

**COLORADO SPRINGS, COLORADO
COUNCIL CHAMBERS
CITY HALL - 107 N. NEVADA AVE.
DECEMBER 4, 2009 – 9:00 A.M.**

The Liquor and Beer Licensing Board met in regular session.

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

-----0-----

1. **Approval of the Minutes of the Board Meeting of November 20, 2009.**

Motion by Wright, second by Clauss, that the Minutes of the Board meeting of November 20, 2009 be approved as written. The motion unanimously carried. Absent, Mr. Kouba.

COMMUNICATIONS

2. There was no action taken.

CONSENT CALENDAR

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

A-1. CC & T LLC dba GS Lounge, 315 East Arvada Street:

North: South side of Victoria Street extended
South: North side of Southgate Road extended
East: West side of Arcadia Street extended
West: East side of Sierra Madre Street extended

Motion by Wright, second by Nemeth, that the Consent Calendar be approved. The motion unanimously carried. Absent, Mr. Kouba.

SUSPENSION/REVOCAION HEARING

4. **Suspension/Revocation Hearing concerning the Hotel and Restaurant Liquor License issued to Keum W., LLC dba Happy Landing Bar and Grill, 1677 Jet Wing Drive.**

City Prosecuting Attorney Anthony Moore entered his appearance on behalf of the City and stated while attempts have been made, the licensee is not present for today's hearing.

Johnny Lanigan was sworn and stated he is applying for a transfer of the license and currently has a liquor license application for transfer pending in the City Clerk's Office; that he initially filed an application for a new license which was rejected and has subsequently filed an application for transfer of the license.

LIQUOR AND BEER LICENSING BOARD MEETING – DECEMBER 4, 2009

In response to a question from Mr. Nemeth, Mr. Lanigan stated Mr. Chung has abandoned the premises and Bob Hamrick is operating the business.

In response to a question from Mr. Moore, Cindy Conway, Deputy City Clerk was sworn and stated a Show Cause order was mailed both certified and 1st class to both the establishment and residence of Mr. Chung; that the return receipt received from the establishment was signed by Vacara Parker.

Motion by Wright, that while the licensee is not present, testimony has been provided stating sufficient notice was sent to the licensee and the hearing should be held. The motion was seconded by Mr. Clauss. The motion unanimously carried. Absent, Mr. Kouba.

Mr. Moore stated testimony will show that the Hotel and Restaurant licensed premises has been operating as a Tavern and failing to maintain food requirements as required by law; that the licensee has failed to maintain possession of the establishment and has permitted another to exercise the privileges of the license; that the manager is not registered by law; that the premises has been modified; that the trade name was changed without proper authority; and that records of the establishment were not properly maintained and produced.

In response to questions from Mr. Moore:

Detective True stated he was at the establishment on June 10, 2009 and spoke with Vacara Parker who stated the business was opening June 19, 2009 as Corner Pocket East and the owner was Bob Hamrick.

Mr. Moore submitted Exhibit No. 1, a diagram of the premises.

In response to questions from Mr. Moore:

Detective True described the layout of the premises and stated he spoke with a woman named Amanda, who identified herself as a bartender, when he was at the establishment on June 10, 2009; that Amanda pointed Bob Hamrick out as the owner; that when he spoke with Mr. Hamrick, he identified himself as manager; that Mr. Hamrick was wearing a shirt that read Corner Pocket East; that on June 19, 2009, he again went to the premises with Investigator Elliot from State Liquor Enforcement; that menus in the establishment showed Corner Pocket East; that on June 22, 2009, State Liquor Investigator Brian Osterhouse issued an Order to Produce Books and Records to Happy Landing; that on September 23, 2009 he spoke with Ms. Parker who said that a liquor application had been submitted to the City, but something had been "messed up"; that he received a copy of a lease agreement from the City Clerk's Office dated August 1, 2009 indicating Lanigan, Inc., as tenant and Jet Wing Center, LLC as landlord; that he never saw Keum Chung at the premises.

Mr. Moore submitted Exhibit No. 2, a copy of the lease agreement.

In response to questions from Mr. Moore:

El Paso County Detective Chris Ganstine was sworn and stated he is currently assigned to the Colorado Springs Police Department; that he was at the establishment on June 19,

LIQUOR AND BEER LICENSING BOARD MEETING – DECEMBER 4, 2009

2009; that he contacted Bob Hamrick and advised him the City records did not show him as the owner or manager of the premises; that Mr. Hamrick advised him he would be changing the trade name to Corner Pocket East and operating the premises as a pool hall; that at a minimum, approximately 50% of the premises is designated for pool tables; that a menu posted on the door indicated Corner Pocket East.

