



Commerce City

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Meeting Minutes - Draft

Liquor License Authority

Tuesday, December 3, 2013

1:00 PM

Council Chambers

1. Call To Order/Roll Call

Chairwoman Madson called the meeting to order.

Present 2 - Regular Member Daniel Alire, and Rick A. Teter

Excused 2 - Regular Member Kathy Teter, and Council Alternate René Bullock

2. Approval of Minutes

3. Min 13-73 Liquor Authority Minutes of October 1, 2013

A motion was made by Authority Member Teter, seconded by Authority Member Alire, that the minutes be approved. VOICE VOTE: Unanimous, all present affirmed.

4. Citizen Communication

None.

5. Presentations

Pres 13-325 Show Cause Hearing:
Double JRV Inc dba El Viva Villa Restaurant
5411 Quebec Street

Chair person Madson opened the public hearing.

Assistant City Attorney Greg Graham stated that the licensee's attorney would like to propose a stipulation to the authority and the city has no objection. However, Attorney Graham reminded the authority that there are five violations for the authority's consideration. The city's believes that charges of serving alcohol to minors and failure to report disturbances at the licensed premise are significant.

Attorney Carl Ream appeared on behalf of the licensee. Attorney Ream stated the licensee would stipulate to two counts of sale to a minor if the other violations are dismissed. The licensee would also agree to provide adequate training for all of his employees.

The authority felt that these charges were severe enough to proceed with the public hearing and without evidence to support these violations did not occur, they were not receptive to dismissing the other two charges without first hearing testimony.

Assistant City Attorney Graham stated that on August 3, 2013, the licensee was charged with one count of selling alcohol to an intoxicated person and one count of selling alcohol to a minor.

Attorney Ream stated that his client will stipulate to the August 3, 2013, violation and will move forward with the prosecution of the July 28, 2013, violation. On August 3, 2013, the licensee was charged with sale to a minor, failure to report to the police and failure to cooperate. Mr. Ream has two witnesses that will provide testimony to the contrary. Mr. Ream stated that there was a fight between two sets of people and the evidence will show that security took all the precautions they possibly could to minimize the impact of the fight. In fact, the licensee tried to contact the police on two separate occasions, but was interrupted from completing his calls. When all the testimony is completed, Mr. Ream would ask the authority to find his client not guilty on these two charges.

The authority agreed to accept the stipulation that a violation occurred on August 3, 2013.

Officer Brian Lippa was sworn in and testified to the following:

On July 28, 2013, he was dispatched to El Viva Villa in reference to a well being check from a 9-111 hang-up call at or around 2:05 a.m. Upon arrival he contacted a male outside in the parking lot who stated that there was a fight inside the bar. Once additional officers arrived, they entered the bar and encountered three intoxicated minors, one was 15 years of age and had had a glass bottle broken over his head and was bleeding. Two of the minors admitted to drinking and submitted to a purple breath test that indicated they were intoxicated. Officer Lippa made contact with a juvenile female who told him her brother was the male that had a bottle broken over his head and she had tried to contact law enforcement numerous times from the phone at the bar. The person at the bar had grabbed the phone out of her hands and hung the phone up. Wait staff was cleaning up the bar, wiping up the broken glass and mopping up blood. Officer Lippa stated that he issued a municipal summons to licensee Jose Rosales for serving intoxicated parties, serving under aged parties, and failure to cooperate.

Attorney Ream asked that the summons for both parties be entered into the record to prove that one was not underage.

The summons were entered into evidence and marked Licensee Exhibit A and B.

In response to questions, Officer Lippa stated he did not see the parties with alcohol beverages in their possession, he did not see their photo identifications and the licensee was resistant to the police entering the premises.

Officer Michael Kim was sworn in and provided the following testimony:

Officer Kim stated that when he arrived at the bar, he contacted Jesus Rosales and said there was a fight inside the bar involving several individuals and that they had left. Officer Kim stated that he got descriptions of the vehicles that had left. While inside the bar a young female was trying to get his attention so he went over to the young female. The young female stated that she and her two brothers were drinking inside the bar and they were involved in the fight and her brother was hit over the head with a glass bottle. She tried to call 9-1-1. While inside the bar he spotted a very young male

holding a blood soaked towel to his head. He identified himself and he smelled of alcohol. Officer Kim stated the male admitted to drinking alcohol at the bar and he was only 15 years old. Officer Kim stated that he issued a summons to one party for under age consumption since the date of birth she provided was not 21.

In response to questions from the authority, Officer Kim stated that there were multiple employees working who could have placed a 9-1-1 call.

Security Guard Natale Solis was sworn in and provided the following testimony:

He was working at the bar the night of the incident, he checks patrons' identification and marks underage individuals with an "M" on both hands with a black marker, at midnight the restaurant closes and turns into a bar. A group of four to six individuals were involved in the fight and there were six employees working. He never saw the minors drinking.

Jesus Rosales was sworn in and testified to the following:

Alcohol service stops at 1:30 a.m. and the establishment closes at 2:00 a.m. Staff remains and cleans. He dialed 9-11 twice and hung up because he had to help break up the fight. The phone is between the bar and the restaurant and was 12 feet from where the fight was occurring. He never stopped the police from investigating.

Chair person Madson closed the hearing.

Chair person Madson moved, Authority Member Aire seconded , that on July 28, 2013, the licensee interfered with the police and failed to report disorderly conduct, and a minor was served on August 3, 2013.

The licensee will admit to the violation of sale to a minor on August 3, 2013 and would accept the authority's normal penalty sanction of 20 days suspension, with five days of actual suspension and six days held in abeyance for a period of one year. The active suspension is to begin on Friday, December 13, 2013 at 12:00 a.m. and conclude at 11:59 p.m. Friday, December 27, 2013.

A motion as made by Authority Member Teter, seconded by Authority Member Aire, to accept the stipulation.

VOICE VOTE: Unanimous; all present affirmed

6. New Business

7. Adjourn

There being no further business to come before the authority, the meeting was adjourned.