

BUSINESS LICENSE HEARING MINUTES

MAY 19, JULY 21, SEPTEMBER 22, 2009

A Business License Hearing of the Council of the City of Vancouver was held on Tuesday, May 19, 2009, at 9:40 am, in the Council Chamber, Third Floor, City Hall, to determine whether or not 2009 City of Vancouver business licenses should be granted to Avalon Sunsplash Ltd. (the "Licensee"), for a Retail Dealer - Food (Convenience Store) for business premises located at 316 West Hastings Street and for a Retail Dealer and Administrative Offices in premises located at 303 and 307 West Hastings Street, Vancouver, British Columbia. Subsequently, the meeting was recessed and reconvened in the Council Chamber on Tuesday, July 21, 2009 at 9:30 am, and on September 22, 2009 at 9:30 am. The minutes are consolidated for ease of reference.

**PRESENT:** Councillor Geoff Meggs, Chair  
Councillor Andrea Reimer  
Councillor Ellen Woodsworth

**CITY CLERK'S OFFICE:** Tarja Tuominen, Meeting Coordinator (May 19, 2009)  
Cobi Falconer, Meeting Coordinator (May 19, 2009)  
Lori Isfeld, Meeting Coordinator (July 21 and September 22, 2009)

\* \* \* \* \*

*Catherine Kinahan, counsel for the City, noted that while cameras are traditionally not allowed at Business License Hearings, this decision is within Council's discretion. However, Ms. Kinahan requested that the police officers testifying not be filmed as an issue of public safety. Counsel for the licensee advised that his client had no objection. The Panel agreed by consensus that cameras be allowed at this Business License Hearing.*

\* \* \* \* \*

1. Avalon Sunsplash Ltd., dba 420 Convenience Store at 316 West Hastings Street and Cannabis Culture Magazine and Pot TV (Administrative Office) at #201 - 303 West Hastings Street, and Marc Emery's Cannabis Culture Headquarters (Retail Store) at 307 West Hastings Street

The Business License Hearing Panel had before it for consideration an Evidence Brief, prepared by the City of Vancouver's Legal Department, which contained the following material (*on file in the City Clerk's Office*) and the evidence of witnesses:

Tab

1 License & Inspections Department

Prism Printout showing addresses  
Company Search - Avalon Sunsplash Ltd.  
Title Search - S.C.Y. Chow Enterprises Ltd.

1 License & Inspections Department - con't

Business License Application for 324 W Hastings dated July 1, 1994  
1994 Business License for 324 W Hastings dated June 27, 1994  
1995 Business License for 324 W Hastings dated February 7, 1995  
Certificate of Incorporation dated November 2, 1995  
1995 Business License for 21 Water dated November 22, 1995  
Letter to Paul Teichroeb from Sergeant Jens Linde dated January 10, 1996  
1996 Business License for 21 Water dated March 6, 1996  
Business License Application for 307 W Hastings dated November 1, 1996  
Business License Application for 307 W Hastings dated January 13, 1997  
1997 Business License for 307 W Hastings dated February 5, 1997  
1997 Business License for 21 Water dated April 24, 1997  
Occupancy Permit No. OC405881 dated July 2, 1997 with Application  
Memo to Paul Teichroeb from Inspector D. Jones dated July 17, 1997  
Memo to Paul Teichroeb from Inspector D. Jones dated July 18, 1997 with information attached for Cannabis Café  
Letter to Marc Emery from Paul Teichroeb dated July 31, 1997  
Letter to Paul Teichroeb from Marc Emery dated August 1, 1997  
Letter to Paul Teichroeb from Jonathan Baker dated August 12, 1997  
Letter to Paul Teichroeb from Sergeant Hetherington dated December 18, 1997  
Typed Notes of Guy Gusdal, License Coordinator dated Dec 18 & 19, 1997  
Photographs dated December 18, 1997  
Typed Notes of Guy Gusdal dated February 17, 1998  
Letter to Marc Emery from Paul Teichroeb dated February 17, 1998  
Letter to Brent Lokash from Paul Teichroeb dated May 13, 1998  
Letter to Paul Teichroeb from Brent Lokash dated May 20, 1998  
Letter to Shelley Francis from Paul Teichroeb dated July 16, 1998  
Letter to Paul Teichroeb from Andrea Turton dated October 29, 2001  
Copy of Business Cards for Michelle Rainey-Fenkarek and Rob Gillespie  
Letter to Paul Teichroeb from Rob Gillespie dated November 15, 2001  
Letter to Paul Teichroeb from Andrea Turton dated November 19, 2001  
Letter to Andrea Turton from Paul Teichroeb dated November 22, 2001  
Inspection Report #IR379065 dated October 29, 2007  
L & I Inspection Report #IR372722 dated March 7, 2008  
Business License Application for 316 W Hastings dated April 29, 2008  
Handwritten Notes dated May 2, 8, and 9, 2008  
Police Background Check for Marc Emery dated May 9, 2008  
Copy of Driver's License of Marc Emery  
Fax to Jodyne Keller from Susan Smith dated May 13, 2008 including handwritten notes from Jodyne Keller  
Inspection Report #IR379090 dated May 15, 2008  
Copy of Business Cards for Dr. Jaymie Matthews and Libby Davies  
E-mail to Susan Smith from Adrian Buchanan dated June 20, 2008  
Property Use Inspection Report #UI35937 dated July 10, 2008  
Photographs taken July 10, 2008  
1<sup>st</sup> E-mail to Charlene Cranton from Barb Windsor dated July 15, 2008 1:10 pm  
2<sup>nd</sup> E-mail to Charlene Cranton from Barb Windsor dated July 15, 2008 1:10 pm