Mr. Moore submitted Exhibit Nos. 20 through 22, photos of the inside premises of Happy Landing.

In response to questions from Mr. Moore:

Deputy City Clerk Cindy Conway was sworn and stated she conducted the initial inspection of the premises upon issuance of the license; that no application has been filed for Modification of the Premises or Change of Manager; that an application was submitted for a new license by Lanigan, Inc. which was rejected.

In response to questions from Mr. Moore:

State Liquor Criminal Investigator Brian Osterhouse was sworn and stated he issued a Demand for Records to Robert Hamrick on June 22, 2009 requiring the documents to be submitted by July 6, 2009; that on July 7, 2009, Mr. Hamrick submitted a portion of the records but a bank signature card was not submitted; that on September 25, 2009, another Demand for Records was issued to Mr. Hamrick requiring records be submitted by October 7, 2009; that Mr. Hamrick gave him a business card which identified him as the Manager. He stated when he inquired about Mr. Chung, Mr. Hamrick told him he was out of town and unavailable; that on June 22, 2009, he advised Mr. Hamrick to file as Manager of the establishment. He identified Exhibit Nos. 3 through 7, copies of the Demand for Records, profit and loss statements and a business card.

Mr. Moore submitted Exhibit Nos. 3 through 7.

In response to questions from Mr. Moore:

State Liquor Criminal Investigator Russ Elliott was sworn and stated he was at the establishment on June 10, 2009 and June 19, 2009 and agrees with Detective True's testimony, however, he also recalls that when Detective Ganstine arrived with the uniformed Police Officers on June 19, 2009, an employee commented to him that "Bob" was going to be in trouble because he didn't have a liquor license. He identified Exhibit Nos. 8 through 19, documents submitted through the Demand for Records order, which included invoices, receipts, profit and loss statements, financial security agreements, operating agreements, account agreements, employee records, cancelled checks and various agreements for services at the premises. He stated the profit and loss statements indicate approximately 12% in food sales; that many of the submitted exhibits identify the establishment as Corner Pocket East.

Mr. Moore submitted Exhibit Nos. 8 through 19.

-----0-----

The Board recessed for lunch from 11:45 a.m. to 12:45 p.m.

LIQUOR AND BEER LICENSING BOARD MEETING – DECEMBER 4, 2009

-----0-----

Mr. Moore stated the business being operated at 1677 Jet Wing Drive is not the business the Board issued a license to in May, 2009; that the licensed premises is now being operated as a Tavern rather than a Hotel and Restaurant, and operated by someone other than the licensee; that Count 1 identifies that Mr. Hamrick was acting as manager without appropriate authority; that Count 2 identifies the licensee failed to serve meals and food sales are less than 12%. He stated Count 3 testimony indicates a modification of the premises was made without approval and the changes affect the basic character of the establishment; that Count 5 testimony indicates a change in trade name without proper notice; that Exhibit Nos. 19 and 20 indicated services were being contracted for the establishment under the trade name of Corner Pocket East; that Counts 6 and 8 indicate sales are being made by persons without legal authority to do so and the sales records were not properly documented; that Count 7 proves the licensee has failed to maintain the premises as evidenced by the lease agreement, and Count 4 proves the premises is being operated by someone other than the licensee; that he requests the Board find the licensee guilty of all counts.

Ms. Lloyd stated the license was issued May 21, 2009 and documents dating as early as May 28, 2009 indicate services were being contracted under the trade name of Corner Pocket East; that it appears as though this business change was planned from the beginning of the license issuance.

Motion by Wright, second by Nemeth, that the licensee be found guilty of Counts 1 through 8 of the Show Cause Order. The motion unanimously carried. Absent, Mr. Kouba.

Mr. Moore stated the City requests revocation of the license.

Motion by Wright, second by Nemeth, that the Hotel and Restaurant Liquor License issued to Keum W, LLC dba Happy Landing Bar and Grill, 1677 Jet Wing Drive, be revoked. The motion unanimously carried. Absent, Mr. Kouba.

-----0-----

5. **Discussion relating to petitions and needs and desires of various application hearings.**

Motion by Clauss, second by Abrams, that this item be postponed to the Board meeting of December 18, 2009. The motion unanimously carried. Absent, Mr. Kouba.

-----0-----

At 1:10 p.m., motion by Nemeth, second by Wright, that the Board adjourn.

**Cindy N. Conway, CMC
Deputy City Clerk**