City of Birmingham
A Walkable Community

MEMORANDUM

City Clerk's Office

DATE: **February 18, 2015**

TO: **Joseph A. Valentine, City Manager**

FROM: **Laura M. Pierce, City Clerk**

SUBJECT: **2014 Liquor License Review and 2015 Liquor License Renewal**

Chapter 10, Alcoholic Liquors, of the City Code regulates the licensing of establishments which sell intoxicating liquor for consumption on the premises in the City and directs the City Commission to consider renewal of all existing licenses after a review of the investigative materials collected by the city administration.

There are thirty-two establishments operating in Birmingham with a Class C liquor license, one establishment (The Townsend Hotel) operating with a Class B (Hotel) liquor license, and one establishment (Griffin Claw) operating with a microbrewery license. A total of four licenses are currently in escrow. The establishments with licenses currently in escrow with the MLCC have not been included in this year's review.

Summary of Findings

The Police Department reports that three establishments were cited for Michigan Liquor Control Commission (MLCC) violations which involved selling alcohol to a minor – Lux Bar & Grill, Mad Hatter, and Social Kitchen & Bar. All three establishments were issued MLCC violations for serving a minor and each individual server was issued a violation for selling to a minor.

Additionally, five establishments had assaultive behavior/disorderly conduct related police contacts – 220/Edison's, Dick O'Dow's, Hyde Park Steakhouse, Mad Hatter, and the Townsend Hotel/Corner Bar. Both Police Chief Studt and Deputy Police Chief Clemence will be present at the February 23, 2015 City Commission meeting to answer any questions from the City Commission.

The Treasurer's Office reports that several establishments have an outstanding balance owed to the City for past due water and tax bills. Ownership has been contacted regarding their outstanding balance.

While other violations were found by the City's Building, Fire, and Planning Departments and the Oakland County Health Department at the time of the initial inspections, most of these violations have either been corrected at this time or staff is working with the establishments to correct outstanding violations in a timely manner. City staff and staff from the Oakland County Health Department will continue to work with all the establishments to ensure continued compliance throughout the coming year.

Potential City Commission Actions

The Liquor Control Act states that a full year Class B/C liquor license issued by the Michigan Liquor Control Commission (MLCC) shall expire annually on April 30th. Should the City wish to file an objection to the renewal of any particular license, that objection must be filed with the MLCC no later than March 31st of any given year.

The City Commission may either approve the renewal of all the liquor licenses for which an application was received, or set a public hearing for any liquor license which it may wish to consider filing an objection with the Michigan Liquor Control Commission.

If the City Commission wishes to approve the renewal of all of the licenses for which an application was received, suggested resolution #1 may be adopted.

The City Commission may object to the renewal of a liquor license based on one or more of the following reasons: (Section 10-40 of the City Code)

(1) Licensee's failure to comply with all applicable city and state laws concerning health, safety, moral conduct or public welfare.
(2) Licensee's repeated violations of state liquor laws.
(3) Licensee's maintenance of a nuisance upon or in connection with the licensed premises, including but not limited to any of the following:
    a. Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes;
    b. A pattern of patron conduct in the neighborhood of the licensed premises which is in violation of the law and/or disturbs the peace, order, and tranquility of the neighborhood;
    c. Failure to maintain the grounds and exterior of the licensed premises, including litter, debris, or refuse blowing or being deposited upon adjoining premises;
    d. Entertainment on the licensed premises without a permit and/or entertainment which disturbs the peace, order and tranquility in the neighborhood of the licensed premises;
    e. Any advertising, promotion or activity in connection with the licensed premises which by its nature causes, creates or contributes to disorder, disobedience to rules, ordinances or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises;
    f. Numerous police contacts with the licensed premises or the patrons of the premises;
    g. Failure to adequately staff and control the premises; and
    h. The conditions or practices of the business present immediate health and safety issues.
(4) Licensee's failure to permit the inspection of the licensed premises by the city's agents or employees in connection with the enforcement of the City Code.
(5) Licensee's failure to comply with the terms of its liquor license or any conditions imposed by the city commission or the liquor control commission at the time of issuance or transfer of the license.
(6) Licensee's failure to comply with all standards and plans established and approved by the city commission at the time of original approval or transfer of the license.
(7) Licensee's failure to timely pay its taxes or other monies due the city.

