

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
FEBRUARY 18, 2015 – 6:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of February 18, 2015 at 6:00 p.m., with Chairwoman Doris Harrison presiding.

ROLL CALL

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

APPROVAL OF MINUTES

Mr. Ferris, seconded by Mr. Rose, moved to approve the minutes of the Regular Meeting of February 4th, 2015. Roll Call: Ayes—Ferris, Harrison and Rose. Motion carried unanimously.

AMENDMENTS TO REGULAR AGENDA

Mr. Ferris, seconded by Mr. Rose, moved to move Item #10 to the end of the Regular Agenda. Roll Call: Ayes—Ferris, Harrison and Rose. Motion carried unanimously.

CONSENT AGENDA

- 1 HOTEL & RESTAURANT LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 4 RENEWALS**
Stetell Enterprises, Inc. d/b/a Spectator's East Sports Grill, 1002 Constitution Road
RT Denver Franchise, L.P. d/b/a Ruby Tuesday, 4150 N. Freeway
RMR Colorado, LLC d/b/a Black Eyed Pea, 801 Highway 50 West
Elisabeth Millenet d/b/a Rio Bistro, 126 S. Union Avenue
- 2 TAVERN LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 3 RENEWALS**
Edward P. Sena d/b/a Sena's Buffalo Bar, 414 W. Northern Avenue
J Michael's, LLC d/b/a JMichael's Union Avenue Pub, 325 S. Union Avenue
Parise's Restaurant & Lounge, Inc. d/b/a Parise's Lounge, 430 W. 30th Street
- 3 3.2% BEER LICENSE APPLICATIONS- CONSUMPTION OFF-PREMISES-RENEWALS- TOTAL OF 3 RENEWALS**
Love's Travel Stops & Country Stores, Inc. d/b/a Love's Travel Stop #226, 6470 N. Elizabeth Street
Pester Marketing Company d/b/a Alta Convenience #3104, 725 W. Northern Avenue
Pester Marketing Company d/b/a Alta Convenience #3109, 2102 Norwood Avenue
- 4 CLUB LIQUOR LICENSE APPLICATION-RENEWAL-B.P.O.E. OF USA D/B/A B.P.O.E. PUEBLO LODGE #90, 426 N. SANTA FE AVENUE**
- 5 CABARET LICENSE RENEWAL APPLICATION-TOTAL OF 2 RENEWALS**
E.J.S., Inc. d/b/a Fairway Inn, 521 S. Pueblo Boulevard
Pueblo Side Pocket, Inc. d/b/a Side Pocket, 4111 Club Manor Drive
- 6 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR LICENSE- THE STATE HISTORICAL SOCIETY OF COLORADO D/B/A EL PUEBLO HISTORY MUSEUM, MAILING ADDRESS: 301 N. UNION AVENUE, EVENT MANAGER: SIMON TEARPAK, (EVENT TO BE HELD MARCH 6, 2015. ADDRESS OF EVENT: 301 N. UNION AVENUE)**

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

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7 NEIGHBORHOOD SURVEY: NEW HOTEL & RESTAURANT LIQUOR LICENSE– MARUI LI D/B/A WONDERFUL BISTRO CHINESE CUISINE, 4602 N. ELIZABETH STREET, #120

Neighborhood Surveyor Don Vest, 516 Lincoln was sworn in and presented to the Board the demographics and map of the defined neighborhood for issuance of a new Hotel & Restaurant liquor license for premises to be known as *Wonderful Bistro Chinese Cuisine*.

Mr. Rose, seconded by Mr. Ferris, moved to accept the survey and set the hearing for March 4th, 2015. Roll Call: Ayes—Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

8 PERMIT APPLICATION AND REPORT OF CHANGES: MANAGER’S REGISTRATION-HOTEL & RESTAURANT LIQUOR LICENSE– THE NOODLE SHOP, CO.-COLORADO, INC. D/B/A NOODLES & COMPANY, 825 W. US HIGHWAY 50 (NEW MANAGER LAURA HANNULA REPLACES DANIELLE MC GEHEE)

Laura Hannula, 3960 Meadowdale Place, Colorado Springs, CO was sworn in and answered questions from the Board. The moral character of Ms. Hannula was satisfactory to the Board. Ms. Hannula stated she has previously worked in a liquor-licensed establishment and that license was never suspended, revoked or otherwise reprimanded for violating any liquor licensing statutes or regulations. Ms. Hannula stated they employ 22 employees at this establishment, and to her knowledge, these employees do not have criminal backgrounds. She stated they conduct background checks on managers only. Ms. Hannula described approved forms of identification and explained their policy for checking the age of their patrons is to ask for identification from anyone who appears under the age of 50. Ms. Hannula stated she will attend a Serve-Safe program.

