

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
July 17, 2013 – 6:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of July 17, 2013 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 Greg Styduhar 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 July 3rd, 2013. 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 Item #5 from the Consent Agenda and place it at the end of the Regular Agenda. Roll Call: Ayes— DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

CONSENT AGENDA

- 1 **TAVERN LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 3 RENEWALS**
Waterfront on the Riverwalk, Inc. d/b/a Waterfront on the Riverwalk, 101 S. Main Street, Units 400 & 406
Phil's Radiator Service, LLC d/b/a Phil's Radiator Service, LLC, 109 E. C. Street
Carl Rodriguez, d/b/a Little Joe's, 2430 Lake Ave.
- 2 **BEER AND WINE LICENSE APPLICATION-RENEWAL-SANGRE DE CRISTO ARTS & CONFERENCE CENTER, INC., DBA SANGRE DE CRISTO ARTS & CONFERENCE CENTER, 210 N. SANTA FE AVENUE**
- 3 **CABARET LICENSE APPLICATIONS-RENEWALS- TOTAL OF 3 RENEWALS**
Waterfront on the Riverwalk, Inc. d/b/a Waterfront on the Riverwalk, 101 S. Main Street, Units 400 & 406
Phil's Radiator Service, LLC d/b/a Phil's Radiator Service, LLC, 109 E. C. Street
Carl Rodriguez, d/b/a Little Joe's, 2430 Lake Ave.
- 4 **PERMIT APPLICATION AND REPORT OF CHANGES-CHANGE OF MANAGER- 3.2% BEER LICENSE: ALBERTSON'S, LLC D/B/A ALBERTSON'S #1837, 1545 S. PRAIRIE AVENUE (NEW MANAGER: ERIC MYERS REPLACES ANGELICA DIAZ)**

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

REGULAR AGENDA

- 6 **NEIGHBORHOOD SURVEY: NEW HOTEL & RESTAURANT LIQUOR LICENSE– TONE, INC. D/B/A MI RANCHITO, II, 525 S. PUEBLO BOULEVARD**

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 *Tone, Inc. d/b/a Mi Ranchito II*.

Mr. Ferris, seconded by Mr. Rose, moved to receive the survey and set the hearing for August 7, 2013. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

REGULAR AGENDA (CONTINUED)

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- 7 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR–PUEBLO DERBY DEVIL DOLLZ, INC., MAILING ADDRESS: P.O. BOX 11433, EVENT MANAGER: RACHEL SHULMAN, (EVENT TO BE HELD JULY 20, 2013. ADDRESS OF EVENT: 615 HUNTER DRIVE)**

Note: There was no one present on behalf of this applicant.

Regarding this item and Item #8: Mr. Styduhar explained the Board cannot continue this matter to their next meeting since the event date is sooner than their next meeting. He further stated the Board could opt to continue Item #8.

Mr. Pullaro, seconded by Mr. Ferris, moved to not approve this application. A brief discussion was held.

Board member DiFatta asked whether or not the Board could consider approval of this matter since this organization has been before them in the past and then notify them they would need to appear at the next meeting. Deputy City Clerk Lori Bravo-Neff stated that there were issues which would not make that possible and explained Pueblo Derby Devil Dollz did not file or pay taxes for their 2012 event. An employee of the Sales Tax Division contacted Event Manager Rachel Shulman on July 2nd and explained to her they would need to take care of this before their hearing. Additionally, during the routine processing of the application, the Police Department reported that one of the individuals listed on the application has an active municipal warrant. The event manager was also contacted by the City Clerk's Office on July 11th and again on July 16th regarding both issues to let them know these matters needed to be resolved before this meeting. Mr. Styduhar explained due to the fact that these issues remained unresolved, neither the Sales Tax Division, nor the Police Department would provide an acknowledgment on the application indicating their approval. He further explained the Board could exercise any of the following options: *Denial*-based on non-appearance of the applicant; *Continuance* of Item #7 and have the Clerk administratively approve the application if the problems are remedied before Friday; or the Board could *conditionally approve the permit* and require them to provide verification that the problems have been remedied. The Board then cast their vote.

