

Local Liquor Control Commission Meeting – Tuesday, December 13, 2022

Generated by Clinette C. Hayes on Monday, December 19, 2022

Commissioners Present

Commissioner Ginger Rye Sanders, Commissioner Jeff Doherty, Commissioner Lee Fronabarger, Commissioner Tom Grant, Commissioner Adam Loos, Chair Pro Tempore Carolin Harvey

Commissioners Absent

Chairperson John M. Henry

Meeting called to order at 6:01 p.m.

1. Preliminaries to the Local Liquor Control Commission Meeting

1.1 Roll Call

2. Citizens' Comments for the Local Liquor Control Commission

None

3. General Business of the Local Liquor Control Commission

3.1 Local Liquor Control Commission Meeting Minutes from October 25, 2022

MOTION: Approve the minutes from the Local Liquor Control Commission meeting of October 25, 2022

Motion by Jeff Doherty, second by Lee Fronabarger.

Final Resolution: Motion Carries

Yea: Ginger Rye Sanders, Jeff Doherty, Lee Fronabarger, Tom Grant, Adam Loos, Carolin Harvey

3.2 Change in Corporate Officers of Quatro Foods, Inc. d/b/a Quatro's Deep Pan Pizza

MOTION: Approve the Change in Corporate Officers for Quatro Foods, Inc. d/b/a Quatro's Deep Pan Pizza contingent upon receipt of any outstanding items and upon the successful closing of the sales in accordance with 2-4-13 of the Carbondale Revised Code.

Motion by Lee Fronabarger, second by Tom Grant.

Final Resolution: Motion Carries

Yea: Ginger Rye Sanders, Jeff Doherty, Lee Fronabarger, Tom Grant, Adam Loos, Carolin Harvey

3.3 Change in Corporate Officers of Uffelman Corporation d/b/a Reel Lucky and Uffelman Corporation d/b/a Key West

MOTION: Approve the Change in Corporate Officers for Uffelman Corporation d/b/a Reel Lucky and Uffelman Corporation d/b/a Key West contingent upon receipt of any outstanding items in accordance with 2-4-13 of the Carbondale Revised Code.

Motion by Tom Grant, second by Lee Fronabarger.

Final Resolution: Motion Carries

Yea: Ginger Rye Sanders, Jeff Doherty, Lee Fronabarger, Tom Grant, Adam Loos, Carolin Harvey

3.4 Application for an On-Premises Primary Liquor License with a Live Entertainment Rider from Levels Carbondale, LLC d/b/a Levels

In the background information item City Staff recommended to defer action until sufficient evidence of a bonafide sale has been provided. It was asked what is the basis of this recommendation. City Attorney Jamie Snyder stated that there is past history with this location and Greg Knoob. There is no connection between this location and the applicant, Josh Edwards, other than Mr. Knoob. The applicant, Josh Edwards, is a former employee of Mr. Knoob in Columbus, Ohio. There would need to be documentation provided from Mr. Edwards to the City Attorney to prove that this is a legitimate sale such as a sales contract, bank records to show the applicant has the financial capability to operate the establishment, and what exact connection Mr. Knoob would have with the property beyond just being the lease holder. Mr. Edwards stated that Greg Knoob would not be involved with the business whatsoever and he will be able to provide the documentation requested by the City Attorney.

MOTION: Defer action to approve the application for an On-Premises Primary liquor license with a live entertainment rider from Levels Carbondale, LLC d/b/a Levels until the City Attorney has received the necessary evidence showing that the sale of this business is an arm's length transaction.

Motion by Adam Loos, second by Jeff Doherty.

Final Resolution: Motion Carries

Yea: Ginger Rye Sanders, Jeff Doherty, Lee Fronabarger, Tom Grant, Adam Loos, Carolin Harvey

3.5 Renewal of Liquor Licenses for Calendar Year 2023

There were questions surrounding whether certain establishments have been operating properly according to their 2022 liquor license classification and their business data report percentages. It was the consensus of the Council to separately consider the liquor license renewals for Chalky's, Indigo Event Space and Lounge, Manny's and Tres Hombres to discuss and address these concerns.

MOTION: Approve the renewal of the liquor licenses for calendar year 2023, contingent upon receipt of all outstanding items, with the exception of Manny's, Indigo Event Space and Lounge, Tres Hombres, and Chalky's.

Motion by Jeff Doherty, second by Tom Grant.

Final Resolution: Motion Carries

Yea: Ginger Rye Sanders, Jeff Doherty, Lee Fronabarger, Tom Grant, Adam Loos, Carolin Harvey

Indigo Event Space and Lounge and Tres Hombres (both classified as on-premises secondary – restaurant) and Manny's (classified as on-premises secondary) have issues with their percentage requirements for food, alcohol, and video gaming as reported on their business data reports. The percentages that were reported are giving the impression that their operation may not be supported by their 2022 liquor license classification. On-premises secondary – restaurant liquor licensees must have a minimum of 51% of their revenue from the sale of food and non-alcoholic beverages. Alcoholic sales should be secondary to their primary purpose of business. As far as on-premises secondary license holders, the sale of alcohol is ancillary to the main operation of the business. The principal source of revenue should not come from alcohol or video gaming.

