

**COLORADO SPRINGS, COLORADO  
COUNCIL CHAMBERS  
CITY HALL – 107 N. NEVADA AVENUE  
AUGUST 21, 2009 – 9:00 A.M.**

The Liquor and Beer Licensing Board met in regular session.

There were present: Chairman Stephens, Ms. Abrams, Ms. Lloyd, Mr. Nemeth and Mr. Wright. Absent, Mr. Clauss and Mr. Kouba. Also present, Board Legal Advisor Marc Smith.

**MINUTES**

1. **Approval of the Minutes of the Board Meetings of July 17, 2009 and August 7, 2009.**

Motion by Wright, second by Abrams, that the Minutes of the Board meetings of July 17, 2009 and August 7, 2009 be approved as written. The motion unanimously carried. Absent, Mr. Clauss and Mr. Kouba.

**COMMUNICATIONS**

2. Deputy City Clerk Cindy Conway stated a request has been received to call Item No. 10 out of order.

City Prosecuting Attorney Anthony Moore entered his appearance and stated he is requesting the matter be called out of order as the licensee for Item No. 10 has surrendered the license and a Stipulation has been reached in this matter.

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

Mr. Moore stated the Stipulation contains a waiver of rights; that the licensee is charged with 16 violations and the Stipulation provides an admission to 8 of the 16 allegations, counts 1, 2, 3, 6, 7, 11, 14 and 15; that counts 4, 5, 8, 9, 10, 12, 13 and 16 are being dismissed. He stated the licensee surrendered the license on August 19, 2009.

Mr. Linden stated his client accepts the proposed Stipulation.

Motion by Wright, second by Nemeth, that the Stipulation and Admission of Violations be accepted. The motion unanimously carried. Absent, Mr. Clauss and Mr. Kouba.

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

**CONSENT CALENDAR**

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

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A-1. Wal-Mart Stores, Inc., dba Wal-Mart Supercenter #3582, 1575 Space Center Drive:

North: South side of Heatherhill Drive extended  
South: North side of Hole Circle extended  
East: West side of Omaha Boulevard extended  
West: East side of Lehmborg Boulevard extended

B-1. Maria Del Carmen Romero  
dba Rodeo Night Club  
3958 North Academy Blvd. #112

B-2. Hyesoon, LLC  
dba Studio 719  
923 North Murray Blvd.

B-3. AKA Wilson, LLC  
dba Willy's Pub  
2894 Resnick Drive

B-4. Shi Jung Yi  
dba Miyake  
3609 Austin Bluffs Parkway #16-17

B-5. Aracely Vazquez  
dba Guzman's Liquor Store  
3746 East Pikes Peak Avenue

B-6. Nu-Adventures, LLC  
dba Caddy Shack Lounge  
4856 Galley Road

B-7. Paradise Liquor, LLC  
dba South Nevada Liquor  
1107 South Nevada Avenue

B-8. Tung & Tran  
dba New Panda  
12225 Voyager Parkway #16

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

**TRANSFER APPLICATIONS**

4. **Application of Tung & Tran, Inc., dba New Panda Restaurant, to transfer the Hotel and Restaurant Liquor License currently issued to Zhou Family, Inc. dba New Panda Restaurant, 12225 Voyager Parkway.**

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Sam Song was sworn and stated he is present to translate for his mother who owns the business.

It was the Board determination that Mr. Song would not be permitted to testify because of the relationship with the applicant and he also has a financial interest in the business.

Motion by Nemeth, second by Wright, that this item be postponed to the Board meeting of September 4, 2009 to allow the applicant an opportunity to contract with a translator. The motion unanimously carried. Absent, Mr. Clauss and Mr. Kouba.

**APPLICATION HEARINGS**

5. **Application of Rasta Pasta of Colorado Springs, LLC dba Rasta Pasta, for a Hotel and Restaurant Liquor License at 405 North Tejon Street.**

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

Rebecca Tamborelli, Matthew Tamborelli and Greg Harris were sworn.

Ms. Tamborelli stated the business is currently under construction with an anticipated opening date of September 29, 2009; that the lease is valid until 2019; that they have attended a formal alcoholic beverage training class and all servers will be trained upon hire; that approximately \$148,400 is being invested in the business of which each member is investing \$20,000 cash and an additional \$88,400 was derived from a loan. She stated she and Mr. Tamborelli have no criminal history.

Greg Harris was sworn and stated he was charged in 1994 with underage drinking and charged in 1996 for failure to appear regarding issuance of a bad check; that he has previous experience in the sale of alcoholic beverages.

Milan Foster, Liquor Licensing Consultants, was sworn and stated his company conducted the petition survey which resulted in 151 favoring, 6 opposing and 4 no opinion signatures.

In response to a question from Mr. Nemeth, Ms. Tamborelli stated there is a 36' x 8' sidewalk patio area with a surrounding fence.

Motion by Wright, second by Nemeth, that the application of Rasta Pasta of Colorado Springs, LLC dba Rasta Pasta, for a Hotel and Restaurant Liquor License at 405 North Tejon Street, be approved as it appears all criteria has been met. The motion unanimously carried. Absent, Mr. Clauss and Mr. Kouba.

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6. **Application of Yankee Cajun, LLC dba Nawlins Bar B Q, for a Hotel and Restaurant Liquor License at 3317 Cinema Point.**

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Jacqueline Hein and Martin Allred were sworn.

Ms. Hein stated the lease period for the establishment is five years; that \$15,000 is being invested in the business of which Mr. Allred invested \$4,000 cash and she invested \$11,000 cash. She stated they currently own another establishment in Falcon, Colorado. She stated the restaurant serves cajun barbecue; that the establishment is 2637 square feet with additional outside dining; that she and Mr. Allred have attended formal alcohol training classes.

