COLORADO SPRINGS, COLORADO
COUNCIL CHAMBERS
CITY HALL – 107 N. NEVADA AVENUE
AUGUST 7, 2009 – 9:00 A.M.

The Liquor and Beer Licensing Board met in regular session.

There were present: Chairman Stephens, Ms. Abrams, Mr. Clauss, Mr. Kouba, Ms. Lloyd, Mr. Nemeth and Mr. Wright. Also present, Board Legal Advisor Marc Smith.

MINUTES

1. **Approval of the Minutes of the Board Meeting of July 17, 2009.**

There was no action taken on this item.

COMMUNICATIONS

2. There were no items to be postponed, continued, or withdrawn.

CONSENT CALENDAR

3. The City Clerk's Office reports that boundaries were set for the following applications:

A-1. Rasta Pasta of Colorado Springs, LLC dba Rasta Pasta, 405 North Tejon Street:

North: South side of Yampa Street extended
South: North side of Colorado Avenue extended
East: West side of El Paso Street extended
West: East side of Spruce Street extended

A-2. Yankee Cajun, LLC dba Nawlins Bar B Q, 3317 Cinema Point:

North: South side of Alma Terrace extended
South: North side of Pitchfork Drive extended
East: West side of Bareback Drive extended
West: East side of Vail Pass Drive extended

Motion by Kouba, second by Clauss, that the Consent Calendar be approved. The motion unanimously carried.

TRANSFER APPLICATIONS

4. **Application of Aracely Vazquez dba Guzman's Liquor Store, to transfer the Retail Liquor Store License currently issued to Carmen Aguilera dba Guzman's Liquor Store, 3746 East Pikes Peak Avenue**.

Mina Anderson, translator, was sworn.

Attorney Victoria Ringler entered her appearance on behalf of the applicant.

Aracely Vazquez was sworn and through the interpreter stated she has been operating the business for three months; that she is investing $62,913 of which said funds were derived from personal savings in the amount of $2,913 and a promissory note to the previous owner in the amount of $60,000. She stated her husband and she will be operating the business; that she has a 10 year lease and has attended formal alcoholic beverage training; that she has lived in Colorado Springs for 12 years and lived in California prior to that; that she purchased the business from her sister-in-law.

Motion by Kouba, second by Clauss, that the application of Aracely Vazquez dba Guzman's Liquor Store, to transfer the Retail Liquor Store License currently issued to Carmen Aguilera dba Guzman's Liquor Store, 3746 East Pikes Peak Avenue, be approved as it appears all criteria has been met.

Ayes: Clauss, Kouba, Lloyd, Nemeth, Stephens, Wright
Noes: Abrams
Absent: None

Chairman Stephens declared the motion carried.

----------0----------

5. **Application of Shi Jung Yi dba Miyake, to transfer the Beer and Wine License currently issued to Tokyo Stop dba Miyake Restaurant, 3609 Austin Bluffs Parkway.**

Shi Jung Yi was sworn and stated she has operated restaurants for 20 years and never received any violations; that she has a three year lease; that she has no criminal history. She stated she is investing $10,000 in the business of which said funds were derived from personal savings.

Following discussion by the Board, it was moved by Kouba, seconded by Wright, that the application of Shi Jung Yi dba Miyake, to transfer the Beer and Wine License currently issued to Tokyo Stop dba Miyake Restaurant, 2609 Austin Bluffs Parkway, be approved with the condition that the owner and employees attend formal alcoholic beverage training and provide a certificate of completion to the City Clerk's Office prior to issuance of the license. The motion unanimously carried.

MODIFICATION OF PREMISES

6. **Request by WSB, LLC, dba Sam's World's Smallest Bar, to Modify the Premises where liquor is served at 22 North Tejon Street, Suite A.**

Attorney Vince Linden entered his appearance on behalf of the licensee and stated Item Nos. 6 and 7 are related and will affect each establishment through the decrease of Rum Bay premises and the increase of Sam's World's Smallest Bar premises.

Chuck Schaeffer, Manager, was sworn.

