



MINUTES OF THE BLOOMINGTON  
LIQUOR COMMISSION  
May 8, 2018

1. Call to Order.

The meeting of the Liquor Commission was called to order by Commissioner Renner at 4:03 P.M.

2. Roll Call.

Present: Commissioners Tari Renner, Lindsey Powell, Jack Bataoel. Staff present: George Boyle, Asst. Corporation Counsel, Asst. Police Chief Ken Bays, and Cherry Lawson, City Clerk.

3. Public Comment.

Commissioner Renner opened the meeting to receive public comment. There was no public comment offered.

4. Consideration of approving the Commission minutes of April 10, 2018.

**Motion by Commissioner Bataoel, seconded by Commissioner Powell to delay the review of the minutes of the April 10, 2018 Liquor Commission Meeting until the Special Meeting of May 17, 2018.**

**Commissioner Renner directed the Clerk to call the roll:**

**Ayes: Commissioners Bataoel, Renner and Powell**

**Nays: None.**

**Motion carried.**

5. Consideration of the request from Brandon Westfall and Kayleigh Schultz to allow moderate consumption of alcohol at their July 8, 2018 wedding reception to be held at Davis Lodge.

Tim Westfall, father of the groom, appeared before Commission and stated the wedding reception will be held on July 8, 2018 at Davis Lodge and beer and wine will only be served by Nelson Catering. Approximately 90 guests are anticipated to attend from 4:00 PM until 11:00 PM.

**Motion by Commissioner Powell, seconded by Commissioner Bataoel to recommend at the May 14, 2018 City Council Meeting, approval of the request from Brandon Westfall and Kayleigh Schultz to allow moderate consumption of alcohol at their July 8, 2018 wedding reception to be held at Davis Lodge.**

**Commissioner Renner directed the Clerk to call the roll:**

**Ayes: Commissioners Bataoel, Renner and Powell**

**Nays: None.**

**Motion carried.**

Commissioner Renner stated the Commission has items 6, 7, 8 and 9 left remaining for consideration, that Mr. Boyle has not yet joined the meeting, but would call a recess to allow him to arrive to the meeting for review of the items stated. Commission Renner recessed the meeting at 4:10 PM.

[4:28 PM Minutes] Meeting resumed.

6. Continuation of Hearing on the Complaint and Citation of B & M 16, Inc., d/b/a Cousin's Restaurant, located at 921 Maple Hill Road.

Commissioner Renner stated we have the Continuation of the Hearing on the Complaint and Citation of Cousin's Restaurant located at 921 Maple Hill Road in Bloomington. This was a violation of Chapter 6, Section 37 E-12 of the Bloomington Code, for failure to pay municipal taxes, and violation of Chapter 6, Section 2, requiring notification and approval of a change of ownership. He deferred to Mr. Boyle for an overview.

Mr. Boyle stated that at the last hearing, the Commission found that those violations had, in fact, taken place, both with respect to the nonpayment of taxes, and with respect to the failure to obtain approval of a change of ownership. Since that time, the following has occurred. The day after the hearing, Mr. Bekiri's attorney sent us a signed sales agreement, which we have marked as City's Exhibit 3. It shows the transfer of the business took place November 13, 2017.

Mr. Jennings, Mr. Trujillo's Attorney, came in earlier today and made a payment of \$5,000 toward the taxes that would be due from November, 2017 going forward. The sales agreement had held that the seller, Mr. Bekiri, would be responsible for debts of the corporation prior to the sale, and Mr. Trujillo had agreed to be responsible for payment afterward.

Mr. Boyle stated with regard to the payment received earlier today, there was an agreement that talks about how that would be attributed to fines, interest and costs, and that would be marked as City's Exhibit 4.

Mr. Boyle stated that subsequent to the receipt document in Exhibit 4, there has been an Agreed Order entered into that Mr. Trujillo has signed off on. The City does have here an agreed order that relates to sanctions.

