


**STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE  
COUNCIL MEETING OF JANUARY 14, 2014**

**FROM:** Lynn Tracy Nerland, City Attorney   
**DATE:** January 8, 2014  
**SUBJECT:** Minutes for November 12, 2013: Kelly's Card Room

---

**ACTION:**

Approve the minutes for the November 12, 2013 City Council meeting with the following corrections to Exhibit A to Resolution 2013/65 (Attachment A) regarding conditions of approval for a local Card Room License to Applicant Anthony Keslinke for a card room as ancillary to a full-service restaurant at 408 O Street with no more than 6 card tables and direct staff to make the same corrections to Resolution 2013/65:

1. Condition 1.a: "The State has issued a temporary or permanent Card Room License to Applicant Anthony Keslinke and Applicant has purchased Kelly's from the prior owner, both within ~~42~~ 36 months from the City Council's approval of this License."
2. Condition 2.c: "For ~~at least~~ the first 12 months of operation of the Card Room, Applicant Anthony Keslinke shall be required to be physically present at the card room site no less than one (1) day per week, for no less than five (5) hours per day during regular operating hours for a minimum of 45 weeks per year. ~~He shall provide time logs under penalty of perjury to the Police Chief monthly.~~ Applicant must have at least one Key Employee present at the Card Room at all times when it is open who has permanent or interim Key Employee license status.
3. Condition 4.d: "In addition to the requirements above, Applicant shall make available to patrons of the card room and the restaurant and bar valet parking starting at 6:00 p.m. until closing ~~and~~ on Friday and Saturday, every day preceding a federal holiday, and every day when Applicant has a special event or tournament. The required licensed, armed security guard may also act as a valet, unless prohibited by the Police Chief in his absolute discretion. Vehicles parked by the valet service attendants may be parked on site at the Property or in the City's parking lot; at no time shall vehicles be parked or stored in the public right of way. Signs shall be posted to notify customers about the valet parking.

**OPTION:**

If the City Council does not believe that these revisions reflect the action of the City Council on November 12, 2013, then the City Council should direct staff accordingly.

01/14/14

## **BACKGROUND**

At the November 12, 2013 City Council meeting, the City Council approved a local Card Room License to Applicant Anthony Keslinke for a card room as ancillary to a full-service restaurant at 408 O Street with no more than 6 card tables, subject to the conditions set forth in Exhibit A to the draft resolution, "Kelly's Card Room 2013 Local Card Room License and Conditions," which were amended further during the Council meeting.

On November 26, 2013, a certified copy of the resolution was sent to Mr. Keslinke with the conditions in Exhibit A that the Police Chief and City Attorney understood that the City Council had approved. Staff heard nothing from Mr. Keslinke in response.

At the December 10, 2013, Council Member Rocha pulled the minutes for the November 12, 2013 Council meeting, indicating that there were errors with the conditions of approval for Mr. Keslinke's Card Room License (Attachment B). The minutes were continued to obtain clarification of the issues. The Police Chief and City Attorney met with Mr. Keslinke, who subsequently sent the attached letter (Attachment C).

The Police Chief and City Attorney believed that the City Council action on November 12, 2013 included the condition that Mr. Keslinke obtain a temporary Card Room License from the State and purchase Kelly's from the prior owner, both within one year from the City Council's approval of the License. Mr. Keslinke would then have an additional 2 years (or 3 years total) to obtain a permanent license from the State. In addition, Mr. Keslinke would provide documentation of his presence at the Card Room during the first year of its operation.

Mr. Keslinke has indicated that the tape of the meeting shows that the City Council's action does not include these conditions. He is not willing to comply with a one-year deadline to obtain a temporary license from the State and to purchase the property. To date, Mr. Keslinke has not submitted his application to the State for a card room license.

A review of the tape indicates that those conditions in question were not repeated with the motion. The third correction is a typographical error.

## **ATTACHMENTS:**

- A. Draft Minutes for the November 12, 2013 City Council meeting with corrections to Exhibit A to Resolution 2013/65
- B. Exhibit A to Resolution 2013/65 provided by Council Member Rocha with handwritten comments/revisions
- C. January 7, 2014 Letter from Anthony Keslinke

## CITY COUNCIL MEETING

Regular Meeting  
7:00 P.M.

November 12, 2013  
Council Chambers

## 6:30 P.M. - CLOSED SESSION

1. **CONFERENCE WITH LABOR NEGOTIATORS** – This Closed Section is authorized by California Government Code Section 54957.6. City designated representatives: Michelle Fitzer, Denise Haskett, and Glenn Berkheimer; Employee organizations: Management and Confidential Units

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: #1 **CONFERENCE WITH LABOR NEGOTIATORS**, Direction given to the Labor Negotiator.

Mayor Harper called the meeting to order at 7:03 P.M., and Minutes Clerk Eiden called the roll.

Present: Council Members Wilson, Rocha, Tiscareno, Agopian and Mayor Harper

**PLEDGE OF ALLEGIANCE**

Black Diamond Middle School Students, Veronica and Anna Maria Bytlak, led the Council and audience in the Pledge of Allegiance.

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Donald Freitas, Antioch resident, announced a benefit barbeque would be held on November 21, 2013 at Roddy Ranch with all proceeds to help the Agopian family to defray out-of-pocket medical expenses and support the National Brain Tumor Society's research to find a cure. Contact information was provided for anyone wishing to purchase tickets or make donations.

**ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS**

Mayor Harper announced the following Board and Commission openings:

- *Board of Administrative Appeals: Two (2) vacancies – One (1) Board Member (partial term expiring March 2016) and One (1) Alternative Board Member (2-year term); deadline date is November 21, 2013*
- *Contra Costa Mosquito & Vector Control Board of Trustees: One (1) Antioch Representative vacancy; deadline date is November 21, 2013*
- *Contra Costa County Library Commission: One (1) Antioch Representative vacancy; deadline date is November 21, 2013*

## **PUBLIC COMMENTS**

Fred Hoskins, Antioch resident, expressed concern non-citizens of Antioch influenced the outcome of Measure C.

Mark Jordan, Antioch resident, expressed concern regarding a book he read *Confronting Suburban Poverty in America* and suggested the City consider implementing a livable minimum wage for Antioch.

Mark Mokski, Executive Director for the Kids' Club Preschool, gave a brief update on the services they provide and announced they were awarded High Scope accreditation. He reported they had a contract expansion that could not be activated because they had been unable to secure a building. He noted their current funding was also in jeopardy and requested the City, School District, and business community participate in discussions to determine if they would be able to maintain a program in Antioch.

Mayor Harper stated he would like to keep services in Antioch and urged Mr. Mokski to schedule an appointment with the City to discuss this issue.

Michelle Rand gave a brief personal history and discussed her desire to regain custody of her children.

Greg Enholm, Contra Costa Community College District, invited everyone to attend the College District's 65<sup>th</sup> anniversary celebration from 12:00 P.M. – 4:00 P.M. on December 7, 2013 at the Universal Sports Academy in Martinez.

## **COUNCIL SUBCOMMITTEE REPORTS - None**

## **MAYOR'S COMMENTS**

Veronica and Anna Maria Bytlak read their leadership essays.

Mayor Harper thanked Veronica and Anna Maria Bytlak for their presentations and on behalf of the City, presented them gifts of appreciation.

