



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 4
March 22, 2010

SUBJECT: Consideration of adopting a resolution to rescind the City's April 27, 2009 Liquor License to Fox Run Village, Inc., given the failure of the applicant to take steps to secure issuance of such license by the Michigan Liquor Control Commission, unless additional efforts to secure the license from the Commission are undertaken.

SUBMITTING DEPARTMENT: City Clerk

m.c.

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION: The City Council granted approval to issue one of its three remaining Class C liquor licenses to Fox Run Village, Inc. Among the Council's considerations was the representation that the license, as a Class C license, would require the Fox Run facility to be open to the public.

On January 28, 2010, a memo was sent to City Council advising that the Liquor Control Commission had sent a Notice of Deficiency to the attorney for Fox Run Village, Inc. back in November 2009 stating that, due to a lack of response, their request was being returned to Lansing and would not be processed.

On February 4, 2010, City Council received a copy of a letter from Fox Run Village attorney Christopher Baker stating the applicant's intention to pursue the Class C liquor license that was approved on April 27, 2009. However, on Monday, March 8, 2010, the Liquor Control Commission investigator assigned to the liquor license review was contacted by the City Clerk's, and the City was informed that no communication had taken place. The Police Department has also inquired with the MLCC and has been informed there is NOT a current request for investigation.

As of March 22, 2010, 11 months have elapsed since Council approved the recommendation for a Quota Class C liquor license, and the license has not been issued by the Liquor Control Commission due to lack of response by the applicant. The City of Novi has 1 Quota license remaining.

A proposed resolution to rescind the Council's previous approval of issuance of the Liquor License, unless additional efforts to secure the license from the Commission are undertaken, is attached for Council's consideration.

RECOMMENDED ACTION: Consideration of adopting a resolution to rescind City's April 27, 2009 approval to issue a Class C Liquor License to Fox Run Village, Inc., given the failure of the applicant to take steps to secure issuance of such license by the Michigan Liquor Control Commission, unless efforts to secure the license from the Commission are undertaken.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION RESCINDING APPROVAL OF
UN-ISSUED CLASS C LIQUOR LICENSE

Minutes of a _____ Meeting of the City Council of the City of Novi,
County of Oakland, Michigan, held in the City Hall in said City on _____, 2010,
at _____ o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____
_____ and supported by Councilmember _____.

RECITALS:

1. Fox Run Village, Inc., applied to the City of Novi for approval of a Class C quota liquor license with Sunday sales, dance, official (food), and entertainment permits for the facility located at 41100 Fox Run Road, Novi, Michigan 48377.
2. During the application process and at the hearing conducted by the City Council on April 27, 2009, Fox Run represented that, if the City Council approved the issuance of the quota liquor license, the facility would be open to the public.
3. Fox Run further indicated to the City that the area to be licensed had previously been improved and operated under a club license (i.e., not a Class C quota license), but that the Fox Run had been informed by the state regulatory agency, the Liquor Control Commission, that the club license had been issued in error. Fox Run therefore was requesting the Class C quota

liquor license to allow it to continue operations of the facility, and publicly recognized that the “trade off” for getting the City’s assistance in that regard would be for the facility to be generally open to the public.

4. At the time the City Council approved issuance of the Class C quota liquor license, the City had available only three quota licenses; the City now has one license available.

5. Without the indication in the application and publicly that the facility receiving the quota liquor license would be open to the public, the City Council would not have granted approval of the Class C quota liquor license.

6. Although the Council approval was granted on April 27, 2009, the license has not been put into use; that is, it has not been issued to the applicant by the Liquor Control Commission. Based upon information from the applicant, it appears that the applicant is seeking to avoid the facility at issue having to be open to patronage by the general public as previously represented. The City Council has been informed that the applicant has sought an amendment to the State Liquor Control Code, MCL 436.1101 *et seq.*, that would make a senior citizen facility such as Fox Run Village eligible for a private license, which would not require the facility to be open to the public.

7. While it is pursuing that possible amendment to the state statute, Fox Run is not undertaking any activity to actually secure issuance of the Class C liquor license from the Liquor Control Commission and is not utilizing the Class C quote liquor license approved by the City Council. In fact, the applicant has been sent a notice by the Liquor Control Commission that its application is deficient because it is not being timely pursued.

8. Representatives of Fox Run have indicated to the City that the permit will be pursued; however, no tangible activities toward that end are being undertaken, and the City’s Class C license is therefore in a state of uncertainty—a situation that is not benefitting the City as represented by the applicant.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Novi finds as follows:

A. That the applicant, Fox Run Village, Inc., has not pursued, as represented, issuance of a Class C quota liquor license in accordance with the City's motion to approve its application for same.

B. That it does not appear to be the current intention of the applicant to use the Class C quota liquor license approved by the City Council for a facility open to the public as represented to the City Council.

D. That the City would not have approved issuance by the Liquor Control Commission of the Class C quota liquor license for the Fox Run Village facility in the absence of such a representation, since the City only has a limited number of Class C quota liquor licenses remaining.

D. That it is not in the best interests of the City of Novi to have approved issuance of one of its last remaining Class C quota liquor licenses to a facility that would not be open to the general public since the issuance from the Liquor Control Commission is pending without resolution.

E. That since the Liquor Control Commission has not been asked to act on the Fox Run application, rescission of the motion to approve the issuance is permissible and authorized.

F. That, given the nature of the City's interests and applicant's operation, the City believes that it is appropriate to extend a *final period of time* in which the applicant may make all reasonable efforts to secure the issuance of the license by the Commission, and that the City finds that 60 days is an appropriate period of time to allow such efforts to occur.

NOW, THEREFORE, on the basis of the foregoing findings, the City Council of the City of Novi hereby *rescinds* its approval of the Class C quota liquor license of April 27, 2009 and hereby requests that the Liquor Control Commission *deny* the requested license; provided,

however, that if the applicant provides, within 60 days of the date hereof, evidence to establish, to the satisfaction of the City Manager that it has undertaken all reasonable efforts to secure the license, then this resolution shall be null and void upon notice by the City Manager to the City Council of same.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

RESOLUTION DECLARED ADOPTED.

MARYANNE CORNELIUS, CITY CLERK

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Novi at _____ meeting held this _____ day of _____, 2010.

MARYANNE CORNELIUS, CITY CLERK