

**COLORADO SPRINGS, COLORADO
ACADEMY ROOM
CITY HALL – 107 N. NEVADA AVENUE
DECEMBER 16, 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 Board meeting of November 4, 2011 be approved as written. The motion unanimously carried.

Motion by Kouba, second by Frias, that the Minutes of the Board meeting of November 18, 2011 be approved as written. The motion unanimously carried.

CONSENT CALENDAR

3. The City Clerk's Office reports that a Temporary Permit was issued for the following application:

- B-1. Club Wine & Spirits, Inc.
dba Spirits At Westwind
4333 Centennial Boulevard

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

TRANSFER APPLICATIONS

4. **Application of Sandwedge, LLC dba Patty Jewett Bar and Grill, to transfer the Hotel and Restaurant Liquor License with Optional Premises currently issued to Par 4 The Course, Inc., dba Patty Jewett Bar and Grill, 900 East Espanola Street.**

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

Anthony Leahy was sworn and stated he is Special Manager of the corporation owning 77% of the business, and Cynthia Gough is Manager of the corporation owning 23% of the business. He the lease term is 5 years; that Ms. Gough and he currently own The Famous Steakhouse and previously owned Tony's Place, Metropolitan, and Phantom Canyon. He stated while owning those businesses, they received one violation in 2001 for sale to a minor; that

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approximately \$240,000 is being invested in the business of which said funds were derived from a member disbursement in the amount of \$78,000 from BDI, Inc., a member disbursement in the amount of \$62,000 from Cinto, LLC, and a loan in the amount of \$100,000 from ABC Bank. He stated they have attended formal alcohol training.

Motion by Kouba, second by Bursell, that the application of Sandwedge, LLC dba Patty Jewett Bar and Grill, to transfer the Hotel and Restaurant Liquor License with Optional Premises currently issued to Par 4 The Course, Inc., dba Patty Jewett Bar and Grill, 900 East Espanola Street, be approved as it appears all criteria has been met. The motion unanimously carried.

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5. **Application of Conscious Table, LLC dba Conscious Table, to transfer the Hotel and Restaurant Liquor License currently issued to Eggert – Pinto, Inc., dba Bistro De Pinto, 26 East Kiowa Street.**

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

Brent Beavers was sworn and stated the business has been operating since September 2011; that he is Managing Partner owning 57.5%, David Cottrill is Managing Partner owning 37.5% and Aaron Retka is Operating Partner owning 5% of the business. He stated \$19,900 is being invested in the business of which said funds were derived from his personal savings in the amount of \$4,800, personal savings of David Cottrill in the amount of \$3,200, personal savings of Aaron Retka in the amount of \$2,900, and loans in the amount of \$9,000. He stated he previously owned Sencha Restaurant which held a liquor license; that he was charged in 1990 with a DUI and drinking in public; that the lease term is five years; that the establishment is approximately 1125 square feet and seats 32 persons. He stated all employees will attend formal alcohol training.

In response to a question by the Board, Mr. Beavers replied he had additional charges that were not disclosed on his application.

David Cottrill was sworn and stated he has previous experience as a bartender and floor manager at Oscar's East; that Mr. Beavers will be the Chef at the establishment.

Motion by Clauss, second by Frias, that the application of Conscious Table, LLC dba Conscious Table, to transfer the Hotel and Restaurant Liquor License currently issued to Eggert – Pinto, Inc., dba Bistro De Pinto, 26 East Kiowa Street, be approved with an amendment to the application identifying all charges and criminal history of Mr. Beavers; that it appears all criteria has been met. The motion unanimously carried.

SUSPENSION/REVOCAION HEARING

6. **Suspension/Revocation Hearing concerning the Retail Liquor Store License issued to Cheyenne Trails Liquors, LLC dba Cheyenne Trails Liquors, 1703 South 8th Street.**

City Prosecuting Attorney Jarrett Benson entered his appearance on behalf of the City and stated a Stipulation has been reached in this matter; that the licensee admits guilt to the sale of

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alcohol to an underage person; that this is the fourth violation of the licensee for sale of alcohol to an underage person within two and one-half years; that the other violations occurred in February 2009, December 2009, and August 2010; that in February 2009, the licensee was issued a Written Warning and signed an Admission of Guilt; that the December 2009 violation resulted in a Stipulation of 15 days suspension, three days active and 12 days held in abeyance; that the August 2010 violation resulted in a Stipulation of 60 days suspension, 12 days active and 48 days held in abeyance for a period of one year; that this Stipulation provides an agreement to revocation of the liquor license should another liquor violation occur during the period of one year from this Stipulation; that all managers and cashiers are required to attend formal alcohol training within 90 days.

Attorney Vince Linden entered his appearance on behalf of the licensee, and stated the licensee has owned the business for 17 years, and concedes that alcohol was sold to a minor; that the licensee also stipulates that another violation will result in revocation of the license; that an identification scanner that prohibits a transaction without swiping an identification card will be installed. He requested the Board's discretion if any technical violations were to occur.

Mr. Benson stated the Board has the discretion to ascertain if any type violation warrants revocation.

Motion by Kouba, second by Frias, that the Stipulation and Admission of Violation be accepted.

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

Chairman Stephens declared the motion carried.

Mr. Benson requested immediate suspension of the license.

Mr. Linden requested suspension begin in January 2012; that closing the business immediately, during the holidays, will impact the licensee's ability to operate the business in the future.

Mr. Benson stated the immediate suspension was intended to be a more pertinent penalty with the type of violations the licensee has had; additionally, the licensee was given a stay to a later date in the last Stipulation, and the same request at this time would be inappropriate.

Mr. Linden stated the violation occurred in September and questioned why a delay of suspension should be denied; that it is inappropriate to shut the business down immediately during this time of year.

Mr. Kouba stated he supports immediate suspension; that it is standard for the Board to immediately suspend a license if warranted, and it should not be changed just because it is Christmas. He stated the licensee was also not issued additional suspension days, and is serving only the 48 days held in abeyance from a prior offense.

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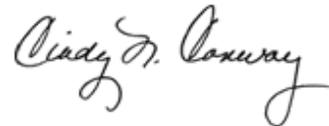
Ms. Lloyd stated she supports immediate suspension which has been ordered by the Board in many cases; that if the licensee cannot be responsible, he should not be selling alcohol. She stated she would support revocation if that were an option.

In response to a question from Ms. Frias, Mr. Benson stated the Suspension/Revocation Hearing for the August 2010 violation was heard by the Board on November 19, 2010; that the suspension imposed on that date was stayed until November 26, 2011.

Motion by Kouba, second by Bursell, that the Findings and Conclusions be adopted, providing 48 days active suspension beginning at Noon today for 48 consecutive days with the following conditions; that no further violations of the City and State Code or rules and regulations occur; that all managers and cashiers attend formal alcohol training; that any violations during the period of one year from the Stipulation will result in revocation of the license; and that an identification scanner be installed on the cash register so that no transactions can be completed without swiping an identification card. The motion unanimously carried.

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At 10:05 a.m., there being no further business to come before the Board, the meeting was adjourned.



Cindy Conway, CMC
Interim City Clerk