

**SPECIAL LICENSING AUTHORITY
MINUTES
OCTOBER 15, 2020**

Chair Dave Chung called the virtual meeting to order at 6:30 p.m. Jon Brusco, Kelli Narde, Mike Appleby, Bryan Campbell, and David Chung were present. Staff present were Town Clerk Carol Baumgartner, Deputy Town Clerk Chris Vanderpool, Town Clerk Administrative Specialist Mandy Denny, Detective Nate Finley, and Authority Attorney Corey Hoffmann.

Chair Chung led the Pledge of Allegiance.

PUBLIC COMMENTS

There were none.

APPROVAL OF MINUTES

Jon Brusco moved to approve the September 17, 2020 Special Licensing Authority minutes. Mike Appleby seconded the motion.

A roll call vote was taken:

Mike Appleby - Yes

Kelli Narde - Yes

Jon Brusco - Yes

Bryan Campbell - Yes

David Chung - Yes

The motion was approved unanimously.

LIQUOR LICENSE RENEWAL

Licensee: Los Dos Potrillos Parker, LLC
d/b/a Los Dos Potrillos

Location: 19340 E. Cottonwood Dr.

Bryan Campbell moved to approve the Brew Pub Liquor Renewal Application for Los Dos Potrillos Parker, LLC, d/b/a Los Dos Potrillos, 19340 E. Cottonwood Drive. Jon Brusco seconded the motion.

A roll call vote was taken:

Mike Appleby - Yes

Kelli Narde - Yes

Jon Brusco - Yes

Bryan Campbell - Yes

David Chung - Yes

The motion was approved unanimously.

OTHER BUSINESS

A. Petitioning Process Discussion

Attorney Corey Hoffmann discussed Oedipus and LiquorPros suggested petitioning process. Attorney Hoffmann stated that the 10% signature rule was a Town Council mandate and it is intended to get a better representation of the entire neighborhood. He also noted that it will be more difficult to get 10% during the COVID-19 pandemic. He mentioned that petitions are intended to assist in gathering the needs and desires of a neighborhood, but it is not the only way.

Jon Brusco stated that he does not think the 10% requirement should be removed. The Authority likes the idea of mail-in survey's combined with traditional petitioning as it shows an effort made to gather signatures, but can cause an issue with people under the age of 21 signing the survey.

The Authority chose to stay with the current petitioning guidelines, but will work with the petitioning company on the 10% requirement if proof of a good faith effort was made to obtain the signatures.

B. Legislative Update Discussion

Attorney Hoffmann discussed several new bills that were enacted the past legislative session relating to the regulation of alcoholic beverages.

The following two bills do not require action from the Authority and do not require any change in the Municipal Code.

SB 20-032 - Age to Sell Alcohol in Liquor-Licensed Drugstores - Previously, employees of liquor-licensed drugstores between 18 and 21 years of age were prohibited from selling or having any contact with malt, vinous, or spirituous liquors. Now, under SB 20-032, these employees can handle and sell alcohol. However, these employees are still prohibited from delivery alcohol.

SB 20-086 - Notification of Liquor License Expiration and Renewal Fees - Under preexisting law, the Executive Director of the Department of Revenue (the "Department") notified licensees via first-class mail of license expiration dates. SB 20-086 permits the Department to now use any method reasonably likely to notify licensees of the expiration date. C.R.S. § 44-3-302. The Colorado Liquor Rules provides that notification can happen via email or mail at least 90 days before the expiration of the existing license. 1 CCR 203-2 § 47-303(B).

Additionally, SB 20-086 permits the state to charge for processing applications for the renewal of licenses and permits. C.R.S. § 44-3-501(3)(a)(XVIII). The Department has set this fee at \$50.00. 1 CCR 203-2 § 47-506.

The following bills are for consideration by the Authority.

SB 20-110 - Fines for Violations - Previously, state and local licensing authorities could only impose a fine for liquor violations if the licensee requested a fine in lieu of revocation or suspension. Now, under SB 20-110, the Town as the local licensing authority can impose a fine without suspension or revocation. C.R.S. § 44-3-601(1)(a). Such fines must be between \$500.00 and \$100,000.00. C.R.S. § 44-3-601(1)(c).