Mr. Ferris, seconded by Mr. Rose, moved to approve this manager registration. Roll Call: Ayes—Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

9 HEARING: 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)

New owner, Ariana Orozco, 7738 Umatilla Street, Denver, CO was sworn in and answered questions from the Board.

The moral character of Ms. Orozco was satisfactory to the Board. Ms. Orozco has worked for this liquor-licensed establishment as the manager and they have never received a suspension, revocation or were otherwise reprimanded for violating any liquor licensing statutes or regulations. Ms. Orozco stated she obtained the funds necessary to enter into possession of the premises through a loan and personal savings. They employ 4 employees at this establishment, and to her knowledge, these employees do not have criminal backgrounds. She stated they do not conduct background checks; they rely on reference checks. Ms. Orozco described approved forms of identification and explained their policy for checking the age of their patrons is to ask for identification from anyone who appears to be under 50 years of age. Board Member Rose suggested to Ms. Orozco that she attend a Seller and Server Training Program and explained the importance of being in control of the liquor-licensed premises.

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

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Mr. Rose, seconded by Mr. Ferris, moved to approve this transfer of ownership. Roll Call: Ayes—Ferris, Harrison, and Rose. Motion carried unanimously.

Ms. Macchietto read the proposed Findings and Order for the Board's consideration.

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

10 MOVED TO END OF THE AGENDA

11 COMMUNICATION FROM VALERIE A. PALUMBO, TAX AUDIT MANAGER, RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-SILGLO, INC. D/B/A ALOHA GLORYA 313 N. MAIN STREET, (DATE OF COMMUNICATION 12/17/14) CONTINUED FROM JANUARY 21ST, 2015

Owner Glorya Silva, 103 Park Drive was sworn in. Mrs. Silva explained she has hearing problems so Ms. Bravo-Neff showed her a copy of the communication that had been mailed to her. Mrs. Silva 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 Mrs. Silva if she had had an opportunity to contact Ms. Sikes which she stated she had. Ms. Sikes explained she had spoken to Mrs. Silva on 2/17/15 and Mrs. Silva stated she would remit her tax payments; however, due to a misunderstanding, Mrs. Silva had remitted payments for months not covered in the communication. Ms. Sikes stated that this matter could be set for a hearing and between now and the hearing date, a meeting could be held between Ms. Sikes, Ms. Palumbo and Mrs. Silva so that this matter could be resolved. The hearing date was set for April 1st, 2015.

Mr. Ferris, seconded by Mr. Rose, moved to receive the communication, find there is probable cause and to set this matter for hearing on April 1st, 2015. Roll Call: Ayes—Ferris, Harrison, and Rose. Motion carried unanimously.

12 COMMUNICATION FROM CARLA L. SIKES, ASSISTANT CITY ATTORNEY, RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-SILGLO, INC. D/B/A ALOHA GLORYA 313 N. MAIN STREET, (DATE OF COMMUNICATION 2/4/15)

Owner Glorya Silva, still under oath, was present on behalf of this matter. Chairwoman Harrison stated the Board can take administrative notice of Mrs. Silva's acknowledgement of receipt of the communications from the previous matter. Ms. Sikes explained that a stipulated agreement had not been reached in regard to this matter and that it should be set for a hearing. Ms. Sikes also stated that *Aloha Glorya* has not renewed their 2015 business license and would like to amend the communication to include the business license violation.

Mr. Rose, seconded by Mr. Ferris, moved to include the business license violation in the communication, receive the communication, find there is probable cause to support the violation and to set the matter for hearing on April 1, 2015. Roll Call: Ayes—Ferris, Harrison, and Rose. Motion carried unanimously.

