

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
FEBRUARY 4, 2015 – 6:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of February 4, 2015 at 6:00 p.m., with Chairwoman Doris Harrison presiding.

ROLL CALL

Present: Board Members Don DiFatta, Mike Ferris, Doris Harrison, Charles Pullaro, Jr. and Tom Rose. Also Present—Assistant City Attorney Lisa Macchietto and Deputy City Clerk Lori Bravo-Neff.

APPROVAL OF MINUTES

Mr. Rose, seconded by Mr. Ferris, moved to approve the minutes of the Regular Meeting of January 21st, 2014. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

CONSENT AGENDA

- 1 HOTEL & RESTAURANT LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 3 RENEWALS**
Apple Colorado, LLC d/b/a Applebee's Neighborhood Grill & Bar, 3428 N. Elizabeth Street
JT Concepts, Inc. d/b/a Rainbow Café & Bar, 309 N. Santa Fe Avenue
VanZandt, LLC d/b/a Toni & Joe's Pizzeria, 2039 Columbia Drive
- 2 TAVERN LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 3 RENEWALS**
E.J.S., Inc. d/b/a Fairway Inn, 521 S. Pueblo Boulevard
Southern Colorado Theatre Company d/b/a Steel City Theatre Company, 241 S. Santa Fe Avenue
Pueblo Side Pocket, Inc. d/b/a Side Pocket, 4111 Club Manor Drive
- 3 BREW PUB LIQUOR LICENSE APPLICATION-RENEWAL-SHAMROCK BREWING COMPANY, INC. D/B/A SHAMROCK BREWING COMPANY, 108 W. 3RD STREET**
- 4 3.2% BEER LICENSE APPLICATIONS- CONSUMPTION OFF-PREMISES-RENEWALS- TOTAL OF 3 RENEWALS**
Mini Mart, Inc. d/b/a Loaf 'N Jug #202, 1818 Norwood Avenue
J.R.'s Country Stores, Inc. d/b/a J.R.'s Country Store #204, 2402 S. Prairie Avenue
J.R.'s Country Stores, Inc. d/b/a J.R.'s Country Store #214, 615 Eagleridge Boulevard
- 5 3.2% BEER LICENSE APPLICATION- CONSUMPTION ON & OFF PREMISES-RENEWAL-PASSKEY, INC. D/B/A PASSKEY, 518 E. ABRIENDO AVENUE**
- 6 RETAIL LIQUOR STORE LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 2 RENEWALS**
Paul & Charlene Gauna d/b/a Gauna West Side Liquor, 2201 W. 16th Street
HMC, LLC d/b/a Powder Keg Liquors, 2001 E. Evans Avenue
- 7 TEMPORARY PERMIT APPLICATION: TRANSFER OF OWNERSHIP APPLICATION—HOTEL & RESTAURANT LIQUOR LICENSE—ALAMO, LLC D/B/A ALAMO, 1305 E. ROUTT AVENUE, (CURRENTLY LICENSED TO EL ALAMO, LLC D/B/A EL ALAMO, LICENSE EXPIRES JULY 27TH, 2015)**
- 8 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR LICENSE—PUEBLO LODGE #90, THE BENEVOLENT & PROTECTIVE ORDER OF ELKS, MAILING ADDRESS: 426 N. SANTA FE AVENUE, EVENT MANAGER: ANITA MAXINE VIGIL, (EVENT TO BE HELD FEBRUARY 14, 2015. ADDRESS OF EVENT: 426 N. SANTA FE AVENUE)**

CONSENT AGENDA (CONTINUED)

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- 9 REPORT OF CHANGES-CHANGE OF CORPORATE STRUCTURE-HOTEL & RESTAURANT LIQUOR LICENSE-VANZANDT, LLC D/B/A TONI & JOE'S PIZZERIA, 2039 COLUMBIA (REMOVING SHARON VANZANDT AS MEMBER/OWNER DUE TO RESIGNATION. MS. VANZANDT'S 10% OWNERSHIP GOES TO JEREMY VANZANDT WHO WILL NOW BE 100% STOCKHOLDER AND SOLE MEMBER IN THIS ENTITY)**

