

NOTICE

DOWNTOWN DEVELOPMENT AUTHORITY (DDA)

The Shelby Township DDA will meet on Thursday, May 19, 2011 at 7:00 PM in the Employee Lounge at the Shelby Township Municipal Building at 52700 Van Dyke, Shelby Township, MI 48316.

The meeting agenda includes the following:

- 1) Call To Order/Roll Call
- 2) Approve Agenda
- 3) Consultants Report
- 4) Old Business
 - Review Signage sample
 - Update on S.A.D. progress and determine date of work session with Board of Trustees
 - Liquor License Update
- 5) New Business
 - Review New Business Packet of Information Ideas
- 6) Committee Reports
 - Design
 - Promotion
 - Organization
 - Economic Restructuring
- 7) Treasurer
 - Treasurer's Report
- 8) Public Comment
- 9) Approve Meeting Minutes
- 10) Chair Person Comments
- 11) Correspondence
- 12) Future Agenda Items – Next Meeting 6-23-2011
- 13) Adjournment

(586) 731-5100 Charter Township of Shelby (586) 726-2731 TDD
Individuals with disabilities requiring auxiliary aids or service at the meeting should contact the Shelby Township Clerk's Office at 586-731-5102, TDD 586-726-2731



KIRK & HUTH

ATTORNEYS AT LAW, P.C.

19500 HALL ROAD
SUITE 100
CLINTON TOWNSHIP, MICHIGAN 48038

(586) 412-4900

ROBERT W. KIRK *
ROBERT S. HUTH, JR.
MARYANNE J. DENEWETH
RAEHEL M. BADALAMENTI
ROBERT F. CELLA
ROSEMARY V. DAVIS
PATRICK S. MCKAY

GLENN R. MATECUN
MICHAEL S. THOMAS
Of Counsel

WRITER'S E-MAIL: rdavis@Kirk and Huth.com

FACSIMILE: (586) 412-4949

*Also Member of Florida Bar

May 11, 2011

Ms. Paula Filar
Member DDA
52700 Van Dyke
Shelby Township, MI 48316

Re: On-premise liquor licenses within the DDA (Public Act 501 of 2006)

Dear Members,

Recently, a question has arisen regarding one of the many requirements an applicant must complete in order to be considered by the Michigan Liquor Control Commission ("MLCC") for an on-premise liquor license within the Township's Downtown Development District ("DDD License"). A member questioned how the applicant is to meet the requirement of MCL 436.1521a(9) which requires "the individual signing the application for the license shall **state and demonstrate** that the applicant **attempted to secure** an appropriate on-premise escrowed license or quota license issued under section 531 and that, to the best of his or her knowledge, an on-premise license or quota license issued under section 531 is not **readily available** within the local unit of government in which the applicant proposes to operate" (Emphasis added).

Unfortunately, there is not a bright line test to determine whether the applicant is likely to be successful with this aspect of the DDD license application requirements. MCL 436.1521a (10)(c) defines readily available to mean "available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

- (i) The fair market value of the license, if determinable
- (ii) The size and scope of the proposed operation
- (iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

Pursuant to the requirements of the statute, an applicant has two options. First the applicant can obtain documentary evidence that he or she attempted to obtain an escrowed license. We verified with the Michigan Liquor Control Commission that they accept affidavits or copies of certified letters as well as the letter's responses of the

applicants attempt to obtain an escrowed license. If an escrowed license is available but the applicant can not afford such escrowed license, he or she must also demonstrate how the asking price does not fit into their business plan.

Second, an applicant can choose to show that he or she attempted to secure a quota license from the municipality and provide either a resolution denying the applicant's request for a quota license or an affidavit stating the applicant contacted and spoke to a representative of the municipality and given the location of the proposed establishment, they directed and or advised to proceed under the process of obtaining an "on premise liquor license "pursuant to MCL 436.1521a.

Further, aside from the prerequisites here, the Shelby Township Accessing Department would need to provide information regarding the DDD to the MLCC. My understanding is that the Accessing Department is aware of the requirements.

Should you have any further questions regarding this issue, please do not hesitate to contact our office.

Very truly yours,



Robert S. Huth, Jr.

DRAFT BOARD MOTION

The liquor control commission has licenses available for businesses that reside within the DDA district if the Township Board passes a resolution, provides a map of the area and the assessor provides an affidavit providing the public and private investments made within the boundaries which is approximately 200,00 within a 5 year period for each license issued. To be considered for a license the Business must be engaged in Dining, Recreation or Entertainment and have seating capacity of over 50 persons. The DDA Board is unanimously recommending the Township Board approve this resolution because it provides more flexibility to the Township when requests come in for their allotted amount of licenses. Licenses may be transferred, cannot be in escarole. The business pays 20,000 for the license.