All three establishments have circumstances that could possibly allow them to meet the required percentages despite what their reported numbers show. As it was explained by the City Attorney, video gaming is not included in retail sales (i.e. food, non-alcoholic and alcoholic beverages) and should not be counted when determining their total revenue. Tres Hombres, being a restaurant with video gaming, could then be in compliance with their percentage requirement with this known information. An issue with Indigo Event Space and Lounge was the "other" category on the business data report. This establishment serves food, non-alcoholic and alcoholic beverages, however included in their primary source of revenue is rental space fees and hosting events. The revenue from those is misrepresented and causes the required food and non-alcoholic percentages to be lower than they are required to be. Lastly, Manny's is a bar attached to a hotel, the primary source of revenue. Like Indigo Event Space and Lounge, Manny's data for its primary source of revenue (the hotel) is misrepresented and causes the other percentages to be lower or higher than what is required.

After further discussion and in light of the information presented the consensus of the Commission was to approve the liquor license renewal for Indigo Event Space and Lounge, Tres Hombres, and Manny's. It was suggested that the "other" category on the business data report be more specific or to require the establishment to list exactly what the "other" revenue is.

In the midst of this discussion the topic of late payment of city taxes was presented. There were several establishments who were several months behind on their payments, had unpaid late fees on their taxes, or have never paid their taxes at all. It was stated that even when liquor licenses are approved by the Commission, they are not issued to those establishments until all outstanding items have been received which includes any unpaid taxes and/or late fees. Several members of the Commission expressed their concern and reached a consensus for City Staff to look into imposing a penalty or suspension if a liquor licensee's taxes are not paid in a timely manner.

MOTION: Approve the 2023 liquor license renewals for Manny's (on-premises secondary), Indigo Event Space and Lounge (on premises secondary - restaurant), and Tres Hombres (on-premises secondary - restaurant), contingent upon receipt of all outstanding items.

Motion by Adam Loos, second by Tom Grant.

Final Resolution: Motion Carries

Yea: Ginger Rye Sanders, Jeff Doherty, Lee Fronabarger, Tom Grant, Adam Loos, Carolin Harvey

Chalky's, currently classified as on-premises secondary – restaurant, informed City Staff that they would be removing the pool tables from the establishment and will no longer operate as a pool hall, but will be converting into a restaurant with a bar. A subsequent notice was received indicating additional changes in operation. It was then discovered on social media that an event was to be held at Chalky's under the new operation.

Any changes in operation requires Liquor Commission approval, however none of these were brought before the Commission for consideration. Under these circumstances the operation under the current liquor license classification would be deemed as illegal and a fine or citation would be in order, however a citation was never issued. It was determined by the Commission that under these circumstances a citation should be issued and consideration of their 2023 liquor license renewal should be postponed to determine if the liquor license classification is appropriate for their operation.

MOTION: Postpone the approval of the 2023 liquor license for Chalky's until the next regularly scheduled Local Liquor Control Commission meeting (January 10, 2023) and extend the current 2022 liquor license through January 31, 2023, unless the decision to deny, grant, or modify the license that is requested has been made at the next regularly scheduled meeting.

Motion by Adam Loos, second by Tom Grant.

Final Resolution: Motion Failed

Yea: Ginger Rye Sanders, Tom Grant, Adam Loos

Nay: Jeff Doherty, Lee Fronabarger, Carolin Harvey

It was noted that Chalky's has a liquor license rider of 16+ which would allow persons at least sixteen years of age to enter the premises. Since Chalky's has changed its business operation and is now operating much like a night club this would allow sixteen-year-olds to enter into the establishment. Removal of this license rider would mean they will have to abide by the minimum age requirement of eighteen years and above. Concerns of the legality of removing the license rider was put to rest after the City Attorney explained how the process works and the Liquor Commission's authority over the liquor licenses and its special conditions.

It was the consensus of the Council that in order to extend Chalky's 2022 liquor license the 16+ liquor license rider had to be removed.

MOTION: Postpone the approval of the 2023 liquor license for Chalky's until the next regularly scheduled Local Liquor Control Commission meeting (January 10, 2023), extend the current 2022 liquor license through January 31, 2023, unless the decision to deny, grant, or modify the license that is requested has been made at the next regularly scheduled meeting, and remove the 16+ liquor license rider from the 2022 liquor license.

Motion by Adam Loos, second by Tom Grant.

Final Resolution: Motion Carries

Yea: Ginger Rye Sanders, Jeff Doherty, Lee Fronabarger, Tom Grant, Adam Loos, Carolin Harvey

4. Adjournment of the Local Liquor Control Commission

4.1 Time of Adjournment for Local Liquor Control Commission

Adjournment 7:11pm