## **COUNCIL CONSENT CALENDAR**

- A. APPROVAL OF COUNCIL MINUTES FOR OCTOBER 22, 2013**
- B. APPROVAL OF SPECIAL MEETING/CLOSED SESSION MINUTES FOR NOVEMBER 4, 2013**
- C. APPROVAL OF COUNCIL WARRANTS**

- D. **FOUR PERSON TREE TRIMMING CREW BID AWARD (BID NO. 988-1016-13A)**
- E. **RESOLUTION NO. 2013/62 ACCEPTING WORK AND AUTHORIZING THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE ANTIOCH COMMUNITY PARK SYNTHETIC TURF FIELDS (P.W. 394-7F)**
- F. **RESOLUTION NO. 2013/63 ACCEPTING WORK AND AUTHORIZING THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE PREWETT FAMILY WATER PARK FILTER REPLACEMENT AND RESURFACING (P.W. 567-5)**
- G. **AMEND THE FISCAL YEAR 2014 BUDGET FOR CONSULTANT SERVICES CONTRACTS**

On motion by Councilmember Tiscareno, seconded by Councilmember Rocha, the City Council unanimously approved the Council Consent Calendar.

## **COUNCIL REGULAR AGENDA**

### **2. KELLY'S CARD ROOM**

Chief Cantando presented the staff report dated November 6, 2013. He reported since the publishing of the staff report, the City had received a faxed letter from Remcho, Johansen & Purcell, LLP Attorneys at Law, regarding this matter. He stated after review of the letter, if the City Council was considering approving Mr. Keslinke's request, he recommended they consider adding some of the license conditions provided in that letter in addition to the ones already suggested by staff.

City Attorney Nerland announced copies of the faxed letter had been placed on the dais and were also available in Council Chambers and on the City's website. She explained the procedures for how the staff report, public comments and deliberation would be conducted given the number of people in the audience.

### **APPLICANT**

Tony Keslinke, applicant, stated he was excited for the opportunity to become the future owner of Kelly's Restaurant. He stated he had worked extensively with staff to bring a recommendation to the City Council for approval of his project. He noted they had also received a recommendation for approval from the Planning Commission [use permit application] as well as a unanimous vote from the California Gambling Control Commission to allow time to determine if Antioch could support his application for a card room license moving forward. He thanked staff. He stated he understood the concerns of staff and he will continue to work to address all the issues. He expressed concern if the Council does not act to indicate to the California Gambling Control Commission that there may be a license at a future date, the makeup of the Council could change and he may not be able to move forward with the project. He requested the Council vote to

approve a license at the local level subject to the conditions of approval and conditioned upon State approval from the California Gambling Control Commission. He stated they would be restoring the building, creating jobs, and making an investment in downtown Antioch. He presented a petition in support of the project, signed by residents and businesses in the area. He stated their application does not violate State law and the Council was within their rights to allow a license to go forward contingent upon State action. He introduced his compliance officer and advisor and spoke to their qualifications. He noted the majority of the Rivertown Preservation Society supported the project. He stated he had proposed changes to the conditions of approval.

## **PROPONENTS**

Mayor Harper read written comment from Cecile Hermida in support of the project and Mr. Keslinke.

Ade Adeyemi, Antioch resident, spoke in support of Mr. Keslinke and his safe business practices in Antioch.

Diane Gibson – Gray and Ken Gray, Antioch residents, spoke in support of reopening Kelly's Restaurant and Card Room and the applicant, Tony Keslinke. They encouraged the City to impose realistic and fair conditions with periodic review to determine if they were feasible.

Joy Motts, Rivertown Preservation Group and Phil Robinson, Antioch resident, spoke in support of reopening Kelly's Restaurant and Card Room and the applicant Tony Keslinke's efforts to invest in Antioch's economic recovery efforts. She encouraged the Council to be equitable with rules and regulations and support development and job creation in downtown Antioch.

Kimberly Kittell, Sandra Padilla, Edna Esposito, Angelina Sandoval, Jason Gonzalez, Keith Pace, Rajnil V. Lal, Antioch residents, and Juan Chen-Olsen and Ruthie Riley-Evans, Antioch business owners, spoke in support of reopening Kelly's Restaurant and Card Room and the applicant, Tony Keslinke.

Ms. Chen-Olsen read a letter from Antioch resident, Hans Ho, in support of reopening Kelly's Card Room and the applicant, Tony Keslinke.

Brian Bellante, member of the Antioch Chamber of Commerce, Antioch resident, and business owner, spoke in support of reissuing of the license for Kelly's Restaurant and Card Room and the applicant Tony Keslinke. He encouraged Council to facilitate the revitalization of downtown Antioch.

Martha Parsons, Antioch resident, read written comment from Antioch resident Nancy Kelly, in support of the reopening of Kelly's Restaurant and Card Room and the applicant Tony Keslinke.

Dr. Sean Wright, Antioch Chamber of Commerce, spoke in support of the applicant Tony Keslinke and the importance of the project for Antioch's future economic development.

Charles Davis, Antioch resident, spoke in support of the applicant Tony Keslinke.

Richard Asadourian, President of the Contra Costa County Board of Education, Neighborhood Watch Captain, Economic Development Commissioner, speaking as an Antioch resident, urged the City Council to support the reopening of Kelly's Restaurant and Card Room. He commended Mayor Harper for the manner in which he conducted the meeting.

City Attorney Nerland reported there were two (2) actions before the City Council; staff recommended the City Council adopt the resolution memorializing the expiration of the City's Card Room License associated with Kelly's Card Room at 408 O Street held by Albert Cianfichi. With regards to the second action, she noted staff was not making a recommendation for or against Mr. Keslinke's application to operate a Card Room as ancillary to a full-service restaurant at 408 O Street.

**RESOLUTION NO. 2013/64**

On motion by Councilmember Rocha, seconded by Councilmember Agopian, the Council unanimously adopted the resolution memorializing the expiration of the City's Card Room License associated with Kelly's Card Room at 408 O Street held by Albert Cianfichi.

Chief Cantando stated if Council was prepared to approve the Card Room application, he recommended they consider adding license conditions number 1-5, contained on pages 12 and 13 of the faxed letter from Remcho, Johansen & Purcell, LLP Attorneys at Law.

In response to an inquiry, City Attorney Nerland presented staff's recommended revision to the conditions of approval. She clarified that the City could not grant a Card Room license that was not contingent upon a State license being granted. She stated if the Council wanted to approve a license prior to the State, the question was whether the applicant needed to have a temporary or permanent license from the State, prior to operating.

In response to Mayor Harper, Chief Cantando responded that the City's initial background check was cursory and the State's background check would be much more comprehensive.

In response to the State license issue, City Attorney Nerland suggested Council consider adding a condition that should Mr. Keslinke not obtain a permanent State license within 24 months, after operations had commenced, he would agree the temporary license be automatically revoked. She clarified it continued to be staff's recommendation that the business not operate until the State had completed a full vetting and issued a permanent license.

Mr. Keslinke commented that many jurisdictions had Card Rooms that operated on a temporary license. He suggested Council consider extending the timeline for the issuance of the permanent State license to 36 months.

In response to a Council question, City Attorney Nerland reported that the Acting Chief Counsel for Gambling Control Commission had informed her that he was not aware of a prior example of a City granting an applicant a gambling control license prior to the State. She added that he had indicated it was not a legal requirement for the City to issue a license first and if the City did, he indicated that there was a question as to whether it was legal. The City Attorney noted that the

risk to the City of Antioch would be that a lawsuit could be filed however; there was a condition of approval indicating that the applicant indemnified the City, should that occur.

Councilmember Agopian voiced his support for Kelly's Restaurant and Card Room. He suggested the Council to address the issues, come to an agreement on the conditions of approval and then vote on whether to approve the project subject to those conditions.

