

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 13

Ordinance/Resolution# 12-122

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of January 17, 2012
(Adoption Date)

TITLE: A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP OF STATE LIQUOR LICENSE #2752 TO SUNILABEN PATEL D/B/A BEST WESTERN MISSION INN, LOCATED AT 1765 SOUTH MAIN STREET, LAS CRUCES, NEW MEXICO.

PURPOSE(S) OF ACTION:

To approve, disapprove, or not approve the transfer of ownership of a liquor license.

COUNCIL DISTRICT: 4		
<u>Drafter/Staff Contact:</u> Monica Campbell	<u>Department/Section:</u> Legal	<u>Phone:</u> 541-2128
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to New Mexico Statutes, an application for the transfer of ownership of a liquor license must be accompanied by a resolution of the City Council approving of and consenting to the transfer after a public hearing.

Sunilaben Patel d/b/a Best Western Mission Inn applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico ("Alcohol and Gaming") for the transfer of ownership of State Liquor License #2752 located at 1765 South Main Street, Las Cruces, New Mexico. Alcohol and Gaming granted preliminary approval on December 2, 2011.

The City Council is required to hold a public hearing within 45 days after the date of receipt of the preliminary approval from Alcohol and Gaming. A public hearing to review this issue is scheduled during the regular City Council meeting to be held on Tuesday, January 17, 2011, beginning at 1:00 p.m., in the City Council Chambers, City Hall, 700 North Main Street, Las Cruces, New Mexico. Notice of this public hearing was published in the *Las Cruces Bulletin* on December 30, 2011 and January 6, 2012, and in the *Las Cruces Sun-News* on January 1 and 8, 2012.

Council may approve or disapprove the transfer. However, Council's disapproval must be based on substantial evidence that the transfer of ownership of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.

Council may also fail to either approve or disapprove the license. If Council fails to approve or disapprove the license within 30 days after the public hearing, the Director of Alcohol and Gaming may give final approval of the license.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A". Alcohol and Gaming's letter with the application.
3. Attachment "1". Notice of Intent to Adopt published in the *Las Cruces Bulletin*.
4. Attachment "2". Notice of Intent to Adopt published in the *Las Cruces Sun-News*.
5. Attachment "3". Traffic Impact Report from the Traffic Engineering Section.
6. Attachment "4". Liquor License Impact Report (zoning) from Development Services.
7. Attachment "5". Business Registration Report from Development Services.
8. Attachment "6". Criminal Activity Report from the Las Cruces Police Department.
9. Attachment "7". Fire and Safety Compliance Report from the Las Cruces Fire Department.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below	
	No	<input type="checkbox"/>	If No, then check one below:	
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____	
	<input type="checkbox"/>	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)	
			<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>1015-10180020-520002, Permits-Liquor Licenses</u> in the amount of <u>\$300.00</u> for FY12.	
	No	<input type="checkbox"/>	There is no new revenue generated by this action.	

BUDGET NARRATIVE:

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve of and consent to the transfer of ownership of State Liquor License #2752 and Alcohol and Gaming will continue with the application process.
2. Vote "No"; this must be based on substantial evidence that the transfer of ownership of the license would adversely affect the health, safety or welfare of the citizens of the City of Las Cruces.
3. Vote to "Amend"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.
4. Vote to "Table"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.

REFERENCE INFORMATION:

N/A

(Continue on additional sheets as required)

RESOLUTION NO. 12- 122**A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP OF STATE LIQUOR LICENSE #2752 TO SUNILABEN PATEL D/B/A BEST WESTERN MISSION INN, LOCATED AT 1765 SOUTH MAIN STREET, LAS CRUCES, NEW MEXICO.**

The City Council is informed that:

WHEREAS, Sunilaben Patel d/b/a Best Western Mission Inn, located at 1765 South Main Street, Las Cruces, New Mexico, applied to the Alcohol and Gaming Division of the Regulation and Licensing Department of the State of New Mexico (“Alcohol and Gaming”) for the transfer of ownership of State Liquor License #2752; and

