



Liquor Advisory Board May 19, 2016

The City of Carbondale's Liquor Advisory Board held a meeting on Thursday, May 19, 2016, in Room 103 of the Carbondale Civic Center, 200 South Illinois Avenue. Chairman Robinson called the meeting to order at 5:32 p.m. with the following-named members of the Board present/absent:

1. Roll Call

Present: John Mills, Steve Payne, Tasis Karayiannis, David Cisco, Donald Monty, and Mark Robinson

Absent: None

A quorum was available to take action on the agenda items. City Staff present for the meeting included City Clerk Jennifer Sorrell, Interim City Manager Gary Williams, Acting City Attorney Lenoard "Jamie" Snyder, Fire Inspector Tom Manis, and Lieutenant Matt Dunning.

2. Approval of Minutes

D. Cisco moved, J. Mills seconded, to approve the minutes from April 7, 2016. All voted aye. Motion declared carried.

3. Application from Carbondale Tourism for a Class F1 liquor license (temporary; beer/wine only) to conduct sales of alcohol for a "Live On Series" concert scheduled between 6:00 p.m. to 10:00 p.m. on June 17, 2016, on the 200 block of West Monroe Street and the Carbondale Civic Center parking lot

Cinnamon Smith and Jordan Wren were present to respond to Board inquiries.

Ms. Smith remarked on the organization's prior experience holding an F1 liquor license for a concert in October 2015, noted that this concert will be a smaller event, explained that this location had been successfully used in June 2015 for hosting an outdoor concert, and responded to Board inquiries. The Board questioned the applicant about the distributor supplying the alcohol [Venegoni Distributing], requested details about seating [Tourism will provide limited seating in a reserved area for those who are in need of it]; who the performers would be [Nikki Hill and Aaron Kamm & The One Drops]; and explained the location of the stage would be on Monroe Street in front of the Verizon building. The staffing for the event will be similar to those who provided it for the Jason Isbell concert and all are TIPS trained.

J. Mills moved, T. Karayiannis seconded, to approve a Class F1 liquor license for Carbondale Tourism on June 17, 2016, contingent upon receipt of all outstanding items. VOTE: All voted aye. Motion declared carried.

4. Review of third quarter violation reports for License Year 2015-2016

Board discussion included comments on the following matters: a note on the State sting yielding violations at liquor stores; that the number of violations at the establishments is relatively small in comparison with previous years; the number of violations at Levels seems to stand out compared to other locations, particularly when taking into consideration that they are not open every day of the week; and concerns that fire and building and neighborhood services inspections should occur on a regular basis rather than just on an annual basis in order to find life/safety issues.

Lieutenant Dunning noted that Levels has a higher occupancy than most locations and responded to Board inquiries about the operation of Levels noting that the police do get calls for service there, but not as many as in the past. When asked about fighting, he noted that when fights occur it is generally as the bar closes and people are exiting the building and making their way to vehicles.

Fire Inspector Tom Manis provided additional details about the fire inspection reports noting that the old exit lights are being replaced with updated led lights which will in time reduce the number of exit light issues. He stated that with the old lights one power outage could drain the batteries in their entirety and shared that they provide literature to the businesses on what life/safety issues to look for.

D. Monty moved, J. Mills seconded, to accept the third quarter reports and to forward them to the Local Liquor Control Commission. All voted aye. Motion declared carried.

5. Discussion of Farmers' Market liquor sales and temporary extended premises permits

Interim City Manager Williams provided the Liquor Advisory Board with details on the matters of expanding the Farmers' Market license and establishing a temporary extended premises permit

Farmers' Market Liquor Sales

A grant was awarded to Carbondale to conduct a feasibility study on the local foods system and one of the recommendations for developing the Farmers' Market was diversifying the vendors, specifically focusing on the relationship between local foods and the wine trail and breweries.

Board inquiries and comments included the following which were responded to by Interim City Manager Williams and Acting City Attorney Snyder: who will be the holder of the license [the Farmers' Market], who will approve the individual vendor, carry the dram shop insurance, and be the responsible party for any infractions [the Farmers' Market], why were distilleries and breweries included in the language [Mr. Williams noted that currently wineries are the only type of craft alcohol industry able to sell by the package at a satellite location, but breweries and distilleries **are** able to conduct tastings at the Farmers' Market and this license allows for tastings to be conducted], would the language proposed allow for package sales by the breweries and distilleries [while it is written that way, the State would prevent it from occurring], if the language were to be approved as written would the micro distilleries and microbreweries be able to sell by the package once it becomes legal at the State level [yes], a suggestion to include in the draft language wording to the effect of package sales would be allowed for microbreweries and micro distilleries subject to compliance with State law, why was this limited to just one vendor per Market [limited vendor space and to ensure there would not be a saturation of retail alcohol sales], and general discussion about the expansion of the property where the Farmers' Market was held.

There was confusion between the Board's inquiries regarding package sales and the Acting City Attorney's explanation as to whether the City's approval of package sales for micro distilleries and microbreweries would be allowed under home-rule or whether State law would be able to prevent it from occurring. Ultimately, the explanation was that while the City could authorize the package sales by micro distilleries and microbreweries, the vendor would have to seek State approval to conduct off-site sales.

Temporary Extended Premises Permit

On occasion, Staff receives requests from liquor license holder seeking to hold special events at locations adjacent to their establishment – typically parking lots, but in some cases at another nearby public area. The temporary extended premises permit with authorize license holders in good standing to host such an event upon review of the application by staff and final approval from the Liquor Control Commission Chair.

Board comments and questions on this matter included: how far in advance are these requests received and how would the permit process be expedited [it varies, but if this is handled administratively, likely a minimum of two weeks], could the permit be for a property other than the licensee's premises [potentially], an inquiry about what constitutes a licensed premises [this includes the facility listed on the application only, but the responsibility of a licensee extends to the "control premises," and would proof of dram shop insurance coverage of the temporary premises be required [yes].

J. Mills moved, T. Karayiannis seconded, to approve the Farmers' Market package sales. All voted Aye. Motion declared carried.

J. Mills moved, D. Monty seconded, to approve the temporary extended premises permit. All voted Aye. Motion declared carried.

D. Monty requested that Board members receive a copy of the Ordinance language in advance of it going before the City Council.

6. Liquor license renewals for the 2016-2017 license year (July 2016-June 2017)

Notice that there were still outstanding items, questions about specific locations below:

Larry's House of Cakes

Question about the license fee and whether the video gaming terminals increases those fees.

Little Vegas

Mr. Trace Brown was present at the meeting and the Board inquired about how the business was faring.

Hangar 9

Questions about why the applicant would not complete the form, the Commission's authority to require the information, and whether the Commission can choose not to renew the license based on incomplete information.

Attorney Snyder read Code language regarding Class B3 licenses, which classification was created when a cap was established, and which gave the Commission the authority to review the records of video gaming versus liquor sales in order to determine whether an establishment was a bar or a video gaming parlor. He noted that data would not be subject to FOIA as it deals with sales information and is subject to tax laws, although the gaming revenue is public record. Further, he responded to an inquiry regarding the requirement to provide this information that the renewal of the license is subject to provision of the data to the Commission. The Clerk noted that without the video gaming terminals, the licensee would not be required to submit the completed form.

Tres Hombres

It was noted that Tres did not receive the majority of their revenue from food and nonalcoholic beverages, as is required when holding a Class A liquor license. There was a discussion as to whether the location operated more as a bar or as a restaurant, whether they should hold a Class B license instead of a Class A license, and the matter of entry age requirements.

The Board discussed a few suggestions with regard to this renewal application: 1) change to a Class B license; 2) allow a year to bring the percentages into line; 3) consider whether 51% is a valid measure; and 4) consider whether to exclude gaming revenue from the calculations.

M. Robinson exited at 6:43 p.m. and returned at 6:44 p.m.

Key West

In a similar vein as Tres Hombres, there was discussion regarding Key West receiving 59% of revenue from video gaming which should require them to hold a B3 classification rather than a B2 license. It was noted that there was someone operating a restaurant within the establishment. Further, it was noted that the owner currently holds a 180 day permit for a B3 license, which was applied for, according to the applicant, due to the demand for gaming at Key West.

There was discussion regarding the minimum percentage requirements for restaurants, why those requirements were initially instituted, whether the requirement for a restaurant should be a majority of revenue coming from anything other than food, and a suggestion that perhaps the bar side of Tres was now the dominant sales driver. The Clerk noted that the discussion regarding lowering the minimum percentage requirement had occurred over a year ago and part of the reason for establishing the form was to provide data to help determine whether or not there truly was a need to modify the percentages. There was a remark that not only was the 51% minimum percentage arbitrary, the data provided might also be arbitrary as sales can be rung up in different ways and figures can be adjusted. Insurance coverage and costs for restaurants versus bars were briefly discussed.

Garden Grove Event Center

The discussion regarding Garden Grove Event Center centered on the change of use of the facility and the minimum age requirement exemption which did exist when it operated as an indoor sports facility. There is no such exemption for an event venue and as a holder of a B2 liquor license, the minimum age requirement of 19 applies.

The Pony Cabaret & Steakhouse

The Board requested an update on the status of this facility. Acting City Attorney Snyder reminded the Board that the renewal application for the 2015-2016 license year was denied by the Local Liquor Control Commission. An appeal to the State Liquor Commission was filed, it was sent back, and the petitioner filed for a rehearing before the State Commission. A finding from the rehearing is anticipated in the near future. The applicant was permitted to operate under a stay from the State Commission; however, they chose not to do so. It was noted that the applicant holds a State liquor license, but not a City liquor license. Pending the outcome of the State's decision, the Board elected not to offer a recommendation on the renewal application.

Noah's Lounge

The renewal application for this license indicates the facility is open daily, while in practice they are open with less regularity. There was a question as to whether they operated as a bar versus an event center/facility and if their license classification was appropriate. It was suggested that perhaps a Code change would be appropriate to accommodate similar businesses which operate as something other than a bar.

D. Monty moved, J. Mills seconded, to recommend to the LLCC renewal of the licenses subject to correction of the outstanding items, with the exception that the Board is not in a position to make a recommendation on the license of The Pony Cabaret & Steakhouse, and that the Board withholds a formal recognition on Tres Hombres and Key West, pending their meeting with the Liquor Advisory Board on June 2. Noah's Lounge was added to the proviso of the Motion. All voted Aye. Motion declared carried.

7. Liquor Advisory Board Comments

Next meeting scheduled for June 2, 2016.

8. Citizens' Comments

None.

7. Adjournment

Meeting adjourned at 7:01 p.m.

Jennifer R. Sorrell, City Clerk

Date Approved