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**13 HEARING ON COMMUNICATION FROM VALERIE A. PALUMBO, TAX AUDIT MANAGER, RE:
ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-RICHARD RAY GONZALES
D/B/A PIXIE INN, 440 S. SANTA FE AVENUE, (DATE OF COMMUNICATION 12/17/14)**

Owner Richard R. Gonzales, 22 Briarwood Circle was sworn in. Mr. Gonzales 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. Gonzales 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 July 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. In order to avoid such a finding, the licensee stipulated and agreed to a 1-day suspension for this violation. Additionally, due to the fact the licensee stipulated and admitted to a prior violation at the Liquor Board's meeting on 12/3/14 and received a 1-day suspension which was held in abeyance for a period of one calendar year, the current violation is in violation of those stipulated findings and order; the licensee also stipulated to the imposition of the suspension from 12/3/14. Based upon these admissions, the licensee stipulated and agreed to a suspension of its liquor license for a period of 2-days, which shall be imposed.

For the record, it was determined there was no one present in opposition.

Mr. Gonzales also stated he would like to pay a fine in lieu of active suspension. The process was briefly explained to Mr. Gonzales who was told to contact the City Clerk's Office to file the proper paperwork. Mr. Gonzales is current with all taxes.

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

**14 HEARING ON COMMUNICATION FROM VALERIE A. PALUMBO, TAX AUDIT MANAGER, RE:
ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-PHIL'S RADIATOR
SERVICE, LLC D/B/A PHIL'S RADIATOR SERVICE, LLC, 109 E. C STREET, (DATE OF
COMMUNICATION 12/17/14)**

There was no one present on behalf of this matter. Ms. Sikes explained the owners had paid all delinquent taxes and the business has closed. Ms. Sikes stated the City would like to withdraw the communication.

For the record, it was determined there was no one present in opposition.

Mr. Rose, seconded by Mr. Ferris, moved to withdraw this communication. Roll Call: Ayes—Ferris, Harrison, and Rose. Motion carried unanimously.

**15 HEARING ON COMMUNICATION FROM VALERIE A. PALUMBO, TAX AUDIT MANAGER, RE:
ALLEGED LIQUOR CODE VIOLATION-HOTEL & RESTAURANT LIQUOR LICENSE-NEW
VISION HOSPITALITY, LLC D/B/A CLARION HOTEL, 4001 N. ELIZABETH STREET, (DATE OF
COMMUNICATION 12/11/14)**

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

10 HEARING: NEW CABARET LICENSE– APOLLO INVESTMENTS, LLC D/B/A THE GROVE TAVERN, 901 E. C STREET (CONTINUED FROM FEBRUARY 4TH, 2015 AT THE REQUEST OF THE APPLICANT)

Owner/Licensee Eric Apodaca, 1820 E. Orman Avenue was sworn in.

For the record, it was determined there were citizens present in opposition to the issuance of this cabaret license. The following individuals were sworn in:

- Mike Foderaro, 314 Palm Street;
- Chuck Martinez, 412 Palm Street; and
- Mary Foderaro, 314 Palm Street.

The Board took administrative notice of the licensee's testimony with regard to moral character from the hearing for their liquor license.

Ms. Macchietto briefly explained how the hearing process would be handled and asked if there were any questions; no one had questions regarding the procedures for the hearing.

The Board 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. The applicant requested that the petitions be admitted into the record and were marked as Exhibit 1.

Mr. Apodaca explained they had a difficult time obtaining signatures in the defined area so they primarily visited the businesses within this area. He stated the reason they were applying for a cabaret license is so that they do not get a violation. Mr. Apodaca stated they play music and have bands and DJ's on Fridays and Saturdays. He stated he has another job and is at the establishment primarily on the weekends. Mr. Ferris asked Mr. Apodaca if he felt comfortable with the number of signatures they had obtained on their petitions and Mr. Apodaca replied he was not. Mr. Apodaca stated he had no further testimony to give. No one wished to cross examine Mr. Apodaca.

The three citizens, previously sworn, were then given an opportunity to speak.

