



LOCAL LIQUOR CONTROL COMMISSION
July 21, 2009

The Local Liquor Control Commission held a meeting on Tuesday, July 21, 2009, in City Council Chambers, Room 108 of the Civic Center, 200 S. Illinois Avenue. Chairman Brad Cole called the meeting to order at 6:00 p.m. with the following-named members of the Commission present/absent:

1. Roll Call

Present: Commissioner Mary Pohlmann, Commissioner Chris Wissmann, Commissioner Steven Haynes, Commissioner Joel Fritzler, Commissioner Corene McDaniel and Chairman Brad Cole

Absent: Commissioner Lance Jack

Also present were City Clerk Janet M. Vaught, City Manager Allen Gill and various members of the City's administrative staff.

2. Approval of Minutes

C. Wissmann moved, C. McDaniel seconded, that the Commission approve the minutes of the Liquor Control Commission meeting held on June 16, 2009. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

3. Consideration of Application for the transfer of the Class H liquor license for Monte Alegre Vineyard and Cellars, 473 Ponce Trail, from PH Wine Engineers LLC to C. David Ponce-Campos, An Individual

Mr. David Ponce-Campos was present to answer questions. The City Clerk noted that the Liquor Advisory Board had recommended approval of the transfer contingent upon receipt of outstanding items, including the retailer's occupation tax certificate, proof of dram shop and liability insurance and the health permit, all in the name of the new license holder.

M. Pohlmann moved, S. Haynes seconded, that the Commission approve the transfer of the Class H liquor license for Monte Alegre Vineyard and Cellars, 473 Ponce Trail, from PH Wine Engineers LLC to C. David Ponce-Campos, An Individual, contingent upon receipt of all outstanding items. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

4. Consideration of Application for a Class A2 liquor license for Ruiz, Inc. d/b/a Tequila's Mexican Restaurant #6, 100 North Glenview Drive Suite #205-206

Ms. Pamela Ruiz was present to answer questions. The City Clerk noted that the Liquor Advisory Board had recommended approval of the license contingent upon receipt of outstanding items, including the balance of the license fee, lease or deed for the property, retailer's

Local Liquor Control Commission - July 21, 2009

occupation tax certificate, proof of dram shop and liability insurance, affidavit of server training and approvals from the Health Department, Fire Department and Building and Neighborhood Services.

C. Wissmann moved, J. Fritzler seconded, that the Commission approve the Class A2 liquor license for Ruiz, Inc., d/b/a Tequila's Mexican Restaurant #6, 100 North Glenview Drive Suite #205-206, contingent upon receipt of all outstanding items. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

5. Consideration of Application for a Class A2 liquor license for Express Burrito, Inc., d/b/a Sergio's Mexican Bar and Grill, 519 South Illinois Avenue

Mr. Daniel Ramirez was present to answer questions. The City Clerk noted that the Liquor Advisory Board had recommended approval of the license contingent upon receipt of all outstanding items, including balance of the license fee, lease or deed for the property, retailer's occupation tax certificate, proof of dram shop and liability insurance, affidavit of server training and approvals from the Health Department, Fire Department and Building and Neighborhood Services.

C. McDaniel moved, J. Fritzler seconded, that the Commission approve a Class A2 liquor license for Express Burrito, Inc., d/b/a Sergio's Mexican Bar and Grill, 519 South Illinois Avenue, contingent upon receipt of all outstanding items. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

6. Consideration of Request from Backstreet Entertainment, Ltd. for a Beer Garden at Club Traz, 213 East Main Street

Mr. Dan Terry was present to answer questions. The City Clerk noted that the Liquor Advisory Board had recommended approval of the beer garden at its last meeting, but the plans that had been submitted to the Board for approval had been modified from what was submitted due to the collapse of one of the walls. Mr. Terry will continue to work with Building and Neighborhood Services on the design of the garden. Outstanding items include the balance of the beer garden fee in the amount of \$300 and approvals from the Health Department, Fire Department and Building and Neighborhood Services.

In response to Commissioner Pohlmann's inquiry, Mr. Terry said that at the present time there is no cover or roof, it is totally open-air. However, he said, at a later date there will be a partial awning above part of it. Commissioner Pohlmann noted that the Carbondale definition of enclosed area is not the same as the State law and the Carbondale Code is more restrictive than state law. She said that if there is a ceiling, the walls would not be permitted. She suggested that the Carbondale Code be changed to be consistent with the State law.