1 License & Inspections Department - con't

3<sup>rd</sup> E-mail to Charlene Cranton from Barb Windsor dated July 15, 2008 1:10 pm  
4<sup>th</sup> E-mail to Charlene Cranton from Barb Windsor dated July 15, 2008 1:12 pm,  
including photographs  
5<sup>th</sup> E-mail to Charlene Cranton from Barb Windsor dated July 15, 2008, 1:13 pm  
6<sup>th</sup> E-mail to Charlene Cranton from Barb Windsor dated July 15, 2008, 1:14 pm  
Flyer titled "VETO Marc Emery from the Drive!! NOW  
Letter to Marc Emery from Barb Windsor dated July 16, 2008  
Photograph taken July 16, 2008  
E-mail to Adrian Buchanan from Jacob Hunter dated July 16, 2008  
Letter to Barb Windsor from Marc Emery dated July 16, 2008  
Inspection Report #IR379093 dated July 17, 2008  
Letter to Marc Emery from Barb Windsor dated July 18, 2008  
E-mail to Barb Windsor from Adam Palmer dated August 8, 2008  
Letter to general public from Marc Emery dated September 11, 2008  
Inspection Report #IR380201 dated September 12, 2008  
Diagram titled 303 W Hastings  
Diagram with additional handwritten notes  
Diagram with further additional handwritten notes  
Photographs taken September 12, 2008  
Letter to Andrea Turton from Paul Teichroeb which includes handwritten notes dated  
September 12, 2008  
Co-ordinated Report (Building) #CB10506 dated September 13, 2008  
E-mail to Barb Windsor from Warren Lemcke dated September 19, 2008  
2<sup>nd</sup> e-mail to Barb Windsor from Warren Lemcke dated September 19, 2008  
Photographs  
Order to S.C.Y. Chow from W.M. Johnston dated September 23, 2008  
Documents Notes dated September 23, 2008  
Letter to Whom It May Concern from Yue Qin Lin dated October 2, 2008  
Electrical Permit #EL 522141 dated October 2, 2008  
Agent for Owner's Authorization dated October 6, 2008  
Special Inspection Application #IA 408357 dated October 6, 2008  
Letter to Ed Neufeld from Marc Emery dated October 6, 2008  
Property Use Inspection Report #UI 36945 dated October 7, 2008  
Certificate of Electrical Inspection dated October 7, 2008  
Order to S.C.Y. Chow from W.M. Johnston dated October 9, 2008  
Handwritten Notes dated October 15, 2008  
Order to Marc Emery and Kirk Tousaw from Barb Windsor dated Dec 5, 2008  
Business License Application for #201 - 303 W Hastings dated Dec 10, 2008  
Business License Application for 307 W Hastings dated Dec 10, 2008 including  
Emergency Reference for Vancouver Police  
Handwritten Notes dated Dec 17, 2008  
Letter to Kirk Tousaw from Barb Windsor dated Dec 22, 2008  
License Printout of 303 W Hastings from 1999 - 2009  
License Printout of 307 W Hastings from 1997 - 2009  
Photograph dated February 25, 2009  
Inspection Report #IR 352482 dated February 26, 2009

