



CITY COUNCIL ACTION ITEM

Date January 17, 2011

TO: John Szerlag, City Manager

FROM: John Lamerato, Assistant City Manager/Finance and Administration
Gary Mayer, Chief of Police
Gerard Scherlinck, Captain
Robert Redmond, Lieutenant
Russel Harden, Sergeant
Carol Anderson, Parks and Recreation Director
Tonni L. Bartholomew, City Clerk

SUBJECT: Application for new Class C Quota Liquor License – Troy Parks and Recreation Department – *Troy Community Center*

Background

The Troy Parks and Recreation Department (*Troy Community Center*) requests a **New Class C Quota Liquor License** to be located at 3179 Livernois, Troy MI 48084, Oakland County, for alcohol service at Community Center events. The City intends to hold the license until a new Community Center catering services vendor is selected. Upon execution of an agreement with the vendor, the City would then transfer the license to the vendor. No alcohol will be served until the license is transferred to the vendor.

If the request for a new Class C quota license is approved, the City will issue a request for proposal that will ensure all bidders for catering services the availability of the license. The selection of vendor will be made based upon the vendor having no violations on record with the Michigan Liquor Control Commission or the Troy City ordinance.

The agreement with the vendor will be drafted to include language that the vendor will be responsible to monitor alcohol consumption and no service to minors. The vendor will be required to assume all liability associated with availability of alcoholic beverages at functions.

At the time the vendor is selected and an agreement is reached with the vendor, the license will be transferred from the City of Troy to the vendor. At that time, the vendor will be required to appear before the Liquor Advisory Committee to request their approval of the license transfer as well as the approval for any additional special permits that would be required for operation at the Community Center. The Police Department will perform their usual criminal background check.

The serving of alcohol will be limited to attendees for the Community Center banquet events. Strict adherence to local and state laws and standards will be required. Alcohol will be served only in the banquet areas and will be monitored to ensure that no alcohol is taken out of the banquet area.

The Liquor Advisory Committee recommends the request of the City of Troy Parks and Recreation for a **New Class C Quota Liquor License**. Minutes of the Liquor Advisory Committee December 13, 2011 meeting are attached for your convenience.

After a preliminary investigation, the Police Department found no disqualifying factors and has no objection to this request.

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.

Recommendation

City Management recommends City Council approve the application for the Class C Quota license for the City of Troy "above all others".

Reviewed and approved as to legality:

Lori Grigg Bluhm, City Attorney

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. Ukrainec

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 Ukrainec

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 Ukraineec

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



Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

7150 Harris Drive, P.O. Box 30005
 Lansing, Michigan 48909-7505

**APPLICATION FOR NEW LICENSES, OR APPLICATION OF BUYERS
 FOR TRANSFER OF OWNERSHIP OR INTEREST IN LICENSES**

[Authorized by MAC R 436.1103]

MLCC USE ONLY

Request ID #

Business ID#

General Instructions: This application must be completed and returned with a \$70.00 inspection fee for each license before it can be considered. All answers must be typed or printed. Sign the completed form in ink and return it to the MLCC with the inspection fee. MAKE ALL CHECKS OR MONEY ORDERS PAYABLE TO "STATE OF MICHIGAN"

1. Applicant Identification - all applicants

Individual, partnership, corporation or limited liability company that will hold the license: City of Troy - Parks and Recreation Department	Contact Person Name: A. John Szerlag, City Manager
Business Street Address: 3179 Livernois	Street Address: 500 W. Big Beaver
City / State / Zip Code: Troy, MI 48084	City / State / Zip Code: Troy, MI 48084
Township: City of Troy County: Oakland	Business Phone No. (248) 524-3330 Home Phone No. ()
Business E-mail Address: j.szerlag@troymi.gov	E-mail Address:

2. Nature of Application - (Check all that apply)

<input checked="" type="checkbox"/> New License	<input type="checkbox"/> Transfer Status:
<input checked="" type="checkbox"/> New Permit	<input type="checkbox"/> From Individual to a Corporation
<input type="checkbox"/> Transfer of Ownership - Indicate NAME of Current Licensee in #5	<input type="checkbox"/> From Limited Partnership to a Corporation
<input type="checkbox"/> Transfer Location - Indicate Current Licensed ADDRESS in # 6	<input type="checkbox"/> Transfer Classification:
<input type="checkbox"/> Add Partner	<input type="checkbox"/> Tavern to Class C
<input type="checkbox"/> Drop Partner	<input type="checkbox"/> Class C to Tavern
<input type="checkbox"/> Transfer stock or membership interest	<input type="checkbox"/> B-Hotel to Class C
<input type="checkbox"/> Drop Space	<input type="checkbox"/> Class C to B-Hotel
<input type="checkbox"/> Other _____	

