



12-247

TITLE: Consider/Discuss/Act on the Six Month Probation on a Specific Use Permit for a Private Club (Dawgs N Hawgs), Approximately 0.11 Acres, Located on the South Side of Louisiana Street and Approximately 100 Feet West of McDonald Street

MEETING DATE: May 1, 2012

DEPARTMENT: Development Services - Planning
Finance
City Secretary

CONTACT: Jennifer Cox, AICP, Director of Planning
Rodney Rhoades, Finance Director
Sandy Hart, City Secretary

RECOMMENDED CITY COUNCIL ACTION:

- Council direction on continuation of specific use permit and City of McKinney alcohol permit.

ITEM SUMMARY:

- On April 17th, the City Council deferred this item until the May 1st. meeting.
- On October 18, 2011, the City Council granted a six month probationary period to allow the permittee to continue to operate under its SUP for a private club and to bring their food percentage into compliance with the City's Code of Ordinances.
 - "Council unanimously approved the motion by Mayor Pro-Tem Ussery, seconded by Council member Harris, to close the public hearing and grant a six month probationary period for Dawgs N Hawgs and to authorize the City Manager to engage an auditor of the City's choosing to monitor the probationary period.
 - Council unanimously approved the motion by Council member Kever, seconded by Mayor Pro-Tem Ussery to authorize the City Secretary to reinstate their alcohol permit during this probationary period."
- City Manager Gray appointed Finance Director Rodney Rhoades to conduct the monitoring of the monthly sales during the probationary period.
- During the six month probationary period their sales are as follows:

| | Food Sales | Alcohol Sales | % Alcohol |
|------------|------------|---------------|-----------|
| ○ October | \$ 838.31 | \$ 6,412.77 | 88.439% |
| ○ November | \$ 997.95 | \$ 8,650.87 | 89.657% |
| ○ December | \$2,282.82 | \$ 7,736.03 | 77.215% |
| ○ January | \$1,431.15 | \$ 7,429.97 | 83.849% |
| ○ February | \$3,944.14 | \$ 9,508.33 | 70.681% |
| ○ March | \$4,678.24 | \$14,156.01 | 75.161% |

- Attached is a Summary of Sales during the six month probationary period compared to prior year alcohol sales.
- Ordinance 2010-06-015 provides that as a private club, the club shall be operated in accordance with Section 146-46 of the City's Code of Ordinances. Section 146-46(84)(d) provides that a private club special use permit holder is subject to the terms and conditions of Chapter 138, Article II. Therefore, as the holder of a SUP operating a private club, the club must comply with Section 138-22, which provides that "[n]ot less than 35 percent of the gross receipts of such establishment shall be derived from the sale of food consumed on the premises." Section 138-22 further provides that "[t]he holder of such permit shall provide audits at its expense".
- On September 20, 2011, the City received the club's 2010 financial report from its accountant stating that the club had food sales of \$14,725 and alcohol sales of \$91,416. This represents less than 14 percent of their 2010 total sales from food.
- Based upon the finance report provided by the club, the City has determined that the club is not in compliance with Section 138-22 and the Alcohol Permit for the club was revoked effective October 8, 2011, however the City Council must still conduct a public hearing and determine compliance or noncompliance with Dawgs N Hawgs' SUP for a private club during the 2010 audit year.

BACKGROUND INFORMATION:

- A Specific Use Permit for a private club allows a larger percentage (65%) of the sales receipts from the sale of alcohol than a typical Mixed Beverage Permit (which allows 50%).

BOARD OR COMMISSION RECOMMENDATION: N/A

SUPPORTING MATERIALS:

[Six Month Audit](#)