Mr. Rose, seconded by Mr. DiFatta, moved to approve the Consent Agenda as read. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously

REGULAR AGENDA

- 10 REPORT OF CHANGES-CHANGE OF CORPORATE STRUCTURE-CLUB LIQUOR LICENSE-ST. JOSEPH SOCIETY #7 KSKJ D/B/A ST. JOSEPH HALL, 917 E. "B" STREET. NEW FINANCIAL SECRETARY/MANAGER DANIEL GOLOB REPLACES WILLIAM KOCCMAN**

New officer Daniel Golob, 3409 Northridge Drive, was sworn in and answered questions from the Board. The moral character of Mr. Golob was satisfactory to the Board. He has never held or worked in or for a liquor-licensed establishment. Mr. Golob explained they occasionally employ temporary employees; however, the members of their club are their employees. These members do not have criminal backgrounds and they do conduct background investigations on their members. Mr. Golob described approved forms of identification and explained they will check everyone's identification prior to serving them. Mr. Golob stated some members of their establishment have attended seller/server training.

Mr. DiFatta, seconded by Mr. Ferris, moved to approve this report of changes. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously

- 11 HEARING: NEW TAVERN LIQUOR LICENSE– 7TH STREET STATION, LLC D/B/A 7TH STREET STATION, 112 W. 7TH STREET**

New owner David Clarke, 695 S. Dumont, Pueblo West, CO was sworn in and answered questions from the Board.

For the record, it was determined there was no one present in opposition to the issuance of this license.

The moral character of Mr. Clarke was satisfactory to the Board. Mr. Clarke stated he has previously worked in a liquor-licensed establishment. There are no silent partners or financial backers not disclosed in his application. Mr. Clarke used personal savings to enter into possession of the premises. He explained he will employ 5 employees, most of which are family members. He will not conduct background investigations on potential employees but will check character references. Mr. Clarke described approved forms of identification and stated his policy for checking the age of their patrons will be to request an I.D. from everyone, regardless of age. Mr. Clarke stated his brother has attended seller/server training and that he has been bartending for 17 years.

Board Member Ferris led a discussion regarding the diagram of the basement of the licensed premises and asked for clarification on that portion of the diagram. Following this brief discussion, Mr. Clarke was asked to amend the drawing to outline the entire basement area. The Board also asked Mr. Clarke to provide an addendum to the lease to cover the full term of the license. The petitions were marked as Exhibit A.

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The Board then reviewed the petitions which were previously distributed to the Board. Chairwoman Harrison gave specific information as to how the Board arrived at the number of valid signatures on the petitions.

Mr. Ferris, seconded by Mr. Rose, moved to approve this liquor license contingent upon submittal of an amended drawing and an amendment to the lease. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

Ms. Macchietto read the proposed Findings and Order for the Board's consideration which indicates that issuance of this license is supported by at least 135 businesses and is opposed by no (0) businesses or other parties in interest; and it is supported by at least 87 residents of the neighborhood or other parties in interest and is opposed no (0) residents or other parties in interest. The order also included the information on the amended drawing of the basement and the amendment to the lease which should be extended at least through February 28th, 2016.

Mr. Ferris, seconded by Mr. DiFatta, moved to approve the Findings and Order. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

12 HEARING: NEW CABARET LICENSE– APOLLO INVESTMENTS, LLC D/B/A THE GROVE TAVERN, 901 E. C STREET

At the request of the applicant, this matter was continued to February 18, 2015. There were several citizens present who wished to speak in opposition to this matter; however, Ms. Macchietto explained the Board could not proceed with the hearing without the applicant. She stated they were welcome to return on February 18th, 2015 at which time they would have an opportunity to address the Board with their concerns.