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

- 8 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR–PUEBLO DERBY DEVIL DOLLZ, INC., MAILING ADDRESS: P.O. BOX 11433, EVENT MANAGER: RACHEL SHULMAN, (EVENT TO BE HELD AUGUST 17, 2013. ADDRESS OF EVENT: 615 HUNTER DRIVE)**

Note: There was no one present on behalf of this applicant.

Mr. Styduhar again explained the Board could opt to continue this matter to their next meeting.

Mr. Pullaro, seconded by Mr. DiFatta, moved to continue this hearing to August 7th, 2013. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

- 9 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR–MARCH OF DIMES FOUNDATION D/B/A MARCH OF DIMES SOUTHERN COLORADO DIVISION, MAILING ADDRESS: 421 S. TEJON ST. STE. 310, COLORADO SPRINGS, CO, EVENT MANAGER: MOYRA HOWER, (EVENT TO BE HELD AUGUST 10, 2013. ADDRESS OF EVENT: 800 US HIGHWAY 50 WEST)**

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New event manager, Moyra Hower, 2475 Linenhall Court, Colorado Springs, CO was sworn in and answered questions from the Board. Ms. Hower explained their special event for which this application has been made is for “Mud Volleyball” for the March of Dimes. The funds raised at this event will be used to fund various programs for their organization. Ms. Hower will be responsible for supervising the event; there are 2 liquor distribution points; 3-5 persons will be selling/serving liquor. Ms. Hower explained they will have 2-3 food trucks with foods such as breakfast burritos and sausage sandwiches, however they have not contracted with anyone as of yet. Ms. Hower described approved forms of identification and explained they will be checking ID’s at the entrance and given a wristband. They have hired Draken Defense Security Company to maintain order on the licensed premises. Alcohol will not be allowed off the licensed premises and the entire event area will be fenced. Board Member Rose expressed concern about the food requirement not being met. He explained to Ms. Hower there are State statutes/regulations regarding food requirements and explained the importance of having food available during their event.

Mr. Rose, seconded by Mr. Ferris, moved to approve this Special Events Permits contingent upon proof of food requirement being met and communicated prior to the event. The Board held a brief discussion regarding this motion. The Board further explained to Ms. Hower why they felt it relevant to have specific information with regard to the food service. With all concerns addressed, the Board cast their votes.

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

10 HEARING: TRANSFER OF OWNERSHIP—HOTEL & RESTAURANT LIQUOR LICENSE: EL ALAMO, LLC D/B/A EL ALAMO, 1305 E. ROUTT AVENUE, (CURRENTLY LICENSED TO MI PUEBLITO MEXICAN GRILL, INC. D/B/A MI PUEBLITO, LICENSE EXPIRED MAY 18, 2013) CONTINUED FROM JUNE 5, 2013 DUE TO APPLICANT’S INCOMPLETE APPLICATION AND FROM JUNE 19, 2013 DUE TO THE ABSENCE OF THE APPLICANT

Chris Carrera, 2838 E. 16th Street and Francisco Martinez, 23225 Hillside were sworn in.

Mr. Styduhar explained the last continuance was based upon the applicant’s lack of demonstrating possession of the premises. Staff did review the lease that was brought in and it does demonstrate possession of the premises. Mr. Styduhar also explained that the last time the applicant was before the Board, the two individuals who appeared were listed in the application: George Villarreal and Francisco Martinez. Ms. Bravo-Neff further explained that no paperwork has been submitted on Mr. Carrera nor has he been fingerprinted or been through a background check. Mr. Carrera stated he is one of the owners. Mr. Styduhar asked Mr. Carrera why he was not listed on the application and Mr. Carrera stated he had only been added recently. Additionally, Mr. Villarreal was not present. The Board explained that this matter would have to be continued and that the application would have to be amended to reflect the addition of Mr. Carrera. Mr. Styduhar also stated since the temporary permit will be expiring soon, the Board could extend it for an additional 60-day period. The Board also requested that Mr. Villarreal be at the next hearing. Mr. Carrera stated he was present earlier, however, he had to leave due to a family emergency.