S. Haynes moved, C. McDaniel seconded, that the Commission approve the beer garden with entertainment for Club Traz, 213 East Main Street, as submitted contingent upon receipt of all outstanding items. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

Local Liquor Control Commission - July 21, 2009

7. Consideration of Application for a Class B2 liquor license for Calla Cali LLC d/b/a Callahan's/Cali's, 760 East Grand Avenue

This item was recorded and transcribed by a Certified Court Reporter.

Applicant Robert Delre was present to answer questions. The City Clerk noted that the Liquor Advisory Board had recommended approval of this license contingent upon receipt of outstanding items including lease or deed for the property, certificate of incorporation or certificate of good standing, retailer's occupation tax number, proof of dram shop and liability insurance, affidavit of server training, and approvals from the Health Department, Fire Department and Building and Neighborhood Services.

In response to Commission inquiry, Mr. Delre said he would be taking over the operation of the facility as soon as everything is approved. There will be "two separate atmospheres" maintained in the one building but they will be operated as one business in one facility. There will be a door connecting the two areas. He said he understands that he has to maintain the same pricing schedule and same drink specials on both sides. Mr. Delre said the previous licensee will not be involved in the management or operation of the business. He also acknowledged that he is required to notify the Commission of any changes in the name of the business or the operating schedule or hours.

S. Haynes moved, C. McDaniel seconded, that the Commission approve the issuance of the Class B2 liquor license for Calla Cali LLC d/b/a Callahan's/Cali's, 760 East Grand Avenue, contingent upon receipt of all outstanding items. DISCUSSION: Mayor Cole noted that the issuance would also be contingent upon receipt of all outstanding fines and fees assessed by the City of Carbondale or the Local Liquor Control Commission against Knoob Enterprises. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

8. Consideration of the Renewal of the Class B2 liquor license for Knoob Enterprises, Inc., d/b/a Stix Bar & Billiards, 517 South Illinois Avenue AND Consideration of the Transfer of the 2009-2010 Liquor License for 617 South Illinois Avenue from Knoob Enterprises, Inc., to Stix LLC

This item was recorded and transcribed by a Certified Court Reporter.

The City Clerk noted that the Liquor Advisory Board had recommended approval of the renewal of the license for Knoob Enterprises for the 2009-2010 license year contingent upon receipt of outstanding items including proof of dram shop and liability insurance, copy of health permit, retailer's occupation tax certificate, certificate of good standing and payment of all monies due to the City of Carbondale including fines and fees. The Liquor Advisory Board also approved the transfer of the 2009-2010 liquor license from Knoob Enterprises to Stix LLC contingent upon receipt of outstanding items including lease or deed for the property, certificate of incorporation or certificate of good standing, retailer's occupation tax number, proof of dram shop and liability insurance, affidavit of server training and approvals from the Health Department, Building and Neighborhood Services and the Fire Department. In addition, Knoob Enterprises would have

Local Liquor Control Commission - July 21, 2009

to meet all the conditions for issuance of the 2009-2010 liquor license before that license would be eligible for transfer to Stix LLC.

Renewal applicant Greg Knoob was present to answer questions. Also present was Robert Delre, applicant for transfer of the license. Mr. Knoob said the only real reason for the renewal is to allow the transfer to Mr. Delre. They wanted to stay in business rather than relinquishing the license so they could keep people working rather than laying them off.

Chairman Cole noted the licensed premises has had significant problems of late and there are some issues with the renewal of the license that have been brought forward by the City Attorney's Office. In response to Commission inquiry, Mr. Knoob said his residence was 1000 East Grand Avenue but three weeks ago he moved to Birmingham, Alabama. He also lived for a period of time in Johnston City, Illinois. Regarding whether he had implemented some additional security measures such as card readers at the door, Mr. Knoob said the readers were installed and to his knowledge are still in operation, although Mr. Delre has been running the business in his (Knoob's) absence and he could not be sure. With respect to Knoob's comments during a liquor hearing that he would be increasing staffing to better control the premises, Mr. Knoob said one of the reasons he originally contacted Mr. Delre was because he is a security consultant and assisted them in implementing changes an effectuate a more efficient process.

M. Pohlmann moved, seconded, that the Commission deny the renewal of the Class B2 liquor license for Knoob Enterprises, Inc., d/b/a Stix Bar and Billiards, 517 South Illinois Avenue, due to Paragraphs A.1, A.2, A.6, A.7, A.12 of Section 2-4-4 of the Carbondale Revised Code and failure to comply with Paragraphs B, C and G of Section 2-4-5. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

Due to the denial of the application for renewal, there was no action on the transfer of the license to Stix LLC.

9. Consideration of the Renewal of the Class A2 liquor license for Stacy Hancock, an Individual, d/b/a Spotlight Bar and Grill, 227 West Main Street

This item was recorded and transcribed by a Certified Court Reporter.

