

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
MAY 4, 2011 – 7:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of May 4, 2011 at 7:00 p.m., with Chairman Ralph Scaplo presiding.

ROLL CALL

Present: Board Members Don DiFatta, Mike Ferris, Doris Harrison, Tom Rose and Ralph Scaplo. Also Present—Assistant City Attorney Bob Jagger and Deputy City Clerk Lori Bravo-Neff.

APPROVAL OF MINUTES

Mr. DiFatta, seconded by Mr. Ferris, moved to approve the minutes of the Regular Meeting of April 20, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

RE: CONSENT AGENDA

Mr. Jagger explained that Board Member Tom Rose may have a potential conflict of interest on agenda Item #8 and would abstain from voting on the approval of the Consent Agenda.

CONSENT AGENDA

- 1 HOTEL & RESTAURANT LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 3 APPLICATIONS**
Rojas, Inc. d/b/a Rojas Restaurante Mexicano, 126 E. 4th Street
Patti's, Inc. d/b/a Patti's Restaurant & Flamingo Lounge, 241 S. Santa Fe Avenue
June Food, Inc. d/b/a Momo Japanese Restaurant, 716 N. Santa Fe Avenue
- 2 TAVERN LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 3 APPLICATIONS**
J&CD, Inc. d/b/a Eastside Tavern, 721 E. 4th Street
Wrong Note, LTD d/b/a The Downtown Bar, 103 Central Plaza
R&R Blues Limited d/b/a The Downbeat, 1335 E. Evans Avenue
- 3 BEER AND WINE LIQUOR LICENSE APPLICATION-RENEWAL-EAT NOW, LLC D/B/A BINGO BURGER, 101 CENTRAL PLAZA**
- 4 RETAIL LIQUOR STORE LIQUOR LICENSE APPLICATION-RENEWAL-HANARI, INC. D/B/A TREASURE ISLAND LIQUOR, 1210 S. PRAIRIE AVENUE**
- 5 CABARET LICENSE APPLICATION- RENEWAL – GLT, INC. D/B/A GREENLIGHT TAVERN, 227 N. SANTA FE AVENUE**
- 6 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR LICENSE– THE HARP FOUNDATION, 200 W. 1ST STREET, SUITE 303, EVENT MANAGER: KEVIN ORTIZ (EVENT TO BE HELD JULY 4TH, 2011. ADDRESS OF EVENT: MAIN STREET FROM “D” STREET TO GRAND AVENUE; GRAND AVENUE BETWEEN MAIN STREET AND SANTA FE AVENUE AND RIVERWALK AREA IN BETWEEN)**

CONSENT AGENDA (Continued)

MEETING
NUMBER

- 7 SPECIAL EVENTS PERMIT APPLICATION-FERMENTED MALT BEVERAGE LICENSE – PUEBLO CHAMBER OF COMMERCE, 302 N. SANTA FE AVENUE, EVENT MANAGER: ROD SLYHOFF (EVENT TO BE HELD MAY 19TH-MAY 22ND, 2011. ADDRESS OF EVENT: 1ST & UNION TO B STREET; C&D STREET FROM VICTORIA TO MAIN; GRAND FROM 1ST & MAIN; CONVENTION CENTER OVERFLOW PARKING LOT; PUEBLO PLAZA, PBR PARKING LOT; GRAND FROM MAIN TO SANTA FE; CITY HALL PARKING LOT AND OLD HEALTH DEPARTMENT PARKING LOTS)
- 8 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR, MAILING ADDRESS: P.O. BOX 21, PUEBLO, CO; EVENT MANAGER: TOM BRUSS (EVENT TO BE HELD JUNE 3RD; JUNE 10TH; JUNE 17TH; AND JUNE 24TH, 2011. ADDRESS OF EVENT: 100 BLOCK WEST “B” STREET)
- 9 PERMIT APPLICATION & REPORT OF CHANGES- MODIFICATION OF PREMISES— TAVERN LIQUOR LICENSE-101, LLC D/B/A THE 101, 101-103 N. UNION AVENUE (REQUESTING MODIFICATION BEGIN ON MAY 20, 2011 THROUGH MAY 22, 2011)
- 10 REPORT OF CHANGES-CHANGE OF CORPORATE STRUCTURE- HOTEL & RESTAURANT LIQUOR LICENSE– T&D ENTERPRISES, LLC D/B/A PARK EAST RESTAURANT, 720 GOODNIGHT AVENUE (REMOVAL OF 50% STOCKHOLDER AND MANAGING MEMBER DAVID JIMENEZ; HIS SHARES OF STOCK WILL GO TO THE TWO REMAINING MEMBERS: TERRA RIGGIO AND F. JEFFREY RIGGIO)
- 11 PERMIT APPLICATION AND REPORT OF CHANGES-CHANGE OF MANAGER-TAVERN LIQUOR LICENSE- OXFORD BAR & GRILL, LLC D/B/A OXFORD BAR AND GRILL, 419 N. SANTA FE AVENUE, (NEW MANAGER: OWNER SHANNON BACA REPLACES KEITH REID)

