

**COLORADO SPRINGS, COLORADO
COUNCIL CHAMBERS – CITY HALL
107 NORTH NEVADA AVENUE
JANUARY 17, 2014 – 9:00 A.M.**

The Liquor and Beer Licensing Board met in regular session.

There were present: Chairman Stephens, Mr. Clauss, Mr. Davis, Mr. Gorman, Ms. Holmes, and Mr. Nemeth. Members Absent: None. Also present: Board Legal Advisors Britt Haley and Lindsay Rose.

COMMUNICATIONS

1. There was no action taken on this item.

MINUTES

2. Motion by Holmes, second by Gorman, that the Minutes of the Board meeting of January 3, 2014, be approved as written. The motion unanimously carried. Absent: None.

CONSENT CALENDAR

3. The City Clerk's Office reports that boundaries were set for the following applications:
 - A. La Cava Fine Mexican Cuisine, Inc. dba La Cava Fine Mexican Cuisine, 1755 S. 8th Street, #C:

North:	South side of Auto Heights extended
South:	North side of High Valley Court extended
East:	West side of Woodburn Street extended
West:	East side of Milky Way extended

Motion by Clauss, second by Nemeth, that the Consent Calendar be approved. The motion unanimously carried. Absent: None.

TRANSFER APPLICATIONS

4. **Application of Melena Gourmet, Inc. dba The Coffee Exchange to transfer the Hotel and Restaurant Liquor License currently issued to Bijou St. Coffee, LLC dba The Coffee Exchange, 526 S. Tejon Street.**

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

Andres Schlesinger was sworn and stated that he is the 100% owner, President, and director of the company; that he has had no prior violations or convictions; that he has a four year lease for the 1670 square foot premises with a 21.5 foot by 13 foot sidewalk patio; that he is investing \$175,000, of which said funds were derived from a \$70,000 loan from the previous licensee and the remaining from personal accounts; that he has food service experience from Florida; that he has four employees all retained from the prior owner; that he and all employees will receive certified training.

In response to questions from the Board, Mr. Schlesinger stated that there is no intent to change the hours of operation; that the sidewalk patio is visible from the inside; and that they have a 100% ID policy for customers purchasing alcohol beverages.

Motion by Clauss, second by Davis, that the application of Melena Gourmet, Inc. dba The Coffee Exchange to transfer the Hotel and Restaurant Liquor License currently issued to Bijou St. Coffee, LLC dba The Coffee Exchange, 526 S. Tejon Street, be approved as it appears all criteria has been met. The motion unanimously carried. Absent: None.

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Mr. Clauss was excused.

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MODIFICATION OF THE PREMISES

5. **Request by CHS Hospitality, LLC dba The Holy Cow Pub and Grill to Modify the Premises of the Tavern Liquor License at 5885 Stetson Hills Boulevard.**

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

Charles Shafer was sworn and stated that they are requesting a modification to add 800 square feet to the establishment; that the new expanded area will be to add some seating and relocate the restrooms; that the clientele consistently request a pool table or other amusements, and this modification will accommodate those requests and increase the area for staff movements; that all staff has received certified training; and that he has an amended lease with two years remaining to show possession of the premises.

Sue Duffy Schwall of Liquor Licensing Professionals was sworn and stated the company conducted the petition survey which resulted in 53 favoring, 5 opposing, and 13 no opinion signatures.

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In response to questions from the Board, Mr. Shafer stated that the expansion will include the removal of three booths to increase the sightlines for adequate visual control; and that the diagram will be amended to reflect the removal of those booths.

Motion by Gorman, second by Nemeth, that the request by CHS Hospitality, LLC dba The Holy Cow Pub and Grill to Modify the Premises of the Tavern Liquor License at 5885 Stetson Hills Boulevard, be approved as it appears all criteria has been met. The motion unanimously carried. Absent: None.

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Mr. Clauss returned.

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NEW APPLICATION HEARINGS

6. **Application of Dal B. Lee dba Old Farm Wine and Spirits for a Retail Liquor Store License at 5109 Austin Bluffs Parkway.**

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

Yoon Mager was qualified and sworn as an interpreter of the Korean language.

Dal Lee was sworn and stated that he is the 100% owner of the business; that he has a ten year lease on the 3172 square foot premises through a related entity that owns the building; that he is investing \$100,000, of which said funds were derived from a \$50,000 line of credit and \$50,000 in personal accounts; that he has no criminal convictions; that he previously owned and managed another liquor store in Colorado Springs for approximately seven years; that he will request valid ID of anyone appearing to be under 40 years of age; that he and any employees will have certified training; that he intends to be open only from 10:00 A.M. to 10:00 P.M.; and that he has been trained to recognize sign of intoxication and will not sell to those customers appearing to be so.

In response to questions from the Board, Mr. Lee stated that the premises used to be a convenience store and gas station, but has been empty for more than one year; that he received a suspension for sales to minor in 2011, and warnings for sales to minors in 2009 and 2011; that the different employees that sold to the minors were retrained; that he sold that liquor store in 2012; that he understands he cannot sell to minors, and will ID everyone; that he personally took the certified training almost two years ago; that the location used to have a 3.2% Beer license; and that he will obtain a POS system that requires the birth date of the customer to be entered in order to complete the sale.