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno, the Council unanimously supported preliminarily granting a local Card Room License for Kelly's Card Room **contingent upon** the following:

- The State issuing a temporary Card Room license
- The State issuing a permanent Card Room license within 36 months of the City Council's approval
- Further action by the City Council on all other conditions of approval

Mayor Harper declared a recess at 9:30 P.M. The meeting reconvened at 9:43 P.M. with all Councilmembers present. Speaking to the Kelly's Card Room item, he stated he had requested staff discuss the conditions of approval with the applicant, and bring back a recommendation for Council consideration. With Council's consensus, Public Hearing Item 5 was heard as the next item of business.

## **PUBLIC HEARING**

### **5. FY 2012-13 REVIEW OF CDBG-FUNDED ACCOMPLISHMENTS**

CDBG Consultant House presented the staff report dated November 12, 2013 recommending the City Council: 1) Motion to receive and file accomplishment data presented in the FY 2012-13 Consolidated Annual Performance and Evaluation Report. 2) Motion to receive public comment on the needs of lower income Antioch residents for public services, infrastructure, economic development, housing and other categories for use in developing the 2014-15 Action Plan and the 2015-19 Consolidated Plan.

Mayor Harper opened the Public Hearing.

Laura Bloxom, Antioch Senior Center Recreation Coordinator, Laine Lawrence, Contra Costa Senior Legal Services, Alissa Friedman, Opportunity Junction, Quincy Hardin, Antioch Chamber Community Foundation, Jennifer Baha, SHELTER Inc. – Emergency Housing Services, Arturo Castillo, Contra Costa Health Services – Homeless Shelter, Adam Poe, Bay Area Legal Aid – Fair Housing Services and Bay Area Legal Aid – Tenant/Landlord Counseling, gave a brief overview of the programs and services offered to the community and updated the Council on their achievements for the last fiscal year. They thanked the City for supporting and funding their organizations.

Mayor Harper read written comments from the Providers of Youth Services – City of Antioch Youth Scholarships, and Community Violence Solutions – Child Sexual Assault Intervention.



Councilmember Wilson stated she had the opportunity of speaking at an Opportunity Junctions Commencement Ceremony and she thanked Ms. Friedman for providing services in Antioch.

Mayor Harper closed the Public Hearing.

The Council thanked CDBG Consultant House for the comprehensive report and working with the non-profit and governmental agencies that provided programs and services to Antioch residents.

On motion by Councilmember Tiscareno, seconded by Councilmember Agopian, the Council unanimously 1) Received and filed the report, and 2) Received public comments.

### **COUNCIL REGULAR AGENDA**

#### **3. PROPOSED LEASE OF CITY-OWNED PROPERTY LOCATED AT THE NORTHEAST CORNER OF CENTURY AND DELTA FAIR BOULEVARDS (APN 074-080-029) BY MESA OUTDOOR**

Economic Development Analyst Nunnally presented the staff report dated November 6, 2013 recommending the City Council motion to approve the lease of City-owned property.

Mike McCoy, Mesa Outdoor, thanked staff for working constructively on the lease terms and design elements of the project. He announced they had California Department of Transportation (CALTRANS) and Planning Commission approval of the lease agreement. He stated they look forward to doing business in Antioch.

On motion by Councilmember Agopian, seconded by Councilmember Tiscareno, the Council unanimously approved the lease of City-owned property.

Mayor Harper stated the City was excited for the economic development opportunity and encouraged staff to continue working to bring in these type of ideas forward.

#### **4. ADOPTION OF THE CALIFORNIA BUILDING STANDARDS CODES AND AMENDMENTS TO THE CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING ORDINANCE**

Community Development Director Wehrmeister presented the staff report dated November 7, 2013 recommending the City Council: 1) Motion to read the ordinances by title only; 2) Motion to introduce an ordinance amending and adding specific Local Amendments to chapters of Title 8 of the Antioch Municipal Code, adopting by reference the California Code of Regulations Title 24, 2013 Edition of the California Building Standards Codes and related model codes and amending Chapters 1 through 19 of Title 8 of the Antioch Municipal Code with Appendices and Amendments. 3) Motion to introduce an ordinance amending Article II, Chapter 3, of Title 6 of the Antioch Municipal Code, dealing with Construction and Demolition Debris Recycling.

In response to Mayor Harper, Community Development Director Wehrmeister clarified staff would be sending a letter out, pending Council's decision this evening, to developers notifying them of the changes.

On motion by Councilmember Rocha, seconded by Councilmember Agopian, the Council unanimously 1) Read the ordinances by title only; 2) Introduced an ordinance amending and adding specific Local Amendments to chapters of Title 8 of the Antioch Municipal Code, adopting by reference the California Code of Regulations Title 24, 2013 Edition of the California Building Standards Codes and related model codes and amending Chapters 1 through 19 of Title 8 of the Antioch Municipal Code with Appendices and Amendments. 3) Introduced an ordinance amending Article II, Chapter 3, of Title 6 of the Antioch Municipal Code, dealing with Construction and Demolition Debris Recycling.

## **PUBLIC HEARING**

### **6. ORDINANCE ESTABLISHING ZONING REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES**

Director of Community Development Wehrmeister presented the staff report dated November 7, 2013 recommending the City Council: 1) Motion to read the ordinances by title only; 2) Motion to introduce an ordinance establishing zoning regulations for computer gaming and internet access businesses. The Planning Commission recommended adoption of the proposed ordinance on October 16, 2013 by a 5-0 vote with one absence. 3) Motion to introduce an ordinance amending Title 5, Chapter 11 regarding refinements to the licensing requirements for computer gaming and internet access businesses.

Mayor Harper opened and closed the public hearing, with no speakers requesting to speak.

On motion by Councilmember Agopian, seconded by Councilmember Wilson, the Council unanimously 1) Read the ordinances by title only; 2) Introduced an ordinance establishing zoning regulations for computer gaming and internet access businesses. 3) Introduced an ordinance amending Title 5, Chapter 11 regarding refinements to the licensing requirements for computer gaming and internet access businesses.

**PUBLIC COMMENTS - None**

## **STAFF COMMUNICATIONS**

City Manager Jakel announced the next City Council meeting would be held on November 26, 2013. He reported on his attendance at the Board of Supervisors meeting noting the Northeast Antioch Annexation was discussed and he believed an agreement had been reached on the outstanding issues. He noted that matter would be coming back to the City Council on November 26, 2013, for action. He announced BART had officially determined the station in Antioch would be called the Antioch BART station. He reported the Mesa agreement approved this evening would yield in excess of \$1.5M, which was highly beneficial to the City.

---

**COUNCIL REGULAR AGENDA - Continued**

**2. KELLY'S CARD ROOM**

City Attorney Nerland stated she had consulted with the applicant and Chief Cantando and they had come to an agreement on the conditions of approval. She reviewed and recommended the City Council approve the conditions with amendments (revised exhibit A to attachment B of the staff report) attached to these November 12, 2013 minutes.

Mayor Harper thanked staff and the applicant for working cooperative to bring a project that would improve economic development and provide jobs in the City.

**RESOLUTION NO. 2013/65**

On motion by Councilmember Rocha, seconded by Councilmember Agopian, the Council unanimously adopted a resolution approving Anthony Keslinke's application to operate a Card Room as ancillary to a full-service restaurant at 408 O Street with no more than 6 card tables subject to conditions of approval and approving a Parking Lot Lease between Anthony Keslinke and the City of Antioch for APN 066-124-002, with the conditions of approval (revised exhibit A to attachment B of the staff report) attached to these November 12, 2013 minutes and read into the record.

