

CARSON CITY LIQUOR AND ENTERTAINMENT BOARD

Minutes of the July 19, 2007, Meeting

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A meeting of the Carson City Liquor and Entertainment Board was held during the regularly scheduled Board of Supervisors session on Thursday, July 19, 2007, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, that began at 8:30 a.m.

PRESENT: Chairperson Marv Teixeira, Vice Chairperson Richard S. Staub, and Board Members Robin Williamson, Shelly Aldean, Pete Livermore, and Steve Schutte

STAFF PRESENT: Linda Ritter City Manager
Alan Glover Clerk-Recorder
Walter Sullivan Community Development Director
Andrew Burnham Public Works Director
Larry Werner Development Services Director/City Engineer
Melanie Bruketta Chief Deputy District Attorney
Nick Providenti Senior Accounting Manager
Ken Arnold Public Works Operations Manager
Katherine McLaughlin Recording Secretary
Jarrod Adams Deputy Sheriff
Kathie Heath Business Manager - Sheriff's Office
(BOS 7/19/07 Recording 8:37:31)

NOTE: Unless otherwise indicated, each item was introduced by staff's reading/outlining/clarifying the Agenda Report and/or supporting documentation. Staff members making the presentation are listed after the Department's heading. A recording of these proceedings is on file in the Clerk-Recorder's office. It is available for review and inspection during normal business hours.

Mayor Teixeira recessed the Supervisors' session and immediately convened the Liquor and Entertainment Board. A quorum was present, including Sheriff's Representative Steve Schutte. For Minutes of the Board of Supervisors, see its folder for this date.

ACTION ON APPROVAL OF MINUTES - None.

3. DEVELOPMENT SERVICES - PLANNING - Community Development Director Walter Sullivan -**ACTION, BASED UPON THE INVESTIGATION CONDUCTED BY THE SHERIFF'S DEPARTMENT AND EVIDENCE AND TESTIMONY PRESENTED AT THE SHOW CAUSE HEARING, TO DETERMINE WHETHER GROUNDS EXIST TO REVOKE THE LIQUOR LICENSE OR TO TAKE OTHER ACTION ON THE LIQUOR LICENSE ISSUED TO BHUPINDER LALLY, DOING BUSINESS AS WINNIE LIQUOR, AND IF SO, ACTION TO DIRECT THE DISTRICT ATTORNEY TO PREPARE AN ORDER FOR REVOCATION -** Bhupinder Lally's Attorney Paul Quade, Phil Haskin, Deputy District Attorney Melanie Bruketta, Deputy Sheriff Jarrod Adams, Sam Dehne - Mr. Quade indicated that Mr. Lally is present. Mr. Quade requested a "short suspension" of the license and reviewed the history of the events leading up to today's meeting. The problems occurred after Shea Davis was hired as he sold liquor to minors on March 24 and 26. Mr.

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Lally was not present when the incidents occurred due to family problems. A copy of the death certificate is available for review if the Board desires to see it. He stressed that Mr. Lally is willing to comply with all of the State and City laws. He felt that probation made more sense than revocation. Mr. Lally had purportedly rectified the problems and is being responsible for his employees. Although his family is still residing in Marysville, he has relocated to Carson City and taken over the business. He is there 16 hours a day. He is taking the issues seriously. Mr. Quade alleged that a compliance check had been conducted at the establishment last week. Mr. Lally purportedly passed it. The charges are serious. Mr. Lally is abiding by the State, City, and County laws. Mr. Quade asked the Board to consider the past history of the establishment. He advised that other establishments have failed their compliance checks but not lost their licenses. In this instance there were only three days between the incidents. He felt that Mr. Lally had not been able to react and stop the second offense as he lacked knowledge about the first incident. He suggested that remedial action be considered as Mr. Lally had reacted as soon as he became aware of the incidents. Mr. Lally has also attended the Sheriff's server training class. He has been in compliance with the laws. Justification for a short-two days to a week-suspension were reiterated. Revocation of the license will have a serious impact on his business. Chairperson Teixeira indicated that it was his understanding that Mr. Lally was going to sell the business. Mr. Quade explained that there have been meetings with Mr. Haskin and that Mr. Haskin has a letter to give to the Board. They are going into escrow and have agreed upon the terms, conditions and money. Mr. Haskin had, purportedly, applied for a business and a liquor license.