WHEREAS, on December 2, 2011, Alcohol and Gaming granted preliminary approval for the transfer of ownership of the license, as evidenced by their letter and the application attached hereto; and

WHEREAS, pursuant to law, the application for transfer of ownership of a liquor license must be accompanied by a resolution of the City Council approving of and consenting to the transfer after a public hearing upon reasonable public notice of such hearing; and

WHEREAS, the City Council did on this date hold a public hearing after reasonable public notice setting forth the appropriate information concerning the public hearing. The City Council has considered the transfer of ownership of the liquor license and it has determined that the approval of said license is not detrimental to the public health, safety or welfare of the City of Las Cruces.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the transfer of State Liquor License #2752 to Sunilaben Patel d/b/a Best Western Mission Inn, located at 1765 South Main Street, Las Cruces, New Mexico, is hereby approved.

(II)

THAT a copy of this resolution shall be conveyed to the Director of the Alcohol and Gaming Division of the Regulation and Licensing Department, Post Office Box 25101, Santa Fe, New Mexico 87504-5101.

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED on this 17 day of January 2012.

APPROVED:

ATTEST:

Mayor

City Clerk

(SEAL)

VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:


City Attorney



431

New Mexico Regulation and Licensing Department

ALCOHOL AND GAMING DIVISION

Toney Anaya Building ▪ 2550 Cerrillos Road ▪ Santa Fe, New Mexico 87505
(505) 476-4875 ▪ Fax (505) 476-4595 ▪ www.rld.state.nm.us/agd

December 2, 2011

Suzanna Martinez
GOVERNOR

J. Dee Dennis, Jr.
SUPERINTENDENT

Steven A. Reinhart, Esq.
ACTING DIRECTOR

Certified Mail No: 7009 2820 0001 0028 6212

City of Las Cruces
Attn: Ester Martinez, Clerk
PO Box 20000
Las Cruces, NM 88004

Re: Lic. No./App. No. 2752/796620
Applicant Name: Sunilaben Patel
Doing Business As: Best Western Mission Inn
Proposed Location: 1765 S. Main Street, Las Cruces, NM

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses. *(Please review the revised instructions for approval or disapproval below.)

Greetings:

The Director of the Alcohol and Gaming Division has granted Preliminary Approval for the referenced application and is being forwarded to you in accordance with Section 60-6B-4 NMSA of the Liquor Control Act.

Within forty-five days after receipt of a notice of preliminary approval from the Alcohol and Gaming Division, the governing body shall hold a public hearing in the question of whether the department should approve the proposed issuance or transfer. Notice of the public hearing required by the Liquor Control Act shall be given by the governing body by publishing a notice of the date, time and place of the hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the territorial limits of the governing body, which requires that two weeks of publication must be satisfied before a hearing can be conducted. The notice shall include: (A) Name and address of the Applicant/Licensee; (B) The action proposed to be taken by the Alcohol and Gaming Division; (C) The location of the licensed premises. The governing body is required to send notice by certified mail to the applicant of the date, time and place of the public hearing. The governing body may designate a hearing officer to conduct the hearing. A record shall be made of the hearing.

The applicant is requesting a Transfer of Ownership of a Liquor License:

The governing body may disapprove the issuance or transfer of the license if:

The proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico. (The governing body may disapprove if the proposed location is within 300 feet of a church or school unless the license has been located at this

Alcohol and Gaming Division
(505) 476-4875

Boards and Commissions Division
(505) 476-4600

Construction Industries Division
(505) 476-4700

Financial Institutions Division
(505) 476-4885

Manufactured Housing Division
(505) 476-4770

Securities Division
(505) 476-4580

Administrative Services Division
(505) 476-4800

location prior to 1981 or unless the applicant/licensee has obtained a waiver from the local option district governing body for the proposed licensed premises.)

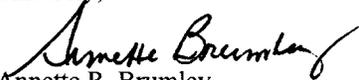
The issuance or transfer would be in violation of a zoning or other ordinance of the governing body. The governing body may disapprove if the proposed location is not properly zoned. Because this office is in receipt of a zoning statement from the governing body, this is not a basis for disapproval.