**1 License & Inspections Department - con't**

Photographs dated February 26, 2009  
Development and/or Building Application Form dated March 2, 2009 with letter -  
Lessee's Undertaking  
E-mail to Mike Collister from Kirk Tousaw dated March 13, 2009  
Prism Inquiry Note dated March 27, 2009  
Building Inspection Report #BI 35969 dated April 6, 2009  
Photographs dated April 6, 2009  
Property Use Inspection Report #UI 39143 dated April 14, 2009  
Photographs taken April 14, 2009  
Order to Marc Emery from W.M. Johnston dated May 4, 2009  
Order to S.C.Y. Chow from W.M. Johnston dated June 4, 2009  
Property Report  
Copies of Plans  
Building Inspection Report #BI 36408 dated June 8, 2009  
Property Use Inspection Report #UI 39724 dated June 9, 2009  
Building Inspection Report #BI 36659 dated July 10, 2009  
Photographs

**2 Police Department**

Criminal Convictions and Absolute Discharges dated between 1998 - 2004  
Local Criminal Record C.R. #192175 dated 1996 - 1998  
Warrant to Search 324 W Hastings Street dated January 3, 1996  
Warrant to Search 405 - 21 Water Street dated January 3, 1996  
Police Report #96-3267 dated January 4, 1996  
List of Seeds - report #96-3267  
Certificate of Convictions - 7 counts  
Admissions of Fact dated November 18, 1996  
Health Canada Certificate of Analyst #9513031 - #9513039 all forms dated August 23,  
1996  
Certificate of Convictions - 7 counts  
Information to Obtain a Search Warrant dated December 16, 1997  
Warrant to Search dated December 16, 1997  
Police Report #97-303994 dated December 16, 1997  
Exhibit Flow Chart - report #97-303994  
Police Report #97-309657 dated December 16, 1997  
Certificate of Conviction - 1 count - #97-309657  
Record of Proceedings - #97-309657  
Police Report #98-22033 dated January 17, 1998  
RCMP Info re: #98-22033, 2 pages  
Catalog - the Little Grow Shop  
Blaine Police - letter to Ian Thurber - Report #98-22033  
Photographs re: Blaine Police Report  
Certificate of Convictions - 2 counts - #98-22033  
Record of Proceedings - #98-22033  
Warrant to Search 207 - 309 W Cordova dated September 2, 1998

**2     Police Department - con't**

Warrant to Search 329 - 309 W Cordova dated September 2, 1998  
Police Report #98-208218 dated September 2, 1998  
Certificate of Convictions - 6 counts - #98-208218  
Record of Proceedings - #98-208218  
Saskatoon Police Service Report dated March 22, 2004  
Certificate of Conviction  
Police Report #2007-201048 dated October 5, 2007  
Police Report #2007-243826 dated December 6, 2007  
Police Report #2007-249826 dated December 15, 2007  
Recognizance of Bail dated July 24, 2008  
Police Report #2008-130368 dated July 8, 2008  
E-mail to Barb Windsor from Adam Palmer dated August 8, 2008  
E-mail to Neil Munro from Jacob Hunter dated August 14, 2008  
Police Report #2009-5435 dated January 10, 2009  
Photograph  
Police Report #2009-25414 dated February 12, 2009  
Photographs dated February 12, 2009  
Cost Estimate from Allison Metzack to Jodyne Keller dated August 12, 2009

**3     Internet Articles**

Marc Emery: The Prince of Pot speaks out dated Jan 1, 1999  
Marc Emery, Canada's Prince of Pot dated Oct 20, 2002  
Whitehorse, Yukon News: "We have a Police State Here" dated Aug 29, 2008  
Marc Emery Direct Marijuana Seeds

**4     Excerpts from Cannabis Culture Magazine, Issue #72 Fall of 2008**

Cover Page  
Page 3 - Contents  
Page 5 - Credits  
Page 6 - Letter from the Editor  
Page 60 - Cannabis Culture Headquarters  
Page 61 - Vapour Lounge  
Page 89 - Subscriptions  
Page 90 - Cannabis Culture Goods

Catherine Kinahan, Assistant Director, Enforcement and Prosecutions, Legal Services was present on behalf of the City of Vancouver. Marc Emery (the "licensee") was present and represented by Kirk I. Tousaw, Barrister.

