COLORADO SPRINGS, COLORADO COUNCIL CHAMBERS CITY HALL - 107 N. NEVADA AVE. AUGUST 20, 2010 – 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, and Mr. Nemeth. Absent, Mr Wright. Also present, Board Legal Advisor Kenny Hodges.

# **COMMUNICATIONS**

1. There was no action taken on this item.

#### **MINUTES**

2. Approval of the Minutes of the Special Board Meeting of August 2, 2010.

Motion by Lloyd, second by Clauss, that the Minutes of the Special Board meeting of August 2, 2010 be approved as written. The motion unanimously carried. Absent, Mr. Wright.

# **CONSENT CALENDAR**

- 3. The City Clerk's Office reports that boundaries were set and Temporary Permits were issued for the following applications:
- A-1. Maria's Taco Shop, LLC dba Maria's Taco Shop, 2812 East Pikes Peak Avenue:

North: South side of Willamette Avenue extended

South: North side of Airport Road extended
East: West side of Fairmont Street extended
West: East side of Willow Tree Grove extended

A-2. C & S Events, Inc. d/b/a Crystal Rose, 2165 Academy Place:

North: South side of Windsong Court extended
South: North side of Keaton Lane extended
East: West side of Shalimar Drive extended
West: East side of Chelton Road extended

A-3. Austin Bluffs Wine & Liquor, LLC d/b/a Austin Bluffs Wine & Liquor, 4535 Austin Bluffs Parkway:

North: South side of Meadowland Boulevard extended

South: North side of Artistic Circle extended
East: West side of Oro Blanco Drive extended
West: East side of Academy Boulevard extended

### LIQUOR AND BEER LICENSING BOARD MEETING - AUGUST 20, 2010

- B-1. UDT, Inc. dba 3 Margaritas XXVIII 6385 North Academy Boulevard
- B-2. K & M Billiards LLC dba Corner Pocket West 840 Arcturus Drive

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

# **APPLICATION HEARINGS**

# 4. <u>Application of MEG 123, LLC dba II Postino for a Hotel and Restaurant Liquor License at 123 East Pikes Peak Avenue.</u>

Attorney Vince Linden entered his appearance on behalf of the applicant.

Raphael Sassower was sworn and stated he owns 52% of the corporation and will be the registered manager; that no other members of the corporation own more than 10%; that \$350,000 is being invested in the business of which said funds were derived from personal savings of the members; that he previously owned the Warehouse Brew Pub from 1997 to 2007, and had no liquor violations during that time; that formal training of the liquor laws has been completed; that he anticipates opening the establishment in September, 2010; that a 17' x 200' patio will be located on the east side of the building with access only from the restaurant and another patio will be located on the north side of the premises.

Susan Duffy Schwall, Liquor Licensing Professionals, was sworn and stated her company conducted the petition survey which resulted in 140 favoring, 1 opposing, and 3 no opinion signatures.

Upon review of the file, it was determined that the applicant had not submitted a diagram for the north side patio area and would be required to submit the diagram and obtain approval from the Zoning Department.

Motion by Kouba, second by Nemeth, that the application of MEG 123, LLC dba II Postino for a Hotel and Restaurant Liquor License at 123 East Pikes Peak Avenue, be approved with the condition that a correct diagram of the premises be submitted and approved by the Zoning Department. The motion unanimously carried. Absent, Mr. Wright.

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# 5. <u>Application of Adelaida B. Isaac dba Red Horse Karaoke and Sports Bar for a Tavern</u> Liquor License at 2030 South Academy Boulevard.

Adelaida Isaac was sworn and stated she is sole owner of the business; that she invested \$4350 in the business of which said funds were derived from personal savings.

### **LIQUOR AND BEER LICENSING BOARD MEETING - AUGUST 20, 2010**

Ferdinand Manalansan was sworn and stated he circulated the petition survey which resulted in 105 signatures favoring, 0 opposing, and 0 no opinion signatures; that each person he approached signed the petition.

Deputy City Clerk Cindy Conway stated an audit of the petition resulted in the deletion of 84 signatures for the following reasons: 70 signators did not indicate they were within the designated boundaries, 12 incomplete addresses, 2 duplicate signatures.