Mr. Linden stated the second floor portion of Blondie's, which is an area within Rum Bay, will be absorbed by Sam's World's Smallest Bar and the third floor of Rum Bay will become an extended area of Blondie's. He stated the Rum Bay upper level seating area and a bar will be decreased and the third floor roof top will be eliminated and included as part of Sam's World's Smallest Bar.

Milan Foster, Liquor License Consultants, was sworn and stated his company conducted the petition survey which resulted in 54 favoring, 2 opposing, and 8 no opinion signatures; that he also conducted training for taverns owned by the licensee.

Motion by Wright, second by Nemeth, that the request by WSB, LLC, dba Sam's World's Smallest Bar, to Modify the Premises where liquor is served at 22 North Tejon Street, Suite A, be approved as it appears all criteria has been met. The motion unanimously carried.

----------0----------

7. **Request by Tejon Street Partners, LLC dba Rum Bay, to Modify the Premises where liquor is served at 20 North Tejon Street.**

SEE TESTIMONY FOR ITEM NO. 6.

Motion by Wright, second by Nemeth, that the request by Tejon Street Partners, LLC dba Rum Bay, to Modify the Premises where liquor is served at 20 North Tejon Street, be approved as it appears all criteria has been met. The motion unanimously carried.

----------0----------

Mr. Nemeth was excused.

----------0----------

8. **Request by OLJ, Inc., dba Oscar's Tejon Street, to Modify the Premises where liquor is served at 333 South Tejon Street.**

Attorney Gary Dailey entered his appearance on behalf of the licensee.

Phil Duhon was sworn and stated the proposed modification is to add a 6 ½' x 24' sidewalk patio. He stated the Zoning Office has approved the request; that all employees are TIPS certified and the area will be monitored.

Larry Lucero, Liquor License Professionals, was sworn and stated his company conducted the petition survey which resulted in 84 favoring, 2 opposing, and 1 no opinion signature.

Motion by Wright, second by Clauss, that the request by OLJ, Inc., dba Oscar's Tejon Street, to Modify the Premises where liquor is served at 333 South Tejon Street, be approved as it appears all criteria has been met.

Ayes: Clauss, Kouba, Lloyd, Stephens, Wright
Noes: Abrams
Absent: Nemeth

Chairman Stephens declared the motion carried.

APPLICATION HEARINGS

9. **Application of Bara Sushi & Grill at Briargate, Inc. dba Bara Sushi & Grill at Briargate for a Hotel and Restaurant Liquor License at 1645 Briargate Parkway #C245.**

Attorney Erika Kaiser entered her appearance on behalf of the applicant and stated an amended application has been provided to the City Clerk's Office.

Se Yong Ahn was sworn and stated he has approximately 10 years experience in the sale of alcoholic beverages and has held liquor licenses in the past; that in 1997 he was convicted of a DWAI. He stated he is investing $244,270 in the business of which $60,970 was derived from construction allowance by the landlord, a loan from his wife's restaurant in the amount of $103,300, $70,000 from Bruce Banker who is investing for approximately 7.5% ownership interest, and $10,000 from loans; that there is a 1175 square foot patio; that the restaurant is 1742 square feet with a seating capacity of 63. He stated he has an 11 year lease of the premises; that he has attended formal alcoholic beverage training.

Mr. Lucero, Liquor License Professionals, stated his company conducted the petition survey which resulted in 66 favoring, 0 opposing, and 2 no opinion signatures.

Motion by Kouba, second by Clauss, that the application of Bara Sushi & Grill at Briargate, Inc. dba Bara Sushi & Grill at Briargate for a Hotel and Restaurant Liquor License at 1645 Briargate Parkway #C245, be approved with the condition that the City Clerk's Office review and approve the amended application prior to issuance of the license. The motion unanimously carried. Absent, Mr. Nemeth.

----------0----------

10. **Application of Mountain Shadow Management, LLC dba City Auditorium Concessions, for a Tavern Liquor License at 221 East Kiowa Street.**

Chad Coker, Dustin Keary, and Renee Coker were sworn.

