

**COLORADO SPRINGS, COLORADO  
COUNCIL CHAMBERS  
CITY HALL – 107 N. NEVADA AVENUE  
JUNE 3, 2011 – 9:00 A.M.**

The Liquor and Beer Licensing Board met in regular session.

There were present: Chairman Stephens, Mr. Bursell, Mr. Clauss, Ms. Frias, Mr. Kouba, Ms. Lloyd and Mr. Nemeth. Also present, Board Legal Advisor Kenny Hodges.

**COMMUNICATIONS**

1. There was no action taken on this item.

**MINUTES**

2. Motion by Bursell, second by Frias, that the Minutes of the Special Called Board meeting of February 25, 2011, be approved as written. The motion unanimously carried.

Motion by Kouba, second by Clauss, that the Minutes of the Board meeting of May 6, 2011, be approved as written. The motion unanimously carried.

Chairman Stephens requested Item No. 8 of the Minutes of the Board meeting of May 20, 2011, be clarified to reflect that the licensee, through Attorney Vince Linden, requested and was granted a postponement to the Board meeting of June 3, 2011 and agreed that the summary suspension would remain in effect until the hearing date.

Motion by Frias, second by Nemeth, that the Minutes of the Board meeting of May 20, 2011, be approved with the amendment of clarification relating to Item No. 8. The motion unanimously carried.

**CONSENT CALENDAR**

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

- A-1. DEK Associates, Inc., dba Broadway Deli, 4475 Northpark Drive:

North: South side of Sunbird Cliffs Lane extended  
South: North side of Dunston Street extended  
East: West side of High Country Road extended  
West: East side of Old Dutch Mill Road extended

- B-1. Dajeda, LLC  
dba Canyon Crest Liquors  
4935 Centennial Boulevard, Ste. E

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- B-2. N and M Enterprises, LLC  
dba Flintridge House of Spirits  
4779 Flintridge Drive
- B-3. CWS Liquor, Inc.  
dba Frontier Liquor  
3328 East Fountain Boulevard
- B-4. Faerietales, LLC  
dba Faerietales Bakehouse and Catering  
1015 West Colorado Avenue
- B-5. Outback Steakhouse of Florida, LLC  
dba Outback Steakhouse #622  
2835 New Center Point
- B-6. Outback Steakhouse of Florida, LLC  
dba Outback Steakhouse #612  
7065 Commerce Center Drive
- B-7. Outback Steakhouse of Florida, LLC  
dba Outback Steakhouse #617  
2825 Geyser Drive
- B-8. Carrabba's Italian Grill, LLC  
dba Carrabba's Italian Grill #602  
2815 Geyser Drive
- B-9. Carrabba's Italian Grill, LLC  
dba Carrabba's Italian Grill #607  
7120 Campus Drive

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

**TRANSFER APPLICATION**

- 4. **Application of Rancho Alegre, Inc., dba Pueblo Viejo Family Mexican Restaurant, to transfer the Hotel and Restaurant Liquor License currently issued to I-95, LLC dba I-95 Restaurant & Bar, 5934 Stetson Hills Boulevard.**

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

Oscar Masias, Luis Lopez and Norma Lopez were sworn.

Ms. Lopez stated the business is family owned, and they own three additional restaurants throughout Colorado; that \$60,000 is being invested in the business of which said funds were

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derived from personal savings; that they have attended formal training; that the lease term is three years.

Motion by Bursell, second by Nemeth, that the application of Pueblo Viejo Family Mexican Restaurant, to transfer the Hotel and Restaurant Liquor License currently issued to I-95, LLC dba I-95 Restaurant & Bar, 5934 Stetson Hills Boulevard, be approved as it appears all criteria has been met. The motion unanimously carried.