**COUNCIL COMMUNICATIONS**

Mayor Harper thanked the community for their support of Measure C and requested staff bring back for Council consideration, the composition of the Advisory Committee and the establishment of a policy for the use of the funds.

Councilmember Tiscareno concurred with Mayor Harper's comments.

With the consensus of the City Council, City Manager Jakel stated he would agendize the implementation of Measure C, for a future meeting.

Mayor Harper suggested revenue generated as a result of Measure C be placed in a separate account with a report out regarding the use of all of the funds.

City Attorney Nerland responded that Finance Director Merchant would be bringing back that information for Council consideration.

Mayor Harper stated he was proud of the City Council for their community outreach.

The City Council wished Director of Community Development Wehrmeister and City Manager Jakel a happy birthday.

Councilmember Agopian thanked Mayor Harper for his vision regarding a safe Antioch and stated Measure C had been a group effort of the City.

**ADJOURNMENT**

With no further business, Mayor Harper adjourned the meeting at 11:05 P.M. to the next regular Council meeting on November 26, 2013.

Respectfully submitted:

*Kitty Eiden*

---

KITTY EIDEN, Minutes Clerk

Revised Exhibit A

**Kelly's  
2013 Local Card Room License and Conditions**

The following operational requirements and conditions have been established by the City Council of the City of Antioch in accordance with the authority granted in Title 5, Chapter 4 of the Antioch Municipal Code (the "Code") and the California Gambling Control Act (Business and Professions Code Division 8, Chapter 5, the "State Law"). The Applicant, Anthony Keslinke, agrees that each and every one of the provisions and conditions set forth in this Resolution and this Exhibit A and is done so specifically pursuant to the authority cited above and generally pursuant to the City's police power as conferred by Article XI, Section 7 of the California Constitution.

These operational requirements and conditions apply to the business known as "Kelly's" located at 408 "O" Street, Antioch, California. The license shall not apply to any other location without the approval of the City Council.

**Conditions of Approval**

1. Conditions to Card Room License becoming Effective. Local Card Room License for Kelly's at 408 O Street, Antioch is not and shall not become effective until all of the following conditions are met:
  - a. The State has issued a temporary or permanent Card Room License to Applicant Anthony Keslinke and Applicant has purchased Kelly's -from the prior owner, both within ~~one~~ year/36 months from the City Council's approval of this License.
  - b. Applicant submits the list of ~~Key personnel~~Employees (as that term is defined in the California Gambling Control Act) of the Card Room, including the key personnel for the other operations at Kelly's as applicable, and they each obtain a license from the State.
  - c. Applicant enters into the Parking Lot Lease with the City of Antioch for APN 066-124-002 at O and Fifth Streets, Antioch, with such agreement recorded.
  - d. The restaurant at Kelly's is operating fully under the conditions below for at least 30 days.
  - ~~e. The Local Card Room License will cease to be effective, and will automatically be revoked and null and void, if Anthony Keslinke does not acquire a permanent State Card Room License within 36 months from the City Council's approval of -this Local Card Room License-~~

Formatted: Indent: Left: 0.25", First line: 0"

## 2. Operational Standards

- a. Card room must be incidental to the restaurant and bar use, as reasonably determined by the Community Development Director based on documentary evidence and/or physical observation, and in accordance with Antioch Municipal Code Section 5-4.05, which provides: "In addition to the other requirements contained in this chapter, no license shall be issued for a card room other than in an established place of business of sufficient size and volume that the already established business is the major business of the place rather than the business of operating such card room."
  - i. At all times there shall be restaurant seating capacity for no less than 50, exclusive of seating at the bar or card room.
  - ii. Kitchen, restaurant dining room and bar shall occupy at least 55% of the square footage of the building.
  - iii. Hot food service, which does not include just microwaved food or meals, shall be available to patrons at all times that the bar or card room is open;
  - iv. The restaurant must offer sit-down, table served meal service at least twice a day, seven days a week with full menu options as approved by the Director of Community Development.
  
- b. The card room shall be responsible and liable for its patrons' safety and security in and around the card room. The card room shall adopt and implement an "Operations, Security and Surveillance Plan" (the "Plan") as set forth in the Planning Commission's approval of UP-13-02 to provide for the safety and security of patrons, after the plan has been approved by the Chief of Police, in the Chief's sole and reasonable discretion. The Chief shall review the Plan no less than once every year, upon written application by the Applicant for such review, which application must be submitted by the Applicant no later than the anniversary date of this License approval. Applicant shall comply at all times with every provision of the adopted Operations, Security and Surveillance Plan, which at a minimum shall include:
  - i. ~~Two~~One (2) State-licensed, uniformed and armed guards, ~~one inside the card room and one patrolling the parking areas,~~ shall be present at all times that the card room is in operation and will patrol the inside of the card room and the parking areas. An additional State-licensed, uniformed and armed guard shall be present from 6:00 p.m. to 6:00 a.m. or until close of business, whichever occurs earlier, and whenever there are three (3) or more active table games in operation, or a tournament or special event with more than 30 players.
  - ii. -The name of the Security Company, proof of liability insurance including a copy of all exceptions, their State license number, the guard registration numbers and training records for the employed guards.-
  - iii. Digital security cameras shall be installed inside, covering all areas of the business, the rear, front and leased parking areas. Said cameras shall record

onsite activities. Recordings shall be kept on hand for no less than 30 days and be made available to the City of Antioch upon demand.

- iv. ~~Metal detectors/wanding will be available at all times to the security personnel and as required by the~~ ~~of patrons after 10:00 p.m. unless deemed unnecessary by the Police Chief for wanding patrons. given history of calls for service after operation for one year. The Police Chief may require additional hours of metal detectors/wanding at any time.~~
  - v. A dress code for patrons.
  - vi. An identified security station located at the entrance to the card room.
  - vii. Prior to commencing operations, Applicant shall submit and obtain approval from the Chief of Police and City Engineer for an outdoor lighting plan to ensure that all areas of the parking lot, leased parking lot and building are illuminated.
  - viii. Notwithstanding the yearly review set forth in condition of approval above, the Chief of Police may at any time upon a showing of need require revisions to the Plan to protect the safety of the card room's patron and the general public.
- c. For ~~at least~~ the first 12 months of operation of the Card Room, Applicant Anthony Keslinke shall be required to be physically present at the card room site no less than ~~three~~ ~~one~~ ~~(31)~~ days per week, for no less than five (5) hours per day during regular operating hours, ~~including at least 2 hours on a weekend night each week~~, for a minimum of ~~485~~ weeks per year. ~~He shall provide time logs under penalty of perjury to the Police Chief monthly. In addition, for at least the first 12 months of operation, Applicant must have at least one Key Employee as defined in the Gambling Control Act (Business and Professions Code) present at the Card Room at all times when it is open who has permanent, or not interim, Key Employee license status.~~
- d. No live entertainment and no amplified music, unless a special event permit is obtained in advance from the City.
  - e. No one under the age of 21 shall be allowed in the card room or bar at any time and no one under the age of 21 shall be allowed in the restaurant after 10:00 p.m.
  - e. After ~~109:00~~ 10:00 p.m. and until closing, all patrons of the business shall be verified using a license scanner/reader to ensure patrons are of lawful age and not using altered or false identification. The scanner database shall be retained for no less than 30 days and shall be made available to the Antioch Police Department upon demand. Applicant shall provide a procedure, approved by the Police Chief, from checking the identification of those already in the business at 10:00 p.m.

