

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
April 3, 2013 – 6:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of April 3, 2013 at 6:00 p.m., with Chairwoman Doris Harrison presiding.

ROLL CALL

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

APPROVAL OF MINUTES

Mr. Ferris, seconded by Mr. Rose, moved to continue the approval of the minutes of the Regular Meeting of March 20, 2013 to April 17, 2013. Roll Call: Ayes— DiFatta, Ferris, Harrison and Rose. Motion carried unanimously.

CONSENT AGENDA

- 1 HOTEL & RESTAURANT LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 2 RENEWALS**
C>, Inc. d/b/a El Nopal Restaurant, 1435 E. Evans Avenue
Geronimo's, Inc. d/b/a Jorge's Sombrero Restaurant, 1319 E. Evans Avenue
- 2 TAVERN LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 5 RENEWALS**
J. Beatty Events, LLC d/b/a The River's Edge, 102 S. Oneida
Olde Towne Carriage House, LLC d/b/a Olde Town Carriage House, 102 S. Victoria Avenue
Riverside Bar & Grill of Pueblo, LLC d/b/a Riverside Bar of Pueblo, 4021 Jerry Murphy Road
John & Jeanne's Star Bar, LLC d/b/a John & Jeanne's Star Bar, 300 Spring Street
Sunset Inn Bar and Grill, LLC d/b/a Sunset Inn Bar & Grill, 2802 Thatcher Avenue
- 3 RETAIL LIQUOR STORE LIQUOR LICENSE APPLICATIONS- RENEWALS-TOTAL OF 2 RENEWALS**
Eastside Wine & Liquor, Inc. d/b/a Eastside Wine & Liquor, 723 E. 4th Street
Hanari, Inc. d/b/a Pueblo Liquor, 1210 S. Prairie Avenue
- 4 CABARET LICENSE APPLICATIONS-RENEWALS- TOTAL OF 3 RENEWALS**
J. Beatty Events, LLC d/b/a The River's Edge, 102 S. Oneida
Olde Towne Carriage House, LLC d/b/a Olde Town Carriage House, 102 S. Victoria Avenue
John & Jeanne's Star Bar, LLC d/b/a John & Jeanne's Star Bar, 300 Spring Street
- 5 PERMIT APPLICATION AND REPORT OF CHANGES- CHANGE OF MANAGER: RETAIL LIQUOR STORE LIQUOR LICENSE-MARLIN ASSOCIATES, LLC D/B/A COCO-MAN'S LIQUORS, 1910 E. 4TH STREET, NEW MANAGER: MARY C. NUNEZ (REPLACES ROLAND R. CORDOVA)**
- 6 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR LICENSE-ROSEMOUNT MUSEUM, EVENT MANAGER: JACKIE BOTTINI, (EVENT TO BE HELD AUGUST 16, 2013. ADDRESS OF EVENT: 419 W. 14TH STREET)**
- 7 TEMPORARY PERMIT APPLICATION: TRANSFER OF OWNERSHIP—TAVERN LIQUOR LICENSE-RIVERWALK RESTAURANT AND LOUNGE, LLC D/B/A RIVERWALK RESTAURANT AND LOUNGE, 219 S. GRAND AVENUE, (CURRENTLY LICENSED TO RIVERWALK SENATE RESTAURANT & LOUNGE, LLC D/B/A THE SENATE, LICENSE EXPIRES APRIL 19, 2013)**

CONSENT AGENDA (CONTINUED)**MEETING
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- 8 **TEMPORARY PERMIT APPLICATION: TRANSFER OF OWNERSHIP—HOTEL & RESTAURANT LIQUOR LICENSE—DJ, INC. D/B/A TSUNAMI SUSHI BAR, WOK & GRILL, 324-326 S. UNION AVENUE, (CURRENTLY LICENSED TO CASA BISTECCA, LLC D/B/A CASA BISTECCA, LICENSE EXPIRES APRIL 18, 2013)**

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

REGULAR AGENDA

- 9 **COMMUNICATION FROM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-RETAIL LIQUOR STORE LIQUOR LICENSE-SL PUEBLO, LLC D/B/A EAGLE LIQUORS, 1020 EAGLERIDGE BOULEVARD (POLICE CR# 13-3985, VIOLATION DATE: MARCH 2, 2013)**

Owner/Licensee Cecilia Song, 1020 Eagleridge Boulevard was sworn in.

