

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
MAY 18, 2011 – 7:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of May 18, 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

Ms. Harrison, seconded by Mr. Rose, moved to approve the minutes of the Regular Meeting of May 4, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

AMENDMENTS TO CONSENT AGENDA

Ms. Harrison, seconded by Mr. Rose, moved to remove the renewal for *One Eyed Jack's Saloon* from Item #1 and the cabaret renewal for this licensee from Item #4 and continue these renewals to July 20, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

CONSENT AGENDA

- 1 TAVERN LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 2 APPLICATIONS**
CDE Billiards, LLC d/b/a Classic Q's, 1715 S. Prairie Avenue
Deborah L. Barnett d/b/a Pirate's Cove, 105 Central Plaza
- 2 3.2% BEER LICENSE APPLICATIONS-RENEWALS-CONSUMPTION OFF-PREMISES-TOTAL OF 2 APPLICATIONS**
Dillon Companies, Inc. d/b/a King Soopers, 3050 W. Northern Avenue
Wal-Mart Stores, Inc. d/b/a Wal-Mart Supercenter, 4200 Dillon Drive
- 3 RETAIL LIQUOR STORE LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 2 APPLICATIONS**
North Pueblo Liquor Mart, LLC d/b/a North Pueblo Liquor Mart, 412 Eagleridge Boulevard
Kwon's Liquor, Inc. d/b/a Lang's Liquor, 2143 Jerry Murphy Road
- 4 REMOVED FROM AGENDA**

VOTE ON CONSENT AGENDA ITEMS:

Ms. Harrison, seconded by Mr. Ferris, moved to approve the Consent Agenda as read into the record. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion passed by a vote of 5-0.

REGULAR AGENDA

- 5 NEIGHBORHOOD SURVEY: NEW HOTEL & RESTAURANT LIQUOR LICENSE-BROOKLYN PUEBLO, CORP. D/B/A MANHATTAN'S PIZZA PARLOR AND MORE, 1110 HWY 50 WEST**

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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 *Manhattan's Pizza Parlor and More*.

Mr. Ferris, seconded by Mr. DiFatta, moved to receive the survey and set the hearing for June 1, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

6 NEIGHBORHOOD SURVEY: CHANGE OF LOCATION: TAVERN LIQUOR LICENSE/NEW CABARET LICENSE– MUGGSY'S INN, INC. D/B/A MUGGSY'S INN, 115 E. RIVERWALK, UNIT A

Neighborhood surveyor Don Vest, 516 Lincoln Street, was sworn in and presented to the Board the demographics and map of the defined neighborhood for a change of location of a tavern liquor license for premises known as *Muggsy's Inn*.

Mr. Rose, seconded by Ms. Harrison, moved to receive the survey and set the hearing for June 1, 2011.

7 PERMIT APPLICATION AND REPORT OF CHANGES-CHANGE OF MANAGER-HOTEL & RESTAURANT LIQUOR LICENSE- CHIPOTLE MEXICAN GRILL, INC. D/B/A CHIPOTLE MEXICAN GRILL, 3230 N. ELIZABETH STREET, (NEW MANAGER: JAMILEE D. ROMERO REPLACES PRISCILLA RODRIGUEZ ONSUREZ)

New manager Jamilee D. Romero, 2207 E. 12th Street, was sworn in and answered questions from the Board. The moral character of Ms. Romero was satisfactory to the Board. Ms. Romero stated she has never held or worked in or for a liquor-licensed establishment. She stated there are currently 20 employees at this restaurant. Ms. Romero stated some of their employees have a criminal history; however they do not serve alcohol. Ms. Romero explained that background investigations are conducted on cashiers and managers only. She described approved forms of identification and stated the cashier checks identification if a patron is purchasing alcohol and if there is any concern or problem, the cashier will call the manager. Ms. Romero stated she attended the City/State Liquor Awareness class held in December of last year.