- f. No adult entertainment as defined in section 9-5.203 of the Antioch Municipal Code. This is to include, but not limited to, “go-go” dancers, exotic dancers, strippers, lingerie shows, etc.
- g. All activities shall be conducted entirely inside the building. Loitering is prohibited. Business shall post conspicuous signs stating “No loitering, no open containers, no drinking, no littering” on the building, parking lot and City’s parking lot.
- h. No intoxicated person shall be permitted in the card room. All alcohol beverage servers must attend and successfully complete a Responsible Beverage Server Course which is sponsored by ABC within 6 months of employment.

3. Gambling Standards

- a. The Applicant, every Key Employee and every person financially interested in the card room and every Card Room Employee as defined in Sections 5-4.01 and 5-4.03(B)(1) of the Antioch Municipal Code shall obtain the required State License and Work Permit and comply at all times with all applicable provisions of Title 5, Chapter 4 of the Code.
- b. Card room- shall only be open when the restaurant is open. The Police Chief retains the absolute discretion to limit the hours of the card room.
- c. The number of card tables allowed under this License is 6.
- d. The number of players permitted at one card table shall be as prescribed by State law.
- e. The card room shall be open to police inspection during all hours of operation.
- f. Each card table, during the time of play at such table, shall have assigned to it a person holding a valid work permit. Such person shall be in charge of, supervise, and conduct the game strictly in accordance with the laws of the State and the provisions of Title 5, Chapter 4 of the Antioch Municipal Code.
- g. Only games authorized by State law to be played shall be permitted to be played in any card room.
- h. No player ~~is~~ shall be permitted to wager or raise a wager by more than the following amounts:
  - i. \$200 for individual bets in Blackjack or California games that feature a rotating player-dealer position, except for games described in division (c) which shall have higher limits;
  - ii. \$200 for individual bets in Limit Poker games;
  - iii. \$500 for individual bets in No Limit and Double Hand Poker games; and



- iv. \$50 for individual bets in any other card room game permitted by California law.
- i. Only table stakes shall be permitted.
- j. No person under the age of 21 shall be permitted at any card table, or participate in any game, or enter the card room.
- k. The Applicant shall post in every card room, in letters plainly visible throughout the room, signs stating the hourly rate or cost per hand charged for the use of the tables in such card room and each other of the regulations set forth in this section as the Chief of Police may require.
- l. During hours of operation, the card room shall clearly post the wagering limit rules at the tables where the games are offered, to provide patrons adequate notice of those rules.
- m. No computer gaming or internet access business, as defined in the Antioch Municipal Code as it may be amended, shall operate at the business (not in the card room, restaurant or bar).

~~n.n.~~ All Agreements with third-party bankers and any person receiving payments directly or indirectly-related to revenues or profits of the Card Room (e.g. proposition players) shall be approved in advance by the State Gambling Control Commission with the agreement and approval letter sent promptly to the Police eChief.

Formatted: Indent: Left: 0.5", No bullets or numbering

#### 4. Site Standards

- a. Applicant shall comply with all applicable provisions of the Antioch Municipal Code, including but not limited to stormwater management and discharge control (Title 6, Chapter 9) building, electrical and plumbing code requirements and fire code regulations (Title 8).
- b. Unless otherwise approved by the Police Chief. All windows providing a line of sight into any area where card tables are located shall be clear glass so as to allow viewing of gaming activities by Public Safety personnel from outside of the building housing the card room; and ~~the~~ outside doors shall also be clear glass with ~~an~~ unobstructed to allow Public Safety personnel to view inside.
- c. Parking Requirements: Applicant shall comply at all times with parking requirements and regulations imposed pursuant to UP-13-02, including but not limited to the requirement to enter into a Parking Lot Lease Agreement with the City of Antioch for the use of the City's lot at APN 066-124-002. Prior to commencing operations, Applicant shall submit a modified parking plan that includes striping, signage and landscaping for the Applicant's on-site parking and the City's parking lot to be approved by the Community Development Director and City Engineer. Actions shall be taken and signs

posted to allow the Police Department to enforce the Antioch Municipal Code and other laws in the parking lots.

- d. In addition to the requirements above, Applicant shall make available to patrons of the card room and the restaurant and bar valet parking starting at 6:00 p.m. until closing ~~and on~~ Friday and Saturday, every day preceding a federal holiday, and every day when Applicant has a special event or tournament. The required licensed, armed security guard may also act as a valet, unless prohibited by the Police Chief in his absolute discretion. Vehicles parked by the valet service attendants may be parked on site at the Property or in the City's parking lot; at no time shall vehicles be parked or stored in the public right of way. Signs shall be posted to notify customers about the valet parking.
- e. Applicant shall identify and cordon off according to plans and with materials approved by the Community Development Director a designated and suitable location outside the building for smokers to engage in legal smoking activities. Such area shall be taken into consideration in the Security and Surveillance Plan.
- f. Applicant shall remove or caused to be removed any and all graffiti found on the Property within 48 hours of discovery or report of such graffiti.
- g. Applicant shall maintain the perimeter fencing and shall include an additional deterrent to prevent people from climbing over it such as razor wire.
- h. The site shall be kept clean of all debris (boxes, junk, garbage, etc) at all times.
- i. All requirements of the Contra Costa County Fire Protection District shall be satisfied. At no time shall the posted occupancy limit be exceeded.
- j. All other codes and regulations of the City of Antioch Municipal Code shall be complied with.
- k. Prior to commencing operations, Applicant shall submit and obtain approval from the Chief of Police and City Engineer for an outdoor lighting plan ensure that all areas of the parking lot, leased parking lot and building are illuminated.

5. Miscellaneous Provisions

- a. In accordance with Section 5-4.09 of the Code, the City Council may suspend or revoke a card room license on any of the grounds set forth in Section 5-4.04 of the Code, on the ground that the card room business has become the main business of the establishment, or on the ground that the Applicant has violated a provision of Chapter 5-4. For purposes of this License, any of the following occurrences is deemed evidence that (i) the applicant or any person financially interested in the business is not of good moral character, or (ii) the proposed location for the card room is incompatible with the uses being made of the property in the immediate vicinity and injurious to the health, safety, or morals of the people of the city:

- i. The Applicant's State license is suspended or revoked for any reason by the Commission or other regulatory agency with jurisdiction over the card room;
  - ii. Any law enforcement or regulatory agency for any reason closes the card room for any period of time except a building code violation that is resolved within 90 days;
  - iii. The card room is operating as a public nuisance;
  - iv. The card room is operating in violation to any condition of approval, including but not limited to any requirement of the Operations, Security and Surveillance Plan, or any local, state or federal ordinance or statute or law;
  - v. The Applicant is no longer the sole owner of the business, including being the sole owner of the Card Room, restaurant and bar or fails to submit evidence annually of his continuing ownership interest to the City.
  - vi. The Applicant or any Key Employee or anyone having an ownership interest in the card room, restaurant or bar is arrested for any felony, or a misdemeanor relating to loan sharking, drugs, embezzlement, extortion, theft, prostitution, money laundering, robbery or weapons violations.
- b. Applicant must pay a business license tax based on gross receipts pursuant to Chapter 1 of Title 3 of the Code, as it may be amended from time-to-time, as well as any regulatory fee established by the Police Department in the City's Master Fee Schedule.
- c. Applicant acknowledges the provisions of Section 5-4.08 of the Code with respect to the non-transferability of this License. The License is personal to Anthony Keslinke and he will annually submit to the Police Chief a statement under penalty of perjury indicating his sole ownership of the business, including being the sole owner of the Card Room, restaurant and bar. Should anyone else become financially interested in the business (Card Room, restaurant or bar) including any corporate or limited liability company, then a new Card Room application must be submitted and the City retains the discretion to grant or deny it.
- d. If the Antioch Police Department determines that the conditions of approval of the license or use permit are not met or the use has become a public nuisance or otherwise a threat to the public health, safety or welfare, the Police Chief may shut down the business and it will not be reopened until the Police Chief determines that all issues have been resolved. The Applicant shall be responsible for the costs of such Police response. Failure to pay such costs shall be grounds for immediate revocation of the Card Room license.
- e. The Applicant releases the City of Antioch from any claims related to this card room license or use permit and shall defend, indemnify and hold harmless the City, its agents, officers and employees from any claim, action or proceeding to challenge, set aside or void the license or any approval granted by the City. Applicant shall enter into an agreement to effectuate this condition of approval as required by the City Attorney, which shall include advance deposit for reasonably anticipated staff, legal and other costs for two months that may be incurred by the City. For 18 months following the

commencement of the operations at the Card Room, Applicant shall also be responsible for election costs, including staff costs, if a referendum (if applicable) or initiative petition is presented related to this card room license or use permit.

