

Municipal Judge, Geri R. Joneson, called the regular meeting of the Local Licensing Authority to order at 8:30 AM on the above date. Also present were: Assistant City Attorney, Vince Junglas; Officer Jeff Mayers; and Secretary, Jeannie Weaver.

1. MINUTES The minutes of the April 16, 2015 meeting were approved as submitted.

2. CONSENT AGENDA

The items on the Consent Agenda did not require an appearance by the licensee and were approved by the Authority. The applications will be forwarded to the Department of Revenue for State approval and issuance of the licenses.

RENEWALS - (Appearance not required)

- a. CJ's Patio Grill Inc. dba CJ's Patio Grill
 1331 Eagle Drive
 Hotel and Restaurant License Renewal
 July 23, 2015 to July 23, 2016 **CONTINUED TO 6-18-15**

- b. Blazin Wings, Inc. dba Buffalo Wild Wings
 1505 Rocky Mountain Avenue
 Hotel and Restaurant License Renewal
 July 27, 2015 to July 27, 2016 **RENEWED**

- c. Brix Wine and Spirits Inc. dba Brix Wine and Spirits
 6130 E. Crossroads Blvd.
 Retail Store License and Tastings Permit Renewals
 June 23, 2015 to June 23, 2016 **BOTH RENEWED**

- d. Chipotle Mexican Grill Inc. dba Chipotle Mexican Grill #822
 1421 West Eisenhower Blvd.
 Hotel and Restaurant License Renewal
 June 15, 2015 to June 15, 2016 **RENEWED**

3. REGULAR AGENDA – (Appearance Required)

RENEWAL & MANAGER REGISTRATION

- a. Smash Werks LLC dba Smashburger
 1419 North Denver Avenue
 Beer & Wine License Renewal and Manager Registration
 June 20, 2015 to June 20, 2016

A representative did not appear and the Authority passed the matter until the end of the meeting.

TEMPORARY MODIFICATION OF PREMISES

- a. Loveland Catering Company Inc. dba Embassy Suites Loveland
 4705 Clydesdale Parkway

The application was filed for a temporary modification of premises to hold events adding approximately 8,630 s.f. of licensed area to the Optional Premises license to dispense malt, vinous and spirituous liquors by the drink for consumption on the premises from June 7 to June 14, 2015. The premises was posted with a sign advertising the Public Meeting. Tom Dwyer appeared to address the Authority and answer questions. Mr. Dwyer clarified the type of fencing to be used, staffing for security purposes in the additional area and actual usage days. There were no other concerns from the City. The Authority approved the application.

- b. Ovations Food Services LP dba Ovations Hot Dog Cart
5290 Arena Circle

The application was filed for a temporary modification of premises to hold events adding approximately 720,000 s.f. of licensed area to the Optional Premises license to dispense malt, vinous and spirituous liquors by the drink for consumption on the premises from May 30, 2015 to September 13, 2015. The premises was posted with a sign advertising the Public Meeting. Phil Hossler appeared to address the Authority and answer questions. The Authority asked whether any of the events planned had been done in previous years. Mr. Hossler stated that only the Western Festival was a new event but the other two events have been done before and will operate the same as those previously. The Authority confirmed that the diagrams were updated from the original diagrams submitted to reflect the same premises for each event due to the State's requirement. The events will take place on May 30-31, July 31 to August 4, and September 11-13, 2015. Mr. Hossler explained that the fencing is permanent wrought iron fencing and chain link fencing. Traffic across Arena Circle will be cut off on either end of the premises and monitored by the staff and security officers. There were no other concerns by the City. The Authority approved the application.

4. PUBLIC HEARINGS

NEW LICENSE

- a. 5th Street Bar LLC dba Captains Bar and Restaurant
111 East 5th Street

The application was filed for a new Tavern license. The premises was posted with a sign advertising the Public Hearing and a notice was published in the Reporter Herald as the law requires. The neighborhood boundaries were identified as: N-E. 16th Street; S-Hwy 402/SE 14th Street; E-Boise Avenue; and W-N. Duffield Avenue. The Authority read the procedures to be followed and opened the Public Hearing. The Clerk's file was admitted into the record. Mr. Junglas made an opening statement that the City intended to present evidence contained in the Clerk's file under C.R.S. 12-47-301(2)(b) that a local licensing authority may deny the issuance of any new tavern or retail store license whenever such authority determines that the issuance of such license would result in or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources. During a six month time period, there were 38 calls for service at 5th Street Bar resulting in minimal coverage for the remaining City of Loveland area. The Building Division and Fire Department have not approved the building for occupancy. The ownership of the building is essentially the same as it was for 5th Street Bar.

Timothy Lee came forward to make an opening statement and indicated that he is changing the name and operation of the business with new staff, food and security. The City asked that Officer Villalpondo's affidavit be admitted into evidence. A brief recess was taken at this time to obtain the affidavit.

Mr. Jack from Smash Werks LLC dba Smashburger appeared during the brief recess and the Authority reconvened the meeting and recalled the matter.

