

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
NOVEMBER 16, 2011 – 6:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of November 16, 2011 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 Bob Jagger, Assistant City Attorney Greg Styduhar 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 November 2, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

CONSENT AGENDA

- 1 **TAVERN LIQUOR LICENSE APPLICATION-RENEWAL-BRILLANTE, LLC D/B/A LA FAVORITA, 119 W. B STREET**
- 2 **CLUB LIQUOR LICENSE APPLICATION-RENEWAL-BPOE OF USA D/B/A B.P.O.E. PUEBLO LODGE #90, 426 N. SANTA FE AVENUE**
- 3 **CABARET LICENSE APPLICATION-RENEWAL-BRILLANTE, LLC D/B/A LA FAVORITA, 119 W. B STREET**

VOTE ON CONSENT AGENDA ITEMS:

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

REGULAR AGENDA

- 4 **NEIGHBORHOOD SURVEY: NEW HOTEL & RESTAURANT LIQUOR LICENSE– THE NOODLE SHOP, CO. – COLORADO, INC. D/B/A NOODLES & COMPANY, 825 US HIGHWAY 50 WEST**

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 *Noodles & Company*.

Mr. Pullaro seconded by Mr. Ferris, moved to accept the survey and set the hearing for December 7, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

- 5 **NEIGHBORHOOD SURVEY: NEW HOTEL & RESTAURANT LIQUOR LICENSE/NEW CABARET LICENSE– MR. TANDOORI LLC, INC. D/B/A MR. TANDOORI, 310 S. VICTORIA AVENUE, SUITES C, D & H**

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 *Mr. Tandoori*.

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Following a brief discussion, the Board asked Mr. Vest to expand the survey area to ½ mile radius since the number of residents in this area is somewhat limited. Additionally, the residents in the ¼ mile area reside in gated/locked areas or areas that are not accessible.

Mr. Rose seconded by Mr. Ferris, moved to continue receipt of the survey to December 7, 2011. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

6 PERMIT APPLICATION AND REPORT OF CHANGES-MANAGER'S REGISTRATION- HOTEL & RESTAURANT LIQUOR LICENSE- AMREST, LLC D/B/A APPLEBEE'S NEIGHBORHOOD GRILL & BAR, 3428 N. ELIZABETH STREET (NEW MANAGER: CHRIS JONES REPLACES RICHARD HART) CONTINUED FROM NOVEMBER 2, 2011 AT THE REQUEST OF THE APPLICANT

New manager Chris Jones, Colorado Springs, CO was sworn in and answered questions from the Board. The moral character of Mr. Jones was satisfactory to the Board. Mr. Jones previously worked for a liquor-licensed establishment and that license never received a violation or reprimand for violating liquor licensing statutes or regulations. Mr. Jones stated they employ 50 employees and to his knowledge, these employees do not have criminal histories. They do not run background investigations on their employees; however, they have an on-line employment application which is a "character-type test" and helps them in screening their applicants. Mr. Jones described approved forms of identification and stated they require their servers to pass an in-house training program pertaining to the sale/service of alcohol. Their employees learn how to check identification and are trained to watch and ensure they are not over-serving a patron. Mr. Jones also stated their managers check identification and the managers must become certified in a serve-safe training program.

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

7 HEARING: NEW HOTEL & RESTAURANT LIQUOR LICENSE- PAUL PACHINO D/B/A MOZART RESTAURANT & LOUNGE, 1120 N. MAIN STREET

Owner Paul Pachino, 904 Van Buren was sworn in and answered questions from the Board. The moral character of Mr. Pachino was satisfactory to the Board. Mr. Pachino presently holds a liquor-license at the Colorado State Fair and he has never received a violation or reprimand for violating liquor licensing statutes or regulations. He has held that license for 10 years. There are no silent partners not disclosed in his application – he is a sole proprietor. Mr. Pachino stated he used personal savings to enter into possession of the premises; he has not yet hired employees but intends to employ family members. Mr. Pachino described approved forms of identification and stated his policy for checking the age of his patrons will be to ask for identification if they appear to be under 30-35 years of age. Mr. Pachino has scheduled a Liquor Awareness training class for him and his employees, with one of the liquor & beer distributors.

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

Mr. Pachino presented the petitions he circulated. The residential petitions were marked as Exhibit A and the business petitions were marked as Exhibit B. Mr. Pachino explained he kept notes on which residential or business addresses were vacant from the neighborhood survey list. He also made note of people who either were not home at the time he stopped to have them sign his petition

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or those who just would not sign. The Board took a short recess to review the petitions.

Upon reconvening, the Board determined that issuance of this license is supported by at least 66 residents of the neighborhood or other parties in interest and opposed by at least 1 resident of the neighborhood or other parties in interest.

Mr. Ferris, seconded by Mr. Rose, 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.

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

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

**8 HEARING: NEW HOTEL & RESTAURANT LIQUOR LICENSE– DONNA MARIE HART
D/B/A ALL SEASONS CATERING EVENT CENTER, 112 W. 2ND STREET**

Owner Donna Marie Hart, 420 W. 12th Street was sworn in and answered questions from the Board. Also present with Ms. Hart (and sworn in) was Mack Novosad, 622 Tyler. Mr. Novosad was responsible for overseeing the petition circulation process.

The moral character of Ms. Hart was satisfactory to the Board. Ms. Hart stated she held a liquor-license at the State Fair grounds approximately 15 years ago and never received a violation or reprimand for violating liquor licensing statutes or regulations. There are no silent partners not disclosed in her application. Ms. Hart stated she used personal savings to enter into possession of the premises; she will employ 20 employees and does not conduct background investigations on potential employees. Ms. Hart described approved forms of identification and stated her policy for checking the age of her patrons will be to ask for identification if they appear to be under 35 years of age. Ms. Hart was given a liquor awareness class schedule and the Board encouraged her and her employees to attend. Mr. Ferris briefly explained the certification process.

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

Ms. Hart's petitions, which were previously distributed and reviewed by the Board, were collectively marked as Exhibit A. Petition circulators: Carlos Perez, 922 W. 18th and Brett Williamson 8 Encina were sworn in and answered questions from the Board. With all questions and concerns being addressed, 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 at least 1 resident of the neighborhood or other parties in interest.

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

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**9 HEARING: NEW CABARET LICENSE– DONNA MARIE HART D/B/A ALL SEASONS
CATERING EVENT CENTER, 112 W. 2ND STREET**

Owner Donna Hart, still under oath, was present.

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

Ms. Harrison explained the Board would take administrative notice of the testimony given in Item #8. The Board reviewed the number of signatures obtained on the petitions with regard to the issuance of a cabaret license and determined that issuance of this license is supported by at least 64 residents of the neighborhood or other parties in interest and opposed by at least 4 residents of the neighborhood or other parties in interest.

Mr. Pullaro, seconded by Mr. Ferris, moved to take administrative notice of the testimony in the previous item and approve the issuance of this license. 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. Pullaro, seconded by Mr. Rose, moved to approve the Findings and Order as read. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

**10 HEARING: NEW TAVERN LIQUOR LICENSE– MAIN STREET BANQUET HALL, LLC
D/B/A MAIN STREET BANQUET HALL, 209 N. MAIN STREET (CONTINUED FROM
NOVEMBER 2, 2011 AT THE REQUEST OF THE APPLICANT)**

Owner Doug Hess, 6 Mirada Court was sworn in. Also present with Mr. Hess (and sworn in) was Damon Lombard-Gordon, 1618 Bunker Hill. Mr. Lombard-Gordon was the petition circulator for the applicant.

For the record, it was determined that there was one person present in opposition to the issuance of this license.

Mr. Hess's petitions, which were previously distributed and reviewed by the Board, were marked as follows: Residential petitions-Exhibit C and Business petitions-Exhibit D. At the applicant's request, this matter was continued from November 2, 2011 so that they could have more time to circulate additional petitions. The first sets of petitions, circulated on behalf of the applicant, were deemed incomplete.

Bob Benvenuto, 211 W. 2nd Street was sworn in and present to speak, for the 2nd time, in opposition to the issuance of this license. Mr. Benvenuto stated he did not feel this is the right type of business to have in the neighborhood. He stated he wanted to encourage developers to look at other opportunities and would prefer a neighborhood market. Mr. Benvenuto also cited safety concerns and the potential harassment from bar patrons as reasons for being opposed to this license. Mr. DiFatta pointed out that this is a banquet hall and Mr. Benvenuto stated in addition to noise and parking issues, "Bars don't develop neighborhoods." Mr. Jagger explained the Board cannot consider noise and parking issues – only needs and desires. Chairwoman Harrison explained that anyone who opposed the issuance of this license could have also circulated petitions. Mr. Rose instructed Mr. Benvenuto to contact law enforcement should problems arise.

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With all questions and concerns being addressed, the Board determined that issuance of this license is supported by at least 128 residents of the neighborhood or other parties in interest and opposed by at least 6 residents of the neighborhood or other parties in interest.

Mr. Rose, seconded by Mr. DiFatta, moved to approve the issuance of this license. 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. The Findings reflect the license is granted subject to filing of a completed and approved Routing Sheet. It was also necessary for Mr. Hess to be re-fingerprinted as access to the fingerprint report was no longer available via the CBI website.

Mr. Rose, seconded by Mr. DiFatta, moved to approve the Findings and Order with the stipulation regarding fingerprints and a completed Routing Sheet. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

11 HEARING: NEW CABARET LICENSE- MAIN STREET BANQUET HALL, LLC D/B/A MAIN STREET BANQUET HALL, 209 N. MAIN STREET (CONTINUED FROM NOVEMBER 2, 2011 AT THE REQUEST OF THE APPLICANT)

Owner Doug Hess, still under oath, was present.

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

Ms. Harrison explained the Board would take administrative notice of the testimony given in Item #10. The Board reviewed the number of signatures obtained on the petitions with regard to the issuance of a cabaret license and determined that issuance of this license is supported by at least 128 residents of the neighborhood or other parties in interest and opposed by at least 1 resident of the neighborhood or other parties in interest.

Mr. Rose, seconded by Mr. DiFatta, moved to take administrative notice of the testimony in the previous item and approve the issuance of this license pending final issuance of the tavern liquor license. 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. Rose, seconded by Mr. DiFatta, moved to accept the Findings and Order as read. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

BOARD DISCUSSION

Prior to adjourning, the Board held a brief discussion regarding "days held in abeyance" from suspensions on liquor violations. Mr. Ferris expressed concern with regard to a sanction that was recently imposed on a licensee for a violation. Mr. Jagger explained the licensee stipulated to the violation and stated the Board based their decision on that stipulation with regard to the imposed sanction. Mr. Jagger suggested, in the future, the Board may want to include in the Findings and Order, the number of days of the suspension and indicate how many of the "active" days are being included or satisfied from the previous violation – if applicable. Mr. Styduhar stated the Board may

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clarify that for the licensee so when a licensee stipulates to a violation, they fully understand the potential ramifications from the sanction. Mr. Jagger stated he usually makes sure the licensee understands what they are stipulating to and then the Board allows the licensee to offer mitigation for the Board's consideration.

ADJOURN – With no further business to come before the Board, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,


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