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

8 REPORT OF CHANGES-CHANGE OF CORPORATE STRUCTURE- TAVERN LIQUOR LICENSE– WRONG NOTE, LTD D/B/A THE DOWNTOWN BAR, 102 CENTRAL PLAZA (NEW CORPORATE PRESIDENT & 100% STOCKHOLDER DEREK TOWNLEY REPLACES MARC MEYER AND SUSAN WOLF)

New corporate president Derek Townley, 500 Quincy was sworn in and answered questions from the Board. The moral character of Mr. Townley was satisfactory to the Board. Mr. Townley stated he previously worked in a liquor-licensed establishment and during the time he was employed at this establishment, there were no violations. There are no silent partners or financial backers not disclosed in his application. He stated there are currently 3 employees and none of these employees have a criminal history. Mr. Townley explained that background investigations have not been an issue yet as his employees are family members. He described approved forms of identification and explained their policy for checking the age of their patrons, is to request

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identification from anyone who appears under the age of 40. Mr. Townley stated he is planning on attending the City/State Liquor Awareness class to be held on June 8th of this year.

Ms. Harrison, seconded by Mr. Rose, moved to accept this change of corporate structure contingent upon no negative results on the CBI/FBI background investigation. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

9 PERMIT APPLICATION AND REPORT OF CHANGES-CHANGE OF MANAGER-TAVERN LIQUOR LICENSE- WRONG NOTE, LTD D/B/A THE DOWNTOWN BAR, 102 CENTRAL PLAZA (NEW MANAGER: DEREK TOWNLEY REPLACES MARC MEYER)

Derek Townley, still under oath, was present.

Ms. Harrison, seconded by Mr. Ferris moved to take Administrative Notice of the testimony given in Item #8. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

10 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR LICENSE- CULTURAL ALLIANCE OF PUEBLO, 215 S. VICTORIA, EVENT MANAGER: SANDRA K. DAFF (EVENT TO BE HELD JULY 16TH, 2011. ADDRESS OF EVENT: BESSEMER PARK: 715 CENTRAL AVENUE)

New event manager Sandra K. Daff, 3902 Bison Lane and Ray Aguilera, 710 Minnequa were sworn in and answered questions from the Board. The moral character of Ms. Daff was satisfactory to the Board. Ms. Daff explained this event will be held to commemorate the 125th anniversary of the Bessemer neighborhood. She explained the proceeds raised at the event will be split among five organizations for their various programs. Ms. Daff explained she will be responsible for supervising the event; that there will be two liquor distribution points with at least 3 persons working at each distribution point. She described approved forms of identification and explained they will have security checking identification before a patron can enter the tent where alcohol will be served. Ms. Daff stated no one under the age of 21 will be allowed in the tent. Police, fire and private security personnel will be assigned to maintain order on the licensed premises and alcohol will not be allowed to be taken off the licensed premises. Ms. Daff explained that the premises will be secured with orange fencing. A limit of two alcohol beverages will be sold to a customer at one time.

Mr. Ferris, seconded by Ms. Harrison, moved to approve this Special Events Permit. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

11 HEARING: NEW HOTEL & RESTAURANT LIQUOR LICENSE- JOE'S BISTRO, LLC D/B/A JOE'S ITALIAN BISTRO, 310 S. VICTORIA AVENUE, SUITE C, D, & H

Owner Ruzhdi Memeci, 132 W. B Street was sworn in and answered questions from the Board. Present with Mr. Memeci was his attorney Gary Raso, 215 E. Pitkin Avenue.

The moral character of Mr. Memeci was satisfactory to the Board. Mr. Memeci has never held or worked in or for a liquor-licensed establishment. There are no silent partners or financial backers not disclosed in his application. Mr. Memeci stated he used personal savings to enter into possession of the premises. They currently employ 15 employees and the employees do not have a criminal history. Mr. Memeci stated they will conduct background investigations on potential employees. Mr. Memeci was having a difficult time speaking English and so his son, Michael Memeci, 132 W. B Street was sworn in and allowed to assist his father. Michael stated their policy

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for checking the age of their patrons will be to request identification from anyone who appears to be under the age of 30-35. Michael stated they will attend a Liquor Awareness Class on June 8th.

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

A discussion regarding the drawing of the licensed premises was held. Mr. Raso explained that the patio will be used for weddings and other special functions. The Board voiced concerns about there not being a physical barrier separating the licensed-premises from the property next door. Landlord/property owner James Koncilija was present and stated they will erect lattice fencing so that a physical barrier exists. The drawing of the licensed premises was amended and the amendment was satisfactory to the Board.