- Mr. Martinez stated they have a number of issues to address which he explained was trash in the gutters and street; vandalism during fights outside and red beer cups leaving the bar. He mentioned there have been shootings and a stabbing at this establishment and feels issuing a cabaret at this establishment will just draw a bigger crowd and add to the existing problems. Mr. Martinez stated they do call the police. He also stated the majority of problems have occurred since the new owners took over the business. He stated he has lived in this neighborhood for 46 years and feels their safety is being threatened. Mr. Martinez stated he has never personally contacted the owners, but believes others residents have and his assumption is they do nothing since these issues are on-going.
- Mr. Foderaro explained they have had intoxicated people open their gate, enter their yard and fight. He stated he calls the police. Mr. Foderaro stated alcohol bottles are strewn on many of the residents' private property. He provided a series of pictures which show broken glass from vehicles that have been vandalized; trash; police cars parked at the establishment. Mr. Foderaro explained the glass is cleaned up by the residents in the neighborhood, and not the licensee. He stated this establishment draws a young crowd who appear to be in their 20's and 30's. Mr. Foderaro stated they did receive a certified letter from the applicant, but no one ever approached them to sign a petition.

REGULAR AGENDA (CONTINUED)

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- Mrs. Foderaro relayed her personal observations to the Board. She stated there has been a significant increase in fighting since the new owners took over. She stated that there was an incident where a “full-grown” man chased her 9-year old son and feels their peace is being violated. She stated there has been an increase in burglaries and thefts in the neighborhood and explained that one neighbor reported finding a stranger sleeping in his backyard. Mrs. Foderaro stated the presence of security guards at this establishment has helped, but there are still lots of issues. She stated she has not personally contacted the owners.

The photos presented by Mr. Foderaro, were entered into the record and marked as Exhibit 2. Mr. Apodaca had no objection to the admission of these photos.

Ms. Macchietto asked if there was anyone else present wishing to speak and there was one additional person who also wished to address the Board.

Kenneth Nicholson, 812 E. C Street, was sworn in. Mr. Nicholson stated this establishment does not have a parking lot and they continually find trash strewn throughout the neighborhood. He stated the licensee should clean up after their patrons. Mr. Nicholson stated it would be beneficial for the licensee to listen to the neighbors and to pick up the trash left behind by the patrons of this establishment.

Mr. Apodaca was given an opportunity to offer rebuttal. Mr. Apodaca stated that the stabbing and the shootings did not occur at his establishment and that they are not the only liquor-licensed establishment in this neighborhood. He stated they have security and no one is permitted to leave with alcohol. He did acknowledge that they do serve in red cups; however, these cups contain soft drinks, not alcohol.

The Board then addressed Mr. Apodaca. Mr. Ferris stated that as a business owner, Mr. Apodaca needs to “step up to the plate” and be a good neighbor. Chairwoman Harrison stated she felt that the employees of this establishment are not being properly supervised and feels “there is something going on at this establishment, and it is not good.” She stated the petitions were also difficult to read as business owners signed on the petitions meant for residents and vice versa. Mr. Rose stated he felt the petitions circulated by the applicant were “shoddy at best” and pointed out that not even Mr. Apodaca was comfortable with what was represented in the petitions.

Mr. Apodaca apologized to the neighbors. No one present wished to make any closing statements.

Mr. Rose, seconded by Mr. Ferris, moved to deny this application. Prior to casting their votes, the Board held a brief discussion. Mr. Ferris stated some of the matters expressed by the opposition at the meeting, were matters for the police; however, the petitions do not indicate that they made a very good effort. Chairwoman Harrison stated that the licensee needs to respect their neighbors and stated she felt being in such close proximity to a residential area, they really need to make an effort to get to know their neighbors. Mr. Rose stated he was concerned with the wants and needs of the community. The Board then cast their votes.

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

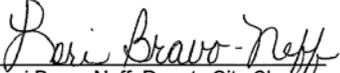
Ms. Macchietto stated the formal findings will be forthcoming.

REGULAR AGENDA (CONTINUED)

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ADJOURN – With no further business to come before the Board, the meeting was adjourned at 7:45 p.m.

Respectfully submitted,


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