If a referendum or initiative is filed, then the City Council will consider placing it on a consolidated ballot in accordance with the California Elections Code provisions, but the Applicant acknowledges the City Council's sole and absolute discretion to determine the timing of the election and whether to place the referendum or initiative on a consolidated ballot.

Formatted: Indent: Left: 0.5", No bullets or numbering

Formatted: Indent: Left: 0", Hanging: 0.5", No bullets or numbering

f. Applicant and Key Employees must report to the Police Chief any reasonably known violation of the conditions of approval for this license and/or the use permit to the Chief of Police within 5 business days.

Formatted: Indent: Left: 0.5", No bullets or numbering

g. Applicant and Key Employees must report to the Police Chief within 5 business days any notices, advisories, notices of violation, warning letters, accusations, gaming activity approvals or denials or any other action directed to them or Kelly's Card Room by the Attorney General, California Gambling Control Commission, any other state or federal agency or the District Attorney's Office.

Formatted: List Paragraph, Add space between paragraphs of the same style, No bullets or numbering

h. Upon the Police Chief's request, within 5 days of submitting financial reports or statements to the Attorney General or Gambling Control Commission, Applicant shall provide copies to the Police Chief.

Formatted: List Paragraph, Add space between paragraphs of the same style, No bullets or numbering

Formatted: Indent: Left: 0.5", No bullets or numbering

Formatted: Indent: Left: 0.5", No bullets or numbering

Formatted: No bullets or numbering

e:

Exhibit B  
Parking Lot Lease  
(attach next page)

## Exhibit A

**Kelly's**  
**2013 Local Card Room License and Conditions**

The following operational requirements and conditions have been established by the City Council of the City of Antioch in accordance with the authority granted in Title 5, Chapter 4 of the Antioch Municipal Code (the "Code") and the California Gambling Control Act (Business and Professions Code Division 8, Chapter 5, the "State Law"). The Applicant, Anthony Keslinke, agrees that each and every one of the provisions and conditions set forth in this Resolution and this Exhibit A and is done so specifically pursuant to the authority cited above and generally pursuant to the City's police power as conferred by Article XI, Section 7 of the California Constitution.

These operational requirements and conditions apply to the business known as "Kelly's" located at 408 "O" Street, Antioch, California. The license shall not apply to any other location without the approval of the City Council.

**Conditions of Approval**

1. Conditions to Card Room License becoming Effective. Local Card Room License for Kelly's at 408 O Street, Antioch is not and shall not become effective until all of the following conditions are met:
  - a. The State has issued a temporary or permanent Card Room License to Applicant Anthony Keslinke and Applicant has purchased Kelly's -from the prior owner, both within one year from the City Council's approval of this License.
  - b. Applicant submits the list of ~~Key personnel~~ Employees (as that term is defined in the California Gambling Control Act) of the Card Room, including the key personnel for the other operations at Kelly's as applicable, and they each obtain a license from the State.
  - c. Applicant enters into the Parking Lot Lease with the City of Antioch for APN 066-124-002 at O and Fifth Streets, Antioch, with such agreement recorded.
  - d. The restaurant at Kelly's is operating fully under the conditions below for at least 30 days.
  - ~~e. The Local Card Room License will cease to be effective, and will automatically be revoked and null and void, if Anthony Keslinke does not acquire a permanent State Card Room License within 36 months from the City Council's approval of this Local Card Room License.~~

Both should be 36 months

Formatted: Indent: Left: 0.25", First line: 0"

Both should be 36 months

## 2. Operational Standards

- a. Card room must be incidental to the restaurant and bar use, as reasonably determined by the Community Development Director based on documentary evidence and/or physical observation, and in accordance with Antioch Municipal Code Section 5-4.05, which provides: "In addition to the other requirements contained in this chapter, no license shall be issued for a card room other than in an established place of business of sufficient size and volume that the already established business is the major business of the place rather than the business of operating such card room."
  - i. At all times there shall be restaurant seating capacity for no less than 50, exclusive of seating at the bar or card room.
  - ii. Kitchen, restaurant dining room and bar shall occupy at least 55% of the square footage of the building.
  - iii. Hot food service, which does not include just microwaved food or meals, shall be available to patrons at all times that the bar or card room is open;
  - iv. The restaurant must offer sit-down, table served meal service at least twice a day, seven days a week with full menu options as approved by the Director of Community Development.
  
- b. The card room shall be responsible and liable for its patrons' safety and security in and around the card room. The card room shall adopt and implement an "Operations, Security and Surveillance Plan" (the "Plan") as set forth in the Planning Commission's approval of UP-13-02 to provide for the safety and security of patrons, after the plan has been approved by the Chief of Police, in the Chief's sole and reasonable discretion. The Chief shall review the Plan no less than once every year, upon written application by the Applicant for such review, which application must be submitted by the Applicant no later than the anniversary date of this License approval. Applicant shall comply at all times with every provision of the adopted Operations, Security and Surveillance Plan, which at a minimum -shall include:
  - i. Two~~One~~ (2)~~1~~ State-licensed, uniformed and armed guards, ~~one inside the card room and one patrolling the parking areas,~~ shall be present at all times that the card room is in operation and will patrol the inside of the card room and the parking areas. An additional State-licensed, uniformed and armed guard shall be present from 6:00 p.m. to 6:00 a.m. or until close of business, whichever occurs earlier, and whenever there are three (3) or more active table games in operation, or a tournament or special event with more than 30 players.
  - ii. -The name of the Security Company, proof of liability insurance including a copy of all exceptions, their State license number, the guard registration numbers and training records for the employed guards.;
  - iii. Digital security cameras shall be installed inside, covering all areas of the business, the rear, front and leased parking areas. Said cameras shall record

onsite activities. Recordings shall be kept on hand for no less than 30 days and be made available to the City of Antioch upon demand.

