



Las Vegas

Agenda Item No.: 45.

AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: JULY 2, 2008

DEPARTMENT: FINANCE AND BUSINESS SERVICES

DIRECTOR: MARK R. VINCENT

Consent Discussion

SUBJECT:

BEYANAN ITEM - Discussion and possible action regarding a Suspension of a Temporary Massage Establishment License of Sun Consumers Inc. dba Sunflower Massage, 2127 Paradise Road, Tony Tang, Pres 100% - Ward (Reese)

Fiscal Impact

No Impact

Augmentation Required

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

Discussion and possible action regarding a Suspension of a Temporary Massage Establishment License.

RECOMMENDATION:

Recommendation to be provided following the discussion of this item at the City Council Meeting.

BACKUP DOCUMENTATION:

None

Motion made by GARY REESE to Revoke the license

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

RICKI Y. BARLOW, LOIS TARKANIAN, LARRY BROWN, OSCAR B. GOODMAN, GARY REESE, STEVE WOLFSON, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

SENIOR LITIGATION COUNSEL BILL HENRY pointed out that he confirmed with the Business Licensing Manager, JIM DiFIORE, that the notice of this hearing was provided to the licensee, despite the fact that only his attorney was present.

On behalf of the licensee, ATTORNEY BUCKY BUCHANAN explained that he sent a letter to MR. DiFIORE requesting that this matter be continued until after the trial of the three parties involved. To date, there have been two trials with two of the three individuals deemed not guilty. The third trial was continued since one of the officers involved is on vacation. ATTORNEY BUCHANAN pointed out that he was not notified of this hearing date.

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MAYOR GOODMAN emphasized the previous agreement made between the licensee and the Council, mainly that the establishment was to remain closed during the individuals' trials. However, on at least two occasions, the establishment has been open. As a result, no further agreements should be made, and Council should proceed with this hearing, as the previous agreement is now null and void. SENIOR LITIGATION COUNSEL HENRY advised Council that a record needed to be developed at this meeting for his successor.

SENIOR LITIGATION COUNSEL HENRY informed the Mayor that he did not believe the two acquittals were relevant to the discussion, as the standard for evidence submitted in court is beyond a reasonable doubt. The Council's obligation is to review the evidence and compare it to a lesser standard, which is based on the preponderance of evidence: 50 percent plus one.

COUNCILMAN REESE reiterated that the previous agreement entailed that the business would not be in operation during the trials. He emphasized that on two occasions, Metro has visited the site only to find that illegal activity was taking place. He discussed with SENIOR LITIGATION COUNSEL HENRY that Council can't rely on an account of the events leading up to this meeting and then make a decision.

Based on the police report, SENIOR LITIGATION COUNSEL HENRY questioned DETECTIVE CYNTHIA MAY, Metropolitan Police Department, who gave an account of what occurred on May 21, 2008 and June 7, 2008 at 2127 Paradise Road, known as the SunFlower Massage establishment. In her opinion, this business was operating on these two occasions.

Upon COUNCILMAN REESE'S query, DETECTIVE MAY replied that the officers visited the subject business on the aforementioned dates, at the Council's recommendation from a previous meeting in March 2008. In addition, some complaints had been received. The Councilman stressed that this type of behavior would not be tolerated in his Ward, especially when it happens close to residential. He was disappointed, as he trusted the applicant to keep his word. SENIOR LITIGATION COUNSEL HENRY confirmed that the City Code allows for ATTORNEY BUCHANAN to cross-examine DETECTIVE MAY. However, ATTORNEY BUCHANAN did not believe he SENIOR LITIGATION COUNSEL HENRY understood ATTORNEY BUCHANAN'S concern but quoted from the Las Vegas Municipal Code (6.88), which provides that the technical rules of evidence are not applicable, so hearsay is admissible.

SENIOR LITIGATION COUNSEL HENRY continued with questioning by calling upon TRACEY KRUSE, Crime Scene Analyst with Metropolitan Police Department. Although she has yet to experience testifying in a court of law, MS. KRUSE detailed her credentials relative to her career in law enforcement. She also gave an account of the events that occurred on February 28, 2008 at the subject location where she was the officer involved. She explained that an alternate light source exposed biological and chemical substances where tests revealed as semen from the walls. ATTORNEY BUCHANAN confirmed with MS. KRUSE that although semen was revealed, she could not confirm when and how the semen was placed there. Regardless of this fact, COUNCILMAN REESE reiterated the fact that the applicant did not keep his/her word,

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which negates the previous agreement.

SENIOR LITIGATION COUNSEL HENRY confirmed that COUNCILMAN REESE desired to have the applicant's license revoked.