Mr. Raso explained the petitions were circulated by Dan Corsentino d/b/a *Corsentino Group*. Mr. Corsentino, 301 N. Main and his employee, Bianca Aguirre, 3306 Sheffield Lane were sworn in and provided clarification for the Board regarding the petitions. The petitions were marked as Exhibits A-D. The Board took a 20-minute recess to review the petitions. Upon reconvening, the Board determined that issuance of this license is supported by at least 55 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 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. 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.

12 HEARING: CABARET LICENSE- JOE'S BISTRO, LLC D/B/A JOE'S ITALIAN BISTRO, 310 S. VICTORIA AVENUE, SUITE C, D, & H

The applicant, still under oath was present.

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

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

13 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE- 101, LLC D/B/A THE 101, 101 & 103 N. UNION AVENUE, (POLICE CR# 11-7015, VIOLATION DATE: APRIL 16, 2011)

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Owner Brian Pumphrey, 5600 Riverview Lane was sworn in and acknowledged receipt of the police communication from the City Clerk's Office. Chairman Scaplo explained to Mr. Pumphrey 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. DiFatta seconded by Ms. Harrison, moved there is probable cause that a violation occurred and moved to set the matter for hearing.

Mr. Jagger stated that there is an issue with this case in the sense that the under-age individual, according to the police report, was actually charged with using a false I.D. and the I.D. was never recovered. He further stated that there is always the argument that this is the affirmative defense and if they present an acceptable proof of age, the defense has been established and the Liquor Board would not have the authority to administer a sanction. He stated he feels that the Board would be in an area that he could not advise on. Mr. Jagger also explained that in light of there being conflicts counsel representing the Police Department on these issues, have the matter returned to the Police Department for review to see if they have a basis they would feel comfortable going forward with -before the Board goes forward with the determination of probable cause.

Mr. DiFatta rescinded his motion and Ms. Harrison withdrew her second.

Mr. DiFatta, seconded by Ms. Harrison, moved to return this matter to the Police Department with a request for further information and clarification on the charges. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

14 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE- BLUE MOON SALOON AT PUEBLO, INC. D/B/A JOSE PAISANO'S, 2501 LAKE AVENUE, (POLICE CR# 11-7082, VIOLATION DATE: APRIL 17, 2011)

Owner Jose H. Romero and his son, Joseph Romero, 3420 Ivywood were sworn in and acknowledged receipt of the police communication from the City Clerk's Office. Chairman Scaplo explained to the licensee 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.

Joseph Romero stated they wished to stipulate to the violation. The licensee was given the opportunity to present mitigation for the Board's consideration. Joseph explained since the night this incident occurred, they have hired new security and that their security checks identification at the door and if the person wishing to enter is under 21, they are given a blue wristband. He further stated that if a person is of age, they will be given a separate colored band. The Board encouraged the licensee to attend an upcoming Liquor Awareness Class and was given a copy of the 2011 class schedule.

Ms. Harrison, seconded by Mr. Rose, moved for 2-days suspension: 1 day served and 1 day 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.

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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.

15 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE- BROKEN DOLLAR, INC. D/B/A BROKEN DOLLAR, 2301 LAKE AVENUE, (POLICE CR# 11-7739, VIOLATION DATE: APRIL 27, 2011)

Owner Mercy Gallegos, 1308 Highland and her daughter Pam Gallegos, 2621 Cheyenne were sworn in and acknowledged receipt of the police communication from the City Clerk's Office. Chairman Scaplo explained to the licensee 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.

Pam Gallegos stated they would like to set the matter for hearing. The hearing date was set for August 3rd, 2011.

16 HEARING RE: ALLEGED LIQUOR CODE VIOLATION- SAM G. RODRIGUEZ D/B/A SAM'S PLACE, 1549 E. EVANS AVENUE, (POLICE CR#11-4454, VIOLATION DATE: MARCH 10, 2011)

Attorney David Roth was present on behalf of the licensee: Sam G. Rodriguez. Also present Christopher Rodriguez who is the new licensee since this license was transferred. Mr. Roth requested that the police officers involved with this matter, Officer Robert West and Officer Chris Flores, be sequestered from hearing each other's testimony and also opposed the officers reading from their report regarding this incident.

