COLORADO SPRINGS, COLORADO COUNCIL CHAMBERS CITY HALL - 107 N. NEVADA AVE. NOVEMBER 19, 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, Mr. Nemeth and 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 Board Meeting of November 5, 2010.

Motion by Wright, second by Kouba, that the Minutes of the Board meeting of November 5, 2010, be approved as written. The motion unanimously carried.

CONSENT CALENDAR

- 3. The City Clerk's Office reports that Temporary Permits were issued for the following applications:
- A-1. Daebuck Investment, Inc.dba Family Liquors435 North Murray Boulevard
- A-2. W2007 Equity Inns Realty, LLC dba Colorado Springs Residence Inn Central 3880 North Academy Boulevard

Motion by Wright, second by Lloyd, that the Consent Calendar be approved. The motion unanimously carried.

TRANSFER APPLICATIONS

4. Application of K & M Billiards, LLC dba Corner Pocket West, to transfer the Tavern Liquor License currently issued to CTwins, LLC dba Corner Pocket West, 840 Arcturus Drive.

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

Kurt Enkler was sworn and stated he is 51% member/owner and Michael Thistlewood is 49% member/owner; that \$45,000 is being invested in the business of which said funds were

derived from their personal savings in the amount of \$22,500 each. He stated Mr. Thistlewood and he also own Widefield Corner Pocket; that they have operated this business since July 2010; that the lease term is two years; that all employees have attended formal training.

Motion by Kouba, second by Clauss, that the application of K & M Billiards, LLC dba Corner Pocket West, to transfer the Tavern Liquor License currently issued to CTwins, LLC dba Corner Pocket West, 840 Arcturus Drive, be approved as it appears all criteria has been met. The motion unanimously carried.

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5. Application of UDT, Inc. dba 3 Margaritas XXVIII, to transfer the Hotel and Restaurant Liquor License currently issued to Ranchero, Inc. dba 3 Margaritas XXII, 6385 North Academy Boulevard.

Attorney Erika Kaiser entered her appearance on behalf of the applicant.

Jamie Londono was sworn as interpreter for the applicant.

Jose Cabrera was sworn and through the interpreter stated he is Vice-President of the corporation owning 49%, and Jose Morales is President owning 51%; that \$150,000 is being invested in the business of which said funds were derived from loans; that the establishment is 6424 square feet and the lease term is seven years; that the employees have attended formal training; that the application is inaccurate in that he is currently in the process of purchasing the building, and upon closing will amend the lease; that he also has interest in a recently opened business in Loveland, CO that is not reflected on the application, and a Liquor Code volation has occurred since the application was submitted.

Motion by Clauss, second by Lloyd, that the application of UDT, Inc., dba 3 Margaritas XXVIII, to transfer the Hotel and Restaurant Liquor License currently issued to Ranchero, Inc., dba 3 Margaritas XXII, 6385 North Academy Boulevard, be approved with submittal of a new lease upon closing of the building, and amendments made to the application relating to the number of existing liquor licenses, and the addition of a recent violation. The motion unanimously carried.

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6. <u>Application of BPB, LLC dba The Mansion, to transfer the Tavern Liquor License currently issued to Tejon Street Partners, LLC dba Rum Bay, 20 North Tejon Street.</u>

Attorney Vince Linden entered his appearance on behalf of the applicant and stated the transfer is the result of a change in entity, but the ownership will remain the same; that the applicant was unable to attend today's meeting due to a family emergency; that employees have attended formal training; that Kathy Guadagnoli owned 90% of Tejon Street Partners LLC and will be the sole owner of this corporation.

Mike Parnisi-Jones, General Manager, was sworn and stated he has been employed by the owner approximately 13 years; that there are approximately 40 to 50 employees; that staff will

monitor the front door area and restrooms to ensure no alcohol is removed from the premises and no underage consumption occurs; that the music venue has been changed from the previous Rum Bay venue; that the establishment is open Thursday through Saturday only.

Motion by Wright, second by Kouba, that the application of BPB, LLC dba The Mansion, to transfer the Tavern Liquor License currently issued to Tejon Street Partners, LLC dba Rum Bay, 20 North Tejon Street, be approved, as it appears all criteria has been met. The motion unanimously carried.

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7. Application of Helena Street LLC dba Sporting News Grill, to transfer the Hotel and Restaurant Liquor License currently issued to Hospitality Management Enterprises Colorado, LLC dba Chris and Zeke's Bar & Grill, 1855 Aeroplaza Drive.

Edward Okvath, General Manager, was sworn and stated Helena Street LLC is owned by the Capri Corporation which is investing \$500,000 into the business; that the lease term is two years; that the establishment is 3000 square feet with a patio area.