Licensees still have the option of requesting a fine in lieu of suspension or revocation, but the amount of those fines has been increased to an amount between \$500.00 - \$100,000.00 from the previous authorized range of \$200.00 - \$5,000.00. C.R.S. § 44-3-601(3)(b).

Fines owed to local licensing authorities must be paid in the form of cash, certified check, or cashier's check made payable to the authority. C.R.S. § 44-3-601(3.5).

Department Guidance

The Department has proposed rules to serve as guidance for local licensing authorities in implementing these new fines, including categories of violations; methods of calculating fines; and aggravating and mitigating factors.

Categories of Violations

The Department has established four categories of violations, ranking from least to most severe. 1 CCR 203-2 § 47-603. Fines are lowest for Level One violations and highest for Level Four violations. Id. Fines in lieu of suspension or revocation are equivalent to 20% of the licensee's estimated gross revenues for the number of days of suspension, with the number of days being the lowest for Level One violations and the highest for Level Four violations.

SB 20-213 - Alcohol Take Out and Delivery - During the pandemic, Governor Polis relaxed regulations relating to the takeout and delivery of alcohol. In SB 20-213, the General Assembly created a permit system that will allow the takeout and delivery of alcohol until July 1, 2021. However, the permit system is only in effect when the State of Colorado is not under a declaration of emergency. C.R.S. § 44-3-911(2)(a).

Assuming the current declaration of emergency is lifted, the following types of licensees may apply for a takeout and delivery permit: beer and wine, hotel and restaurant, tavern, brew pub, club, vintner's restaurant, distillery pub, lodging and entertainment, fermented malt beverage on or off premise retailers, and manufacturers and wholesalers with an approved sales room. Local licensing authorities may create their own permit system, provided that the fee for local permits does not exceed the state fee. C.R.S. § 4-3-911(4)(c).

Licensees with takeout and delivery permits may only sell for takeout or delivery alcohol to customers who are 21 years or older, in approved sealed containers, and in limited quantities. C.R.S. § 43-3-911(2)(b). Deliveries may only be made by employees of the licensee who are at least 21 years of age who have completed the seller training program. C.R.S. § 44-3-911(3).

SB 20-213 expires July 1, 2021.

Code Changes - Chapter 5.02 of the Municipal Code gives the Special Licensing Authority (the "Authority") broad discretion in imposing fines and penalties for liquor violations; however, SB 20-110 does require that the Authority increase the fine amount for fines in lieu of suspension to \$500.00 - \$100,000.00 in Section 5.02.800(b). Therefore, the Town must, via ordinance, change the fine amount in that Section.

The Town may also wish to consider amending the Municipal Code further to allow for fines for individual violations (rather than only in lieu of suspension/revocation) and to create a permitting program for licensees for takeout and delivery of alcohol. However, these changes are optional. Section 5.02.800 of the Municipal Code only allows for fines to be imposed if the license has been suspended or revoked. SB 20-110 gives the option for the Authority to simply impose a fine without suspension or revocation. If the Authority wishes to pursue this option, the Municipal Code should be amended to allow for such fines.

The Town may also want to create a permitting program under SB 20-213 for the takeout and delivery of alcohol. However, while the Governor's declaration of emergency is in effect, the permitting system is not in effect. The Town may therefore want to wait for this declaration to expire before taking action.

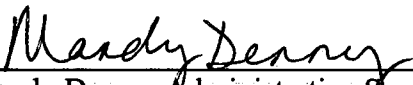
Our office can draft the necessary Code revision amending Section 5.02.800(b) to increase the fine in lieu amount, and can also include any of the optional changes to the Code described above based on recommendations by the Authority to the Town Council.

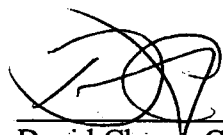
The Authority was in favor of the option of fine in lieu of suspension going up and to have a stand-alone fine as well. On the recommendation of the Authority, Attorney Hoffmann will put together a memo to Town Council for the ordinance.

The Authority does not want to take any action at this time on Alcohol Take Out and Delivery. Next month, the Authority will discuss the categories of violations and aggravating and mitigating factors.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:15 p.m.


Mandy Denny, Administrative Specialist


David Chung, Chair