Sue Duffy Schwall of Liquor Licensing Professionals was sworn and stated the company conducted the petition survey which resulted in 243 favoring, 163 opposing, and 54 no

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opinion signatures, and that there are no other retail liquor stores within the defined neighborhood boundary.

Mr. Lee stated that the petition conducted by Liquor Licensing Professionals was the only one requested by the applicant.

Neighborhood residents Brett Wilson, Barbara Rickett, Mike Kelly, Lily Lee, Tyler Woods, and Kyum Sook McDonald were sworn and all spoke in favor of the approval of the application and that the neighborhood needs and desires this new liquor store.

Neighborhood resident Sandra Bankes was sworn and stated that she submitted several photos of the area surrounding the proposed location; that she is in opposition to approving this license; and that she commissioned and participated in the opposition survey.

Eleni Wingate was sworn and stated that she organized and conducted a petition survey at the request of a neighborhood organization which resulted in 79 favoring, 267 opposing, and 38 no opinion signatures; that she surveyed closer to the proposed establishment and returned to those streets for contacting those previously not at home.

In response to questions from the Board, License Enforcement Officer Lee McRae stated that audits conducted by the City Clerk's Office of both petitions resulted in the combined deletion of 86 signatures, 66 of which were duplicate signatures, leaving combined totals of 306 favoring, 388 opposing, and 84 no opinion signatures.

Neighborhood residents Larry Stevins, Mandy McBroom, Bill Miller, Kevin Spotts, Beth Claycomb, Maryann McGinnis, Elizabeth Murphy, Richard Price, and Greg Harvican were sworn and all spoke in opposition of the approval of the application and that the neighborhood does not need or desire this new liquor store.

Mr. Freudenberg stated that the applicant has met the burden of proof and meets the criteria for issuance of a liquor license; that the opposition stated this morning is speculative; that the opposition survey was not representative of the entire neighborhood; that there are currently no outlets of a similar type within the defined neighborhood boundary and therefore the needs and desires of the neighborhood are not currently being met; that the opposition survey did not appear to be conducted in an unbiased manner; that the applicant has the ability to conduct the business according to law; and that when the Board takes all of the evidence into consideration, they will see that the applicant has met the burden of proof and should be granted this license.

Mr. Gorman stated that although the neighborhood is divided, he questions the bias of the opposition petition; that there are no other liquor stores or schools in the area; that the needs and desires are not currently being met; and that the Board cannot consider speculative testimony in making their decision.

Mr. Nemeth, Mr. Clauss, and Ms. Holmes expressed their views that the neighborhood apparently needs and desires this new license and echoed Mr. Gorman's statements regarding the speculative nature of some of the testimony.

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Chairman Stephens stated that testimony regarding potential language barriers and speculation are not grounds for denial of the license; and that he feels that the combined opposition and applicant petitions were relatively negative, although the opposition petition appears to be biased.

Motion by Clauss, second by Holmes, that the application of Dal B. Lee dba Old Farm Wine and Spirits for a Retail Liquor Store License at 5109 Austin Bluffs Parkway, be approved as it appears all criteria has been met. The motion unanimously carried. Absent: None.

Ayes: Clauss, Davis, Gorman, Holmes, Nemeth
Noes: Stephens
Absent: None

Chairman Stephens declared the motion carried by a vote of 5 to 1.

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7. **Application of CSC Tavern, LLC dba CSC Tavern for a Tavern Liquor License at 525 Juanita Street.**

Attorney Carl Ream entered his appearance on behalf of the applicant.

Carol Johnson of Esquire Petitioning Services was sworn and stated the company conducted the petition survey which resulted in 177 favoring, 17 opposing, and 5 no opinion signatures.

Theresa Jeoun was sworn and stated that she is the 100% owner and managing member of the business; that the location has been operated as a tavern for more than 20 years and is fully equipped; that she has a five year lease for the 2983 square foot premises through a related entity that owns the building; that she is investing \$5000 for gaining the licenses, of which said funds were derived from personal accounts; that she and the employees will receive certified training; that she has prior experience owning a liquor store about 10 years ago, with two violations for sales to a minor in 2003 resulting in a 10 day active suspension; and that everyone requesting alcohol beverages will be required to show ID.

In response to questions from the Board, Ms. Jeoun stated that the backdoors are emergency exits only; that she has pool tables and will provide karaoke; that food will be available at all hours of operations; and that she has more savings if more funding is needed to start up the operation.

Motion by Holmes, second by Clauss, that the application of CSC Tavern, LLC dba CSC Tavern for a Tavern Liquor License at 525 Juanita Street, be approved as it appears all criteria has been met. The motion unanimously carried. Absent: None.

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At 12:21 P.M., there being no further business, the

BOARD ADJOURNED

Lee McRae
License Enforcement Officer
Office of the City Clerk