VOTE ON CONSENT AGENDA ITEMS:

Mr. DiFatta, seconded by Ms. Harrison, moved to approve the Consent Agenda as read into the record. Roll Call: Ayes—DiFatta, Ferris, Harrison and Scaplo. Abstained: Rose. Motion passed by a vote of 4-0.

REGULAR AGENDA

12 NEIGHBORHOOD SURVEY: NEW HOTEL & RESTAURANT LIQUOR LICENSE– JOE’S BISTRO, LLC D/B/A JOE’S ITALIAN BISTRO, 310 S. VICTORIA AVENUE, SUITE C, D, & H

Neighborhood surveyor Don Vest, 516 Lincoln Street, 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 *Joe’s Italian Bistro*. Mr. Vest explained that at least one of the downtown apartments has a security system and that the applicant will not be able to enter these premises. Mr. Jagger stated the applicant will have a difficult time obtaining signatures in the downtown area due to this fact.

Mr. Rose, seconded by Mr. DiFatta, moved to receive the survey and set the hearing for May 18, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

REGULAR AGENDA (CONTINUED)

**MEETING
NUMBER**

- 13 REPORT OF CHANGES-CHANGE OF CORPORATE STRUCTURE- HOTEL & RESTAURANT LIQUOR LICENSE- C>, INC. D/B/A EL NOPAL RESTAURANT, 1435 E. EVANS AVENUE (NEW VICE-PRESIDENT & SECRETARY KIMBERLI D. TORRES REPLACES TIMOTHY RYAN TORRES AS VICE-PRESIDENT AND KEVIN D. TORRES AS SECRETARY)**

New corporate vice-president and secretary, Kimberli D. Torres, 3938 Pronghorn Lane was sworn in and answered questions from the Board. The moral character of Mrs. Torres was satisfactory to the Board. Mrs. Torres stated she has never held or worked in or for a liquor-licensed establishment. There are no silent partners or financial backers not disclosed in her application. Mrs. Torres explained she does not own any shares of stock and is not investing any funds. Mrs. Torres stated there are currently 14 employees. She stated that some of their employees are or have been on work-release and they also check references their employee's former employers. Mrs. Torres described approved forms of identification and stated their policy for checking the age of their patrons will be to require ID from anyone who appears to be 40 years of age or younger. She stated all employees will attend the City/State Liquor Awareness classes sometime this year.

Ms. Harrison, seconded by Mr. Rose, moved to approve the Change of Corporate Structure. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

- 14 HEARING: NEW HOTEL & RESTAURANT LIQUOR LICENSE- MARTINEZ MARTINEZ, LLC D/B/A BEAVER'S SPORTS BAR, 1338 E. US HWY 50 BYPASS (CONTINUED FROM APRIL 20, 2011)**

Owner Kristy Evans, 2728 Winnipeg, was sworn in.

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

Chairman Scaplo complimented Ms. Evans on doing a "great job" on the petition circulation process and other members of the Board agreed. Chairman Scaplo stated after reviewing the petitions, it was determined that issuance of this license is supported by at least 296 residents of the neighborhood or other parties in interest, and opposed by no residents of the neighborhood or other parties in interest.

Mr. Ferris, seconded by Mr. DiFatta, moved to approve the issuance of this new hotel & restaurant liquor license. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

Mr. Jagger read the proposed Findings and Order into the record for the Board's consideration.