Mr. Pullaro, seconded by Mr. Rose, moved to continue this matter to February 18th, 2015. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

13 COMMUNICATION FROM LUIS VELEZ, CHIEF OF POLICE, RE: ALLEGED LIQUOR CODE VIOLATION-HOTEL & RESTAURANT LIQUOR LICENSE-WILD WINGS USA, LLC D/B/A THE DRAFT SPORTS BAR & GRILL, 4065 CLUB MANOR DRIVE (POLICE CR#14-23998, VIOLATION DATE: DECEMBER 26, 2014)

Owner Michael Colarelli, 1613 Englewood Drive, was sworn in. Attorney Patrick Avalos entered his appearance on behalf of the licensee. Mr. Avalos stated he had not had an opportunity to review the communication regarding this matter; however, he does have a copy of the report. Chairwoman Harrison explained that the purpose of tonight's meeting is for the Board to determine whether or not there is probable cause to find that a violation occurred and whether the Board would proceed to a hearing on the matter.

Note: Prior to their vote, the Board allowed Conflicts Council a brief period of time so that she had an opportunity to finish conducting business with another licensee and so that she could be present for this matter.

Carla Sikes, Assistant City Attorney, entered her appearance on behalf of the Pueblo Police Department.

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Mr. Rose, seconded by Mr. Ferris, moved there is probable cause and moved to set this matter for hearing on March 18th, 2015. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

Prior to proceeding to Item #14, Ms. Sikes served a *Subpoena Duces Tecum* on Mr. Colarelli. Ms. Sikes explained, for the record, that she is requesting certain video, relevant to the night of the alleged violation.

14 COMMUNICATION FROM LUIS VELEZ, CHIEF OF POLICE, RE: ALLEGED LIQUOR CODE VIOLATION-HOTEL & RESTAURANT LIQUOR LICENSE-WILD WINGS USA, LLC D/B/A THE DRAFT SPORTS BAR & GRILL, 4065 CLUB MANOR DRIVE (POLICE CR#14-24055, VIOLATION DATE: DECEMBER 28, 2014)

The licensee, still under oath, was present on behalf of this matter. Mr. Avalos entered his appearance on behalf of the licensee.

Carla Sikes, Assistant City Attorney, entered her appearance on behalf of the Pueblo Police Department.

Mr. Rose, seconded by Mr. Ferris, moved there is probable cause and moved to set this matter for hearing on March 18th, 2015. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

15 COMMUNICATION FROM VALERIE A. PALUMBO, TAX AUDIT MANAGER, RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-CHRISTOPHER RODRIGUEZ D/B/A SHARKY'S BAR, (DATE OF COMMUNICATION 12/17/14) CONTINUED FROM JANUARY 21ST, 2015

Owner Christopher Rodriguez, 102 W. Pitkin, was sworn in. Mr. Rodriguez acknowledged receipt of the communication from the City Clerk's Office. Chairwoman Harrison explained that the purpose of tonight's meeting is for the Board to determine whether or not there is probable cause to find that a violation occurred and whether the Board would proceed to a hearing on the matter. She then asked Mr. Rodriguez if he had had an opportunity to contact Ms. Sikes which he stated he had. Ms. Sikes explained they had reached a stipulation; however, the licensee is still delinquent with his taxes and stated she would like to withdraw the stipulation. Mr. Rodriguez stated he had a receipt in his vehicle indicating he had paid in full. Ms. Bravo-Neff stated she had contacted a Sales Tax employee at approximately 4:35 p.m. today and that employee stated that Mr. Rodriguez was current on his taxes.

Mr. Ferris stated that it may be advantageous to the licensee, to allow him time to go to his vehicle to obtain the receipt. There were no objections.