In response to questions from the Board, Ms. Isaac stated while \$4350 was originally invested in the business, she has invested an additional amount of approximately \$3,000 which does not include liquor inventory; that the additional funds invested in the business will be derived from personal savings; that her nephew will operate the tavern and she will submit manager paperwork at a later date; that she currently owns a restaurant and grocery store.

Mr. Clauss expressed concern of the financial investment and stated this location previously held a liquor license that was revoked by the Board; that he is concerned about the petition survey and the applicant's ability to operate according to law.

Mr. Kouba stated he too is concerned about the incorrect financial investment and the inaccuracy of the application information; that the petition survey submitted is questionable due to the number of deleted signatures following an audit.

Mr. Nemeth stated amended financial paperwork and manager's registration should be appropriately submitted.

Ms. Abrams expressed concern of the needs and desires of the neighborhood and stated the finances of the applicant do not appear to be in order.

Ms. Lloyd stated she would agree to an amendment of the financial documentation; that the petition survey is acceptable to her.

Chairman Stephens expressed concern with the financial investment and sources; that regarding the petition survey to address needs and desires of the neighborhood, the petition circulator indicated that each person he approached signed the petition in favor of the application and he does not believe every contact would sign a petition; that after hearing the applicant's testimony, he questions the applicant's understanding of the Liquor Code.

Motion by Clauss, second by Abrams, that the application of Adelaida B. Isaac dba Red Horse Karaoke and Sports Bar for a Tavern Liquor License at 2030 South Academy Boulevard, be denied; that while the Board has determined the applicant is of good moral character, has the ability to conduct the business according to law, and has possession of the premises, the finances are not in good order, the petition survey is suspect and the needs and desires were not evidenced.

Upon further discussion, the Board determined the needs and desires of the neighborhood should not be included as one of the criteria for denial of the application.

A vote being taken on the motion:

### **LIQUOR AND BEER LICENSING BOARD MEETING - AUGUST 20, 2010**

Ayes: Abrams, Clauss, Kouba, Stephens

Noes: Lloyd, Nemeth

Absent: Wright

Chairman Stephens declared the motion carried.

# SUSPENSION/REVOCATION HEARING

# 6. <u>Suspension/Revocation Hearing concerning the Tavern Liquor License issued to CWDT,</u> Inc., dba Cowboys, 25 North Tejon Street.

Attorney Vince Linden entered his appearance on behalf of the licensee.

City Prosecuting Attorney Scott Patlin entered his appearance on behalf of the City and stated a Stipulation has been reached in this matter; that the licensee agrees to plead guilty to Count 3 of the Show Cause for service to a visibly intoxicated person on May 26, 2010, in violation of CRS 12-47-901(5)(a)(I); that the remaining counts will be dismissed; that the Stipulation provides 14 days suspension, none of which will be held in abeyance, but grants a fine in lieu of suspension in the amount of \$5,000 to be tendered to the City Clerk's Office within 30 days. He submitted Exhibits 1 and 2, copies of Show Cause Orders.

Mr. Linden stated the Stipulation is being accepted by the licensee with reservations; that the licensee is admitting to Count 3 of the Show Cause Order as it is unable to defend itself due to the length of time from the alleged violation to the time of service of the Order.

Mr. Kouba stated the licensee had the opportunity to dispute the Stipulation and Agreement, but opted to sign it with the admission of violations.

Mr. Linden stated given the circumstances, the licensee felt it was unable to sufficiently defend the allegation.

In response to questions from the Board, Mr. Hodges stated the Board may only act today on whether to accept the Stipulation and Admission, but it cannot dismiss the matter without a hearing.

Motion by Kouba, second by Lloyd, that the proposed Stipulation and Agreement be accepted which provides 14 days suspension, none of which will be held in abeyance, and grants a fine in lieu of suspension in the amount of \$5,000.

Ayes: Abrams, Kouba, Lloyd, Nemeth

Noes: Clauss, Stephens

Absent: Wright

Chairman Stephens declared the motion carried.

Motion by Kouba, second by Nemeth, that the Findings and Conclusion as presented, be adopted. The motion unanimously carried. Absent, Mr. Wright.

# **LIQUOR AND BEER LICENSING BOARD MEETING – AUGUST 20, 2010**

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t 11:00 a.m., motion by Wright, second by Abrams, that the Board adjourn.	
	Cindy N. Conway, CMC Deputy City Clerk