

STAFF REPORT

Date: July 27, 2016

To: Mayor and City Council

Thru: Andrew Clinger, City Manager

Subject: Staff Report (For Possible Action): Approval of Privileged Business Licenses

From: Michael Chaump, Business Relations Manager

City of Reno Strategic Priority Alignment:

Summary: City Council approval of Privileged License applications is required for the licenses to be issued. Staff recommends Council approval of the Privileged License application.

Background: Reno Municipal Code (RMC) 5.05.008 states that license applications for Gaming, Liquor, Medical Marijuana Establishments, Pawnbroker, Secondhand Merchandise, Escort Services and Interactive Cabaret must be approved by the City Council, as well as other relevant reviewing bodies. Applications must also meet the initial requirements set forth by Reno City Council in RMC Titles 4 and 5.

Discussion: Applications have been processed by the Business License Division and approved by the Community Development-Planning Division. City Council has requested that its review not delay the licensing process, even if not all other relevant reviews have been completed. These reviews may occur in parallel or some may be consecutive based on completion of applicable inspection. Accordingly, some relevant reviews may not have been completed at this time, and even if City Council approves a license, it may still be denied by the City Business License Division. Such additional reviewing bodies may include, but are not limited to: building, fire, police and relevant district, county and state agencies. All required fees have been submitted with the applications.

Police background checks are often lengthy. Once all other relevant reviews have been completed, an interim license may be issued before completion of the police background check. However, an interim license is subject to summary revocation if the background check reveals grounds for denial.

Individual business license information can be found under their specifically named agenda

items.

Legal Implications: Legal review completed for compliance with City procedures and Nevada Law. RMC 5.05.008(k) provides that City Council approval is required for gaming, liquor, medical marijuana establishments, pawnbroker, secondhand merchandise, escort services, and interactive cabaret licenses. City Council may deny a license for good cause, which is defined in RMC 5.05.008(j), to include but not be limited to:

(1) The application is incomplete or contains false, misleading or fraudulent statements.

(2) The applicant fails to satisfy any qualification or requirement imposed by this title, local, state or federal law, regulation or administrative policy pertaining to such activities.

(3) The applicant has been subject, in any jurisdiction, to administrative action of any kind imposing fines or other discipline relating to the operation of a business licensed in the jurisdiction, or denied a license or work card, due to suitability issues.

(4) The applicant has engaged in deceptive practices upon the public.

(5) The applicant has, within the five years immediately preceding the date of the application, been convicted of any of the following criminal offenses, regardless of the jurisdiction of the conviction:

a. A felony or any crime which, under the laws of this state, would amount to a felony;

b. Any crime of which theft, fraud or intent to defraud is an element;

c. Unlawfully possessing or distributing a controlled substance;

d. Solicitation, prostitution, or pandering;

e. Any sex offense requiring the applicant to register under N.R.S. 179D.441 to 179D.470, if the applicant has been classified by the State as a Tier 1 or below; or

(6) A person who, within the ten years immediately preceding the date of the application, has been convicted of any sex offense requiring the applicant to register under N.R.S. 179D.441 to 179D.470, if the applicant has been classified by the state as a Tier 2 or Tier 3 offender.

(7) Any cause reasonably related to furtherance of the public welfare.

In addition, under RMC Sec. 5.21.013, the City Council may, in its discretion, approve, deny, condition, limit, or take such other action with respect to the applications for medical marijuana establishment licenses as it considers appropriate to protect the public

health, safety and general welfare of the citizens of the city and to regulate the use of buildings, structures, land use, business and other purposes.

Cases generally construe “good cause” as having two components: 1) the reason for denial must be reasonably related to the public welfare, and 2) the decision must be supported by substantial evidence and not be arbitrary or capricious. Substantial evidence requires more than the mere statements of interested parties and their counsel and the opinions of council members. *City Council, Reno v. Travelers Hotel*, 100 Nev. 436 (1984). Accordingly, a sufficient factual record should be developed before a privileged license is denied for “good cause”. A delay (continuance) to gather more information or evidence is permissible provided the delay is not unreasonable in duration or purpose.

City Council has asked to conduct its review promptly, even if not all other reviews have been completed. This practice is customer friendly; but it could result in possibly relevant information not being presented to City Council in its consideration of “good cause”.

Other grounds for denial appear in the RMC Chapters governing specific privileged licenses. Most notably, RMC 5.07.040 provides:

No new on-premises wine and beer licenses, on-premises alcoholic beverage licenses, or cabaret licenses shall be issued authorizing the sale of any alcoholic beverage for consumption on the premises for any location or premises which the city council deems unfavorable or undesirable due to its proximity to any schoolhouse or schoolroom used by any public or common school, or church, or its location in an area that is predominantly residential or, because of the specifics of the proposed use, either detrimental to the surrounding properties or burdensome for police monitoring purposes. ...

Any denial of a license must be consistent with Equal Protection limitations. Applicants in similar situations must be treated substantially the same. However, factual differences which rationally support different treatment to further a governmental interest should be upheld.

Recommendation: Staff recommends Council approve the privileged license applications, subject to the Police department background investigation, other required recommendations, and city licensing office approval.

Proposed Motion: I move to approve the staff recommendation.