Mr. DiFatta, seconded by Mr. Rose, moved to continue this matter to August 7th and to extend the temporary permit for an additional 60-days. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

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**11 HEARING: NEW TAVERN LIQUOR LICENSE– TKO'd SPORTS BAR & GRILL, LLC D/B/A
TKO'd SPORTS BAR & GRILL, 123 N. MAIN STREET**

Owners Dean VanZandt and Beverly VanZandt, 29 Solar Drive were sworn in and answered questions from the Board. The moral character of both individuals was satisfactory to the Board. Mr. and Mrs. VanZandt have both previously worked in or for establishments with a liquor license and those licenses were never suspended, revoked or otherwise reprimanded for violating any liquor licensing statute or regulation. They used retirement funds to enter into possession of the premises. They will employ 10-12 employees and none of these employees have ever pled guilty to or been convicted of a crime other than a minor traffic offense. Mr. and Mrs. VanZandt explained their policy for checking the age of their patrons will be to require everyone to show their identification, regardless of age, before they purchase their first drink. Both Mr. and Mrs. VanZandt attended the City/State's liquor awareness training session in June. Board Member Ferris encouraged them to become certified in selling/serving techniques. Mr. VanZandt also stated they were going to have a TIPS instructor train their employees.

The Board then reviewed the petitions which were previously distributed to the Board. Mr. Styduhar stated the circulated petitions will be entered into the record and were collectively marked as *Exhibit A*.

Chairwoman Harrison gave specific information as to how the Board arrived at the number of valid signatures on the petitions. The Board held a discussion with the applicant regarding these petitions.

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

Jeff Hawkins, 211 W. 2nd Street was sworn in and stated why he was opposed to this license citing parking issues, noise, litter, the potential for graffiti and criminal acts. Mr. Hawkins had also circulated his own petition which contained 9 signatures of residents residing in the Amherst Building. The Board explained to Mr. Hawkins that there was a specific petition format which was previously adopted by the Board. They further explained that his petitions did not indicate the age of those signing individuals who had signed his petition. Mr. Hawkins' petition was marked as Exhibit B.

There was no one else present in opposition.

(Note: The Board initially discounted 9 of the applicant's signatures indicating they were in favor of the issuance of this license due to the fact these signors did not list an age. Since they allowed Mr. Hawkins' 9 in opposition, they went ahead and included these signatures.)

Mr. DiFatta, seconded by Mr. Pullaro, moved to accept the 9 signatures in opposition as presented in Exhibit B and include 9 more in favor in Exhibit A. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

Mr. Ferris, seconded by Mr. Rose, moved to approve this liquor license contingent on a completed Routing Sheet being submitted. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

Mr. Styduhar read the proposed Findings and Order for the Board's consideration. The findings reflect that issuance of this license is supported by at least 219 residents of the neighborhood or other parties

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in interest and opposed by at least 9 residents of the neighborhood or other parties in interest.

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.

12 HEARING: NEW HOTEL & RESTAURANT LIQUOR LICENSE– EL CHARRO RESTAURANT, LLC D/B/A EL CHARRO RESTAURANT, 2042 E. EVANS AVENUE (CONTINUED FROM JULY 3RD, 2013 AT THE REQUEST OF THE APPLICANT

Attorney Doug Gradisar was present with his clients: Owner: Ignacio Mercado Acebedo, 1616 E. 12th Street and registered manager Miguel A. Soto Mercado, 2407 W. 18th Street. Also present to translate for the applicant and manager: Jose Martinez, 33550 E. Highway 50 (grandson to Mr. Mercado Acebedo and nephew to Mr. Soto Mercado. These 3 individuals were sworn in and answered questions from the Board. Mr. Mercado Acebedo had a DUI charge in 2011. The moral character of Mr. Soto Mercado was satisfactory to the Board. Neither Mr. Mercado Acebedo nor Mr. Soto Mercado have ever held or worked in or for a liquor-licensed establishment. There are no silent partners or financial backers not disclosed in their application. Mr. Mercado Acebedo obtained a loan from his daughter to enter into possession of the premises. They will employ 4 employees and these employees do not have a criminal history. Mr. Martinez explained the employees are family members and in the future they may possibly conduct background investigations on potential employees. Both Mr. Mercado Acebedo and Mr. Soto Mercado described approved forms of identification. They will attend the City/State's Liquor Awareness class on October 4th, 2013.

