

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
REGARDING THE ADULT ENTERTAINMENT ENTERPRISES.

WHEREAS, six (6) adult entertainment enterprises filed requests for additional amortization time; and,

WHEREAS, the City Council considered the requests for additional amortization time filed by American Video, Deja Vu Club, Silverado Club, Chit Chat Club, Reflections, and Chateau Club on December 17, 1987; and,

WHEREAS, the City Council has reviewed the Plaintiffs', "Deja Vu Club" and "Reflections," petitions in the lawsuits filed against the City; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
THAT:

PART 1: The City Council specifically makes the following findings as to the Council meeting of December 17, 1987:

- (1) The matter which the Council was considering on December 17, 1987 was whether or not the amortization applicants had recouped their investments as set out in City's Exhibits #3 and #4.
- (2) The City Council's intent was to ascertain whether each of the applicants had recouped their investments.
- (3) That the City Council considered the information provided in City's Exhibits #8, #9, #10, and #11, the applications of Deja Vu Club and Reflections, and the amortization data of the four other applicants for additional amortization time that they filed.
- (4) The City Council considered the comments made by the applicants, their representatives, and Mr. Jimmy Shipp, as set out in City's Exhibit #18.
- (5) The City Council also considered the ordinance requirements for additional amortization time to see if the applicants had recouped their investments.

- (6) The City Council was aware that perhaps some applicants might ask to cross-examine or ask questions of the people who spoke. The City Council was prepared to and would have allowed applicants to cross-examine or ask questions, if anyone had so requested.
- (7) The City Council did not take any secret votes, or decide how to vote, or make any final decisions regarding said applications at an executive session on December 17, 1987, or at any other City Council meeting.
- (8) The City Council does respectfully reemphasize that it denied the Plaintiffs Deja Vu Club and Reflections additional amortization time because the Council believed, and still believes, that the applicants failed to show that they had not recouped their investments.
- (9) The City Council understood, and it was its belief, that if the applicants had satisfied the ordinance requirements, the City Council would have been required to grant additional amortization time.
- (10) The City Council considered the statements of Mr. Roy McDaniel on whether the applicants had recouped their investments along with the contrary comments and information of the six (6) applicants, including Jack Bryant, Ed Sartain, and David Nix.
- (11) The City Council found on December 17, 1987, and still believes, that the applicants failed to show by a preponderance of evidence that they had not recouped their investments.
- (12) The City Council understood, as emphasized several times by Mayor Ferguson, that personal feelings of individual Council members were not the issue. It was emphasized that the issue was "whether the applicants had shown that they had not recouped their investments."
- (13) Prior to the vote of the City Council on December 17, 1987, the City Council considered the following items:
 - (a) original applications of the applicants, including City's Exhibits #8 and #9,
 - (b) subsequent data of applicants, including City's Exhibits #10 and #11,
 - (c) October 19, 1987 letter notifying applicants of original date to file for amortization time,

- (d) November 6, 1987 letter, City's Exhibit #5, regarding definition on pasties,
- (e) November 11, 1987 letter, City's Exhibit #17, allowing Deja Vu Club to file for amortization time,
- (f) November 25, 1987 letter, City's Exhibit #6, asking for additional data,
- (g) December 9, 1987 letter, City's Exhibit #7, notifying applicant of Council meeting,
- (h) the entire Adult Entertainment Enterprise Ordinance, City's Exhibit #1, and
- (i) Resolutions granting and denying additional amortization and exemption times, which includes City's Exhibits #3 and #4.

PART 2: The City Council makes these findings in this resolution because the Council can only take action in meetings held pursuant to the Texas Open Meetings Act, and, by the terms of the City Charter, the Council can take action only if there are four (4) affirmative votes taken. This action is taken to summarize and highlight the Council's intentions regarding the December 17, 1987 Council meeting.

PART 3: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 3 day of February, A. D. 1988.

ATTEST:

Dacia Arcos
CITY SECRETARY

Dale E. Ferguson
MAYOR

APPROVED:

Henry Cangel
CITY ATTORNEY