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4. **Application of Fritz & Stone, LLC dba Zodiac, to transfer the Hotel and Restaurant Liquor License currently issued to Contrello's, LLC dba Rocket Room, 230 Pueblo Avenue.**

Gentle Fritz was sworn and stated she is co-owner and managing member of the corporation; that the business is currently operating with a Temporary Permit; that \$30,000 was invested in the business of which said funds were derived from personal savings; that there is a patio area surrounded by a six foot fence; that she has previous experience in the industry and they have attended formal alcohol training classes. She stated she was charged in 1998 with possession of a controlled substance and she completed all sentencing imposed.

Motion by Clauss, second by Nemeth, that the application of Fritz & Stone, LLC dba Zodiac, to transfer the Hotel and Restaurant Liquor License currently issued to Contrello's, LLC dba Rocket Room, 230 Pueblo Avenue, be approved, as it appears all criteria has been met. The motion unanimously carried.

**APPLICATION HEARINGS**

6. **Application of Dream Big Corporation dba Mountain Shadows Restaurant, for a Hotel and Restaurant Liquor License at 2223 West Colorado Avenue.**

Karlene Swain was sworn and stated she and Benjamin Zook are co-owners of the business; that there is a patio which is enclosed by fencing; that the lease term is 5 years; that \$4,000 is being invested in the business of which said funds were derived from personal savings.

Susan Duffy Schwall, Liquor Licensing Professionals, was sworn and stated her company conducted the petition survey which resulted in 146 favoring, 6 opposing, and 4 no opinion signatures.

Motion by Bursell, second by Clauss, that the application of Dream Big Corporation dba Mountain Shadows Restaurant, for a Hotel and Restaurant Liquor License at 2223 West Colorado Avenue, be approved as it appears all criteria has been met. The motion unanimously carried.

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7. **Application of 3DJP, Inc., dba Johnny's Navajo Hogan, for a Hotel and Restaurant Liquor License at 2817 North Nevada Avenue.**

Attorney Kent Freudenberg entered his appearance on behalf of the applicant.

Johnny Nolan and David Lux were sworn.

Johnny Nolan was sworn and stated the lease term is three years; that \$45,000 is being invested in the business of which said funds were derived from personal funds in the amount of \$5,000 and a loan in the amount of \$40,000; that all employees will be trained in the sale of alcohol beverages.

Susan Duffy Schwall, Liquor Licensing Professionals, was sworn and stated her company conducted the petition survey which resulted in 157 favoring, 8 opposing, and 4 no opinion signatures.

Motion by Clauss, second by Nemeth, that the application of 3DJP, Inc., dba Johnny's Navajo Hogan, for a Hotel and Restaurant Liquor License at 2817 North Nevada Avenue, be approved as it appears all criteria has been met. The motion unanimously carried.

**SUSPENSION/REVOCAION HEARINGS**

8. **Continuation of Suspension/Revocation Hearing concerning the Hotel & Restaurant Liquor License issued to Minji, Inc., dba Fujiyama, 22 South Tejon Street.**

City Prosecuting Attorney Brian Stewart entered his appearance on behalf of the City.

Attorney Howard Morrison entered his appearance on behalf of the licensee.

Mr. Stewart stated at the May 20, 2011 Board meeting, the licensee stipulated and admitted to a violation of sale to a minor; that 15 days suspension, 3 days active and 12 days to be held in abeyance for one year pending future violations was imposed; that at the request of the licensee for consideration of a fine in lieu of suspension, an audit was conducted of the books and records; that the fine would equal \$440.00; that the violation was the second by the licensee in one year; that the licensee was charged with a violation for removal of alcohol from the premises in September, 2010. He stated the City requests the Board deny a fine in lieu of suspension.

Motion by Kouba, second Frias, that the request for fine in lieu of suspension by Minji, Inc., dba Fujiyama, 22 South Tejon Street, be denied and the license be suspended for a period of 15 days, 3 days active and 12 days to be held in abeyance for one year pending future violations; that the active days suspension begin at 12:00 Noon today, June 3, 2011 and continue through Monday, June 6, 2011 at 12:00 Noon.