Officer Robert West, 200 S. Main was sworn in and fully described his involvement and investigation with regard to the allegations of the licensee serving/selling to a person under the age of twenty-one and for failure to have their liquor license posted on March 10, 2011 at approximately 11:36 p.m. Officer West explained they were conducting routine bar checks when he noticed an individual who appeared to be under the legal drinking age and who was also in possession of a beer. Officer West stated he contacted this individual identified as Joshua Trujillo, date of birth 6/28/90. The officer stated he did not see him drinking however he detected a very strong odor of alcohol on his breath. Officer West explained when he searched Joshua, he found crack cocaine in his pocket and also found 2 ID's on him – one being his own, and the other ID belonged to his brother, Joseph Trujillo. Joshua stated he was just holding onto his brother's ID. Officer West stated that Joshua told him that his brother had placed the cocaine and the ID in his pocket. Mr. Roth was then given the opportunity to question the officer. Officer West gave a full description of the clothing the two brothers were wearing; that he would have guessed that Joshua was 18 years of age; that he had not recovered the bottle of beer as evidence and that he believed that Officer Antoinette Ramos had inquired about the surveillance video. He stated he asked Officer Ramos to determine how long they had been in the bar but did not ask her to see if this individual had been served. He stated their emphasis turned towards Joseph who had broken out the windows of a police cruiser and damaged a second police vehicle. Officer West stated he thought that Officer Ramos had told him that the video equipment was not working. There were no further questions from the Board or Mr. Roth.

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Mr. Roth called Christopher Rodriguez, 102 W. Pitkin, as his witness. Mr. Rodriguez was sworn in and answered questions from Mr. Roth. Mr. Rodriguez stated he was working alone in the bar on this night and recalled seeing the police enter the establishment on this night. He described his duties on this particular night, which he stated he was checking ID's and serving alcohol. Christopher showed a diagram of the licensed premises to the Board and explained where everyone, who was in the bar on this night, was standing and also where the officers entered. He also stated that he had offered the video to Officer Ramos when she approached him to take his statement however she declined the offer. The Board also questioned Christopher. When asked why he hadn't saved the video since he felt it was important enough to offer it, he answered since there was no indication from the officer that she wanted it, he didn't feel he needed to keep it. He briefly described what he is doing differently from his grandfather, licensee Sam Rodriguez. There were no further questions from the Board or Mr. Roth.

Officer Chris Flores, 200 S. Main was sworn in and answered questions from the Board and Mr. Roth. He described what he had observed and explained he was Officer West's training officer on the night of this incident. Officer Flores stated he did not know why the video was not secured.

With no further questions from the Board or Mr. Roth, Chairman Scaplo closed the hearing.

Mr. Roth requested that Count 2 be dismissed as there was no evidence presented of not posting the liquor license. Mr. Roth made his closing statements and contended that no violation should be found on Count 1.

The Board voted on each count separately.

Re: Count 2: (Failure to conspicuously post the liquor license)

Mr. DiFatta, seconded by Mr. Rose, moved to drop Count Number 2. Roll Call: Ayes—DiFatta, Ferris, Harrison, Rose and Scaplo. Motion carried unanimously.

Re: Count 1: (Permitted the sale/serving of alcohol to a person under the age of 21:)

Mr. Rose, seconded by Ms. Harrison, moved that a violation did occur. Roll Call: Ayes—DiFatta, Harrison, Rose and Scaplo. Nays: Ferris. Motion carried on a vote of 4-1.

Re: Sanction:

The licensee was given the opportunity to provide mitigation for the Board's consideration. It was pointed out that the new licensee is doing things differently than in the past; that at the time of this incident, Christopher Rodriguez had only been involved with the establishment for a couple of weeks; that he is taking steps to alleviate any problems as he is aware that he will have to suffer the consequences; that the bar was closed for 14 days for a previous infraction and this incident took place right before the 14-day closure. Christopher stated he is the only employee and he is committed to obtaining training in liquor awareness and that he is in charge 100% of the time.

Mr. Rose, seconded by Mr. DiFatta, moved for 3-days suspension with all 3 days held in abeyance for 1 year.

The Board held a brief discussion and voiced concerns about there only being one employee stating that by Christopher being the only employee he is really taking a chance of another violation occurring.

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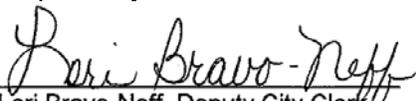
Roll Call: Ayes—DiFatta, Ferris, Rose and Scaplo. Nays: Harrison. Motion carried on a vote of 4-1.

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

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

ADJOURN – With no further business to conduct, the meeting was adjourned at 10:55 p.m.

Respectfully submitted,


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