

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
AUGUST 3, 2011 – 6:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of August 3, 2011 at 6:00 p.m., with Vice-Chairwoman Doris Harrison presiding.

ANNOUNCEMENT

Ms. Harrison welcomed new Board Member Charles Pullaro, Jr. to the Board.

ROLL CALL

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

ELECTION OF CHAIRPERSON

Mr. Rose, seconded by Mr. DiFatta, moved to nominate Doris Harrison as the new Board Chairperson. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

ELECTION OF VICE-CHAIRPERSON

Mr. Ferris, seconded by Mr. Rose, moved to nominate Don DiFatta as the new Board Vice-Chairperson. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

APPROVAL OF MINUTES

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

AMENDMENTS TO CONSENT AGENDA

Mr. DiFatta, seconded by Mr. Rose, moved to remove the renewal of the tavern liquor license of Club Manor Sports Bar & Entertainment and continue the renewal to September 7, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

CONSENT AGENDA

- 1 HOTEL & RESTAURANT LIQUOR LICENSE APPLICATIONS-TOTAL OF 3 APPLICATIONS**
Don E. Gray and Gary Gray d/b/a Gray's Coors Tavern, 515 W. 4th Street
Angelo's Pizza Parlor & A More', Inc. d/b/a Angelo's Pizza Parlor & A More', 105 E. Riverwalk
Cactus Flower, Inc. d/b/a Cactus Flower, 4610 N. Elizabeth Street

- 2 REMOVED FROM AGENDA**

VOTE ON CONSENT AGENDA ITEMS:

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

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3 HEARING: TRANSFER OF OWNERSHIP APPLICATION—RETAIL LIQUOR STORE LIQUOR LICENSE—J&J LIQUOR, LLC D/B/A J&J LIQUOR, 4315 THATCHER AVENUE (CURRENTLY LICENSED TO PH LIQUOR INC. D/B/A PH LIQUOR, LICENSE EXPIRES NOVEMBER 22, 2011)

Mr. Rose, seconded by Mr. Ferris, moved to continue this hearing to August 17, 2011 at the request of the applicant. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

4 HEARING: NEW TAVERN LIQUOR LICENSE– WATERFRONT ON THE RIVERWALK, INC. D/B/A WATERFRONT ON THE RIVERWALK, 101 S. MAIN STREET, UNITS 400 & 406

President/Owner Adolph Padula, 4202 St. Andrews Drive was sworn in and answered questions from the Board. Also present with Mr. Padula was his attorney, Don Banner. Petition circulator Dan Corsentino, 52 Tierra Casa was also sworn in.

The moral character of Mr. Padula was satisfactory to the Board. Mr. Padula has never held or worked in or for a liquor-licensed establishment. Mr. Padula stated his son, Brad Padula holds 50% interest in this entity and he has never pled guilty to or been convicted of a crime other than a minor traffic offense. They will employ 4 employees and intend to conduct background investigations on potential employees. Mr. Padula described approved forms of identification and explained their policy for checking the age of their patrons will be to request identification from anyone who appears to be under the age of 30-35. Security will be posted at the exits. Mr. Padula stated he and his employees will attend a Liquor Awareness class and he was given a copy of the 2011 class schedule.

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

The petitions circulated by Mr. Corsentino and his employees (Angelita Pacheco, Sarah Valencia and Kristina Barela) were presented. The residential and business petitions were collectively marked as Exhibit A and a two-page summary was marked as Exhibit B. Mr. Corsentino gave a brief overview of his petitioning process. Chairwoman Harrison explained the petitions were previously submitted to the City Clerk's Office who tallied the number of residents/businesses who were in favor of or in opposition to the issuance of this license. The City Clerk's Office determined that issuance of this license is supported by at least 162 residents of the neighborhood or other parties in interest and was opposed by 3 residents of the neighborhood or other parties in interest.

Mr. Ferris, seconded by Mr. Rose, moved to accept the count submitted by the City Clerk's Office. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

Mr. Banner explained the applicant was waiting for a special use permit however, the hearing for this matter would not be held until August 23rd, 2011.

Mr. Ferris, seconded by Mr. DiFatta, moved to approve the issuance of this license contingent upon receipt of a completed Routing Sheet. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

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

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

5 HEARING: NEW CABARET LIQUOR LICENSE– WATERFRONT ON THE RIVERWALK, INC. D/B/A WATERFRONT ON THE RIVERWALK, 101 S. MAIN STREET, UNITS 400 & 406

Chairwoman Harrison explained the Board would take administrative notice of the testimony given in Item #4. The petitions were previously submitted to the City Clerk's Office who tallied the number of residents/businesses who were in favor of or opposition to the issuance of this license. The City Clerk's Office determined that issuance of this license is supported by at least 162 residents of the neighborhood or other parties in interest and was opposed by 5 residents of the neighborhood or other parties in interest.

Mr. Ferris, seconded by Mr. Rose, moved to accept the count given by the City Clerk's Office. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. 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 issuance of this license and to approve the Findings and Order. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

6 HEARING 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)

Assistant City Attorney Carla Sikes entered her appearance and was present on behalf of the Police Department.

At this point in the proceedings, neither the officer nor the licensee was present. The Board opted to proceed with the hearing since the subpoenaed witness, David Gomez, was present.

Ms. Sikes distributed 4 exhibits marked as "City Exhibit 1-City Exhibit 4" to the Board.