The issuance would be detrimental to the public health, safety or morals of the residents of the local option district. Disapproval by the governing body on public health, safety or morals must be based on and supported by substantial evidence pertaining to the specific prospective transferee or location and a copy of the record must be submitted to the Alcohol and Gaming Division.

*Within thirty (30) days after the public hearing, the governing body shall notify the Alcohol and Gaming Division *in writing* as to whether the local governing body has approved or disapproved the issuance of transfer of the license *and* by signing the enclosed original Page 1 of the application. *The letter of approval/disapproval and the Page 1 must be returned together with the notice of publication(s).* If the governing body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the public hearing, the director may give final approval to the issuance or transfer of the license.

If the governing body disapproves the issuance or transfer of the license, it shall notify the Alcohol and Gaming Division within thirty (30) days setting forth the reasons for the disapproval. A copy of the minutes of the public hearing shall be submitted to the Alcohol and Gaming Division with the notice of disapproval (page 1 of the application page noting disapproval).

Sincerely,



Annette R. Brumley
Hearing Officer

ENCLOSURES: Original Page 1 of Liquor License Application
Copy of page 2 Premises, Location, Ownership & Description of Premises

State Liquor License # 2752

Application Number 796680

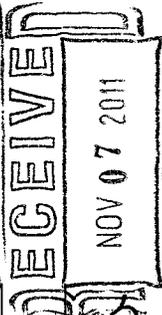
Local Option (AGD use) _____

**STATE OF NEW MEXICO
REGULATION AND LICENSING
DEPARTMENT
ALCOHOL AND GAMING DIVISION**

P.O. BOX 25101 Santa Fe,
New Mexico 87504-5101
505-476-4570

Liquor License Application

Non Refundable Application Fee- \$200.00



ALCOHOL & GAMING DIVISION

200 2/13/11

Application is for: (check one) Change of Stock _____
Transfer of Ownership and Location _____

Change of Officers/Directors _____
Transfer Location _____

Transfer of Ownership of Existing License _____ X
Issue New License _____

Applicant is: Individual Corporation _____

Partnership (General or Limited) _____

Limited Liability Company _____

NAME OF APPLICANT (company or individual):

Sunilaben Patel

ADDRESS (INCLUDING CITY, STATE, ZIP)

1765 S. Main Street, Las Cruces, New Mexico 88005

TELEPHONE NUMBER

469-855-6155

Notice also to: Linda L. Aikin, Esq., 530B Harkle Road, Santa Fe, NM 87505 PH: 505-982-6224 FAX: 505-982-0352

DBA Name to be used: Best Western Mission Inn

Phone Number for licensed premises 575-524-8591

Physical Address Where License is to be used: 1765 S. Main Street, Las Cruces, New Mexico 88005

(Street No./Highway No./State Road/City/County)

Mailing Address: 1765 S. Main Street, Las Cruces, New Mexico 88005

(Street No./P.O. Box/City/State/Zip)

Are alcoholic beverages currently being dispensed at the proposed location? No

If yes, give license number License is in suspension

I, Sunilaben Patel being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents thereof and that all statements therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue said license or may cause such license to be revoked at any time.

Signature of Applicant(s) Sunilaben Patel

Date 10/31/11

Notary Public Use Only

SUBSCRIBED AND SWORN TO before me this 31st day of October, 2011 by Sunilaben Patel

Signing Above

NOTARY PUBLIC: Adrian Gonzales

My Commission Expires: _____



Local Governing Body of: _____

(CITY OR COUNTY) Hearing Held on: _____

PLEASE CHECK ONE: APPROVED DISAPPROVED CITY/COUNTY OFFICIAL (Signature and Title):

AGD Use Only

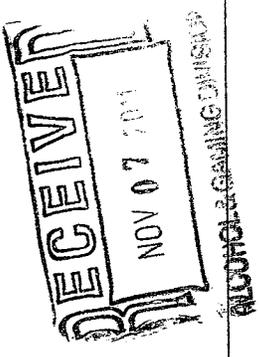
APPROVED _____ DISAPPROVED _____

DIRECTOR APPROVAL

DATE _____

COPY

PREMISES, LOCATION, OWNERSHIP & DESCRIPTION OF PREMISES



1. The land and building which is proposed to be the licensed premise is (check one):

Owned by Applicant _____ Leased by Applicant (attach copy of deed or lease) Other (please provide details) _____