Larry Lucero, Liquor Licensing Professionals, was sworn and stated his company conducted the petition survey which resulted in 150 favoring, 3 opposing and 2 no opinion signatures.

In response to a question from the Board, Ms. Hein stated no additional funds except the initial \$15,000 investment was required due to a previously licensed establishment at the location; that all equipment was left in the store.

Motion by Wright, second by Nemeth, that the application of Yankee Cajun, LLC dba Nawlins Bar B Q, for a Hotel and Restaurant Liquor License at 3317 Cinema Point, be approved as it appears all criteria has been met. The motion unanimously carried. Absent, Mr. Clauss and Mr. Kouba.

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7. **Application of Jayhawk Cafe, LLC dba Dale Street Cafe, for a Hotel and Restaurant Liquor License at 115 East Dale Street.**

Attorney David Zook entered his appearance on behalf of the applicant and as landlord of the premises. He stated the first and second floor of the building, and patios to the south and west are requested as the licensed premises.

Hui Yon Park was sworn and stated she purchased the business in 2003; that the establishment is approximately 2800 square feet seating 75 persons; that she has approximately 15 employees; that the petition survey resulted in 63 favoring, 0 opposing and 3 no opinion signatures. She stated the lease is valid to December, 2010; that she has operated restaurants for approximately 20 years.

Ms. Conway stated an audit of the submitted petitions by the City Clerk's Office indicated the petition packet had been unstapled, the circulator affidavit had been relocated on the packet, and a map identifying the neighborhood boundaries was not attached; that additionally, the signers of the petitions did not properly indicate whether their residence or business was within the defined boundary.

Mr. Zook stated in 2004, an application for a liquor license was submitted by Ms. Park and subsequently denied by the Board. He stated through a Court restraining order, liquor has been served at the establishment since that time.

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Senior City Corporate Attorney Lori Miskel entered her appearance on behalf of the City and stated upon filing an appeal of the Board's decision to deny the application, the applicant was granted a temporary restraining order which remained in place until the appeal was completed; that in 2008, the Court of Appeals upheld the Board's decision and vacated the temporary restraining order. She stated Mr. Zook then filed an application for another restraining order in Federal Court which permitted alcohol beverages to be served in the establishment until the application process was completed; that in October, 2008, a settlement negotiation was reached; that while the settlement is a compromise, neither party admits any liability; that the settlement required the plaintiff to file an application for a liquor license, and provided that the City Administration would not consider prior violations during the application process.

Chairman Stephens stated he is concerned about training and past violations disclosed on the application, however, there has been no testimony of any violations in the past six years.

Mr. Nemeth stated testimony has been given that there have been no violations in the past six years and he feels the applicant meets the criteria to be granted a license.

Ms. Lloyd stated she agrees with Mr. Nemeth.

Ms. Abrams stated she agrees with Chairman Stephens about the training; that she would support a training program through an approved State vendor.

Motion by Wright, second by Nemeth, that the application of Jayhawk Cafe, LLC dba Dale Street Cafe, for a Hotel and Restaurant Liquor License at 115 East Dale Street, as it appears all criteria has been met.

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

Chairman Stephens declared the motion carried.

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**Ms. Abrams was excused.**

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**SUSPENSION/REVOICATION HEARINGS**

- 8. **Suspension/Revocation Hearing concerning the Retail Liquor Store License issued to TSJ Properties, Inc. dba Bob's Liquors, 2519 North El Paso Street.**

City Prosecuting Attorney Scott Patlin entered his appearance on behalf of the City.

Thomas Jackson, licensee, was sworn.

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Mr. Patlin stated a Stipulation has been reached in this matter; that the licensee admits to a violation for sale to a minor; that the Stipulation provides 15 days suspension, 3 days active and 12 days to be held in abeyance for one year pending future violations.

Mr. Jackson stated he agrees with the proposed Stipulation and indicated that he and his staff will immediately attend formal alcoholic beverage training; that he has owned the store for 20 years and this is the first time he has received a violation.

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

Motion by Wright, second by Nemeth, that the Findings and Conclusion be adopted providing 15 days suspension, 3 days active and 12 days to be held in abeyance for one year pending future violations; that the suspension begin Saturday, August 22, 2009 through Monday, August 24, 2009. The motion unanimously carried. Absent, Ms. Abrams, Mr. Clauss and Mr. Kouba.

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**Ms. Abrams returned.**

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9. **Suspension/Revocation Hearing concerning the Retail Liquor Store License issued to Gaspar Martinez dba Ruskin Liquors, 3960 Airport Road.**

Mr. Patlin entered his appearance on behalf of the City and stated a Stipulation has been reached in this matter; that the licensee admits to a violation for sale to a minor; that the Stipulation provides five days suspension with all five days to be held in abeyance for one year pending future violations.

Motion by Wright, second by Nemeth, that the Stipulation and Admission of Violations be accepted. The motion unanimously carried. Absent, Mr. Clauss and Mr. Kouba.

Motion by Wright, second by Nemeth, that the Findings and Conclusion be adopted providing five days suspension, of which all five days will be held in abeyance for one year pending future violations. The motion unanimously carried. Absent, Mr. Clauss and Mr. Kouba.

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10. **Suspension/Revocation Hearing concerning the Tavern Liquor License issued to Club Entertainment, Inc. dba Penalty Box Lounge, 3045 Jet Wing Drive.**

**SEE ACTION TAKEN EARLIER IN THE MEETING.**

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At 11:55 a.m., motion by Wright, second by Clauss, that the Board adjourn.

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