Assistant City Attorney/Conflicts Counsel, Carla Sikes was present on behalf of the Police Department. Ms. Sikes stated that she and the licensee have arrived at a proposed stipulated agreement. Ms. Sikes stated the licensee had a prior violation in 2009 and that the licensee is eligible to pay a fine in lieu of suspension.

Ms. Song acknowledged she is stipulating to the violation. Ms. Song explained to the Board that since the last time she received a violation, she has instructed her employees to check everyone's identification regardless of age and regardless of whether or not they're a frequent or regular customer. She stated her daughter was the employee working at the time of the violation and further stated her daughter does not ordinarily work for her.

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

Mr. Styduhar then read the *Stipulated Findings and Order* into the record for the Board's consideration. The findings and order state that the licensee admitted that on or about March 2, 2013, said licensee violated Section 12-47-901(1)(a.5)(l) – Selling liquor to a person under the age of 21 years and their license will be suspended for a period of 5-days, of which 2-days will be imposed. The remaining 3-days of this suspension will be held in abeyance for a period of 1 calendar year from the date of this order, on the condition that licensee have no further violations of the Colorado Liquor Code and Regulations.

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

- 10 **COMMUNICATION FROM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-RETAIL LIQUOR STORE LIQUOR LICENSE-KUM & GO LIQUOR, LLC D/B/A KUM & GO LIQUOR, 2815 W. PUEBLO BOULEVARD (POLICE CR# 13-3989, VIOLATION DATE: MARCH 2, 2013)**

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Owner/Licensee Jeremy Felzien, 931 Bayonne, Pueblo West, CO was sworn in.

Assistant City Attorney/Conflicts Counsel, Carla Sikes was present on behalf of the Police Department. Ms. Sikes stated that she and the licensee have arrived at a proposed stipulated agreement: 5-days suspension: 0-days imposed, 5-days held in abeyance for 2 years.

Ms. Sikes then read the *Stipulated Findings and Order* into the record for the Board's consideration. The findings and order state that the licensee admitted that on March 2, 2013, licensee and/or its employee, agent or representative sold alcohol to a minor in violation of Section 12-47-901(1)(a.5)(I) of the Colorado Liquor Code. Licensee stipulated and agreed to a suspension of its liquor license for a period of 5-days, of which 0-days were imposed. The 5-days suspension will be held in abeyance for a period of 2 calendar years from the date of this order, on the condition that licensee have no further violations of the Colorado Liquor Code and Regulations.

Prior to the Board's vote, Mr. Ferris asked the licensee if he would also be willing to become certified in alcohol management and serving techniques since he was the one who sold to the underage person. Mr. Felzien stated that he would. A brief discussion ensued between Mr. Felzien and the Board. Mr. Felzien stated since he has never received this type of training before, he feels it would be very beneficial. He was provided with a copy of the State of Colorado's approved vendor list. The Board gave him 60-days to comply and to provide proof of this certification to the City Clerk's Office. The Findings and Order were amended to add this contingency and the amendment was initialed by Mr. Felzien.

Mr. Ferris, seconded by Mr. DiFatta, moved to accept the Findings and Order contingent upon licensee becoming certified within 60-days. Prior to casting their vote, Mr. Rose asked Ms. Sikes why the 5-days were held in abeyance for 2 years as opposed to the usual 1 year. Ms. Sikes explained since the licensee is fairly new, she felt holding the days in abeyance for 2 years would encourage them to be more diligent and they would gain more education and experience during this time frame. Mr. DiFatta reminded the licensee that if he were to receive another violation in the next 2 years, these 5-days may be imposed. The Board then cast their votes.

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

11 COMMUNICATION FROM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-RETAIL LIQUOR STORE LIQUOR LICENSE-BOLSA INVESTMENTS, INC. D/B/A PRAIRIE LIQUORS, 1659 S. PRAIRIE AVENUE (POLICE CR# 13-3990, VIOLATION DATE: MARCH 2, 2013)

Owner/Licensee John Ribal, 3931 Carlile Avenue and manager, Janet Ribal, 3935 Carlile Avenue were sworn in. Mr. Ribal acknowledged receipt of the communication.

Assistant City Attorney/Conflicts Counsel, Carla Sikes was present on behalf of the Police Department. Ms. Sikes explained she had a proposed stipulation for a violation of 5-days suspension: 2-days imposed, 3-days held in abeyance for 1-year, to the licensee, however, Mr. Ribal had not signed it.