Ayes: Bursell, Clauss, Frias, Kouba, Stephens  
Noes: Lloyd, Nemeth  
Absent: None

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Chairman Stephens declared the motion carried.

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9. **Suspension/Revocation Hearing concerning the Tavern Liquor License issued to El Imperio, LLC dba El Imperio, 550 South Academy Boulevard.**

Senior Prosecuting Attorney Anthony Moore entered his appearance on behalf of the City. He requested the Board accept investigative reports of the DEA agents rather than their personal testimony, and requested the Board accept testimony and summarization of the reports by Detective True of the Police Department; that alternatively, he requests the Board postpone the matter for two weeks to allow the supervisor of the agents to testify on the reports on behalf of the agents; that the U. S. Attorney General's Office has declined to permit the agents to testify due to the ongoing criminal investigation.

Attorney Damon Cassens entered his appearance on behalf of the licensee.

Mina Anderson, 1078 Fontmore Rd, was sworn as interpreter for the licensee.

Mr. Cassens stated he informed the Board at its meeting of May 20, 2011 that he would be unable to attend the hearing due to a court hearing; that Mr. Moore should not be permitted to submit the investigative reports without the agent's testimony because it does not allow him an opportunity to cross-examine. He stated the law authorities have been uncooperative in providing evidence relating to the case.

Chairman Stephens stated the Board will accept the investigative reports from DEA and allow Det. True to testify relating to the reports.

Brian Gogarty, Deputy District Attorney, was sworn and stated his involvement in this case is limited and inconsequential to the hearing; that his only role was to sign the search warrant pursuant to the City's application and affidavit to the Court. He requested the subpoena be quashed. He stated his signature authorized the document to be submitted to the court, but he is unable to testify as to when it was submitted to the court.

Mr. Cassens stated that even as late as today, he is still receiving material from the City Attorney's Office; that he has no way to verify the information received today except for cross-examination of the witnesses.

Mr. Moore stated the show cause is the result of a 14 month investigation; that DEA observed narcotic transactions through wiretaps and intercepted telephone calls of various parties associated with the licensee; that evidence will show that Lucio Vasquez, Martin Valdovines and Noel Valdovines claim to be part owners of the business; that alcohol was purchased from Guzman's Liquor store in an amount over the annual \$500 statutory amount allowed by the Liquor Code; that invoices were found during execution of a search warrant documenting purchases from a retail liquor store, indicating inconsistencies in alcohol purchases and retail sources of purchases. He stated the motive for purchasing liquor from the retail liquor store

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was for the purpose of laundering money, and the reported sales to City Sales tax was inadequate to cover costs of business; that a compliance check in January 2011 resulted in violations of no food available on the premises, and sale of alcohol to a minor despite a mark on the hand indicating the CI was a minor.

Mr. Cassens stated the City is presenting a case based on unsubstantiated evidence and hearsay; that there is no direct evidence of the licensee's involvement in a drug ring; that no amounts of cocaine were found or seen at El Imperio or the licensee's residence.

In response to questions from Mr. Moore:

Colorado Springs Police Department VNI Detective Jeff True was sworn and testified that Sixta Valdovines is the sole shareholder of the licensee, El Imperio, LLC; that he is knowledgeable of the ownership structure, and there has been no change in registered manager or owner submitted to the State or Local Licensing Authorities; that the Police Department became involved in the investigation in April, 2011, and his involvement in the investigation was mainly of the violations of the liquor license. He stated the investigation spanned approximately 14 months.

Mr. Cassens objected to the Board hearing testimony outside of the current licensing period.

Exhibit No. 1 transcripts and synopses of various phone conversations intercepted by the DEA through wiretaps were submitted.

Det. True stated through the 14 months, the DEA observed the activities of the business through wiretaps and surveillance.

Mr. Cassens objected to the exhibit, stating it is not the same exhibit he received from the City Attorney's Office. He stated Detective True's synopses of the DEA reports were not provided to him.