Motion by Clauss, second by Nemeth, that the application of Helena Street LLC dba Sporting News Grill, to transfer the Hotel and Restaurant Liquor License currently issued to Hospitality Management Enterprises Colorado, LLC dba Chris and Zeke's Bar & Grill, 1855 Aeroplaza Drive, be approved, as it appears all criteria has been met. The motion unanimously carried.

SUSPENSION/REVOCATION HEARINGS

8. Suspension/Revocation Hearing concerning the Hotel and Restaurant Liquor License issued to J. Quinn's Irish Rover, LLC dba Jack Quinn's Irish Ale House and Pub, 20 South Tejon Street.

Senior Prosecuting Attorney Anthony Moore entered his appearance on behalf of the City and stated a Stipulation has been reached in this matter; that the licensee has admitted to violations of removal of alcohol from the licensed premises and sale to a visibly intoxicated person on September 10, 2010; that the Stipulation provides 10 days suspension, 3 days active, and 7 days to be held in abeyance for a period of one year pending future violations.

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

William Sauz, member of the corporation, was sworn and read a statement of measures being taken to curtail future violations.

Motion by Wright, second by Abrams, that the Stipulation and Admission of Violations be accepted. The motion unanimously carried.

Motion by Wright, second by Abrams, that the Findings and Conclusion be adopted providing 10 days suspension, 3 days active, and 7 days to be held in abeyance for one year pending future violations; that the licensee and employees are required to attend formal training.

Ayes: Abrams, Clauss, Kouba, Nemeth, Stephens, Wright

Noes: Lloyd Absent: None

Chairman Stephens declared the motion carried.

Mr. Linden requested the licensee be authorized to pay a fine in lieu of active days suspension.

Motion by Lloyd, second by Wright, that a Fine in Lieu of Suspension be approved. The motion unanimously carried.

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9. <u>Suspension/Revocation Hearing concerning the Tavern Liquor License issued to Now Corporation dba Knob Hill Lounge, 2100 East Platte Avenue.</u>

Senior Prosecuting Attorney Anthony Moore entered his appearance on behalf of the City and stated a Stipulation has been reached in this matter; that the licensee has admitted to two violations of a sale to an underage person on August 27, 2010; that the Stipulation provides 15 days suspension, 3 days active, and 12 days to be held in abeyance for a period of one year pending future violations.

Pamela Sharrat, licensee, was sworn and stated she accepts the proposed Stipulation; that the employee responsible for the violations was terminated; that she has operated this business over 20 years.

Detective Jeff True, was sworn and stated on the date the violation occurred, two underage confidential informants approached the bar, one ordered the beer and both were served; that one citation was issued for both violations.

The Board expressed concern that the licensee, while the violation occurred, is being charged with two separate violations when they both occurred at the same time and no notice was given to the licensee to correct the problem.

Mr. Moore stated the City would agree to modifying the Stipulation to provide all 15 days be held in abeyance.

Ms. Sharrat stated she would agree to the proposed modified Stipulation, and would also agree to formal training for all employees.

Motion by Kouba, second by Clauss, that the Stipulation and Admission of Violations be accepted, with the modification that all 15 days suspension be held in abeyance for one year pending future violations.

Ayes: Clauss, Kouba, Nemeth, Stephens, Wright

Noes: Abrams, Lloyd

Absent: None

Chairman Stephens declared the motion carried.

Motion by Kouba, second by Clauss, that the Findings and Conclusions with the agreed upon Stipulation providing 15 days suspension be adopted, all to be held in abeyance for a period of one year pending future violations; that all employees will be required to attend formal training within 90 days.

Ayes: Clauss, Kouba, Stephens, Wright

Noes: Abrams, Lloyd, Nemeth

Absent: None

Chairman Stephens declared the motion carried.

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Mr. Kouba was excused.

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10. <u>Suspension/Revocation Hearing concerning the Retail Liquor Store License issued to</u> Cheyenne Trail Liquors, LLC dba Cheyenne Trail Liquors, 1703 South Eighth Street.

Senior Prosecuting Attorney Anthony Moore entered his appearance on behalf of the City and stated while the licensee has admitted to a violation for sale to an underage person on August 27, 2010, a stipulated penalty has not been reached.

Attorney Vince Linden entered his appearance on behalf of the licensee and agreed that the licensee admits to the violation in the Show Cause, but requests the Board proceed with a sentencing hearing; that this is the licensee's third violation in 18 months.

Dan Butler was sworn and stated his wife owns the store, however, due to an illness she is not actively operating the business. He stated the licensee was previously cited for violations that occurred in February, 2009 and December, 2009. He stated following the second offense, he and all employees attended formal training, and an identification scanner was purchased.

Mr. Linden stated as a condition of agreeing to the proposed Stipulation, the City indicated it would not pursue more than 20 days active suspension, and he would request the Board accept that proposal; that a suspension of 20 days would result in severe financial hardship.