The Board then reviewed the petitions which were previously distributed to the Board. Mr. Styduhar stated the circulated petitions will be entered into the record and were collectively marked as *Exhibit A*. Chairwoman Harrison gave specific information as to how the Board arrived at the number of valid signatures on the petitions. Present to speak about the petition circulation process was Dionicio Caballero, 1421 E. 3rd Street. Mr. Caballero explained he had a difficult time getting people to answer the door or many who just did not want to sign the petition. The Board stated they felt the applicant had made an honest effort to obtain the signatures on the petitions.

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

Mr. Pullaro, seconded by Mr. DiFatta, moved to approve this application for a Hotel & Restaurant liquor license contingent upon satisfactory back checks. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

Mr. Styduhar read the proposed Findings and Order for the Board's consideration. The findings reflect that issuance of this license is supported by at least 135 residents of the neighborhood or other parties in interest and opposed by 0 residents of the neighborhood or other parties in interest.

Mr. Rose, 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.

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5 REQUEST TO WITHDRAW AFFIDAVIT FOR SURRENDER OF CITY AND STATE LIQUOR LICENSES-BLUE MOON SALOON AT PUEBLO, INC. D/B/A JOSE PAISANO'S, 2501 LAKE AVENUE

Mr. Styduhar explained what prompted the removal of this item from the Consent Agenda, was a request by individuals – namely the landlords at 2501 Lake Avenue.

Jack C. Dilka, Jr. and Velma Dilka, 10 Strawflower Court were sworn in.

Mr. Styduhar stated he felt it was important for the Board to evaluate what was requested and is now withdrawn. The only individual with a possessory interest in the license is the licensee. There was an original affidavit to surrender submitted by the owner Jose Hugo Romero-Lopez and subsequently withdrawn by way of a signed statement to the Board that the surrender was withdrawn.

Mr. Dilka stated he realizes the liquor license is issued to an individual and not the property. He further explained that the property is not in the possession of the licensee holder and has not been since May 24th, 2013. Mr. Dilka stated after numerous repeated attempts to collect back and past due rents on said property, he informed the licensee that he was going to change the locks and they were given notice. Mr. Dilka stated at this time, the licensee emptied out the establishment of their personal property. He stated in addition to the licensee not having a place to conduct their business, they have breached their rental contract. Mr. Styduhar stated there is an element to holding a license, which is possession, an element that is being alleged here which is not occurring. Mr. Styduhar explained a communication to the Board can come in many forms, including a sworn statement at a hearing, which he explained, this is not a hearing. He stated if the landlords would like to submit something formally to the Board, a verified, sworn statement indicating facts that they believe indicate lack of possession, the Board could consider that, if they wish, as a violation. Mr. Styduhar explained that all the Board could consider right now is the revocation of the surrender. Mr. Dilka had a statement written out and did submit it to the Board which will be acted upon at a later date.

The owner's son, Joey Romero was present. Mr. Romero was asked where they receive their mail so that when a notice was mailed, they would be assured of receiving it. He stated their address is 3420 Ivywood Lane, Pueblo, CO.

Mr. Rose, seconded by Mr. DiFatta, moved to grant the request to withdraw the surrender. Roll Call: Ayes—DiFatta, Ferris, Harrison, Pullaro and Rose. Motion carried unanimously.

ADJOURN – With no further business to come before the Board, the meeting was adjourned at 7:58 p.m.

Respectfully submitted,


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