with one count of Misdemeanor Domestic Violence, one count of Misdemeanor Assault or Assault & Battery, and one count of Felony Assault with a Dangerous Weapon.

- On 07/17/07, Mr. Harris appeared at the 38th District Court – Eastpointe and was charged with one count of Misdemeanor Domestic Violence which was ultimately bound over to the 16th Circuit Court in Mount Clemens.

- On 01/31/08, Mr. Harris pled guilty to Count 1, Misdemeanor Domestic Violence and Count 4, Misdemeanor Assault or Assault & Battery. Count 2, Misdemeanor Domestic Violence and Count 3, Felony Assault with a Dangerous Weapon were both dismissed. Mr. Harris was placed on two years Probation.

- The lead detective on this case is now the Eastpointe Deputy Chief of Police. An appointment will be scheduled within the next week to determine Mr. Harris' wife's involvement in Count 1 of the charges.

Committee member Hall made a Motion to rescind the Liquor Advisory Committee's recommendation for approval of the New SDM License based on the new information that has been presented.

Resolution #LC2010-03-012
Moved by Hall
Seconded by Ogg

RESOLVED, That the Liquor Advisory Committee's recommendation for approval of the request of Smoker's Express, LLC for a New SDM License, to be located at 2981 East Big Beaver Road, Troy, MI 48083, Oakland County be **RESCINDED**.

Yes: 4
No: 0
Absent: Kaltsounis, Payne, Ukrainec

Committee member Hall made a second Motion that this item be tabled until Officer Feld's investigation of this matter is completed.

Resolution #LC2010-03-013
Moved by Hall
Seconded by Ogg

RESOLVED, That in order to allow the Police Department to complete the applicant's background investigation this Agenda Item be **TABLED**.

Yes: 4
No: 0
Absent: Kaltsounis, Payne, Ukrainec

Comments from Police Department & City Attorney's Office

Captain Gerard Scherlinck addressed the Liquor Advisory Committee regarding the granting of new SDM licenses within the City.

The general philosophical position of the Police Department as an advisory entity is that the businesses that are not typically set up to sell beer and wine be denied SDM licenses. Granting of such licenses would be contrary to the standards of the community. The City of Troy has always taken a very tough stand on the issues of alcohol sales and regulations because of the associated impacts on the quality of life. It is also the opinion of the Police Department that, as the economy gets tougher, we will see establishments that typically do not sell beer and wine applying for an SDM license as a way to bolster sales. He further stated that the Liquor Advisory Committee, Troy City Council, and the Michigan Liquor Control Commission have every right to make their own considerations and it is ultimately the MLCC that has authority to allow such licenses, but reinforced as an advisory position the Police Department would be recommending against such licenses.

Also, in connection with the item currently before the Committee, there are convictions of violent-type behavior which fall within the rules that the Michigan Liquor Control Commission can consider in terms of denying a license. As such, it would be the Police Department's position to recommend against this particular license.

Assistant City Attorney Susan Lancaster informed the Committee that Captain Scherlinck had discussed the Police Department's concerns with the City Attorney's Office. The City Attorney's Office suggested that it would be willing to investigate the possibility of amending the Ordinance to address these concerns. Since City Council appreciates the input of the Liquor Advisory Committee concerning such matters, it was suggested that the Committee be consulted before making a recommendation to City Council. Ms. Lancaster also advised that if the Committee had the same concerns and those concerns were expressed to City Council, it is likely that City Council would instruct the City Attorney's Office to research the Ordinance for possible amendment to be more restrictive. Once the Ordinance amendment is drafted, the revisions would be brought before this Committee.

Committee member Hall inquired if the Committee has the ability to recommend to City Council that they direct the Legal Department to undertake research for possible amendment of the Ordinance based on these concerns.

Assistant City Attorney Lancaster confirmed that the Committee can make that recommendation to City Council.

Committee member Hall made a Motion to recommend that City Council direct the Legal Department to research amendment of the Liquor Ordinance to place more restrictions on the types of businesses that could receive SDM and SDD licenses.

Resolution #LC2010-03-014
Moved by Hall
Seconded by Ogg

RESOLVED, That the Liquor Advisory Committee hereby **RECOMMENDS** that City Council direct the Legal Department to research amendments of the Liquor Ordinance to place more restrictions on the types of businesses that could receive SDM and SDD licenses.

Yes:	4
No:	0
Absent:	Kaltsounis, Payne, Ukrainec

Informational Items

Officer Feld updated the Committee on the following informational item:

San Marino Club, Inc.
This item will most likely appear on the Agenda for the April meeting.

Assistant City Attorney Lancaster informed the Committee that the first of two liquor compliance hearings was held. The second hearing is scheduled for March 15, 2010. City Council recommended approval of all violations and additional employee training is required.

The meeting adjourned at 7:40 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Secretary II