



CITY COUNCIL AGENDA ITEM

Date: December 28, 2010

To: John Szerlag, City Manager

From: Gary Mayer, Chief of Police *JM*
 Captain Gerard Scherlinck, Professional Standards Division *GS #1606*
 Lieutenant Robert Redmond *M*

Subject: Application for New SDM License for Picano's

Background

Picano Restaurant, Inc. requests a new SDM License to be held in conjunction with 2010 Class C licensed business with Dance Permit located at 3775 Rochester Road, Troy, MI 48084, Oakland County {MLCC Req. #564371}.

On December 13, 2010, attorney Jerry Watson and owner Domenico Picano were present to answer questions from the Liquor Advisory Committee. Picano Restaurant is requesting an SDM license for off-premise consumption of alcoholic beverage by their patrons. The SDM license will allow Picano's to sell beer and wine to their patrons for consumption at home. Although Picano's will be allowed to sell both beer and wine to patrons, this request is primarily to satisfy patrons who want to purchase and take home some unopened bottles of the wine they enjoyed while dining.

The Police Department did not find any disqualifying factors for this request. In addition, the Liquor Advisory Committee unanimously approved their request.

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

Recommendation

Recommend approval of the request from Picano Restaurant for a new SDM License.

Prepared by: Jeff Oberski

A regular meeting of the Liquor Advisory Committee was held on Monday, December 13, 2010 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 7:03 p.m.

ROLL CALL:

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

ABSENT: Timothy P. Payne

ALSO PRESENT: Officer James Feld
Susan Lancaster, Assistant City Attorney
Lauren Harden, student representative
Dane Lepola, student representative
Pat Gladysz

Resolution to Excuse Committee Member Payne

Resolution #LC2010-12-035
Moved by Hall
Seconded by Kaltsounis

RESOLVED, That the absence of Committee member Payne at the Liquor Advisory Committee meeting of December 13, 2010 be **EXCUSED**.

Yes: 6
No: 0
Absent: Payne

Resolution to Approve Minutes of November 8, 2010 Meeting

Resolution #LC2010-12-036
Moved by Hall
Seconded by Ukraineec

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

Yes: 6
No: 0
Absent: Payne

Agenda Items

1. **Picano Restaurant, Inc.** requests New SDM License to be held in conjunction with 2010 Class C Licensed Business with Dance Permit, located at 3775 Rochester, Troy, MI 48084, Oakland County. {MLCC Req. #564371}.

Present to answer questions from the Committee were attorney Jerry Watson and owner Domenico Picano.

Mr. Picano has owned the restaurant for 26 years and has had two decoy violations during that time. He employs a certified TIPS trainer and regular training is conducted. They are requesting an SDM license for off-premise consumption of alcoholic beverage by their patrons.

Resolution #LC2010-12-037

Moved by Godlewski

Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of Picano Restaurant, Inc. for a New SDM License to be held in conjunction with 2010 Class C Licensed Business with Dance Permit, located at 3775 Rochester, Troy, MI 48084, Oakland County be **APPROVED**.

Yes: 6
No: 0
Absent: Payne

2. **The City of Troy Parks and Recreation** is requesting the Liquor Advisory Committee recommend a quota Class C liquor license for alcohol service for Community Center events be approved. The City intends to hold the license in escrow until a new vendor for catering services is selected. Upon execution of an agreement with the vendor, the City would transfer the license to the vendor. No alcohol will be served until the license is transferred to the vendor. If approved, the City will issue a request for

proposal that will ensure all bidders for catering services the availability of the license for the vendor. The selection of the vendor will be made based upon the vendor having no violations of the Michigan Liquor Control Commission or the Troy City ordinance. The serving of alcohol will be limited to attendees of Community Center events. Strict adherence to local and state laws and standards will be required.

Present to answer questions from the Committee were Carol Anderson, Parks & Recreation Director, and Scott Mercer, Community Center Manager.

Ms. Anderson explained to the Committee that the City is requesting the Class C license to be held in escrow until a new vendor for catering services is selected. When an agreement is reached with a vendor, the license would be transferred from the City of Troy to the vendor. At that time, the vendor would be required to appear before the Liquor Advisory Committee to request their approval of the license transfer. The Police Department will perform their usual criminal background check.

Ms. Anderson stated that other cities in Michigan have a similar arrangement and they have benefitted from the additional scheduled events at their community centers. This would be an alternative source of revenue for the City.