The City Clerk noted that the Liquor Advisory Board reviewed this renewal application on June 4th. At that meeting, the applicant was unable to attend and sent a representative. The Board expressed concern about the percentages of food versus alcohol that was provided in the renewal application and the representative agreed to provide documentation of those percentages. The Board recommended approval of the renewal pending receipt of all outstanding items and documented percentages. At the Liquor Control Commission meeting of June 16, the Commission did not act on the renewal application because adequate documentation had not been provided. In addition, neither the license holder or her representative were in attendance at the Liquor Commission meeting as required in order to answer questions.

The City Clerk said that subsequent to the Liquor Commission meeting, the license holder provided three months of documentation breaking down the percentages of food, alcohol and

Local Liquor Control Commission - July 21, 2009

“other”. There was no explanation on the documentation what “other” meant; however, at the Liquor Advisory Board meeting it was clarified that “other” was cover charges. Although the average over the three-month period shows 59.13% in food sales and 34.13% in alcohol sales, the individual breakdowns by month showed a steady increase in alcohol sales and a steady decrease in food sales. It is noted that in May, the license holder did not meet the Liquor Code requirements of at least 51% of its revenue coming from the sale of food and non-alcoholic drink. As evidenced with the overall downward trend in percentage sales in food and the upward trend in percentage sales of alcohol, coupled with the ongoing issues with large parties frequently requiring a police presence, there was concern whether this business is meeting the City Code requirements for eligibility for a Class A2 (restaurant) liquor license. As such, it was determined that the information should be returned to the Liquor Advisory Board for further consideration prior to the application being sent to the Liquor Commission for formal action on the renewal.

The City Clerk said the Liquor Advisory Board considered this renewal application for a second time at its meeting of July 9, 2009, and recommended that the license renewal be denied based on Sections 2-4-5.A, 2-4-5.B, 2-4-5.C, 2-4-5.D Subsections 2, 4 and 8, 2-4-5.E, 2-4-5.F and 2-4-5.G of the Liquor Code and because the business has not documented that it is meeting the requirements for holding a Class A liquor license as required in Liquor Code Section 2-4-9.A, Subsections b, c and d. She added that outstanding items for this renewal are the license fee and approvals from Building and Neighborhood Services and the Fire Department.

Applicant Stacy Hancock asked that the Commission renew the liquor license so they can continue to do business as a restaurant, bar and grill. With respect to the revenue figures she provided, she said they double-checked the figures and they are still within the guidelines, adding that the food sales are 60% and the alcohol sales are 40%. Chairman Cole said that the May revenue figures provided indicate 43.58% in food, 45.71% in alcohol and 10.71% in “other” and asked Ms. Hancock if she was disputing those numbers; Ms. Hancock responded “no”. There was then discussion on late-night events that have taken place at the business that are not necessarily congruent with a restaurant business. Ms. Hancock said that she is aware that she needs an entertainment (club) license to continue to hold these kind of events. She also acknowledged meeting the Mayor before the license was issued to talk about concerns related to the management and operation of the facility, such as problems spilling out onto the neighboring businesses and the required amount of food sales.

Kenneth Quinn indicated he volunteers his time working with the events at the facility and that they are working to rectify the problems that are occurring at the business.

There being no further questions, J. Fritzler moved, M. Pohlmann seconded, that the Commission deny the application for renewal of the Class A2 license for Spotlight Bar and Grill as they do not meet the requirements of Section 2-4-5 Paragraphs A, C, D, E, F, G, H, I and J of the Carbondale Revised Code as discussed. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

10. Consideration of a Class A1 liquor license for Melting Pot Inc., d/b/a Fat Patties, 611B South Illinois Avenue

This item was recorded and transcribed by a Certified Court Reporter.

Local Liquor Control Commission - July 21, 2009

The City Clerk noted that the Liquor Advisory Board had reviewed an application for a 2008-2009 liquor license and recommended approval, but had not reviewed the application for a 2009-2010 liquor license. She further provided the history on prior applications from this applicant. Outstanding items include the balance of the 2009-2010 license fee, a lease or deed for the property, a certificate of incorporation or a certificate of good standing, proof of dram shop and liability insurance, a copy of the health permit and the retailer's occupation tax number.

Applicant Lance Jack was present to answer questions. Mr. Jack acknowledged this was his third time before the Commission. He noted that they have gone above-and-beyond in compliance with the Code, with the majority of employees serving alcohol being TIPS trained. He has also hired Chris Burson because of his experience with the management of liquor. He said if the Illinois Liquor Control Commission hadn't ruled on the side of Fat Patties he would not be continuing to pursue a license. He also noted that customers are supportive of beer and wine at the restaurant and asked his supporters in attendance at the meeting to stand. He concluded by asking for the same privilege of holding a restaurant liquor license as any other restaurant in town.