- iv. Metal detectors/wanding will be available at all times to the security personnel and as required by the ~~of patrons after 10:00 p.m. unless deemed unnecessary by the Police Chief for wanding patrons. given history of calls for service after operation for one year. The Police Chief may require additional hours of metal detectors/wanding at any time.~~
- v. A dress code for patrons.
- vi. An identified security station located at the entrance to the card room.
- vii. Prior to commencing operations, Applicant shall submit and obtain approval from the Chief of Police and City Engineer for an outdoor lighting plan to ensure that all areas of the parking lot, leased parking lot and building are illuminated.
- viii. Notwithstanding the yearly review set forth in condition of approval above, the Chief of Police may at any time upon a showing of need require revisions to the Plan to protect the safety of the card room's patron and the general public.
- c. ~~For at least the first 12 months of operation of the Card Room, Applicant Anthony Keslinke shall be required to be physically present at the card room site no less than three one (31) days per week, for no less than five (5) hours per day during regular operating hours, including at least 2 hours on a weekend night each week, for a minimum of 485 weeks per year. He shall provide time logs under penalty of perjury to the Police Chief monthly, in addition, for at least the first 12 months of operation, Applicant must have at least one Key Employee as defined in the Gambling Control Act (Business and Professions Code) present at the Card Room at all times when it is open who has permanent, or not interim, Key Employee license status.~~
- d. No live entertainment and no amplified music, unless a special event permit is obtained in advance from the City.
- e. No one under the age of 21 shall be allowed in the card room or bar at any time and no one under the age of 21 shall be allowed in the restaurant after 10:00 p.m.
- e. After ~~10:00~~ 10:00 p.m. and until closing, all patrons of the business shall be verified using a license scanner/reader to ensure patrons are of lawful age and not using altered or false identification. The scanner database shall be retained for no less than 30 days and shall be made available to the Antioch Police Department upon demand. Applicant shall provide a procedure, approved by the Police Chief, from checking the identification of those already in the business at 10:00 p.m.

remove

remove

"at least" should be removed - only first 12 months  
provide time cards to Police Chief should be removed - Allen said he didn't



- f. No adult entertainment as defined in section 9-5.203 of the Antioch Municipal Code. This is to include, but not limited to, “go-go” dancers, exotic dancers, strippers, lingerie shows, etc.
- g. All activities shall be conducted entirely inside the building. Loitering is prohibited. Business shall post conspicuous signs stating “No loitering, no open containers, no drinking, no littering” on the building, parking lot and City’s parking lot.
- h. No intoxicated person shall be permitted in the card room. All alcohol beverage servers must attend and successfully complete a Responsible Beverage Server Course which is sponsored by ABC within 6 months of employment.

### 3. Gambling Standards

- a. The Applicant, every Key Employee and every person financially interested in the card room and every Card Room Employee as defined in Sections 5-4.01 and 5-4.03(B)(1) of the Antioch Municipal Code shall obtain the required State License and Work Permit and comply at all times with all applicable provisions of Title 5, Chapter 4 of the Code.
- b. Card room- shall only be open when the restaurant is open. The Police Chief retains the absolute discretion to limit the hours of the card room.
- c. The number of card tables allowed under this License is 6.
- d. The number of players permitted at one card table shall be as prescribed by State law.
- e. The card room shall be open to police inspection during all hours of operation.
- f. Each card table, during the time of play at such table, shall have assigned to it a person holding a valid work permit. Such person shall be in charge of, supervise, and conduct the game strictly in accordance with the laws of the State and the provisions of Title 5, Chapter 4 of the Antioch Municipal Code.
- g. Only games authorized by State law to be played shall be permitted to be played in any card room.
- h. No player ~~is~~ shall be permitted to wager or raise a wager by more than the following amounts:
  - i. \$200 for individual bets in Blackjack or California games that feature a rotating player-dealer position, except for games described in division (c) which shall have higher limits;
  - ii. \$200 for individual bets in Limit Poker games;
  - iii. \$500 for individual bets in No Limit and Double Hand Poker games; and

- iv. \$50 for individual bets in any other card room game permitted by California law.
- i. Only table stakes shall be permitted.
- j. No person under the age of 21 shall be permitted at any card table, or participate in any game, or enter the card room.
- k. The Applicant shall post in every card room, in letters plainly visible throughout the room, signs stating the hourly rate or cost per hand charged for the use of the tables in such card room and each other of the regulations set forth in this section as the Chief of Police may require.
- l. During hours of operation, the card room shall clearly post the wagering limit rules at the tables where the games are offered, to provide patrons adequate notice of those rules.
- m. No computer gaming or internet access business, as defined in the Antioch Municipal Code as it may be amended, shall operate at the business (not in the card room, restaurant or bar).

All Agreements with third-party bankers and any person receiving payments directly or indirectly-related to revenues or profits of the Card Room (e.g. proposition players) shall be approved in advance by the State Gambling Control Commission with the agreement and approval letter sent promptly to the Police eChief.

Formatted: Indent: Left: 0.5", No bullets or numbering

#### 4. Site Standards

- a. Applicant shall comply with all applicable provisions of the Antioch Municipal Code, including but not limited to stormwater management and discharge control (Title 6, Chapter 9) building, electrical and plumbing code requirements and fire code regulations (Title 8).
- b. Unless otherwise approved by the Police Chief, All windows providing a line of sight into any area where card tables are located shall be clear glass so as to allow viewing of gaming activities by Public Safety personnel from outside of the building housing the card room; ~~and,~~ the outside doors shall also be clear glass with -an unobstructed to allow Public Safety personnel to view inside.
- c. Parking Requirements: Applicant shall comply at all times with parking requirements and regulations imposed pursuant to UP-13-02, including but not limited to the requirement to enter into a Parking Lot Lease Agreement with the City of Antioch for the use of the City's lot at APN 066-124-002. Prior to commencing operations, Applicant shall submit a modified parking plan that includes striping, signage and landscaping for the Applicant's on-site parking and the City's parking lot to be approved by the Community Development Director and City Engineer. Actions shall be taken and signs

posted to allow the Police Department to enforce the Antioch Municipal Code and other laws in the parking lots.

d. In addition to the requirements above, Applicant shall make available to patrons of the card room and the restaurant and bar valet parking starting at 6:00 p.m. until closing and Friday and Saturday, every day preceding a federal holiday, and every day when Applicant has a special event or tournament. The required licensed, armed security guard may also act as a valet, unless prohibited by the Police Chief in his absolute discretion. Vehicles parked by the valet service attendants may be parked on in the City's parking lot; at no time shall vehicles be parked or st of way. Signs shall be posted to notify customers about the vale

← on  
← and should be on

e. Applicant shall identify and cordon off according to plans and wi by the Community Development Director a designated and suitab building for smokers to engage in legal smoking activities. Such consideration in the Security and Surveillance Plan.

f. Applicant shall remove or caused to be removed any and all graffi Property within 48 hours of discovery or report of such graffiti.

g. Applicant shall maintain the perimeter fencing and shall include a prevent people from climbing over it such as razor wire.

h. The site shall be kept clean of all debris (boxes, junk, garbage, etc) at all times.

i. All requirements of the Contra Costa County Fire Protection District shall be satisfied. At no time shall the posted occupancy limit be exceeded.

j. All other codes and regulations of the City of Antioch Municipal Code shall be complied with.

k. Prior to commencing operations, Applicant shall submit and obtain approval from the Chief of Police and City Engineer for an outdoor lighting plan ensure that all areas of the parking lot, leased parking lot and building are illuminated.