Det. True stated the reports were signed by DEA agents; that he was informed the agents were not available to testify at the hearing due to the ongoing criminal case and U. S. Attorney General and supervisor direction.

Exhibit No. 2, report of DEA Officer Charlie Taylor dated March 9, 2010, was submitted.

Det. True stated the report related to a phone call interception relating to suspected narcotic sales; that the call was between Vincent Duvall and Lucio Vasquez who has identified himself as co-owner of the business.

Mr. Cassens objected stating because Mr. Vasquez did not specifically tell Detective True that he was co-owner, it is hearsay and should not be accepted at this level of a hearing.

Det. True stated Mr. Vasquez has been federally indicted; that the report of Officer Taylor indicates surveillance was conducted of the parking lot of the establishment, and Vincent Duvall was observed meeting Lucio Vasquez and they both then went inside the

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establishment; that after about 10 minutes, Mr. Duvall and a second party exited the club and Officer Taylor stated he observed money being exchanged and counted after the second party broke from Mr. Duvall; that Mr. Duvall was followed from the Colorado Springs area to Pueblo area; that a traffic stop by Pueblo Police did not result in recovery of narcotics, however, in a phone call later, Mr. Duvall told Mr. Vasquez that he had been stopped but he had gotten rid of the evidence by putting the drugs in water and pouring it on the road.

Det. True stated on April 14, 2011, Mr. Duvall told the DEA officer that a drug transaction occurred March 9, 2011 and he disposed of the drugs by dissolving them in water.

Exhibit No. 3, a report from April 25, 2011, relating to DEA interviews with Vincent Duvall of narcotic transactions; Exhibit No. 4 a report from October 26, 2010, relating to surveillance of narcotic transactions with Lucio Vazquez at El Imperio; and Exhibit No. 5, a report from October 27, 2010, relating to a traffic stop where narcotics were found in the vehicle, and subsequent phone calls to Lucio Vazquez relating to the stop and seizure of cocaine and statements that he would pay Mr. Vazquez, were submitted. All reports were prepared by DEA officer Chris Kilpatrick.

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**The Board recessed from 12:00 Noon until 1:00 p.m. for lunch.**

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Mr. Moore continued with witness Detective True:

Exhibit Nos. 6 and 7, reports dated October 29, 2010 and November 1, 2010 respectively, of DEA officers Chris Kilpatrick and Charles Taylor were submitted.

Det. True testified relating to the report of Officer Kilpatrick dated October 29, 2010 related to an interview with Luis Perez-Hernandez aka Juan Luis Virjen of narcotic transactions at El Imperio and a subsequent traffic stop that resulted in the seizure of money from his vehicle; and the report of Officer Taylor dated November 1, 2010 relating to an interview with the passenger of Mr. Perez-Hernandez on the same evening. He stated the interview occurred following a traffic stop; that a short pursuit ensued and approximately \$20,000 was recovered from the vehicle; that Mr. Perez-Hernandez confirmed the intercepted phone calls related to a transaction of two kilos of cocaine that he sold to Mr. Velasquez on October 25, 2010 in the office of El Imperio, and Mr. Velasquez paid him with money located in the office safe. He testified as to various other reports of phone calls intercepted that related to drug activities involving Mr. Velasquez and the El Imperio establishment.

Exhibit Nos. 13 and 14, photograph of the minor Confidential Informant prior to entering El Imperio and a photograph of the CI's hand with an "M" indicating she was a minor, taken January 13, 2011, was submitted.

Exhibit No. 15, an inventory of various liquor and beer seized from Guzman's Liquor Store on April 14, 2011 during execution of the search warrant, was submitted.

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Exhibit Nos. 16, 17, 18, 19 and 20, copies of 2010 and 2011 reports from various liquor distributors of sales to Guzman's Liquor indicating a total of approximately \$750,000 in sales, were submitted.

Exhibit Nos. 22, 23 and 24, copies of cash register receipts of Guzman's Liquor store for 2010 and 2011, and a summary of cash register receipt totals by month for the years 2010 and 2011, were submitted.