Witness David Gomez, 2501 California was sworn in and answered questions from Ms. Sikes. Mr. Gomez explained he was playing pool at this establishment, when another male started arguing with him about pressing charges against his friend and told Mr. Gomez, "Let's go outside." Mr. Gomez stated he thought they were going to step outside to discuss it further and it was at this point that the male struck Mr. Gomez in the face. Mr. Gomez stated there were approximately 6 people in the bar on this night so it was not loud in the bar and the bartender was standing behind the bar and should have been able to hear the fracas. Mr. Gomez stated that he got knocked to the floor and as he was attempting to stand up, the bartender commented, "You're bleeding all over my floor." Mr. Gomez stated the bartender did not ask him what had happened to him. Mr. Gomez stated he told the bartender, "I guess I'll have to take care of this myself" since the bartender did not seem concerned. Mr. Gomez stated he then went to St. Mary Corwin Hospital E.R. and needed 10 stitches to close the wound inside his mouth.

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Ms. Sikes handed a copy of the Police Report with regard to this incident and Mr. Gomez acknowledged that it is generally consistent with what he had testified to at this hearing. Ms. Sikes asked for the admission of "City Exhibit 1" into the record. So moved by Chairwoman Harrison. Ms. Sikes had no further questions for Mr. Gomez. The Board also briefly questioned Mr. Gomez. Mr. Gomez stated that the bartender, "Mike", did not offer any assistance to him. Mr. Gomez briefly explained to the Board the incident that occurred a couple of nights prior to being assaulted is what led to the controversy on the night this violation occurred (4/27/2011). There were no further questions for Mr. Gomez.

NOTE: At approximately 6:55 p.m., the licensee arrived at the hearing.

Johnna McGill, Vice President of the corporation, 6934 Bluebird Lane was sworn in and answered questions from Ms. Sikes. Ms. McGill stated she holds the position of vice-president of the corporation but is not employed by the bar. She stated she is aware of past violations that have occurred at the bar. Ms. Sikes handed Ms. McGill "City Exhibit 2" and asked her to review the summary exhibit of the history of the Broken Dollar. Ms. McGill stated the information contained in the summary was accurate. Ms. McGill acknowledged that on 4/20/11 the establishment had stipulated to a violation for sale to a visibly intoxicated person and they had received a sanction of 2 days suspension; 1 day served, 1 day held in abeyance for 1 year. Ms. Sikes also handed "City Exhibit 4" to Ms. McGill and asked her if this was an accurate copy of the stipulation imposed on 4/20/2011 and Ms. McGill stated that it was accurate. Ms. Sikes asked for the submission of Exhibit 2 and 4. Ms. Harrison stated the Board would take administrative notice of these exhibits. Ms. McGill stated that she was not at the bar on the night this violation occurred. No further questions from Ms. Sikes. The Board had no further questions for Ms. McGill.

Mike Sanders, bartender at the establishment, 216 Spruce Street was sworn in and answered questions from Ms. McGill. Mr. Sanders stated he did not observe an altercation involving Mr. Gomez. He stated that he had spoken with Mr. Gomez as he was coming through the patio door and asked him what had happened to him. Mr. Sanders stated he was told by Mr. Gomez that he had tripped and ran into the refrigerator. Mr. Sanders stated he asked Mr. Gomez twice more what had happened to him and was told both times by Mr. Gomez that he had tripped and hit the door. Mr. Sanders stated that Mr. Gomez' mouth was bleeding and he asked him if he wanted medical attention and was told "no" by Mr. Gomez. Mr. Sanders stated it was his understanding that Mr. Gomez then went to the hospital and reported he had been involved in an altercation. Mr. Sanders stated he had given Mr. Gomez a towel for his mouth and the next thing he knew, Mr. Gomez was gone. Mr. Sanders stated he did not know whether or not the police had been called however someone had come to the bar knocking on the door at approximately 2-2:30 a.m. but he did not open the door. He further explained that after 2 a.m. they do not open the front door and that no one ever identified themselves as the police. The Board then questioned Mr. Sanders. Mr. Sanders stated subsequent to this incident, Mr. Gomez has been in the bar a number of times and he has threatened the bartender and they have taken clubs away from him but they never called the police on Mr. Gomez. Mr. Sanders stated he did see Mr. Gomez' mouth bleeding; he stated there were not that many people present in the bar on the night this incident occurred; that he was told 3 times by Mr. Gomez that he had tripped and fell and Mr. Gomez never stated he had been involved in an altercation. Ms. Sikes also questioned Mr. Sanders. There were no further questions from Ms. McGill, the Board or Ms. Sikes for Mr. Sanders. The hearing was then closed.

Ms. Sikes recalled Mr. Gomez for further questioning. Mr. Gomez again stated he did not trip. Ms. Sikes then made her closing statements. She asked the Board to consider 3 days suspension with

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no days held in abeyance and to additionally impose the 1 day held in abeyance from the previous violation which was stipulated to by the licensee.

Ms. McGill was also given an opportunity to make her closing statements.

Mr. DiFatta, seconded by Mr. Rose moved that a violation did occur. The Board held a brief discussion and with all comments heard, cast their votes.

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

Ms. McGill was given an opportunity to present mitigation for the Board's consideration. She stated she wanted the Board to know that her mother has been ill and she believes that her mother did not understand what she had stipulated to at their last hearing.

Mr. DiFatta, seconded by Mr. Ferris, moved for 5 days suspension: 3 days served, 2 days held in abeyance for 1 year. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

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

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

ADJOURN – With no further business to conduct, the meeting was adjourned at 7:55 p.m.

Respectfully submitted,


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