Ms. Kinahan advised that this matter had been referred to City Council at the request of the License Applicant, upon the refusal by the Chief License Inspector of the City of Vancouver to issue business licenses to the License Applicant pursuant to section 4(2) of the *License By-law* of the City of Vancouver. Ms. Kinahan also noted, as set out in Section 275 of the *Vancouver Charter*, Council has broad discretion to refuse, revoke, or suspend a license.

Ms. Kinahan referred the Panel to evidence before it as set out in documents which were considered by the Chief License Inspector in refusing to issue the business Licenses pursuant to section 4(2) of the *License By-law*, letters from the Chief License Inspector and the evidence of witnesses, which set out the allegations that:

- a) the sole director of the License Applicant has been convicted of an offence within the preceding five years under a Statute of Canada, to wit, trafficking in a scheduled substance, in contravention of the Controlled Drugs and Substances Act, on August 19, 2004, in Saskatoon, Saskatchewan;
- (b) the Chief License Inspector is of the opinion that the conviction is related to the Business because the sole director of the License Applicant has a history of encouraging, facilitating, permitting and promoting cultivation, possession and consumption of illicit drugs on and from licensed premises in Vancouver;
- (c) the sole director of the License Applicant has been convicted of other offences as the result of his unlawful activities on licensed premises in Vancouver;
- (d) the sole director of the License Applicant has a history of encouraging, facilitating, permitting and promoting cultivation, possession and consumption of illicit drugs on and from unlicensed premises in Vancouver;
- (e) the License Applicant operates a vapour lounge on the premises at 307 West Hastings and encourages, facilitates and permits consumption of illicit drugs, which attracts criminal activity, including drug trafficking, to the neighborhood, and causes a drain on police and City resources;
- (f) the License Applicant and the sole director of the License Applicant have a history of failing to comply with City by-laws in regards to the business premises and other premises; and
- (g) the sole director of the License Applicant is presently bound by a recognizance which prohibits him from attending the Premises at 316 West Hastings Street.

On July 21, 2009, Ms. Kinahan advised the appeals for refusal of business licenses for the retail business at 316 West Hastings Street and the Administrative Offices at 303 West Hastings Street were withdrawn by the licensee, leaving one appeal before the Panel, in regard to the retail business at 307 West Hastings Street.

Mr. Tousaw confirmed the businesses at 303 and 316 West Hastings had been closed due to the uncertainty in meeting the City's requirements and that new licenses would be sought once the issues were rectified through the upcoming business development phase.

In support of the allegations set out in the above-noted reports and evidence, Ms. Kinahan called the following witness:

May 19, 2009

1. Barb Windsor, Chief License Inspector, By-Law Compliance Division

July 21, 2009

2. Constable Janice Bencze (#1970), Vancouver Police Department
3. Sergeant Neil Munro (#1147), Vancouver Police Department
4. Constable Linda Grange (#2230), Vancouver Police Department
5. Constable Courtney Cordrey (# 2568), Vancouver Police Department
6. Constable Erik Kerasiotis (#2287), Vancouver Police Department

Mr. Tousaw and the Panel also directed questions to the witness.

On September 22, 2009, Mr. Tousaw advised that on September 28, 2009, Mr. Emery is surrendering himself to the authorities of the BC Supreme Court in order to serve a five year prison term in the USA. In response to questions from the Panel, Mr. Tousaw advised directorship of the business would subsequently be transferred to Jodi Emery.

In response to questions from the Panel, Barb Windsor, Chief License Inspector, advised that approval of transferring the business license would be subject to a police background check of Ms. Emery, and that this is standard practice in order to determine how the business would be operated under the new directorship. After investigation and a meeting with the applicant it would be determined whether to grant the license or refer the matter to Council.

\* \* \* \* \*

*The Panel agreed to recess at 9:50 am and reconvened at 10:00 am  
with all Panel members present.*

\* \* \* \* \*

Following the recess, Mr. Tousaw advised Avalon Sunsplash had agreed to withdraw the license application for the business at 307 West Hastings Street until directorship transfer and corporate structure transactions were complete, upon which time a new business license application will be submitted.

The Business License Hearing Panel recessed at:

12:27 pm on May 19, 2009;  
11:35 am on July 21, 2009; and  
adjourned at 10:15 am on September 22, 2009

\* \* \* \* \*