

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	October 26, 2009
	Agenda Item No. 32 Roll Call No. <u>09-</u> Communication No. <u>09-736</u> Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Approval of the lease of a portion of the sidewalk that is 742 square feet in size located in front of 216 Court Avenue, Legends, for use as a sidewalk café serving alcohol.

SYNOPSIS:

The applicant, Mark Rogers, owner of Rogers Entertainment, Ltd, dba as Legends, located at 216 Court Avenue, has requested the re-release of a portion of the right of way (742 sq ft) for use as a sidewalk café serving alcohol. The area had previously been vacated on April 25, 1988 by ordinance 11,160 and last leased to the adjacent property by the City Council on April 4, 1994 by Roll Call 94-1261.

FISCAL IMPACT: Increase in revenue to the City for the lease of the vacated right of way.

Amount: \$1,146.34 per year lease fee for three years paid to the City or \$3,439 for 3 years.

Funding Source: FY 2010 Operating Budget, GE001, CDD130100, 460145, page 62.

ADDITIONAL INFORMATION:

The Design Standards for Sidewalk Cafés were adopted by the City Council on July 10, 2006, by Roll Call No. 06-136. This area was last approved for use as a sidewalk café on May 23, 2005, by Roll Call 05-1293. This area has been used or leased as a sidewalk café continuously since 1988. This area meets all current requirements for sidewalk cafés serving alcohol. All required lease fees have been paid.

In addition, concerns have been raised about the cleanliness and maintenance of the leased and private area abutting Court Avenue. Section 5 – Duty to Maintain and the Right to Inspect - of the lease agreement states in part that “Lessee shall have the duty, at the Lessee’s sole expense, to maintain and repair the Leased Premises... to remove any, ice, snow and debris from the Leased Premises...” If violations of these conditions continue to exist or are not maintained in accordance with the lease of the property from the City, the lease can be terminated upon providing the lessee with written notification specifying the default issues, unless the default(s) are remedied within such grace period. The City Council could also choose not to renew the lease once it comes due again.

PREVIOUS COUNCIL ACTION(S):

Date: September 28, 2009

Roll Call Number: 09-1763

Action: Sidewalk Café Lease, serving alcohol, for Star Bar at 2811 Ingersoll Avenue. (Council Communication No. 09-675) Moved by Coleman to adopt. Motion Carried 7-0.

Date: August 24, 2009

Roll Call Number: 09-1568

Action: Sidewalk Café Lease serving alcohol for Spaghetti Works with I-80 Spaghetti Works Corp. at 310 Court Avenue. (Council Communication No. 09-617) Moved by Kiernan to adopt. Motion Carried 7-0.

Date: July 27, 2009

Roll Call Number: 09-1345

Action: Sidewalk Café Lease serving alcohol for Sbrocco Restaurant with Full Court Press, Inc. at 208 Court Avenue. (Council Communication No. 09-516) Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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