Exhibit No. 21, a graph indicating the amount of wholesale purchases of Guzman's Liquor of approximately \$750,000 versus actual sales receipts of Guzman's Liquor in the amount of approximately \$300,000 indicating a discrepancy in the amounts of approximately \$400,000, was submitted.

Exhibit No. 25, an inventory of items seized from El Imperio on April 14, 2011, was submitted.

Det. True testified relating to reasons why sales discrepancies may occur which include attempts to hide the source of money; that in this case, large sums of cash were going through an affiliated business who does not care what the source of funds are, commonly known as money laundering.

Exhibit No. 26, Colorado Springs sales tax account reports of El Imperio indicating monthly sales in the amount of approximately \$5500 to \$7000, was submitted.

Exhibit No. 27, a copy of business cards for Martin Valdovines, Noel Valdovines, and Lucio Vazquez, indicating the business of Cartel Promotions and promoters at El Imperio, was submitted.

In response to questions from Mr. Cassens:

Det. True testified he did not conduct investigations of the establishment's bank accounts, property lease records, utilities or other documents; that the Department of Revenue may have also conducted various investigations of documents. He stated while he did not personally total the amount of money seized at the search, he believes it to have been in excess of \$500.00. He stated food was not available on the premises on January 13, 2011, except for chips and salsa in violation of the Liquor Code. He stated he is unaware of the dispositions of the persons arrested; that he is unaware of any comments made to the DEA agents by Mr. Vazquez.

Mr. Cassens noted for the record, that the DEA agents were subpoenaed by both the City and himself and did not appear, and he feels there should be an opportunity for him to cross-examine the agents.

In response to questions from Mr. Moore:

Colorado Springs Detective Mirabel Ramirez was sworn and testified she accompanied the CI minor to the El Imperio Night Club on January 13, 2011; that the minor told El Imperio

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employees she had forgotten identification and her hand was marked with an "M"; that the bartender initially declined to serve her alcohol, but eventually agreed and served her and the CI rum and coke. She stated the bartender told her chips and salsa was the only food available.

In response to questions from Mr. Cassens:

Ms. Ramirez testified they had told the bartender they didn't have identification, but after asking him a couple of times, he agreed to serve them. She stated when she asked for food, she was told only chips and salsa were available.

In response to questions from Mr. Moore:

Colorado Springs Police Officer Shanna Hostetler was sworn and stated on October 27, 2010, she conducted a traffic stop at the request of law agencies; that the attempt to stop a maroon truck resulted in a chase and when the truck stopped, the passengers jumped out and began running; that the truck door was left open and money on the floorboard began blowing out of the truck.

In response to questions from Mr. Cassens:

Officer Hostetler stated she was informed by the agency as to the person she was pursuing; that the majority of money remained inside the truck.

In response to questions from Mr. Moore:

Colorado Springs Police Officer Martin Herrera was sworn and stated on October 27, 2010, at the request of the DEA, he attempted to make a traffic stop; that following a short chase, the driver stopped the truck and the passenger and he jumped out. He stated the money was in a clear bag on the floorboard of the truck and it appeared money was spilling out of the bag.

In response to questions from the Board, Officer Herrera stated the occupants were identified as Primitivo Pacetta and Wilbert Cortina-Dezul; that the money was seized by the DEA agents.

In response to a question from Mr. Cassens, Officer Herrera stated he is not aware of any money blowing out of the vehicle.

In response to questions from Mr. Moore:

Colorado State Liquor Investigator Rusty Elliott, was sworn and testified he went to Guzman's Liquor in coordination with the DEA on April 14, 2011; that he observed a red truck at the store with 30 to 40 cases of beer in the bed of the truck; that the two occupants in the truck were identified as Lewis Vazquez and Lucio Vazquez; that Lucio Vazquez told him he owned the El Imperio Nightclub.