Mr. Ribal indicated he would like to plead his case to the Board before he signed the stipulation. The Board then explained to Mr. Ribal that they would then have to make a determination on probable cause.

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Mr. Rose, seconded by Mr. Ferris, moved there is probable cause that a violation occurred and moved to set this matter for hearing for May 1st, 2013.

Prior to casting their votes, it was clarified for Mr. Ribal, what his options are at this point in time, as there seemed to be some confusion.

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

Mr. Ribal stated he would stipulate to the violation and then signed the City's Stipulated Findings and Order.

Ms. Sikes then read the *Stipulated Findings and Order* into the record for the Board's consideration. The findings and order state that the licensee admitted that on March 2, 2013, licensee and/or its employee, agent or representative sold alcohol to a minor in violation of Section 12-47-901(1)(a.5)(l) of the Colorado Liquor Code. Licensee stipulated and agreed to a suspension of its liquor license for a period of 5-days, of which 2-days were imposed. The remaining 3-days of the suspension will be held in abeyance for a period of 1 calendar year from the date of this order, on the condition that licensee have no further violations of the Colorado Liquor Code and Regulations.

Mr. Ribal stated he was ashamed and regrets they are before the Board. He added that he was proud of the amount of training they provide and when an employee is new, they work and receive about 40 hours of one-on-one training from his sister. Mr. Ribal explained that he requires his employees to read a pass-along book before the start of each shift. If an employee from the earlier shift makes an entry in this book during their shift, this information alerts the employee coming on-duty of any problem that might have occurred prior to their shift. Mr. Ribal stated he frequently pleads with his employees to check ID's and in this particular instance; the employee did not do that. He stated that employee has been terminated. Mr. Ribal distributed a cash register receipt to each Board member so that they could see that he had his cash registers programmed to read, "Checked ID: Yes or No." Mr. Ribal stated this serves as another reminder to the employee to check a customer's identification and if he had a need to, he could go to his video surveillance to see if the employee is checking ID's.

Note: *Mr. Pullaro joined the meeting at 7:05 p.m.* He was detained due to a health issue. Mr. Pullaro was seated but did not cast a vote in regard to this matter.

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

Mr. Ribal was reminded he was eligible to pay a fine in lieu of suspension however, Mr. Ribal stated he felt the amount of the fine would be too high.

12 COMMUNICATION FROM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-RETAIL LIQUOR STORE LIQUOR LICENSE-REGENCY LIQUOR, INC. D/B/A REGENCY LIQUOR, 25 RED CREEK SPRINGS ROAD (POLICE CR# 13-3991, VIOLATION DATE: MARCH 2, 2013)

Owner/Licensee Barbara Robbe, 63 Fordham Circle was sworn in.

Assistant City Attorney/Conflicts Counsel, Carla Sikes was present on behalf of the Police Department. Ms. Sikes stated that the licensee had a prior violation in 2009 for sale to a minor and the sanction then was 4-days suspension: 1-day imposed, 3-days held in abeyance for 1 year. Ms. Sikes stated the City

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and the licensee have arrived at a proposed stipulated agreement: 5-days suspension: 2-days imposed, 3-days held in abeyance for 1 year. Ms. Sikes then read the *Stipulated Findings and Order* into the record for the Board's consideration. The findings and order state that the licensee admitted that on March 2, 2013, licensee and/or its employee, agent or representative sold alcohol to a minor in violation of Section 12-47-901(1)(a.5)(I) of the Colorado Liquor Code. The Findings and Order also reflected the sanction as previously stated by Ms. Sikes.

Ms. Robbe stated she's sorry it was necessary for her to have to appear before the Board. She stated she has been in business for quite some time; she holds weekly meetings and reminds her employees about the importance of checking identification. Ms. Robbe stated she did not fire the employee who caused this violation; however, that employee was fined \$250 which she stated she feels will serve as more of an incentive to employees to be more careful.

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

13 COMMUNICATION FROM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-RETAIL LIQUOR STORE LIQUOR LICENSE-NORTHERN AVENUE LIQUORS, INC. D/B/A NORTHERN AVENUE LIQUORS, 213 W. NORTHERN AVENUE (POLICE CR# 13-3992, VIOLATION DATE: MARCH 2, 2013)

Owner/Licensee John E. Lee, 41 Sepulveda and employee Randall Bunderman, 1431 E. 18th Street were sworn in.