If the City Commission wishes to consider objecting to the renewal of one or more licenses, the City Code states that the City Commission may adopt resolution #2 establishing a public hearing date to consider objecting to the renewal of a class B/C license by the Liquor Control Commission. Additionally, the resolution must include a list of the reasons for calling the hearing. The owner(s)/operator(s) of the establishment would then be notified in writing of the date, time, location, and reasoning for the public hearing.

A public hearing must be scheduled in March in order to forward an objection to the Liquor Control Commission by their required deadline of March 31, 2015. It is proposed that the hearing, if necessary, take place on Monday, March 16, 2015 to ensure adequate time to provide the required notifications. If this is the course the City Commission wishes to pursue, both resolutions in suggested resolution #2 should be considered separately. If the liquor licenses for multiple establishments are to be the subjects of public hearings, suggested resolution #2(a) should be adopted separately for each establishment.

SUGGESTED RESOLUTION(S):

1. To approve the renewal, for the 2015 licensing period, of all Class B and Class C liquor licenses for which a current year application was received.

- OR -

2. (Each of the following resolutions to be considered with separate motions.)
   a. To set a public hearing for 7:30 PM on Monday, March 16, 2015 in the City Commission Room at the Birmingham Municipal Building, 151 Martin, Birmingham, MI 48009, to consider whether to file an objection with the Michigan Liquor Control Commission to the renewal of the license for consumption of intoxicating liquor on the premises currently held by the owners/operators of _____, for the following reasons: _____;
   Further, to direct the City Manager to notify the owners/operators of _____, in writing, that they may submit any written material for consideration by the City Commission prior to the date of the public hearing or at the hearing, that the licensee may appear in person at the hearing or be represented by counsel and that the licensee may present witnesses or written evidence at the hearing.

   - AND -

   b. To approve the renewal for the 2015 licensing period, of all Class B and Class C liquor licenses for which a current year application was received, except for the license(s) held by _____, for which a public hearing has been set.