Members of the Committee posed questions to Ms. Anderson and Mr. Mercer. When it was explained that the approved vendor would be the only vendor allowed to offer both food and beverage services to potential customers, Mr. Ogg expressed concern that the City would potentially lose business if someone wanted to bring in their own caterer with liquor. Mr. Kaltsounis expressed concern that the City would be allowing liquor in a multi-use facility that offers swimming and dance classes for children. Ms. Anderson explained that the vendor would be responsible to monitor consumption and ensure that patrons of the event keep the alcohol in the banquet room. There are doors in the facility that can be closed to separate the banquet area from the recreation area. Community Center staff members are assigned to events and would potentially be available to monitor the hallways.

Assistant City Attorney Ms. Lancaster stated that the Agreement would be drafted to include language that the vendor would be responsible to monitor alcohol consumption and no service to minors. The vendor would assume the liability associated with availability of alcoholic beverages at functions.

Resolution #LC2010-12-038
Moved by Ukrainec
Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of

the City of Troy Parks and Recreation for quota Class C liquor license for alcohol service for Community Center events be **APPROVED**.

Yes: Ehlert, Godlewski, Hall, Ukrainec
No: Kaltsounis, Ogg
Absent: Payne

Officer Feld advised the Committee on the following:

Sunday Morning Alcohol Sales

Ms. Lancaster advised the Committee about the new law regarding Sunday alcohol sales. The MLCC will begin to issue permits on December 16, 2010 at a cost of \$160. Establishments do not have to appear before this Committee for approval.

The Neiman Marcus Group, Inc.

They are requesting a new Direct Connection-1 permit to allow them to sell liquor during their normal store hours.

Smokers Express

They are filing an appeal with the MLCC.

The meeting adjourned at 8:10 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Secretary II

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

Re: Applicant: Picano Restaurant, Inc.
Address: 3775 Rochester Road
City/State/Zip: Troy, MI 480 84

Date: 11.01.10
Type of License/s: New SDM & SDD
MLCC Request ID: 564371

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: Joyce L. Watson By: Chadwick Picano PRES
Deborah Scott

Subscribed and sworn to before me this 1st day of November 2010
Notary Public, Oakland County, MI
Acting in the County of Oakland
My commission expires: 9-27-2012
Deborah Scott

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 #	564371
Business ID #	4581

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

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:

PICANO RESTAURANT, INC. REQUESTS NEW SDM LICENSE TO BE HELD IN CONJUNCTION WITH 2010 CLASS C LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 3775 ROCHESTER, TROY, MI 48084, OAKLAND COUNTY.

Section 1. APPLICANT INFORMATION

APPLICANT #1:	APPLICANT #2:
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DATE FINGERPRINTED**: <i>NO FINGERPRINTS REQUIRED</i>	DATE FINGERPRINTED**:
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DATE OF BIRTH: Is the applicant a U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have permanent Resident Alien status? <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have a Visa? Enter status:	DATE OF BIRTH: Is the applicant a U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have permanent Resident Alien status? <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have a Visa? Enter status:
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Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)	ARREST RECORD: <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)
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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

- Is this applicant qualified to conduct this business if licensed? Yes No*
 - 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.
- 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
 - 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

dl



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

POLICE INVESTIGATION REQUEST

[Authorized by MCL 436.1201(4)]

October 13, 2010
JULY 9, 2010

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

REQUEST ID #: 564371

Applicant:

PICANO RESTAURANT, INC. REQUESTS NEW SDM LICENSE TO BE HELD IN CONJUNCTION WITH 2010 CLASS C LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 3775 ROCHESTER, TROY, MI 48084, OAKLAND COUNTY.

CONTACT: DOMINIC PICANO, SAME AS BUSINESS ADDRESS, B(248) 689-8050

Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.

Forward your report, along with fingerprint cards (if requested) and \$30.00 for each card to the Michigan Liquor Control Commission. ****Please ensure that section D of the card has been completed prior to submission.****

If you have any questions, please contact Unit 3 of the Retail Licensing Division at (517) 636-0204.

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LC-1972(Rev. 09/05)
Authority: MCL 436.1201(4)
Completion: Mandatory
Penalty: No License

DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities. Michigan Liquor Control Commission 7150 Harris Drive • P.O. Box 30005 • Lansing, Michigan 48909-7505 www.michigan.gov/lcc • (517) 322-1345 Lansing Office