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In response to questions from the Board:

Mr. Elliott stated he has not reviewed any of the sales records of El Imperio; that the beer he saw in the truck generally sells for approximately \$25.00 per case; that he was requested by the Police Department and the DEA to produce a search warrant at Guzman's Liquor store.

In response to questions from Mr. Moore:

Colorado State Liquor Investigator Brian Osterhouse was sworn and testified that wholesale distributors were contacted relating to sales to El Imperio; that due to a check returned for insufficient funds in November, 2010, El Imperio was prohibited from purchasing product from Rocky Mountain Coors (RMC) without cash or certified check. He identified various exhibits of invoices and records obtained from El Imperio.

Exhibit No. 28, a copy of an invoice showing an NSF check statement from Rocky Mountain Coors (RMC) requiring cash or certified check as the means for payment, recovered from El Imperio was submitted.

Exhibit No. 36, a copy of an invoice from Southern Wine & Spirits obtained from El Imperio, was submitted.

Exhibit No. 37, a copy of a chart indicating the product seized in the search warrant and products that had been delivered wholesale in 2009 indicating discrepancy in the products, was submitted.

Exhibit Nos. 29, 30 and 31, copies of invoices of various products which included purchase prices and inventory obtained from El Imperio for the 2010 and 2011 years, and undated packets of inventory, were submitted.

Mr. Osterhouse stated documents to include employment records, payroll information, bank statements, ledgers, and leases, for example, were not located on site; that the records were haphazard and several handwritten listings were recovered although it was unclear of the specific transactions.

Exhibit No. 32, a handwritten list appearing to be a statement of payouts from El Imperio, was submitted.

Exhibit No. 33, a handwritten list of various dollar amounts, items and liquor stores from 2009, was submitted.

Mr. Osterhouse stated an invoice was located during the search of El Imperio, from Satellite Plaza, LLC for a parking lot fee, and was addressed to Lucio Vasquez.

Exhibit No. 34, an invoice from the Satellite Plaza, LLC to the attention of Lucio Vasquez on behalf of El Imperio for a parking lot fee, was submitted.

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Exhibit No. 35, a notarized statement of Sixta Valdovines placing Lucio Vasquez in charge of the establishment during her absence from the country, was submitted.

Exhibit No. 38, a copy of a purchase invoice from Southern Wine & Spirits, was submitted.

Mr. Osterhouse stated on April 21, 2011, he issued a Request for Production of documents to the licensee with a deadline of May 10, 2011 to submit; that the licensee has not supplied any documents to date; that he contacted Southern Wine & Spirits of Colorado and determined a wholesale purchase had been made following the request for documents. He stated no report of changes or transfers of ownership of El Imperio Night Club has been submitted to the State.

In response to questions from Mr. Cassens:

Mr. Osterhouse stated in the documents he received from El Imperio, receipts were recovered indicating liquor purchases; that there were no dates on the liquor bottles seized from the establishment.

In response to questions from the Board:

Mr. Osterhouse stated the records recovered during the search warrant were obtained from the office inside the establishment; that it was unusual that the purchase amounts of liquor were always identified by rounded off numbers, since they are not sold that way; that following the seizure of alcohol in April, 2011, the licensee replenished the alcohol through a wholesaler.

In response to questions from Mr. Cassens:

Mr. Osterhouse stated the tickets from Southern Wine & Liquor appeared to be for a complete stock; that the amounts listing the prices of alcohol appeared to have been rounded up or down to the nearest dollar.

In response to a question from Mr. Cassens, Detective True stated the Search Warrant was signed and executed April 13, 2011 and he believes Lucio Vazquez was arrested at Guzman's Liquor store on that evening.

Mr. Cassens pointed out that the exhibit referred to on the Search Warrant indicates dates referring to April 14, 2011 and April 15, 2011, however, the Search Warrant is dated April 13, 2011.