Commissioner Pohlmann indicated her opinion had not changed from the prior meeting, noting that the applicant is a member of the Local Liquor Control Commission and according to State law, Liquor Control Commissioners may not hold a liquor license of any kind. She said that Carbondale City Council members are required to serve as members of the Local Liquor Control Commission and that Council members are administered an Oath of Office that they will faithfully discharge the duties of the Office of City Council member according to the best of (their) ability.

Councilman Fritzler said that he has voted twice because it was a violation of law, adding that State law provides that no license of any kind issued by the State Commission or Local Commission shall be issued to any law-enforcement public official including members of the Local Liquor Control Commission. He reiterated Councilwoman Pohlmann's point about City Ordinance stating that a City Council member shall also serve as a member of the Local Liquor Control Commission, adding that the City Code says "shall" which is imperative or mandatory.

Councilwoman McDaniel asked for clarification on the State Liquor Commission's order. City Attorney Kimmel said State law and City ordinance do not mesh exactly. He noted that the State might not recognize that a Carbondale City Council member also serves as Local Liquor Commissioner and seems to be saying that Councilman Jack can recuse himself as Commissioner. Attorney Kimmel said the City can defend either way the Commission chooses to vote.

There being no further Commission discussion, C. Wissmann moved, C. McDaniel seconded, that the Commission approve the Class A1 liquor license for Melting Pot Inc., d/b/a Fat Patties at 611B South Illinois Avenue, contingent upon receipt of outstanding items and certify to the State Liquor Commission that the applicant qualifies to hold a license in accordance with the Carbondale Liquor Ordinance so long as he does not vote on alcohol liquor issues pending before the City Council and does not serve on the Local Liquor Commission. VOTE: Ayes: C. Wissmann, C. McDaniel and B. Cole. Nays: M. Pohlmann, S. Haynes and J. Fritzler. On the tie vote, Motion did not pass.

Local Liquor Control Commission - July 21, 2009

M. Pohlmann moved, J. Fritzler seconded, that the Commission deny the Class A1 liquor license for Melting Pot, Inc., d/b/a Fat Patties, because the applicant is a Liquor Control Commissioner and under Illinois State law, the issuance of a liquor license of any kind is prohibited to such an applicant - - 235 Illinois Compiled Statutes 5/6-2 from Chapter 43, Paragraph 120, Section 6-2(14). VOTE: Ayes: M. Pohlmann, S. Haynes and J. Fritzler. Nays: C. Wissmann, C. McDaniel and B. Cole. On the tie vote, Motion did not pass.

11. Review of Reconstruction Design Plan for Toomey Enterprises, Inc., d/b/a Hangar 9, 511 South Illinois Avenue

The City Clerk noted the Liquor Advisory Board reviewed the renewal application and building plans on June 4th and unanimously recommended approval contingent upon receipt of outstanding items. The renewal application was approved by the Liquor Commission on June 16th with the understanding that the building plans would need to be brought back to the Commission for review. Outstanding items are the \$400 beer garden fee and final approval from the Health Department, Fire Department and Building and Neighborhood Services.

Applicants Sally Carter and James Duke were present to answer questions. In response to Commission inquiry, Ms. Carter said the beer garden in the front of the building will include a 3½ foot planter with thorny bushes between the garden and the sidewalk as well as a fence to maintain security in the beer garden during the hours they are closed. The beer garden will have a pitched overhang covering part of the garden. Smoking will be permitted in legal areas. Commissioner Pohlmann reiterated comments she made during the discussion on the Club Traz beer garden earlier in the meeting in which she noted the conflicting definition of “enclosed area” in the smoke-free provisions in state law and City ordinance. She noted that City ordinance might not allow the overhang roof on the beer garden, although it would be allowed under State law. She again suggested that the City ordinance be amended to coincide with the provisions of State law.

There being no additional questions, C. Wissmann moved, J. Fritzler seconded, that the Commission approve the reconstruction design plan for Hangar 9 pending receipt of the \$400 beer garden fee and favorable approvals from the Health Department, Fire Department and Building and Neighborhood Services. VOTE: Ayes: M. Pohlmann, C. Wissmann, S. Haynes, J. Fritzler, C. McDaniel and B. Cole. Nays: None. Motion declared carried.

12. Adjournment

There being no further business to come before the Commission, Chairman Cole declared the meeting adjourned at 7:22 p.m.

Janet M. Vaught
City Clerk

Approved by the Commission on:
