

**MINUTES FOR
LIQUOR AUTHORITY MEETING**

**CITY OF WHEAT RIDGE, COLORADO
7500 West 29th Avenue, Municipal Building**

June 28, 2018

Vice-Chair Davia called the Liquor Authority Meeting to order at 9:00 a.m.

Liquor Authority Members present:

Anthony Davia
Bruce McIntyre
Carolyn Peterson
Claudia Worth
Elizabeth Nazareus

Absent, Robert Alldredge, Paul Shaver, John Miks

Also present: Deputy City Clerk Robin Eaton; Police Officer Steve Berkowitz; Assistant City Attorney Nina Petraro; Applicant Attorney Brian Profit; Tina Scott (Oedipus Inc.), Manager of Operations for Tokyo Joe's, John Gengel

APPROVAL OF MINUTES OF May 24, 2018

Motion by Member Peters to approve the minutes of May 24, 2018; seconded by Member Nazareus; Motion carried 4-1 with Davia abstaining

Item 1. Introduced by Vice Chair Davia, A new application for a 3.2% Fermented Malt Beverage Off Premises license for Lucky's Market Operating Company LLC dba Lucky's Market located at 3545 Wadsworth Blvd., Wheat Ridge, Co.

Vice Chair Davia opened the public hearing

Deputy Clerk Eaton gave the initial findings for the staff report and entered Exhibits 1-6 into the record, showing the applicant has fulfilled all of the requirements to hold a fermented beer license. He explained that Lucky's Market is a new 3.2% Off premises applicant, being currently licensed in Boulder and is wishing to establish a location at The Corners in Wheat Ridge.

He explained of the need to amend to original application from a 3.2% On/Off premises type to a strictly Off premises license due to the passing of SB18-243 which no longer allows on/off, effective June 4, 2018.

Deputy Clerk Eaton introduced Tina Scott from Oedipus Inc. along with Mr. Brian Profitt, the Attorney for the applicant.

Vice Chair Davia swore in Tina Scott and Mr. Profitt.

Mr. Profitt asked with members that are missing the hearing, what the vote would need to be, to approve the application.

Deputy Clerk Eaton responded that it would take a majority of votes for the motion to pass, not a super majority.

Tina Scott responded to Mr. Profitt's questions about Oedipus, Inc. and stated that Wheat Ridge has a wonderful reputation as a good place for businesses. She used model testimony from past hearings as to the methods Oedipus uses to conduct the surveys and that this is Wheat Ridge's first petition to use the new one half mile radius plat.

The Survey was conducted in a one half mile radius with the applicant's business being at the center. Both residences and businesses were contacted in the blue area of the map of the survey.

She responded to Mr. Profitt that even though the petitioning included both on and off premises language, she feels secure that if it had to go through another round of petitioning for a straight off type, that the results for being in support of that license would actually be higher in favor of it.

She described on page two of the survey that 138 of those surveyed were in favor of issuance of new liquor license, while there were 16 that were opposed to it.

Mr. Gengel spoke about the business of Luckys Market being started by two chefs. The concept is that of a grocery market but with a culinary approach. It tends to create an experience to engage with the community. There is a restaurant inside with a scratch kitchen where the food is prepared using great ingredients that are both natural and organic.

Mr. Gengel spoke that he has been with Luckys Market as the store director for a few months now and has traveled and trained in their south stores, as they have over 30 stores in 11 states.

They are in the process of hiring currently and expect to have around 160-180 team members. The only point of sale for alcohol will be done by cashiers that will number around 30 individuals. Tips training is standard by a certified trainer and new hires cannot run the registers within 60 days of being hired. There will be no liquor sales without a valid ID and the register prompts the cashier that an ID is required when

someone purchases alcohol. Only general managers and leaders on duty can clear the register for alcohol sales.

Vice-Chair Davia asks for any questions from the Board.

Member Worth inquires as to how they control the security cameras and will they be in or outside of the store.

Mr. Gengel responds that there will be both. The inside cameras belong to the store and are very comprehensive but the ones in the parking lot are in control of the landlord.

Officer Berkowitz has the manager make note that the area has a very high transient population and that the store clerks are going to be challenged often by intoxicated persons. If they cannot get to the alcohol, they sometimes steal mouthwash for the alcohol content.

Mr. Gengel appreciates that information and will orientate the workers to be cautious and careful when dealing with them.

Vice-Chair Davia closed the public hearing and asks for a motion.

Motion by Member Worth to approve the issuance of a new 3.2% Fermented Malt Beverage off-Premises License for Lucky's Market Operating Company LLC. dba Lucky's Market located at 3545 Wadsworth Blvd. Wheat Ridge, Colorado on the basis of the following findings:

1. Public Notice of the hearing on the Application was published and posted on the property as required by Colorado law;
2. The applicant is qualified to obtain a liquor license pursuant to C.R.S. Section 12-47-307;
3. The premises is in a location eligible to conduct the proposed liquor licensed business pursuant to C.R.S. Section 12-47-313 and the zoning laws of the City;
4. The applicant is entitled to possession of the premises for which the application is made;
5. The neighborhood under consideration is considered to be within a one-half mile circumference around the proposed licensed premises;
6. The inhabitants of the neighborhood desire an additional establishment that serves liquor;
7. The needs of the neighborhood are not met by the existing outlets.

Seconded by Member Peterson, motion carries 5-0

Item 2. Introduced by Vice Chair Davia; a Request for Show Cause Hearing on alleged Liquor Code Violation 12-47-301 3(b) at HAK Inc. dba Hanks Billiards located at 5250 W. 38th Avenue, Wheat Ridge.

Issue: According to State Liquor code 12-47-301 (3)(b). At all times a licensee shall possess and maintain possession of the premises or optional premises for which the license is issued by ownership, lease, rental, or other arrangement for possession of such premises.

Staff presentation

Deputy Clerk Robin Eaton presented that during the 2017 renewal process, in discussions that were held in the City Clerk's office, Mr. Rivera (Hank) had stated that his new landlord was evicting him from the billiard hall as they wanted to try a different type of venue at this location. Hank and the Landlord had commenced proceedings to do such a thing and in early February 2018 Hanks was out of the building.

Hank had signed a transfer affidavit with the landlord, authorizing those people to transfer the liquor license to themselves until they remodeled the premises and found new tenants.

Deputy Clerk Eaton had informed the Landlord that they will have to submit the application and modification prior to doing any changes at the establishment. Work was noted at the facility in May and Deputy Clerk Eaton had the city's building inspectors go there and put a cease and desist order to stop the work. The building currently stands vacant and in disrepair.

Neither the city building code department nor the Clerk's office have received any notice or applications to transfer the license or to build in this location. C.R.S. 12-47-306 allows for one year of activity so long as possession is kept. This is not the case here and he had spoken with both Hank, the current licensee and the landlord on numerous occasions in his office about the transfer.

As such, he is requesting the liquor board to direct the city attorney's office to file the proper paperwork to start the show cause hearing, where the licensee will have a chance to be heard at the revocation.

Board discussion

Vice-Chair Davia asks when the license is set to expire and if it is known what is going to go in there.

Deputy Clerk answers that the license will expire on October 24, 2018 and that the application to transfer has to be submitted prior to that date. There is no information available as to what the plans are for the establishment.

Member Worth asks who holds the license and if they are still at the location.

Deputy Clerk replies to the license is held by Hank and that it would be upon him that the license would be revoked. He is no longer at the establishment.

Vice Chair Davia asks to Officer Berkowitz what the police department would recommend.

Officer Berkowitz responds that it would be a good thing for Hank to be given the chance to bring the license in and surrender it as there is no other choice but to revoke it, if no transfer application is submitted

City Attorney Nina Petraro would like to add language to make sure that you will work with the City Attorney's office to obtain guidance to ensure compliance with State liquor laws.

Member Worth asks if Hank will be served with a hearing notice and or subpoena.

Deputy Clerk Eaton answers that yes, Hank will be properly served and will be called as well, one last time, to be given the opportunity to have either the application submitted or to surrender the license willingly.

Motion by Member Worth that a Notice of Hearing and Order to Show Cause be prepared by the City Attorney and executed by the Chair and Deputy City Clerk and be issued to the owner of HAK Inc. dba Hank's Billiard, 5250 W. 38th Avenue, Wheat Ridge, Colorado, based on allegations contained in the attached Notice of Alleged Liquor Code Violation, seconded by Member Nazarenus; motion carried 5-0

CITY CLERK'S MATTERS

Deputy Clerk Eaton reported on the items that he has been working on and a status of those applications.

- New application hearings for July 26 for the Hacienda Colorado on Youngfield and the Suncor, Shell station, located at 44th and Kipling.
- Corporate changes for Applejacks, DS liquors, and Wheat Ridge Lanes
- Multiple renewals to include La Fonda's, DS liquors, Wheat Ridge liquors, Real Thai along with others that are still taking about two months to be returned from state.
- Signed New liquor law changes for 3.2% Fermented Malt Beverage that will change the face of 3.2 licenses, businesses and liquor alike.
- Deputy Eaton also taught a class recently at the CML Conference in Vail over the bills that passed during this year legislation period and asked if the Board would like it presented to them as well.

CITY ATTORNEY'S MATTERS

POLICE DEPARTMENT MATTERS

LIQUOR AUTHORITY MEMBERS MATTERS


ADJOURNMENT

Meeting adjourned at: 9:40 a.m.



Robin Eaton, Deputy City Clerk

APPROVED ON July 26, 2018 BY A VOTE OF 4 TO 3



Robert Alldredge, Chairman