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

- 15 HEARING: NEW TAVERN LIQUOR LICENSE- EAST COAST PIZZA OF PUEBLO, LLC D/B/A EAST COAST PIZZA, 1638-1640 US HWY 50 WEST**

REGULAR AGENDA (Continued)

**MEETING
NUMBER**

Corporate officers Vito Mannino, 102 S. Union Avenue and Kristi Mannino, 258 W. Archer Drive were 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 Ms. Mannino was satisfactory to the Board. Ms. Mannino stated she has never held or worked in or for a liquor-licensed establishment. There are no silent partners or financial backers not disclosed in their application. Ms. Mannino explained she does not own any shares of stock and is not investing any funds. Ms. Mannino stated they currently employ 15 employees. She stated their employees do not have criminal histories and they will conduct background investigations on potential employees. Ms. Mannino described approved forms of identification and stated their policy for checking the age of their patrons will be to require ID from anyone who appears to be under the age 35 years. She stated their employees will attend the City/State Liquor Awareness class on June 8th, 2011.

The moral character of Mr. Mannino was satisfactory to the Board. Mr. Mannino stated he has never held or worked in or for a liquor-licensed establishment. There are no silent partners or financial backers not disclosed in their application. Mr. Mannino explained he used personal savings to enter into possession of the premises. Mr. Mannino stated they currently employ 15 employees. He stated they will conduct background investigations on potential employees. He stated their employees will attend the City/State Liquor Awareness class on June 8th, 2011.

At this point in the hearing, the applicants then distributed the petitions they had circulated to the area residents and businesses located within ¼ mile of their proposed licensed establishment. The petitions were marked as follows: 3 packets of residential petitions were marked as Exhibit A and 2 packets of business petitions were marked as Exhibit B. The Board reviewed the petitions at length. Following their review, the Board determined that issuance of this license is supported by at least 84 residents of the neighborhood or other parties in interest and opposed by no residents of the neighborhood or other parties in interest.

Chairman Scaplo closed the hearing.

Mr. Rose, seconded by Mr. Ferris, moved to approve the issuance of this new tavern liquor license. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

Mr. Jagger read the proposed Findings and Order into the record for the Board's consideration.

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

16 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION- TAVERN LIQUOR LICENSE: CAVEMAN'S MAIN EVENT, INC. D/B/A ONE EYED JACK'S SALOON, 211 W. NORTHERN AVENUE, (POLICE CR#11-6421, VIOLATION DATE: APRIL 8, 2011)

Mr. DiFatta explained that the licensee wished to set this matter for hearing. (For the record, the licensee was not present due to a conflict with his work schedule.)

Mr. DiFatta, seconded by Ms. Harrison, moved to set this matter for hearing on June 1, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

REGULAR AGENDA (Continued)

**MEETING
NUMBER**

- 17 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION- TAVERN LIQUOR LICENSE: CAVEMAN'S MAIN EVENT, INC. D/B/A ONE EYED JACK'S SALOON, 211 W. NORTHERN AVENUE, (POLICE CR#11-6515, VIOLATION DATE: APRIL 9, 2011)**

Mr. DiFatta explained that the licensee wished to set this matter for hearing. (For the record, the licensee was not present due to a conflict with his work schedule.)

Mr. DiFatta, seconded by Ms. Harrison, moved to set this matter for hearing on June 15, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

- 18 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION- TAVERN LIQUOR LICENSE: DEBORAH BARNETT D/B/A PIRATE'S COVE, 105 CENTRAL PLAZA, (POLICE CR#11-6514, VIOLATION DATE: APRIL 9, 2011)**

Janice Diaz, 1801 Palmer and Tabitha Standfill, 2114 E. Routt were both sworn in. Ms. Barnett called the City Clerk's Office days before she was notified to appear before the Board to explain that she is battling cancer and that Ms. Diaz had her permission and authorization to represent her in this matter.

Ms. Diaz acknowledged receipt of the police communication from the City Clerk's Office. Chairman Scaplo explained to Ms. Diaz that it is up to the Board to make a determination of whether or not there is probable cause that a violation occurred and whether or not the matter will be set for a hearing.

Ms. Harrison, seconded by Mr. Rose, moved there is probable cause that a violation occurred and moved to set the matter for hearing. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

Ms. Diaz stated she wished to stipulate to the violation and was given the opportunity to present any mitigation she would like the Board to consider. Ms. Diaz stated she took offense to the officer's description of clothing that was on the bar as "drag-queen paraphernalia" and it was because of this clothing that a glass containing alcohol was missed by the bartender. She stated that Ms. Standfill was the employee on duty on the night this incident occurred and that she has been let go; they have a good record regarding violations and that everyone, including employees, must be out of the bar by 2:00 a.m. Ms. Diaz stated once "last call" is announced, that everything must be off the bar and all glasses emptied. She also stated that attendance at the City/State liquor awareness classes is now mandatory.