Mr. Moore stated it is the City's position that sufficient proof has been presented that the licensee has violated the Liquor Code; that the licensee has an obligation to ensure the business is conducted in accordance with the law; that case law indicates the licensee had constructive knowledge based on the fact that a reasonable licensee, through due diligence, would have been aware of the activities going on; that evidence of Count 3 shows over \$500 of alcohol was purchased from a retail liquor store; that the purchases made from licensed wholesalers in 2010 and 2011 were far less than the on-site inventory, so the purchases

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would not account for all the product inventoried on April 14, 2011; that a Guzman's Liquor store delivery truck was observed delivering alcohol to El Imperio on April 1, 2011 and on April 14, 2011, a red unmarked truck at Guzman's Liquor store was being loaded with large amounts of alcohol; that Lucio Vazquez and another man loading the truck stated the alcohol was being delivered to El Imperio; that handwritten notes indicate that approximately \$40,723 in alcohol was purchased from Guzman's Liquor in 2010 and approximately \$7,615 was purchased from January to April, 2011; that the records of the business were inadequate and defective by improper, incomplete or missing documentation in violation of the Liquor Code and the Code of Regulations. He stated evidence shows that Lucio Vazquez, and Noel and Martin Valdovines gave the impression they were managers or owners of the business in violation of the Code; that Mr. Vazquez, during phone calls that were intercepted, speaks about the club as his own, pays bills and receives invoices of the business; that the underage CI had a mark on her hand indicating she was a minor, but she was still served an alcohol beverage; that no food was available on the premises.

Mr. Cassens stated there is no authentication of the persons or information contained in the wiretaps; that the business cards show the three men as owner or promoter of Cartel Productions, but it does not identify them as an owner of El Imperio; that there was no mention of methamphetamine in Count 1 or cocaine in Count 2 and none of the counts can be substantiated by personal testimony; that there is no eyewitness of any of the activities and the information is not guaranteed reliable; that relating to Count 3 and all related counts of alcohol purchases, the City did not show or give a dollar amount showing the purchases and sales, but wants the Board to believe there was a transaction; that there is no evidence of money changing hands, or making a purchase, but only of a pick-up; that Count 8 for failure to have sandwiches and snacks available was not proven because chips and salsa were offered; that regarding Count 9, while the books and records may have been sloppy and inadequate, it does not mean it was an incomplete set of records; that in particular, Count 11 relating to failure to note a change of management or ownership, again is not proven as there is no evidence.

Mr. Kouba stated there was substantial testimony regarding Count 1 relating to a methamphetamine transaction, the subsequent traffic stop in Pueblo, Colorado where the methamphetamine was dissolved in water, and subsequent phone calls intercepted, where an admission was made of the dissolution of drugs; that regarding Counts 3 through 11, a licensee's total unwillingness or inability to keep records does not make an affirmative defense and is overwhelmingly of callous disregard; that purchases of alcohol from a retail liquor store exceed the statutory amount of \$500; that evidence seized during the search demonstrates failure to evidence each purchase, identifying the store name, description and date, and were not done in an orderly fashion; that relating to Count 7, it is clear that a minor was served alcohol in violation of the State Liquor Code, and Count 8 requires sandwiches and light snacks to be available on the premises, and chips do not qualify as such; that Count 9 is proven as the licensee is required to keep a complete set of books and records of business transactions, and the licensee failed to do that; that Count 10 is proven that the licensee permitted Mr. Vazquez to purchase alcohol on behalf of the licensee and he is not registered as a manager; that he is uncertain Count 11 has been proven to reflect there is an unlawful financial interest in the business. He stated it appears drug activity was occurring,

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but Counts 3 through 10 is proven beyond any doubt, and no testimony was provided by the licensee in rebuttal.

Mr. Nemeth stated he agrees with Mr. Kouba that Counts 3 through 8 were proven; that Count 9 was proven, as the bookkeeping and records were non-existent and the licensee failed to provide the books and records requested by subpoena; that the records were handwritten and it was clear there was no system to maintain them; that Counts 1 and 2 should be discussed further. He stated a preponderance of evidence relating to Count 2 indicates a guilty verdict.