5. Miscellaneous Provisions

a. In accordance with Section 5-4.09 of the Code, the City Council may suspend or revoke a card room license on any of the grounds set forth in Section 5-4.04 of the Code, on the ground that the card room business has become the main business of the establishment, or on the ground that the Applicant has violated a provision of Chapter 5-4. For purposes of this License, any of the following occurrences is deemed evidence that (i) the applicant or any person financially interested in the business is not of good moral character, or (ii) the proposed location for the card room is incompatible with the uses being made of the property in the immediate vicinity and injurious to the health, safety, or morals of the people of the city:

- i. The Applicant's State license is suspended or revoked for any reason by the Commission or other regulatory agency with jurisdiction over the card room;
  - ii. Any law enforcement or regulatory agency for any reason closes the card room for any period of time except a building code violation that is resolved within 90 days;
  - iii. The card room is operating as a public nuisance;
  - iv. The card room is operating in violation to any condition of approval, including but not limited to any requirement of the Operations, Security and Surveillance Plan, or any local, state or federal ordinance or statute or law;
  - v. The Applicant is no longer the sole owner of the business, including being the sole owner of the Card Room, restaurant and bar or fails to submit evidence annually of his continuing ownership interest to the City.
  - vi. The Applicant or any Key Employee or anyone having an ownership interest in the card room, restaurant or bar is arrested for any felony, or a misdemeanor relating to loan sharking, drugs, embezzlement, extortion, theft, prostitution, money laundering, robbery or weapons violations.
- b. Applicant must pay a business license tax based on gross receipts pursuant to Chapter 1 of Title 3 of the Code, as it may be amended from time-to-time, as well as any regulatory fee established by the Police Department in the City's Master Fee Schedule.
- c. Applicant acknowledges the provisions of Section 5-4.08 of the Code with respect to the non-transferability of this License. The License is personal to Anthony Keslinke and he will annually submit to the Police Chief a statement under penalty of perjury indicating his sole ownership of the business, including being the sole owner of the Card Room, restaurant and bar. Should anyone else become financially interested in the business (Card Room, restaurant or bar) including any corporate or limited liability company, then a new Card Room application must be submitted and the City retains the discretion to grant or deny it.
- d. If the Antioch Police Department determines that the conditions of approval of the license or use permit are not met or the use has become a public nuisance or otherwise a threat to the public health, safety or welfare, the Police Chief may shut down the business and it will not be reopened until the Police Chief determines that all issues have been resolved. The Applicant shall be responsible for the costs of such Police response. Failure to pay such costs shall be grounds for immediate revocation of the Card Room license.
- e. The Applicant releases the City of Antioch from any claims related to this card room license or use permit and shall defend, indemnify and hold harmless the City, its agents, officers and employees from any claim, action or proceeding to challenge, set aside or void the license or any approval granted by the City. Applicant shall enter into an agreement to effectuate this condition of approval as required by the City Attorney, which shall include advance deposit for reasonably anticipated staff, legal and other costs for two months that may be incurred by the City. For 18 months following the

commencement of the operations at the Card Room, Applicant shall also be responsible for election costs, including staff costs, if a referendum (if applicable) or initiative petition is presented related to this card room license or use permit.

If a referendum or initiative is filed, then the City Council will consider placing it on a consolidated ballot in accordance with the California Elections Code provisions, but the Applicant acknowledges the City Council's sole and absolute discretion to determine the timing of the election and whether to place the referendum or initiative on a consolidated ballot.

f. Applicant and Key Employees must report to the Police Chief any reasonably known violation of the conditions of approval for this license and/or the use permit to the Chief of Police within 5 business days.

g. Applicant and Key Employees must report to the Police Chief within 5 business days any notices, advisories, notices of violation, warning letters, accusations, gaming activity approvals or denials or any other action directed to them or Kelly's Card Room by the Attorney General, California Gambling Control Commission, any other state or federal agency or the District Attorney's Office.

h. Upon the Police Chief's request, within 5 days of submitting financial reports or statements to the Attorney General or Gambling Control Commission, Applicant shall provide copies to the Police Chief.

Formatted: Indent: Left: 0.5", No bullets or numbering

Formatted: Indent: Left: 0", Hanging: 0.5", No bullets or numbering

Formatted: Indent: Left: 0.5", No bullets or numbering

Formatted: List Paragraph, Add space between paragraphs of the same style, No bullets or numbering

Formatted: List Paragraph, Add space between paragraphs of the same style, No bullets or numbering

Formatted: Indent: Left: 0.5", No bullets or numbering

Formatted: Indent: Left: 0.5", No bullets or numbering

Formatted: No bullets or numbering

**Nerland, Lynn Tracy**

---

**From:** Tony Keslinke [tkeslinke@hotmail.com]  
**Sent:** Tuesday, January 07, 2014 1:01 PM  
**To:** Nerland, Lynn Tracy  
**Cc:** Duran, Steve; Harper, Wade; Rocha, Mary  
**Subject:** Resolution 2013/65  
**Attachments:** Resolution 2013.65 Letter 010714.doc

Lynn,

Please read the attached letter that covers the topic of the error in the resolution as it was originally drafted that we previously discussed. I assume that the other typographical errors have already been corrected.

Please let me know if you have any further questions.

Thank you,

**Tony Keslinke**

Resolution No. 2013/65 from November 12, 2013

Antioch City Council Meeting On Kelly's

Lynn Tracy Nerland

City Attorney

City of Antioch

Antioch, CA 94509

Dear Ms. Nerland,

As we have previously discussed, after reading the resolution that you sent me from the Nov. 12, 2013 Antioch City Council meeting it appears as though a mistake was made in its drafting. After extensive reviews of the actual video from the meeting it is clear that the action taken by the City Council was to grant a conditional card room license to the applicant conditioned upon the applicant receiving a temporary and permanent license from the State and purchasing Kelly's within 36 months from the date of the City Council's approval of the Local Card Room License.

The Resolution as written has two items under Conditions of Approval that read as follows:

- a. The State has issued a temporary or permanent Card Room License to Applicant Anthony Keslinke and Applicant has purchased Kelly's from the prior owner, both within one year from the City Council's approval of the License.
  
- e. The Local Card Room License will cease to be effective, and will automatically be revoked and null and void, if Anthony Keslinke does not acquire a permanent State Card Room License within 36 months from the City Council's approval of this Local Card Room License.

At no time during the meeting was any action involving a 12 month time frame acted or voted upon. I therefore request that the resolution be corrected to read as follows:

- a. The Local Card Room License will cease to be effective, and will automatically be revoked and null and void, if Anthony Keslinke does not purchased Kelly's from the prior owner and has not acquired a temporary and permanent State Card Room License within 36 months from the City Council's approval of this Local Card Room License.

In support of this position I note the following. The motion as read by the city attorney is included verbatim below.

**Motion as read by City Attorney:** "The motion that has been made and seconded is to preliminary determined, subject to further conditions of approval that still need to be resolved that the City Council will entertain issuing a local card room .. at 408 0 st but that it would not become effective until the state has issued a temporary card room license to the applicant, and that the applicant has purchased Kelly's from a prior owner, and that the state has issued a permanent card room license within 36 months from the city council's approval of this license."

City Councilmember Rocha then restates the motion which is also quoted below.

**Mary Rocha then restates the motion** " I think I heard the same thing, grant temporary license on conditions of state approval for 36 months as we take the conditions of approval on our own."

I have included the time when each of these statements were made on the video which is included on the City's website below for your information in case you desire further clarification of these points. I have also included the preceding statements leading up to the formal motion and their associated times which further support that only the 36 month time frame was formally voted on that evening.

2:05:45Mary Rocha Makes Motion – Motion to Grant A Temporary

License on Condition of Approval from the State for 36 Months

2:06:40Tony Tiscareno Seconds the Motion to Grant A Temporary

License on Condition of Approval from the State for 36 Months

2:24:15City Attorney restates Motion Preliminarily Determine Subject

to further conditions of approval the City Council would  
entertain the issuance to grant the .....

2:25:20Mary Rocha again restates the Motion



And finally, at 3:34:50 the City Attorney summarizes and memorializes the earlier action that the Council took before proceeding to work out the final condition of approvals. Also, at this time only the 36 month time frame was stated and never was a 12 month time frame discussed or acted upon.

I therefore request that Resolution No. 2013/65 be corrected to accurately reflect what was voted upon Nov. 12, 2013.

Thank you in advance for your help with this matter.

Sincerely,

Anthony Keslinke