Ms. Harrison moved for 2-days suspension: 1 day served, 1 day held in abeyance for 1 year. Motion died for lack of a second.

Mr. Ferris, seconded by Mr. Rose, moved for 2-days suspension with both days held in abeyance for 1 year. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

Mr. Jagger read the proposed Findings and Order into the record for the Board's consideration.

REGULAR AGENDA (Continued)

**MEETING
NUMBER**

Ms. Harrison, seconded by Mr. Rose, moved to accept the Findings and Order as read. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

19 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION- TAVERN LIQUOR LICENSE: 3 BELOW, LLC D/B/A 3 BELOW, 224 S. UNION AVENUE, (POLICE CR#11-6871, VIOLATION DATE: APRIL 14, 2011)

Owner Tammy Weldon, 10 Goldsmith Court was sworn in. Also present with Ms. Weldon was Matthew Medina, 2829 Acero who was also sworn in.

Ms. Weldon acknowledged receipt of the police communication from the City Clerk's Office. Chairman Scaplo explained to Ms. Weldon that it is up to the Board to make a determination of whether or not there is probable cause that a violation occurred and whether or not the matter will be set for a hearing.

Mr. Ferris, seconded by Ms. Harrison, moved there is probable cause that a violation occurred and moved to set the matter for hearing. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

Ms. Weldon opted to set the matter for hearing. The hearing date was set for July 6, 2011.

20 HEARING RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE- 101, LLC D/B/A THE 101, 101-103 N. UNION AVENUE, (POLICE CR# 11-2760, VIOLATION DATE: FEBRUARY 12, 2011)

Officer Christopher Alarid, 200 S. Main was sworn in and fully described his involvement and investigation with regard to the allegation of the licensee permitting the removal of alcohol from the licensed premises on February 12, 2011 at approximately 1:40 a.m. The particulars of this violation are more fully set forth in police case report number 11-2760. Officer Alarid answered questions from the Board. He also submitted a photograph of the beer bottle he collected on the night of this violation and it was entered into the record and marked as *Exhibit A*. Mr. Pumphrey was also given the opportunity to question the officer.

Officer Alarid issued a subpoena for witness Gabriel Quezada who was present at the beginning of the meeting but was no longer present when this item was called. Chairman Scaplo took a 5-minute recess to allow Officer Alarid an opportunity to see if Mr. Quezada was elsewhere in the building or had just stepped outside. This witness could not be located. When the meeting reconvened, Mr. Pumphrey was called before the Board.

Owner Brian Pumphrey, 5600 Riverview Lane was sworn in and given the opportunity to present his defense. Mr. Pumphrey explained he had *still-frame photos* from their video surveillance equipment which were marked as *Exhibits 1-12* and a DVD, marked as *Exhibit 13* which contained video surveillance from 2/12/2011 of the establishment around closing time. Officer Alarid had no objection to the submittal of Mr. Pumphrey's evidence. Mr. Pumphrey then played the video for the Board. Mr. Pumphrey pointed out Gabriel Quezada as he was leaving the establishment and explained that it is plain to see in the video that Quezada appeared to be talking on his phone and was holding the phone with one hand and with the other hand, he used the handrail as he ascended up the stairway and that he did not leave with a beer. Officer Alarid acknowledged that the person

REGULAR AGENDA (Continued)

**MEETING
NUMBER**

in the video was Quezada. The officer was also given the opportunity to question Mr. Pumphrey.

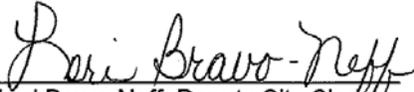
With all questions, comments and concerns being addressed, Chairman Scaplo entertained a motion with regard to the violation/sanction.

Mr. Jagger briefly reviewed the circumstantial evidence and also briefly spoke about whether the establishment had constructive knowledge and permitted the removal of alcohol.

Mr. Rose, seconded by Mr. Ferris, moved that no violation occurred. Roll Call: Ayes— DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

ADJOURN – With no further business to conduct, the meeting was adjourned at 9:40 p.m.

Respectfully submitted,


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