Mr. Bursell stated relating to Counts 1 and 2, Mr. Duvall admits he thought the drugs were methamphetamine upon purchase, which is why he had a technique to dissolve it.

Ms. Frias stated she does not accept the statement by the licensee's attorney that the licensee was unsophisticated as an excuse for the records being poorly kept.

Ms. Lloyd stated she is uncertain that the drug activities for Counts 1 and 2 that the drug activity can be pinpointed to the establishment or on the premises; that relating to Counts 10 and 11, she is not convinced that someone was representing themselves as the registered manager or having a financial interest in the business; that it is clear that alcohol was served to a minor relating to Count 7; that she feels Counts 3 through 9 have been proven.

Chairman Stephens stated he believes Counts 3 through 9 have been proven; that regarding Counts 10 and 11, two men at Guzman's liquor store identified Lucio Vazquez as the owner of the club; that the business cards submitted listed Martin and Noel Valdinoves as owners and Lucio Vazquez as promoter, however, a parking lot invoice was made to the attention of Lucio Vazquez which indicates he was representing himself as an owner or manager. He stated the purchase of alcohol outside of wholesale distributors and the handwritten notes collaborate each other; that the intent is to prevent a situation where it is unknown who is running the business; that there was a preponderance of evidence that Lucio Vazquez was representing himself as manager and owner of the establishment; that DEA records and procurement and sale of substances leads him to believe there is some complicity; that whether the licensee was aware it was going on, she is still responsible for the conduct of the establishment and he would find the licensee guilty of Counts 1 through 11; that the intent of state law is to ensure there is lawful ownership and activity; that relating to Counts 1 and 2, it is unclear from the visual evidence that sales took place in the establishment, however, Lucio Vazquez has involvement evidenced by DEA records as well as invoices, and the licensee is still responsible.

Mr. Clauss stated he believes the correlation between Lucio Vazquez and the wiretaps go well beyond a preponderance of evidence that there was a connection; that deals being made both inside and outside the premises were prevalent through the wiretap conversations so he is convinced that Counts 1 and 2 have been proven; that regarding Count 11, oftentimes people represent themselves as managers, but typically mail is not received in someone's name who does not have an association with the license.

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Motion by Kouba, that based upon the evidence and testimony presented, the licensee is guilty of Counts 1 through 11 of the Show Cause Order. The motion was seconded by Mr. Clauss. The motion unanimously carried.

Mr. Moore requested the Board revoke the Tavern Liquor License of El Imperio, LLC dba El Imperio, 550 South Academy Boulevard.

Mr. Cassens stated the evidence of Counts 1 and 2 was weak and if it were stronger it may support revocation; that Counts 3 through 11, individually, are not of the severity or of the pattern that would warrant revocation; that the license has been suspended for the past 30 days which is already penalty; that there is no allegation that the licensee herself was a part of the activities.

Mr. Clauss stated he supports revocation and finds it offensive that Mr. Cassens would make the leap that the licensee did not know what was going on; that the licensee circumvented the conduct of the business according to law for at least a year.

Chairman Stephens stated he agrees Counts 3 through 11 individually may not warrant revocation, and if it were for a short time it may have been different, but to continually and unlawfully purchase alcohol in an amount over \$40,000, shows a blatant disregard of the law; that additionally, the sales of controlled substances warrant revocation.

Mr. Bursell stated Counts 1 and 2 are sufficient to determine revocation, but Counts 3 through 11 are aggravating circumstances, as there appears to be a scheme or design to hide profits from illicit drug trades.

Mr. Nemeth agreed that revocation is warranted as there is a blatant disregard for lawful operation of the business.

Motion by Kouba, second by Clauss, that the Tavern Liquor License of El Imperio LLC dba El Imperio, 550 South Academy Boulevard, be revoked effective immediately. The motion unanimously carried.

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At 5:35 p.m., motion by Clauss, second by Nemeth, that the Board adjourn.



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