RENEWAL & MANAGER REGISTRATION

- a. Smash Werks LLC dba Smashburger
1419 North Denver Avenue
Beer & Wine License Renewal and Manager Registration
June 20, 2015 to June 20, 2016 **APPROVED**

Christopher Jack appeared to address the Authority and answer questions. He was delayed in traffic. The Authority was satisfied with the explanation made by Mr. Jack for his violation history. There were no concerns from the City or the Police Department. The Authority approved the renewal and the manager registration.

The Authority recalled the Public Hearing.

Mr. Junglas read Officer Villalpondo's affidavit. The allegations contained in the affidavit were never addressed on the record by the Authority due to the Licensee's surrender of the 5th Street Bar license. Officer Jeff Mayers was sworn in to testify as to the former ownership of the tavern and the new owner. There was no cross examination by the Applicant.

Timothy Lee was sworn in to testify as to the operation of the establishment. He stated that based on advice from Sgt. Mines, the tavern would be serving 80 percent food, where before it was 80 percent alcohol. The establishment will serve great food, steaks and hamburgers and operate as a restaurant. An operating manual, prepared with the help of Sgt. Mines, was submitted and admitted into the record. Mr. Lee stated that he didn't know it was such a bad establishment when he purchased the bar.

Mr. Junglas asked why Mr. Lee didn't apply for a Hotel and Restaurant license, which only requires 25 percent of gross sales in food. Mr. Lee stated he was unaware of that requirement. He has hired experienced employees, is moving the bar to reveal more space and lighting and brighter décor. The size of the kitchen is being enlarged to accommodate the food service and equipment. Mr. Junglas asked what the additional square footage of the kitchen would be. Mr. Lee said it would be 100 s.f. larger for the grill. Employees will be required to take TIPS training and the Loveland class as a team.

Mr. Junglas asked if Mr. Lee was involved in the alleged violations in December, 2014. Mr. Lee said that he was involved and described the incidents. He said that he agreed with the license surrender by the former owner due to problems with them and the changes needed. Mr. Lee stated that he had pulled a building permit and was waiting for approval.

The Authority questioned Mr. Lee about the new name of the establishment. Based on Mr. Lee's statement that the business would be 80 percent food, the Authority suggested that the license type should be listed as a Hotel and Restaurant. Mr. Lee described his work experience managing food establishments and construction work. The opening date is expected to be the second week of June. The Authority questioned Mr. Lee regarding payment of City sales tax that wasn't paid by the previous owner. He recalled seeing checks for payment of the tax. He has applied for a new sales tax license for the business.

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The Authority stated that the survey of the neighborhood performed by Mr. Lee was satisfactory showing 130 signatures gathered and 113 verified favoring the license issuance. There were no other parties in interest appearing.

Mr. Junglas made a closing statement that Mr. Lee suggests that things will change but he still applied for a Tavern license. Violations occurred during the time period he was the co-owner. It was not shown that under C.R.S. 12-47-301(2)(b) there is an undue concentration of Tavern licenses in the neighborhood as evidenced by the survey; however, the affidavit shows an undue burden has been placed on law enforcement. The City would not object to withdrawal of the Tavern license application and submittal of a Hotel & Restaurant application. Mr. Lee stated that he is nothing like the former owner and everything will be new.

The Authority closed the Public Hearing at 9:43 a.m. and made the following findings: 1) That Mr. Lee apply for a Hotel and Restaurant license; 2) That significant modifications of the premises to enlarge the kitchen must meet all restaurant code requirements; 3) That sales taxes are owed and payment due as required; 4) That the premises is not ready for occupancy for food and alcohol service; and The Authority wishes to hear from Sgt. Mines and will continue the Public Hearing to June 18, 2015 at 8:30 a.m. so that Sgt. Mines can testify. The Authority will allow the applicant to amend the Tavern license application to a Hotel and Restaurant license and apply the fees already paid to the new license type.

The Authority asked the City for information to rule on the applicant's request for applying the fees paid on the Transfer of Ownership application to the Tavern License application. Mr. Junglas said the City objected to the application of the fees in a memo to the Authority dated April 13, 2015 in the Clerk's file. Based on the LLA Rules of Procedure, Rule 6(e), which provides that prepaid license and permit fees are to be refunded when an application is withdrawn prior to final action by the Authority; however, "application fees are non-refundable." The Authority denied the applicant's request.

The matter is continued to the regular meeting on June 18, 2015 at 8:30 a.m. to allow time for the Applicant to amend the application to a Hotel and Restaurant license type and complete the modifications to the premises and meet City code requirements.

5. OLD BUSINESS/NEW BUSINESS

None

6. ADJOURNMENT

The next regularly scheduled Local Licensing Authority Meeting will be **June 18, 2015 at 8:30 AM** in the City Council Chambers.

Having no further business to come before the Authority, the meeting was adjourned at 9:55 A.M.

Respectfully submitted,


Jearnie M. Weaver, Secretary

Approved:

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May 21, 2015



Gerri R. Joneson
Gerri R. Joneson, Municipal Judge
Liquor Licensing Authority