Assistant City Attorney/Conflicts Counsel, Carla Sikes was present on behalf of the Police Department. Ms. Sikes explained that the licensee had a prior violation in 1999. Ms. Sikes stated the City and the licensee have arrived at a proposed stipulated agreement: 5-days suspension: 1-day imposed, 4-days held in abeyance for 1 year.

Ms. Sikes then read the *Stipulated Findings and Order* into the record for the Board's consideration. The findings and order state that the licensee admitted that on March 2, 2013, licensee and/or its employee, agent or representative sold alcohol to a minor in violation of Section 12-47-901(1)(a.5)(I) of the Colorado Liquor Code. The Findings and Order also reflected the sanction as previously stated by Ms. Sikes.

Mr. Bunderman stated he takes full responsibility for this violation. He stated he was fined \$250 and although he is a new employee, he is usually very conscientious when it comes to checking identification.

Mr. Lee stated when he is not there; he calls the store to remind his employees to check ID's. The Board stated they would like to see Mr. Bunderman become certified in alcohol management and serving techniques and was provided with a copy of the State of Colorado's approved vendor list. Both Mr. Bunderman and Mr. Lee were agreeable to having Mr. Bunderman becoming certified. The Board gave him 60-days to comply and to provide proof of this certification to the City Clerk's Office. The Findings and Order were amended to add this contingency and the amendment was initialed by Mr. Lee.

Mr. Ferris, seconded by Mr. Ferris, moved to accept the Findings and Order contingent upon Randall Bunderman becoming certified within 60-days. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

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- 14 COMMUNICATION FROM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-RETAIL LIQUOR STORE LIQUOR LICENSE-LAST STOP LIQUORS, INC. D/B/A LAST STOP LIQUORS, 609 W. 29TH STREET (POLICE CR# 13-3994, VIOLATION DATE: MARCH 2, 2013)**

Mr. Rose, seconded by Mr. DiFatta, moved to continue this matter to April 17th, 2013 at the request of counsel. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

- 15 HEARING RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE-LEGENDS, LLC D/B/A LEGENDS, 1023 S. PUEBLO BOULEVARD (POLICE CR# 13-2460, VIOLATION DATE: FEBRUARY 7, 2013)**

Owner/Licensee Greg Bennett, 2523 4th Avenue was sworn in.

Assistant City Attorney/Conflicts Counsel, Carla Sikes was present on behalf of the Police Department. Ms. Sikes stated the City and the licensee have arrived at a proposed stipulated agreement: 3-days suspension: 0-days imposed, 3-days held in abeyance for 1 year.

Ms. Sikes then read the *Stipulated Findings and Order* into the record for the Board's consideration. The findings and order state that the licensee stipulated and admitted that on February 6, 2013, licensee and/or its employee failed to report a disturbance to the Police Department as required. The Findings and Order also reflected the sanction as previously stated by Ms. Sikes.

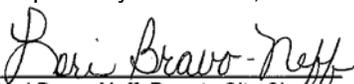
Mr. Bennett explained that the employee working on February 6th, was working by herself. He stated after the employee got things back under control, she had gotten so rattled and lost track of time. Mr. Bennett stated they employ seasoned bartenders with 10 years plus experience in the liquor industry. He stated they now keep a list of phone numbers right next to the telephone and all numbers must be called if a disturbance occurs where previous to this incident, they did not have this telephone list.

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

Following all items on the agenda, Mr. Styduhar asked to address the Board. He provided information to the Board regarding the idea behind Conflicts Counsel which is to create a more efficient system both for the Board and the City. He stated the Board has the ultimate discretion as to what it wants done and how it should be done. Mr. Styduhar further stated, without putting words in the Board's mouth, that it would be the Board's policy to utilize Conflicts Counsel as much as possible. He further explained this provides an avenue that potentially, the licensee can work out a stipulation with Conflicts Counsel which is representing the Police Department. If something cannot be worked out, then ultimately the Board handles the situation by way of hearing. He explained the Board can also encourage a licensee to continue to work with Conflicts Counsel if it appears that a stipulation cannot be reached. The Board can also hold a discussion with the licensee.

ADJOURN – With no further business to come before the Board, the meeting was adjourned at 7:50 p.m.

Respectfully submitted,


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