3. Retail Applicants - (All existing permits will be included with a transferred license unless cancelled in writing)

<input type="checkbox"/> SDM	<input type="checkbox"/> SDD	3b. Check Type of Permits	<input type="checkbox"/> Before or After Legal Hours:
<input checked="" type="checkbox"/> Class C	<input type="checkbox"/> Resort Class C	<input type="checkbox"/> Sunday Sales	<input type="checkbox"/> Food
<input type="checkbox"/> A-Hotel	<input type="checkbox"/> Resort A-Hotel	<input type="checkbox"/> Dance	<input type="checkbox"/> Golf
<input type="checkbox"/> B-Hotel	<input type="checkbox"/> Resort B-Hotel	<input type="checkbox"/> Entertainment	<input type="checkbox"/> Other specific activity _____
<input type="checkbox"/> Tavern	<input type="checkbox"/> Resort Tavern	<input type="checkbox"/> Topless Activity	<input type="checkbox"/> Participation Permit
<input type="checkbox"/> Club	<input type="checkbox"/> Resort G-1	<input type="checkbox"/> Outdoor Service	<input type="checkbox"/> Drive-up Window (without alcohol)
<input type="checkbox"/> G-1	<input type="checkbox"/> Resort G-2	<input type="checkbox"/> Direct Connection	<input type="checkbox"/> Gasoline Pumps
<input type="checkbox"/> G-2	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Living Quarters	<input type="checkbox"/> On Premises Seating
		<input type="checkbox"/> Banquet Facility Permit	<input type="checkbox"/> Off Premises Storage

4. New Manufacturer or Wholesale Applicants - (Check all that apply and permits in 3b that apply)

<input type="checkbox"/> Wholesaler	<input type="checkbox"/> Micro Brewer	<input type="checkbox"/> Outstate Seller of Wine
<input type="checkbox"/> Warehouse	<input type="checkbox"/> Brewpub	<input type="checkbox"/> Outstate Seller of Mixed Spirit Drinks
<input type="checkbox"/> Wine Maker	<input type="checkbox"/> Manufacturer of Spirits	<input type="checkbox"/> Industrial Manufacturer
<input type="checkbox"/> Small Wine Maker	<input type="checkbox"/> Small Distiller	<input type="checkbox"/> Limited Alcohol Buyer
<input type="checkbox"/> Wine Maker Wine Tasting Room	<input type="checkbox"/> Manufacturer of Mixed Spirit Drinks	<input type="checkbox"/> Seller of Alcohol
<input type="checkbox"/> Brewer	<input type="checkbox"/> Outstate Seller of Beer	<input type="checkbox"/> Other: _____

5. Names of Current Licensees:

6. Current Licensed Address:

7. Proposed Licensed Address: 3179 Livernois, Troy, MI 48084

8. Briefly describe this business, for instance - Drug Store, Restaurant, Convenience Store, Wholesaler, Wine Maker, etc.
 Municipal Recreation Center - Banquet Facilities

9. This proposed licensed business will be owned by: (check one)
 Me as an individual owner The named corporation The named Liability company
 The following partners indicate limited partners with an "L" before their name)
 Partnership Information: (attach additional sheet if necessary)

Name of Partners	Home Address	Telephone Number
City of Troy - Municipality	500 West Big Beaver, Troy, MI 48084	248.524.3300

NOTE: All general partners must complete and submit "Individual, General Partner, Stockholder, or Member Questionnaire" (LC-621). All limited partners must complete and submit "Limited Partner, Stockholder, or Member Statement" (LC-38)

10. Personal Information – Individual Applicants and Partnership Members Only

Sex _____ Height _____ Weight _____ Hair Color _____ Eye Color _____
 Date of Birth _____ Place of Birth _____ Social Security No. _____

If you are not a US Citizen – Are you a registered alien? Yes No Or, Do you have a Visa? Yes No

Have you ever legally changed your name? Yes No If Yes, from _____ to _____

Have you been known by other names? Yes No List names: _____

Have you ever been arrested? Yes No If Yes, list all arrests, excluding minor traffic offenses (include alcohol arrests):

DATE	PLACE	CHARGE	DISPOSITION

* attach additional sheet if necessary

List your former occupations for the past 3 years:

From-To DATES mm-dd-yyyy format	OCCUPATION	EMPLOYER NAME AND ADDRESS
_____ to _____	_____	_____
_____ to _____	_____	_____
_____ to _____	_____	_____

Full name of spouse: _____ Date of Birth: _____

I or my spouse previously held or now hold interest in the following licenses for sale of alcoholic beverages as sole licensee, partner or corporation (attach additional sheet if necessary):

NAME OF LICENSEE	TYPE OF LICENSE	LOCATION	DATE

Do you or your spouse hold any law enforcement powers including powers of arrest? Yes No

Do you or your spouse hold any interest in alcoholic beverage manufacturer, wholesaler, or supplier license?
 Yes No

11. Limited Partnerships-is the limited partnership authorized to do business under the laws of Michigan?

Yes No Date authorized: _____

12. Corporate & Limited Liability Company Applicants Only - stockholders/members must complete a separate survey

NOTE: Attach copy of filed/proposed Articles of Incorporation/Organization, last annual report/statement filed and copy of stock options.