Mr. Ferris, seconded by Mr. DiFatta, moved to move this item to the end of the agenda. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

16 COMMUNICATION FROM VALERIE A. PALUMBO, TAX AUDIT MANAGER, RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-JT CONCEPTS, INC. D/B/A RAINBOW CAFÉ & BAR, 309 N. SANTA FE AVENUE, (DATE OF COMMUNICATION 12/17/14) CONTINUED FROM JANUARY 21ST, 2015

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Owner Joseph Taibi, 1132 Bella Casa was sworn in. Mr. Taibi acknowledged receipt of the communication from the City Clerk's Office. Chairwoman Harrison explained that the purpose of tonight's meeting is for the Board to determine whether or not there is probable cause to find that a violation occurred and whether the Board would proceed to a hearing on the matter. She then asked Mr. Taibi if he had had an opportunity to contact Ms. Sikes which he stated he had. Ms. Sikes explained they had reached a stipulation and read the proposed *Stipulated Findings and Order* into the record. The findings and order, in part, state that the licensee stipulated and admitted that he failed to timely file sales tax returns for the months of January through October 2014. The licensee acknowledged that delinquencies in the payment of any state or local taxes may form the basis for a finding by the Board of poor moral character and poor record and such a finding by the Board, would render the licensee ineligible to hold a liquor license. Based upon these admissions, the licensee stipulated and agreed to a suspension of its liquor license for a period of 3-days, which would be held in abeyance for a period of 1 calendar year from date of the order.

Mr. Taibi stated he is current with all taxes.

Mr. Pullaro, seconded by Mr. Ferris, moved to approve the Stipulated Findings & Order. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

17 COMMUNICATION FROM VALERIE A. PALUMBO, TAX AUDIT MANAGER, RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-PLANET 86, LLC D/B/A PLANET 86, 215-217 E. NORTHERN AVENUE, (DATE OF COMMUNICATION 12/17/14) CONTINUED FROM JANUARY 21ST, 2015 AT THE REQUEST OF THE LICENSEE

Owner Victor Navarro, 1617 W. Northern Avenue, was sworn in. Mr. Navarro acknowledged receipt of the communication from the City Clerk's Office. Chairwoman Harrison explained that the purpose of tonight's meeting is for the Board to determine whether or not there is probable cause to find that a violation occurred and whether the Board would proceed to a hearing on the matter. She then asked Mr. Navarro if he had had an opportunity to contact Ms. Sikes which he stated he had. Ms. Sikes explained they had reached a stipulation and read the proposed *Stipulated Findings and Order* into the record. The findings and order, in part, state that the licensee stipulated and admitted that he failed to timely file sales tax returns for the months of August through October 2014. The licensee acknowledged that delinquencies in the payment of any state or local taxes may form the basis for a finding by the Board of poor moral character and poor record and such a finding by the Board, would render the licensee ineligible to hold a liquor license. Additionally, any future failure to timely file and pay state or local taxes will be aggressively pursued by the Sales Tax Division to include a request that the Board find the licensee of poor moral character and poor record and revoke its liquor license.

Ms. Sikes explained she did not request a suspension as the business has been closed and Mr. Navarro had been working on the interior of the bar. She also stated that Mr. Navarro has been filing \$0 tax returns and that the previous owner was the one who owed the taxes. Mr. Navarro stated he has taken care of all outstanding fees.

Mr. DiFatta, seconded by Mr. Rose, moved to approve the Stipulated Findings & Order as read. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

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18 HEARING RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-IT'S PARTY TIME, INC. D/B/A WHITE HORSE INN, 628 E. 4TH STREET, (LIQUOR ENFORCEMENT DIVISION CR#14-5582)

Carla Sikes, Assistant City Attorney, asked the Board for a 15-minute recess at this point in time. Ms. Sikes explained that she believes that this matter could be resolved if she had this additional time.