Mr. Coker stated his wife and he have several years experience in the restaurant service industry and both have experience in the sale of alcoholic beverages; that the corporation provides management services to companies; that they have a three year contract with the City of Colorado Springs to operate the concession at the City Auditorium and provide all alcoholic beverage services during events; that $5,000 is being invested in the business of which said funds were derived from a line of credit. He stated while the corporate officers and managers have received formal alcoholic beverage training, approximately 20 employees will also attend formal training; that the licensed premises will encompass the entire City Auditorium of approximately 30,000 square feet.

Larry Lucero, Liquor Licensing Professionals, stated his company conducted the petition survey which resulted in 149 favoring, 14 opposing, and 4 no opinion signatures; that the company also conducted training for the managers and officers of the corporation.

Tom Webb, President of Friends of the City Auditorium, spoke in support of the application.

Motion by Wright, second by Abrams, that the application of Mountain Shadow Management, LLC dba City Auditorium Concessions, for a Tavern Liquor License at 221 East Kiowa Street, be approved, as it appears all criteria has been met. The motion unanimously carried. Absent, Mr. Nemeth.

SUSPENSION/REVOCATION HEARINGS

11. **Suspension/Revocation Hearing concerning the Tavern Liquor License issued to Club Entertainment, Inc., dba Penalty Box Lounge, 3045 Jet Wing Drive.**

City Prosecuting Attorney Michelle Keller entered her appearance on behalf of the City.

Attorney Vince Linden entered his appearance on behalf of the licensee and stated he is requesting a postponement of the hearing, as the licensee is in the process of negotiating the sale of the business and the show cause hearing could affect a transfer of the license.

Motion by Clauss, second by Wright, that this item be postponed to the Board meeting of August 21, 2009. The motion unanimously carried. Absent, Mr. Nemeth.

----------0----------

12. **Suspension/Revocation Hearing concerning the Retail Liquor Store License issued to Paradise Liquor, LLC dba South Nevada Liquor, 1107 South Nevada Avenue.**

City Prosecuting Attorney Michelle Keller entered her appearance on behalf of the City.

Attorney Victoria Ringler entered her appearance on behalf of the licensee.

Kathy Hyun was sworn as translator for the licensee.

Ms. Keller stated a transfer hearing and a show cause hearing was originally scheduled for June 19, 2009; that the matters were split to hear the transfer first and the show cause at a later date.

Ms. Ringler stated Attorney Kent Freudenberg represented the licensee for the transfer application and due to a conflict, recommended her as Counsel for the show cause hearing; that due to her previous employment with the City, she filed a Waiver of Conflict with the City Attorney's Office, however she has not received a response to date. She stated while she does not believe she has a conflict, she does not want to jeopardize her client; that she would request this item be postponed so that her client may secure another attorney.

In response to a question from Mr. Kouba, Ms. Keller stated the show cause relates to a previous show cause at the same establishment where Ms. Ringler was counsel on behalf of the City; that the previous show cause hearing was vacated and an agreement for transfer was drafted by Ms. Ringler; that while it is the City's position that there is a conflict in this matter, it will not always be the case.

In response to a question from Mr. Kouba as to why Ms. Ringler took the case when she knew the facts just expressed, Ms. Ringler replied she had entered her appearance prior to the knowledge that there may be a potential conflict.

Ms. Keller stated the City is ready to proceed with the hearing; that this has been a seven week continuance where the licensee had the option to hire conflict free counsel.

Mr. Kouba stated he is concerned about the seriousness of the allegations and if another postment is approved today, he will not agree to any further postponements.

Motion by Wright, second by Kouba, that this item be postponed to the Board meeting of September 4, 2009; that the Board will not accept any further requests for postponement.

Ayes: Abrams, Clauss, Kouba, Stephens, Wright
Noes: Lloyd
Absent: Nemeth

Chairman Stephens declared the motion carried.

----------0----------

At 12:15 p.m., motion by Wright, second by Clauss, that the Board adjourn.

Cindy N. Conway, CMC
Deputy City Clerk