Mr. Haskin distributed a copy of a letter to the Board and Clerk. (A copy is in the file.) He advised that he has submitted an application for a business license. The Health Department advised him that they will conduct an inspection. He had not submitted an application for the Liquor License due to health problems. His wife and son will be included on his license application when he submits it. He felt certain that there will not be any problems regarding the Sheriff's investigation of these individuals or himself. He was concerned about the requirement that medical records be provided. He then indicated that he will submit the applications on Monday. He will not be able to obtain his son's signature until this evening. The son is due home from Montana tonight. Mr. Haskin felt that they have a good business plan for the establishment. Discussion indicated it will take time for the escrow to close. It is contingent upon their obtaining a license. Mr. Haskin estimated that closure will take between 45 and 60 days.

Mr. Quade suggested that the Board suspend the license for a short period and do a review in three months. He felt that the sale/transfer would be completed by then. Chairperson Teixeira indicated that the decision is up to the Board. The Board could revoke the license, issue a short suspension, or let the matter go. He felt that the purchase of the business is a consideration but not a finding of the Board that is based on nothing happening. Mr. Quade repeated his contention that a short suspension may be warranted and cited a failure to act on an establishment which allegedly had 138 calls for service. Chairperson Teixeira urged Mr. Quade not to "compare apples to oranges". Mr. Quade questioned the reasons the Board has previously revoked licenses. He felt that an ongoing problem has not occurred at this establishment.

Deputy District Attorney Bruketta indicated that the facts are accurate in this case. Deputy Adams indicated that there is no additional evidence. Member Schutte advised that it is the Sheriff's Office

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recommendation that the license be revoked. He also acknowledged that the establishment passed a recent sting. Discussion indicated that Deputy Adams had received one voice mail complaining about the establishment in addition to complaints from other Deputies and Sheriff Furlong. He advised that one complaint given to Sheriff Furlong had been from the District Attorney's Office. All of the complaints were considered hearsay.

Member Aldean indicated that she had been accused of having an over compassionate nature. The citations had been written for employees who were not responsible or trust worthy. Mr. Lally has exhibited a desire to comply with the law when the establishment is under his control. No problems were discovered during compliance checks when under his control. If the Board suspends the license temporarily, it will send a message to other establishments. The Board takes adherence to the liquor laws very seriously. Discussion between Member Aldean and Ms. Bruketta indicated the District Attorney's office did not recommend including a statement/condition on the license indicating that any infractions before consummation of the sale would result in immediate revocation of the license due to the due process requirements. Mr. Lally had the right to confront his accusers. Ms. Bruketta recommended that if the license is suspended that there be a requirement that compliance checks be made for a three-month period. Deputy Adams could then make compliance checks and should report the status of those checks to the Board. This would show whether Mr. Lally is complying with the laws as Mr. Quade has indicated that he will. Discussion indicated that Mr. Lally understood that a suspension prevents him from selling liquor for a set period of time. Clarification indicated that the license could be suspended for ten days and that a compliance check could be made during a three-month period following that suspension. The purpose of the compliance check is to ensure that Mr. Lally understands that the Board is watching him and that the Sheriff's Office will continue to watch him.

Member Livermore reviewed the history of Mr. Lally's ownership of the business including his California residence and separation from his family. He believed that Mr. Lally had done everything requested by the Board and is complying with the laws. The problems encountered at the K-Bar were noted to illustrate the difference in operations. Mr. Lally is liquidating the business. A revocation of the license will lose him business. He urged the Board not to destroy the business which is the value that is being sold.

Discussion between Member Staub and Mr. Haskin indicated that he has a contract to purchase the business. It should close within 45 days. Mr. Haskin concurred with Member Livermore that a revocation of the license will diminish the value. He felt that he could live with a suspension. The loss of business will impact his family. He will stick to the terms of the contract. His family will have to rebuild the business. Clarification indicated that the contract included a purchase price. Mr. Haskin personally believed that a 60-day suspension was a "little bit much". If the license is suspended for 60 days, it will damage Mr. Haskin. He will have to rebuild the business. He intends to have a different format from the current operation. His plans for a deli, liquor store, and grocery business were indicated. This is the format he uses in his California operation.

Discussion between Member Staub and Mr. Quade indicated that Mr. Lally intends to sell the business. A suspension will impose an economic impact on Mr. Lally which is the reason for a request for a short

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period. Mr. Quade's definition of a short period was less than a week. He felt that a two day suspension sends the appropriate message. He also noted that Mr. Lally had suffered from adverse publicity regarding the sale to a minor. It created a diminished value for the business. He is trying to sell the establishment although not at its full market value. It has had a severe impact on Mr. Lally and his family.

Member Staub appreciated Mr. Quade's comments. He noted that the "buck stops at" Mr. Lally regardless of where Mr. Lally is, resides, or the issues he is facing. Member Staub illustrated his point that he is responsible for his employees' acts regardless of where he is by using himself as an example. Mr. Lally's establishment failed two compliance checks. He wondered how many sales to minors had occurred without being observed or cited. He could understand being caught once but felt that twice was too many times. His illustration of this point questioned the number of times an individual may have driven under the influence without being caught. Mr. Lally must live or die based on being caught when he was not present. Member Staub did not believe that a suspension would be any more damaging to the escrow and sale than a revocation.