Mr. Rose, seconded by Mr. Ferris, moved to move Items #18 & 19 to the end of the agenda and handle Item #15 before the recess. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

15 COMMUNICATION FROM VALERIE A. PALUMBO, TAX AUDIT MANAGER, RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-CHRISTOPHER RODRIGUEZ D/B/A SHARKY'S BAR, (DATE OF COMMUNICATION 12/17/14) CONTINUED FROM JANUARY 21ST, 2015

Chairwoman Harrison explained the Board would take administrative notice of the licensee being previously sworn in. Mr. Rodriguez provided his receipt from the City Sales Tax Division. Ms. Sikes stated the amount on the receipt indicates that Mr. Rodriguez has paid in full and is the amount she understood was owed to the City. Ms. Sikes stated she would retract her previous statement regarding withdrawal of the stipulation and that the City would abide by the agreement that was presented to the Board at the last meeting.

Ms. Sikes reread the Stipulated Findings and Order into the record. The findings and order state that the licensee stipulated and admitted that he failed to timely file sales tax returns for the months of March-April and September-October 2014. The licensee acknowledged that delinquencies in the payment of any state or local taxes may form the basis for a finding by the Board of poor moral character and poor record and such a finding by the Board, would render the licensee ineligible to hold a liquor license. Based upon these admissions, the licensee stipulated and agreed to a suspension of its liquor license for a period of 3-days, which would be held in abeyance for a period of 1 calendar year from date of the order.

Mr. Rose, seconded by Mr. DiFatta, moved to accept the stipulated agreement as read. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

At this point in the meeting, the Board took a recess at 7:10 p.m. and reconvened at 7:45 p.m.

18 HEARING RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-IT'S PARTY TIME, INC. D/B/A WHITE HORSE INN, 628 E. 4TH STREET, (LIQUOR ENFORCEMENT DIVISION CR#14-5582)

Owner Lorrie L. Estrada, 224 E. 3rd Street was sworn in.

Ms. Sikes explained that this matter had initially been set for a hearing; however, she was able to speak to Ms. Estrada and they were able to reach a stipulated agreement. Ms. Sikes then read the proposed Stipulated Findings and Order into the record. The findings and order resulted from two communications dated October 28, 2014 and December 17, 2014; the 10/28/14 communication arises from an investigation conducted by the State Liquor Enforcement Division for violation of the Board's 4/2/2008 order relating to ownership and control of the business. The 12/17/14 communication arises

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from a complaint made by the City Sales Tax Division against licensee for nonpayment of sales and use tax. The penalty proposed in the Stipulated Findings and Order prohibit *It's Party Time, Inc.* and *Lorrie Estrada individually* from applying for and/or holding a liquor license within the City of Pueblo for 3 years from the date of this order. The order also states in part, "licensee knowingly and voluntarily made the statements contained herein and signed this Stipulation and Order of their own volition without coercion or duress." By way of the order, the licensee also waived its right to a hearing on this matter. (*Note: See copy of this order for all details.*)

Mr. Rose, seconded by Mr. DiFatta, moved to accept the stipulated agreement as read.

Prior to the vote, a brief discussion was held by the Board. Ms. Sikes briefly summarized the Findings and Order. She also explained that the current license expired in December 2014. Ms. Sikes stated she has not made any provisions regarding the sales tax issues and that Ms. Estrada may wish to consult with an attorney as the nonpayment of taxes will be moved into different arena. The Board then cast their votes.

Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

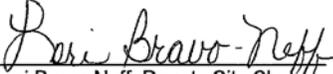
19 HEARING RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-IT'S PARTY TIME, INC. D/B/A WHITE HORSE INN, 628 E. 4TH STREET, (DATE OF COMMUNICATION FROM CITY SALES TAX DIVISION: 12/17/14)

Chairwoman Harrison moved to take administrative notice of the previously read Stipulated Findings and Order as that order also covers this item, #19.

Mr. Rose, seconded by Mr. Ferris, moved to approve the Stipulated Findings and order for Item #19. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

ADJOURN – With no further business to come before the Board, the meeting was adjourned at 8:05 p.m.

Respectfully submitted,


Lori Bravo-Neff, Deputy City Clerk
City Clerk's Office