Mr. Moore stated the previous violations resulted in 15 days suspension, 12 days held in abeyance and 3 days active; that the City requests the licensee receive 20 days active suspension, with 60 days to be held in abeyance to ensure compliance in this manner; that there is a concern with the regularity of these type violations; that employee training and purchase of an identification scanner has not deterred additional violations from occurring.

Motion by Clauss, that the verbal Stipulation and Admission of Violation be accepted with a suspension of 75 days, 15 days active, and 60 days to be held in abeyance for a period of one

year pending future violations; that the active days suspension begin Friday, November 26, 2010 and continue for a period of 15 consecutive days.

The motion died for lack of a second.

Then, motion by Wright, second by Clauss, that the verbal Stipulation and Admission of Violation be accepted with a suspension of 75 days, 15 days active, and 60 days to be held in abeyance for a period of one year pending future violations; that the active days suspension begin today at 1:00 p.m., Friday, November 19, 2010 and continue for a period of 15 consecutive days.

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

Absent: Kouba

Chairman Stephens declared the motion failed on a tie vote.

Motion by Nemeth, second by Abrams, that the proposed Stipulation and Admission of Violation be accepted; that the license be suspended for 60 days, 12 days active, and 48 days to be held in abeyance for a period of one year pending future violations; that the active days suspension begin Friday, November 26, 2010 and continue for a period of 12 consecutive days.

Ayes: Abrams, Clauss, Nemeth, Stephens

Noes: Lloyd, Wright

Absent: Kouba

Chairman Stephens declared the motion carried.

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Ms. Abrams was excused.

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11. <u>Suspension/Revocation Hearing concerning the Retail Liquor Store License issued to</u> Surat, Inc., dba Liquor City, 1506 North Academy Boulevard.

Senior Prosecuting Attorney Anthony Moore entered his appearance on behalf of the City and stated a verbal Stipulation has been reached in this matter; that the licensee admits violation of a sale to an underage person on September 29, 2010; that the proposed Stipulation activates the five suspension days that were held in abeyance from a previous order in May, 2010, in addition the 15 days proposed today; that the verbal stipulation provides 15 days suspension, 10 days in abeyance, and 5 days active suspension; that the suspension also activates the previous 5 days that was being held in abeyance from a prior violation which will serve as the active days suspension.

Attorney Vince Linden entered his appearance on behalf of the licensee and stated the licensee agrees to the proposed stipulation; that the licensee, however, requests a fine in lieu of suspension.

Motion by Wright, second by Clauss, that the verbal Stipulation and Admission of Violation be accepted. The motion unanimously carried. Absent, Ms. Abrams and Mr. Kouba.

Dharmesh Jivan was sworn and stated his wife and he have owned the business for 14 years; that the employee who made the December, 2009 sale was terminated, and all employees attended formal training; that the previous violation resulted in five days suspension, all of which were held in abeyance.

Motion by Clauss, second by Nemeth, that the Findings and Conclusions be adopted providing 15 days suspension, 5 days active, and 10 days to be held in abeyance for one year pending future violations; that the suspension begin Friday, November 26, 2010 and continue for a period of five consecutive days. The motion unanimously carried. Absent, Ms. Abrams and Mr. Kouba.

Mr. Linden requested the licensee be permitted to pay a Fine in Lieu of Suspension.

Mr. Moore stated the City would oppose a Fine in Lieu of Suspension due to the previous violations.

Detective Greg Young was sworn and stated the Liquor Enforcement unit of the City opposes a fine due to the licensee's previous violations for sale to underage persons.

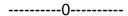
Motion by Clauss, second by Nemeth, that a Fine in Lieu of Suspension for the five active days suspension be approved, with 10 days held in abeyance for a one year period.

Ayes: Clauss, Nemeth, Stephens

Noes: Lloyd, Wright Absent: Abrams, Kouba

Chairman Stephens declared the motion carried.

Mr. Moore stated for clarification, failure to pay the fine within 60 days will cause activation of the five days active suspension.



At 2:30 p.m., motion by Clauss, second by Wright, that the Board adjourn.

CLOSED LEGAL SESSION

In accord with City Charter Art. III, §3-60(d) and its incorporated Colorado Open Meetings Act, §24-6-402(4)(b), C.R.S., the Liquor and Beer Licensing Board, in Open Session, is to determine whether it will hold a Closed Legal Session. The issue to be discussed involves legal advice regarding a pending appeal. Upon consent of two-

thirds of the members present, the Board may hold a closed executive session. If consent to the closed executive session is not given, the item may be discussed in open session or withdrawn from consideration.

It was the consensus of the Board to adjourn to closed session.

Cindy N. Conway, CMC Deputy City Clerk