**Charter Township of Shelby
Downtown Development Authority**

Meeting Minutes – April 28, 2011 at 7:00 p.m.

**Shelby Township Municipal Building
52700 Van Dyke – Shelby Township MI 48316
(Employee Lounge – Lower Level)**

Call to Order: Mr. Hellebuyck called the meeting to order at 7:05 p.m.

Roll Call: Mrs. Kiel proceeded with roll call.

Members Present: Mr. Hellebuyck, Mr. Stathakis, Mrs. Rabaut Miller, Mrs. Kiel, Mr. English, and Mr. Swartz. Mr. Mancini arrived at 8:05 p.m. (approx.)

Members Absent (excused): Mrs. Filar and Mr. Fanelli

Also Present: Glenn Wynn (Township Planning Director), Fazal Khan (Township Engineer), Russ Matika, and Mitch O'Connor (Chippewa Consulting)

Approval of Agenda: Motion by Mr. Swartz supported by Mrs. Rabaut Miller to approve the agenda. **Motion carried.**

Consultant(s) Report – Sewer Update (S.A.D.) by Township Engineer,

Fazal Khan: Mr. O'Connor said the petitions were submitted on April 4th to Ted Schoenherr in DPW. He said they are at 53% approval for 22 Mile south to Gerhard; they proposed to remove the southern section (approximately a few hundred feet) that would flow to Utica. Mr. O'Connor figured it will take about a month before Assessing and DPW will be able to present the S.A.D. to the Township Board. Mr. Stathakis suggested the DDA have a work session with the Board to present this project.

Mrs. Rabaut Miller discussed a F.O.I. request for information regarding this Van Dyke sewer project. The members talked about which members have the particular information being requested. Mr. Hellebuyck and Mrs. Rabaut Miller will meet to work on this.

Old Business – Review Signage Sample: Mr. Wynn said the Department of Road has not finished the new samples yet but it is anticipated for the next meeting.

There was no objection to moving to the Design Committee report on the agenda.

Committee Reports – Design: Mr. Wynn gave the first Streetscape invoice to the DDA and said that Jim Eppink felt enough work has been completed to justify this. Mr. Wynn will email this to Mr. Fanelli for his signature. The members briefly discussed the progress that has been made. Mr. Wynn discussed two expenses that arose: a water meter that needs to be installed (approximately \$600.00 with no monthly bill) and mailboxes (5 mailboxes for \$1,600-\$1,900). The members decided the mailboxes amount was too high and homeowners will be responsible for choosing the mailboxes.

Motion by Mrs. Rabaut Miller supported by Mr. Swartz to add to the cost of the landscaping effort in front of the Being Salon by \$550.00 to install a new water meter and \$50.00 for a permit, for a total not to exceed \$600.00.

Motion carried.

New Business – Newsletter: Mrs. Rabaut Miller said she is aiming for distributing the newsletter at the end of June. She said it will feature the landscaping project, interview Mrs. Kiel and possibly include signage and sewer information. Mrs. Kiel asked for new businesses to be listed also.

New Business – Member Meeting June: Mrs. Rabaut Miller said the meeting between the DDA and the businesses would take place after the newsletter is sent. They talked about possibly having the meeting August 2nd or 3rd at McClenaghan's Irish Pub.

Committee Reports – Promotion: Mrs. Kiel will arrange details for the Member meeting.

Committee Reports – Organization: Mrs. Rabaut Miller is getting assistance from Mr. Stathakis to remove items being stored, during the replacement of the windows, in the DDA office space. Also, she has asked Mr. Matika to prepare a slide presentation for the members about the new website. The members then discussed details on the new website and a possible new logo.

Committee Reports – Economic Restructuring: No report

Treasurer's Report: Mr. Swartz said there was little activity for the month of March except for the consulting invoice for the S.A.D. He expects more activity for April, including double billing for minutes since there was no bill for March. There was lengthy discussion explaining different line items on the report.

Public Comment: Mrs. Kiel said she would like DDA to work on materials to be distributed to new businesses in the DDA. Mrs. Rabaut Miller said next month they could bring forward ideas for welcome packages.

Approve Meeting Minutes: Motion by Mr. English supported by Mr. Swartz to approve the meeting minutes from March 24, 2011 as submitted. **Motion carried.**

Chair Person Comments: Mrs. Kiel said liquor licenses need to be discussed at the next meeting due to additional information that has been presented.

Correspondence: None

Motion by Mr. Mancini supported by Mr. English to change the May meeting to May 19th. **Motion carried.**

Future Agenda Items: *Next Meeting 5-19-11.* Items to be discussed: liquor licenses.

Adjournment: Mr. Hellebuyck adjourned the meeting by consent motion. There was no objection. No time given.

pm