Corporate/LLC Name: _____ Incorporated/Organized in what State? _____

Person(s) authorized to sign the application and any documents required by the MLCC: _____

(Check one of each) Profit or Non-profit Corporation Public or Private Corporation

Date last annual report / statement filed with Michigan Corporation & Securities: _____

Corporate Officers:	Name	Address	Phone Number
President	Louise E. Schilling, Mayor	500 W Big Beaver, Troy, MI 48084	248.524.3300
Vice-President	_____	_____	_____
Secretary	_____	_____	_____
Treasurer	_____	_____	_____

13. Corporations and Limited Liability Companies - List all persons, companies, and other entities that hold or will hold stock interest or membership interest in applicant entity.

	Name	Address	Phone Number	% Interest
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

Note: All persons, companies and other entites holding 10% interest or more ust complete and submit an :Individual, General Partner, Stockholder, or Member Questionnaire" (LC-621). All persons, companies and other entities holding less than 10% interest, must complete and submit a "Limited Partners, Stockholders or Members Statement" (LC-38).

14. Financial Details - All Applicants

(A) Source of funds used to establish business, or which will be used to purchase this business, list name address, and amount of all money lenders. Money lenders to fill out special Statement of Money Lender (LC-3008) form.

Name	Address	Amount
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

(B) Attorney or representative

Name	Address	Phone Number
_____	_____	_____

(C) Real estate is owned by

Name	Address	Phone Number
_____	_____	_____
_____	_____	_____

(D) Realtor/Broker

Name	Address	Phone Number
_____	_____	_____

(E) Accountant or Bookkeeper

Name	Address	Phone Number
_____	_____	_____

15. Transaction Details – All Applicants

NOTE: Any balance owed on the business selling price must be secured by a non-title retaining instrument such as a promissory note, security agreement, etc.
 Land contracts are not acceptable as security for any unpaid balance to be owed on the business portion of the sale.
 Business, fixtures, and equipment cannot be listed on land contracts or real estate mortgages.
 All alcoholic beverage inventory must be paid for in cash at the time of transfer and not by installment payments.
 Acceptable lease agreements must be provided if ownership of real estate is not in the names of applicants.
 Purchasers of "ON-PREMISES" licensed establishments are required to have 10% of the purchase price for the licensed business, excluding real estate, in their own funds.

Business/Fixtures/Equipment	\$ _____	Land	\$ _____
Goodwill (if applicable)	\$ _____	Building(s)	\$ _____
Covenant not to compete (if applicable)	\$ _____	Other	\$ _____
		TOTAL REAL ESTATE COSTS	\$ _____
Alcoholic beverages (estimate)	\$ _____	Down Payment	\$ _____
Other inventory (estimate)	\$ _____	BALANCE OWED	\$ _____
TOTAL COST OF BUSINESS	\$ _____		
Down Payment	\$ _____	Secured by	_____
BALANCE OWED	\$ _____	For balance owed – explain:	_____
		Terms:	_____

For balance owed – explain: _____
 Terms: _____

Collateral: _____

Collateral: _____

The Commission wishes to warn all applicants for licenses not to invest any money or to commit themselves by any binding agreements in the expectation of being issued a license for sale of alcoholic beverages until officially notified by the Commission that their application has been approved.

WARNING! Section 1003 of the Liquor Control Code of 1998, being MCL436.2003 provides: "A person who makes a false or fraudulent statement to the commission, orally or in writing, for the purpose of inducing the commission to act or refrain from taking action, or for the purpose of enabling or assisting a person to evade the provisions of this act is guilty of a violation of this act and is punishable in the manner provided for in section 909." Section 529 of the Liquor Control Code of 1998, being MCL436.1529 provides: "A license or an interest in a license shall not be transferred from 1 person to another without the prior approval of the Commission. Further, R 436.1041 of the General Rules of the MLCC provide, in part: "A licensee or an applicant for a license shall not obtain or attempt to obtain a license for the use or benefit of another person whose name does not appear on the license. In addition, a licensee shall not allow a person whose name does not appear on the license to use or benefit from the license."

I hereby authorize investigators of the Michigan Liquor Control Commission to obtain all documents, accounts, books, records and tax returns pertaining to myself and this business. I hereby swear that I have read all of the above answers and that they are true and further that I have read and understand the warning.

January 25, 2011

Tonni L. Bartholomew, Troy City Clerk

Date of Application

Signature of Applicant
 (If applicant is a corporation, include title of signor)

Name of person completing this form if not the applicant