			2014 INFORMATION					
	APPLICANT	LICENSE TYPE	ADDITIONAL PERMITS	% FOOD	% LIQUOR	% OTHER	OUTDOOR DINING # OF MONTHS IN OPERATION	PHYSICAL CHANGES? 2014
1	220 Merrill Restaurant	Class C	Sunday Sales, Entertainment-Dance Permit, Sunday AM, Additional Bar, Catering Permit	65%	35%		7.5	YES
2	Bella Piatti	Class C - Bistro	n/a	65%	35%		7.5	NO
3	Big Rock Chop House/The Reserve	Class C	Sunday Sales, Entertainment-Dance Permit, Sunday AM, Additional Bar, Catering Permit, SDM, Beer & Wine To Go	64%	34%		7.5	NO
4	Birmingham Sushi Café	Class C - Bistro	Sunday Sales, Sunday AM	97%	3%		7.5	NO
5	Bistro Joe's	Class C - Bistro	Sunday Sales, Sunday AM	73%	10%	17% (beer/wine, misc)	12	NO
6	Café Via	Class C - Bistro	Sunday Sales, Sunday AM, Additional Bar, Catering Permit	60%	40%		12	NO
7	Cameron Steakhouse	Class C	Sunday Sales, Sunday AM, Additional Bar, Catering Permit	67%	33%		n/a	NO
8	Churchill's Bistro	Class C - Bistro	Sunday AM	26%	17%	57% (beer/wine, cigars, non-taxable items, exempt/resale)	7.5	NO
9	Community House	Class C	Sunday Sales, Entertainment-Dance Permit, Sunday AM, Additional Bar, Catering Permit	69%	17%	14% (rent)	7.5	NO
10	Cosi	Class C - Bistro	n/a	99%	1%		7.5	NO
11	Dick O'Dow's	Class C	Sunday Sales, Entertainment-Dance Permit, Sunday AM,	62%	38%		7.5	NO
12	Elie's Mediterranean Café	Class C - Bistro	Entertainment-Dance Permit, Sunday Sales, Sunday AM, Additional Bar	82%	18%		7.5	NO
13	Fleming's Prime Steakhouse	Class C	Sunday Sales	74%	26%		n/a	NO
14	Forest Grill	Class C - Bistro	Sunday Sales, Catering, Specific Food Permit	70%	30%		7.5	NO
15	Griffin Claw Brewery	Micro Brewery	Sunday Sales, Sunday AM, Additional Bar, Catering Permit	48%	52%		12	NO
16	Hyde Park	Class C	Sunday Sales	62%	38%		n/a	NO
17	Luxe Bar & Grill	Class C - Bistro	Sunday Sales, Sunday AM, Catering Permit	75%	25%		7.5	NO
18	Mad Hatter (Tea Parlor, Inc)	Class C - Bistro	Sunday Sales, Sunday AM	70%	30%		7.5	NO
19	Market North End	Class C - Bistro	Sunday Sales, Sunday AM	65%	35%		12	NO
20	Mitchell's Fish Market	Class C	Sunday AM, Additional Bar	80%	20%		n/a	NO
21	Peabody's	Class C	Sunday Sales, Entertainment-Dance Permit, Sunday AM, Catering Permit	75%	25%		n/a	NO
22	Phoenecia	Class C	Sunday Sales, Sunday AM, Catering Permit	70%	30%		7.5	NO
23	ROJO	Class C	Sunday Sales, Sunday AM	72%	28%		7.5	NO
24	Salvatore Scallopini	Class C - Bistro	Sunday Sales, Sunday AM, Catering Permit	90%	10%		7.5	NO
25	Social Kitchen & Bar	Class C - Bistro	Sunday Sales, Sunday AM, Catering Permit	65%	35%		12	NO
26	Streetside Seafood	Class C	Sunday Sales, Sunday AM	63%	37%		7.5	NO
27	Tallulah Wine Bar & Bistro	Class C - Bistro	Sunday Sales, Sunday AM, Catering Permit	60%	40%		7.5	NO
28	The Bird and The Bread	Class C - Bistro	Sunday Sales, Entertainment-Dance Permit, Sunday AM, Additional Bar, Catering Permit	65%	35%		7.5	NO
29	The Stand	Class C - Ec. Dev.	Sunday Sales, Additional Bar, Catering Permit	65%	35%		n/a	NO
30	Toast	Class C - Bistro	Entertainment-Dance Permit, Sunday Sales, Sunday AM	85%	15%		7.5	NO
31	Townhouse	Class C - Bistro	Sunday Sales, Sunday AM	60%	40%		7.5	NO
32	Townsend Hotel	Class B - Hotel	Sunday Sales, Additional Bar	71%	29%		7.5	NO
33	Lincoln Hills Golf Course	Class C	Sunday Sales, Entertainment-Dance Permit, Sunday AM, Additional Bar	4%	3%	93% (golf fees)	7.5	NO
34	Springdale Golf Course	Class C	Sunday Sales, Entertainment-Dance Permit, Sunday AM, Additional Bar	4%	4%	92% (golf fees)	7.5	NO
35	Buca Di Beppo	Class C (IN ESCROW)						
36	Chen Chow Brasserie	Class C (IN ESCROW)						
37	Hamilton Room & Quattro	Class C (IN ESCROW)						
38	RHG Fish Market (Cameron/Mitchell's)	Class C (IN ESCROW)						

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MEMORANDUM

Police Department

DATE: **January 16, 2015**

TO: **Joseph A. Valentine, City Manager**

FROM: **Donald A. Studt, Chief of Police**

SUBJECT: **2014 Annual Class B/C Liquor License Report**

Liquor license inspections/decoy operations were conducted at the following Class B/C liquor license establishments/brew pubs in 2014:

1. 220 Merrill/Edison's
2. Bella Piatti
3. Big Rock Chop & Brew House/The Reserve
4. Birmingham Sushi Cafe
5. Bistro Joe's
6. Café Via
7. Cameron's Steakhouse
8. Churchill's Bistro
9. Community House
10. Cosi
11. Dick O'Dow's
12. Ellie's Mediterranean Grill & Bar
13. Fleming's Prime Steakhouse & Wine Bar
14. Forest Grill
15. Griffin Claw Brewery
16. Hyde Park Steakhouse
17. Luxe Bar & Grill
18. Mad Hatter

19. Market North End
20. Mitchell's Fish Market
21. Peabody's Restaurant
22. Phoenecia
23. Rojo
24. Salvatore Scallopini
25. Social Kitchen and Bar
26. Streetside Seafood
27. Tallulah Wine Bar & Bistro
28. The Bird and the Bread
29. The Stand
30. Toast
31. Townhouse
32. Townsend Hotel/The Corner Bar
33. Lincoln Hill Golf Course – City of Birmingham
34. Springdale Golf Course – City of Birmingham

All of the above listed establishments were license compliant according to the standards set by the Michigan Liquor Control Commission (MLCC).

2014 Liquor Law Violations

The Birmingham Police Department conducted liquor decoy operations in all Class B/C licensed establishments/brew pubs in 2014. Three establishments were cited for selling alcohol to a minor:

1. Luxe
2. Mad Hatter
3. Social Kitchen and Bar

All three establishments were issued MLCC Violations for serving a minor and each individual server was issued a violation for selling to a minor.

2014 Police Contacts

All Class B/C establishments/brew pubs were checked for assaultive behavior/disorderly conduct related police contacts. The following list details the police related contacts:

1. 220 Merrill (220 Merrill)

    a. August 28, 2014: Two male patrons engaged in a physical altercation in the outdoor patio area over a female. One male patron struck a security guard and a second male patron. The suspect was arrested and charged with assault and battery. The case was prosecuted by the City Attorney. No injuries were reported.

2. Dick O'Dows (160 W. Maple)

    a. March 17, 2014: A male patron was physically removed from the establishment by staff for disorderly behavior. The patron had two outstanding warrants for his arrest. The patron was taken to the police department. No injuries were reported.

    b. May 5, 2014: Two male patrons of the establishment physically assaulted another male patron in a dispute over a female. The police department investigated the case and two suspects were developed and arrested for assault and battery. The case was prosecuted by the Oakland County Prosecutor's Office. The victim suffered a broken nose, a laceration requiring stitches to the nose and the loss of two front teeth.

    c. August 16, 2014: A female patron of the establishment was physically removed from the bar by staff for being intoxicated and belligerent. The female patron contacted the police department because she felt the establishment was being "overly aggressive" when she was removed. An investigation by the police department found that the complainant's version of events was very different from the establishment's version of events. The complainant wanted no further action from the police department. No injuries were reported.

3. Hyde Park Steakhouse (201 South Old Woodward)

    a. April 30, 2014: Two male patrons of the establishment engaged in a physical altercation in a dispute over business dealings. The police department investigated the case and a suspect was developed and subsequently arrested for assault and battery. The case was prosecuted by the City Attorney. No injuries were reported.

4. Mad Hatter (185 North Old Woodward)

    a. October 11, 2014: Two male patrons of the establishment engaged in a physical altercation. Neither patron cooperated with the police as to what caused the altercation. Neither party wished to pursue the matter criminally. One patron was treated at a local hospital for a bite wound.

5. Townsend Hotel/Corner Bar (101 Townsend)

    a. October 19, 2014: A male patron of the establishment (Corner Bar) was upset that the DJ would not play a particular song for him so the patron punched the DJ, leading to a fight between the two. The suspect fled the scene. The case was investigated, but the identity of the suspect is unknown. No injuries were reported.