2. If the land and building are not owned by Applicant, please indicate the following:

A. Owner(s) Amar Krishna of New Mexico, Inc.

B. Date and Term of Lease _____ Beginning on the date the AGD approves the Liquor License and may terminate at any time.

At _____ a hand drawn map, zoning map, or other map, showing the location of the proposed premises, and the main adjacent streets, roads or highways, in relation to the closest church and school properties. This map should be drawn on a sheet of paper no larger than 8 1/2 x 11 inches.

3. Premise location is zoned (example C-1) C-3
If the premise is zoned, attach zoning statement from local government giving location address, type of zone and stating whether alcoholic beverages are allowed at proposed location. If there is no zoning, attach confirmation from local government indicating there is no zoning.

4. Distance from nearest church *(Property line of church to licensed premises-shortest distance).
Miles, Feet 1200 feet Heart of the World Church Address-Location of Church 1605 South Valley Drive, Las Cruces, NM

5. Distance from nearest school *(Property line of school to licensed premises-shortest distance).
Miles, Feet 2000 feet Las Cruces High School Address-Location of School 1755 El Paseo Rd., Las Cruces, NM

6. Distance from military installation (Property line of military installation to licensed premises-shortest distance).
Miles 20 Miles Name of Military Installation White Sands Missile Range

7. Attach, on a separate sheet, the detailed floor plan for each level (floor) where alcoholic beverages will be sold or consumed. Show exterior walls, doors, and interior walls. This will be the licensed premise. The floor plan should be no larger than 8 1/2 x 11 inches, and must include the total square footage of premises.

*If the distance is beyond 300 feet, but less than 400 feet, a registered engineer or licensed surveyor must complete a Survey Certificate showing the exact distance.

8. Type of Operation:

Lounge Restaurant Package _____ Racetrack _____ Hotel Other (Please specify) _____



AD FORM
LAS CRUCES BULLETIN
LEGAL CLASSIFIED

City contact: Monica Campbell; 541-2014 / 541-2128

Proof of publication/bill to: City Clerk, PO Box 20000, Las Cruces, NM 88004

Dates to Publish: December 30, 2011 and January 6, 2012

Copy to publish:

NOTICE OF INTENT TO ADOPT

Notice is hereby given that the Las Cruces City Council will hold a Public Hearing to discuss approval or disapproval of the Transfer of Ownership of State Liquor License #2752 to Sunilaben Patel d/b/a Best Western Mission Inn, located at 1765 South Main Street, Las Cruces, New Mexico.

The Public Hearing will be held in conjunction with the regular meeting of the Las Cruces City Council to be held on Tuesday, January 17, 2012, at 1:00 p.m. in the City Council Chambers, 700 North Main Street, City Hall. If passed, the State of New Mexico Regulation & Licensing Department may approve the issuance.

Witness my hand and seal of the City of Las Cruces on this the 12th day of December 2011.



Esther Martinez, CMC, City Clerk



AD FORM
LAS CRUCES SUN NEWS
LEGAL CLASSIFIED

City contact: Monica Campbell; 541-2014 / 541-2128

Account No. 26484 (Bill to City Clerk, PO Box 20000, Las Cruces, NM 88004)

Dates to Publish: January 1 and 8, 2012

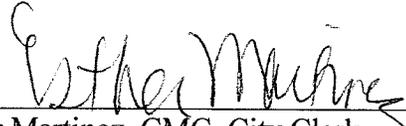
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Esther Martinez, CMC, City Clerk



**INTER-DEPARTMENTAL
MEMORANDUM**

=====

TO: Harry "Pete" Connelly, City Attorney

FROM: Dan Soriano, Traffic Engineer, Public Works 

SUBJECT: Traffic Investigation Report

DATE: December 22, 2011

=====

As requested, Traffic Engineering has completed a traffic investigation for Best Western Mission Inn located at 1765 S. Main St., Las Cruces, New Mexico. The following information is submitted for review:

- South Main Street at this location carries approximately 10,763 vehicles per day.
- Valley Drive is operated as a four lane roadway and primarily serves commercial properties.
- Access to the property in question is off of South Main Street. No potential sight distance or operational problems exist.
- The speed limit on South Main Street is set at 40 mph.