Member Williamson concurred with the comments. She pointed out that none of the employees had attended server school until Mr. Lally did although the incident occurred in March. She did not believe that additional continuations should be granted. She felt that he did not understand the seriousness of the offenses. She explained that in Carson City and Nevada a liquor license is considered a privileged license and not a right. The Board/Sheriff should not have to track him down. He should know his employees and be able to trust them or they should not be hired. He had been living in California while owning a business in Carson City, Nevada. Mr. Lally is dealing with the issues of living out-of-state and trying to operate a business here. The Board takes the licensing very seriously. Further delays will cost the City/Board and Mr. Lally more money.

Member Aldean pointed out that Mr. Lally's counsel had been on vacation. There were some extenuating circumstances. Mr. Lally has taken corrective action. The circumstances warrant a suspension. Member Aldean moved to determine, based upon the investigation conducted by the Sheriff's Office, the evidence and testimony presented at the show cause hearing, that grounds exist to suspend the liquor license issued to Bhupinder Lally for seven days subject to a three-month status check. Chairperson Teixeira seconded the motion.

Mr. Dehne supported the motion as being appropriate. He cited his experience as a pilot flying B-52s with nuclear and smaller bombs. Revoking the license would be like dropping the nuclear bomb(s) on a small boat. This was felt to be "over kill". A suspension is an appropriate course of action. Mr. Lally has been forced to sell the business under duress and hire an attorney. He complimented the attorney on his efforts. Additional comments were solicited. None were given.

The motion to suspend the license for seven days and have a three-month status check was voted by roll call with the following result: Member Williamson - No; Member Aldean - Yes; Chairperson Teixeira - Yes; Member Livermore - Yes; Member Staub - No; Member Schutte - No. Motion failed on a 3-3 vote.

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Member Staub moved to determine, based upon the investigation conducted by the Sheriff's Office and the evidence and testimony presented at the show cause hearing, that grounds exist to revoke the liquor license issued to Bhupinder Lally, dba Winnie Liquor, and moved that the Liquor and Entertainment Board direct the District Attorney to prepare for the Mayor's signature an Order of Revocation. Member Williamson seconded the motion. The motion was voted by roll call with the following result: Member Schutte - Yes; Member Williamson - Yes; Member Aldean - No; Chairperson Teixeira - No; Member Livermore - No; and Member Staub - Yes. Motion failed on a 3-3 vote.

Member Aldean moved to determine, based upon the investigation conducted by the Sheriff's Office and the evidence and testimony presented at the show cause hearing, that grounds exist to suspend the liquor license issued to Bhupinder Lally for 30 days subject to a three-month status check. Member Williamson seconded the motion. Motion was voted by roll call with the following result: Member Williamson - Yes; Member Schutte - No; Member Aldean - Yes; Chairperson Teixeira - Yes; Member Livermore - No; and Member Staub - No. Motion failed on a 3-3 vote.

Member Livermore indicated a concern with the suspension period. He believed that Mr. Lally had done everything that had been asked of him. A recent compliance check was conducted at the business. There have been no more reports of sales to minors at the location. He was willing to allow Mr. Lally to go through a normal transaction and sell the business. The buyer was standing before the Board with a legitimate contract which will take place and resolve the issue over time without causing any more harm to the owner which would occur if a revocation is ordered.

Member Aldean then moved to determine, based upon the investigation conducted by the Sheriff's Office and the evidence and testimony presented at the show cause hearing, that grounds exist to suspend the liquor license issued to Bhupinder Lally for 15 days subject to a three-month status check. Member Williamson seconded the motion. He felt that there would be a 4-2 vote based on a 15-day suspension. The motion was voted by roll call with the following result: Member Williamson - Yes; Member Aldean - Yes; Chairperson Teixeira - Yes; Member Livermore - Yes as he felt it was a compromise; Member Staub - No; and Member Schutte - No. Motion carried on a 4-2 vote. Chairperson Teixeira indicated that it is a 15-day suspension and that he will sign the order later today. Mr. Lally/Quade should receive the order tomorrow.

There being no other matters for consideration, Chairperson Teixeira then adjourned the Liquor and Entertainment Board.

The Minutes of the July 19, 2007, Carson City Liquor and Entertainment Board meeting

ATTEST:

ARE SO APPROVED ON September 6, 2007.

/s/
Alan Glover, Clerk-Recorder

/s/
Marv Teixeira, Chairperson