The approval of a Liquor License Transfer at this location does not appear it will adversely impact traffic operations along this segment of roadway.

Should any additional information be needed, please contact me.



City of Las Cruces

To: Harry "Pete" Connelly, City Attorney

From: Lorenzo Vigil, Senior Planning Tech *LV*

Re: Liquor License Impact Report, Best Western Mission Inn

Date: December 30, 2011

M-11-265

Development Services staff has reviewed the request for a transfer of ownership of Liquor License No. 2752 for Sunilaben Patel, d/b/a/ Best Western Inn located at 1765 S. Main St. Because this license is a transfer of ownership request and no actual change in the operation/activities at this location will occur, staff recommends approval of the request.

Cc: Robert Kyle

BUSINESS REGISTRATION REPORT – BEST WESTERN MISSION INN

From: Lora Dunlap

Best Western Mission Inn, 1765 S. Main Street
BR Certificate # 1293 renewed/issued 10/13/2011 & expires 11/30/2012
Liquor License Certificate #6712 renewed/issued 7/13/2011 & expires 06/30/2012

Lora Dunlap
Business Registrations
Community Development
City of Las Cruces
P.O. Box 20000
Las Cruces, NM 88004
Office: 575-541-2287
Fax: 575-528-3155

From: Monica Campbell
Sent: Thursday, December 08, 2011 10:54 AM
To: Lorenzo Vigil; Lora Dunlap
Cc: Robert Kyle
Subject: 2 liquor license report requests

Attached are Alcohol and Gaming's preliminary approval letters with applications for:

- 1) Best Western Mission Inn, 1765 S. Main Street
- 2) Red Hawk Golf Club, 3600 Arroyo Road

Please review the letters and prepare reports for zoning and business registration.

In order to meet the time limits and publication deadlines imposed by law, the reports are due to my attention at the City Attorney's Office on or before **Wednesday, December 28, 2011**. The Council Action packet will be submitted for the January 17, 2012 City Council meeting.

Thank you.

Monica Campbell
Legal Dept. Operations Analyst
City of Las Cruces
575-541-2014 / 575-541-2128
Fax 575-541-2017



LAS CRUCES POLICE DEPARTMENT
PO BOX 20000
217 E. Picacho
Las Cruces, New Mexico 88004

DATE: *December 13, 2011*

TO: *Pete Connelly, City Attorney*

From: *Richard Williams, Chief of Police*

Subject: *Best Western Mission Inn*

I have reviewed all available statistical information obtained from the Las Cruces Police Department in reference to the attached liquor license application for Best Western Mission Inn located at 1765 S. Main St. Las Cruces, NM 88005

No anomalies were found that would warrant denial of this license; therefore, I recommend the liquor license application for Mission Inn be approved.

A handwritten signature in black ink, appearing to be "RW", written over a white background.

Richard Williams
Chief of Police

RECEIVED

DEC 15 2011

CITY ATTORNEY

FIRE AND SAFETY COMPLIANCE REPORT – BEST WESTERN MISSION INN

From: Wally Monsivaiz

Per our conversation the Days Inn de Las Cruces (former Best Western) was inspected and found to have some deficiencies regarding the International Fire Code. They have been given 21 days to correct the items found during our inspection.

From: Monica Campbell

Sent: Thursday, December 08, 2011 10:59 AM

To: Travis Brown; Ted Sweetser; Billy Chaires

Cc: Mary Helen Sarabia

Subject: 2 liquor license report requests

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Monica Campbell
Legal Dept. Operations Analyst
City of Las Cruces
575-541-2014 / 575-541-2128
Fax 575-541-2017