It describes the Commission had previously found the allegations of the complaint proven, and that in ruling on the sanctions, the Commission has considered the nature and severity of the violation. The aggravating factors that were considered were that no tax returns were filed, no taxes paid from the date of the filing of the complaint, which was in early March of this year, through May 7th. The Ownership

of the Licensee changed on or about November 13th, 2017 without there being timely or proper approval of the change in ownership nor full and complete information regarding the change of ownership provided by the current owner of the corporation.

Among the mitigating factors were the \$5,000 payment which was received. Mr. Boyle stated that his understanding is, from Mr. Jennings, that they will provide us with the tax returns from November through March. Mr. Jennings says he will be tendering a check for the taxes that would be due and owing pursuant to those tax returns.

Mr. Boyle stated the sanctions are as follows: Licensee is ordered to provide income tax returns. Licensee is fined \$2,500 for failure to pay food and beverage taxes as required by the Bloomington City Code. Said fine to be paid on or before May 16, 2018. The Licensee shall pay a fine in the amount of \$2,000 for failure to timely obtain approval of change of ownership as required by Chapter 6 of the Bloomington City Code, and failure to timely and completely respond to subpoenas for information pertaining to the change. That a fine of \$2,000 is also to be paid by May 16<sup>th</sup>, and the license is to remain suspended until those things are done.

Commissioner Renner stated that, once the fines and sanctions have been settled, then the Commission can consider the application for the license. Mr. Boyle stated that is correct. One of the Sections within the Code says should be considered with respect to the Liquor Commission's recommendation whether to create a new license, is the financial responsibility of the applicant. That would be relevant.

Commissioner Renner stated for the record and for the public, it is absolutely critical if we're going to have liquor licenses that we know who owns the establishment and that we have complete information. If you're charging your patrons taxes that those taxes are to be paid and forwarded to the City of Bloomington, as that is what they're being paid for by your customers or the people who you're serving.

Commissioner Renner asked for a motion to approve the agreement, and support the fines that have been imposed on the parties.

**Motioned by Commissioner Bataoel seconded by Commissioner Powell to accept the agreement and support the fines that have been imposed between parties.**

Mr. Boyle asked to have Mr. Trujillo acknowledge that he had signed sign the agreement indicating his acceptance of the order. Mr. Trujillo came forward and was sworn in by the Court Reporter.

Commissioner Renner asked whether the signature on the agreement was his own. Mr. Trujillo affirmed that the signature was in fact his.

**Ayes: Commissioners Bataoel, Powell, and Renner**

**Nays: None**

**Motion carried.**

7. Hearing on the Order of Contempt and Sanctions of Blerim Bekiri for failure to appear and provide documents as required by lawfully issued subpoenas of the Liquor Commission.

Mr. Boyle stated, this has to do with the continued hearing with respect to the Contempt Order against Mr. Blerim Bekiri. Mr. Bekiri failed to appear at the March 13th and the April 10th hearings. At the April 10th hearing, he was fined \$2,000 and ordered to appear today. Subsequent to that hearing, Mr. Boyle was contacted by an attorney on behalf of Mr. Bekiri who did provide a signed copy of the sales agreement marked as City's Exhibit 3. Mr. Bekiri has appeared this afternoon.

Mr. Bekiri explained that he was overseas during those months. When he spoke with Mr. Boyle in or about January, he said that he would provide a copy of the contract between him and Eric Trujillo. However, he did not have a chance to provide the contract to Mr. Boyle.

Mr. Boyle proceeded to ask Mr. Bekiri the following questions to which he affirmed. He spoke with Mr. Bekiri on or about January 11th by telephone. Mr. Bekiri told him that he had sold the business to Eric Trujillo as of November 2017. Mr. Bekiri agreed to provide Mr. Boyle a copy of the contract the next day. During that conversation, Mr. Bekiri spoke about an affidavit that he signed in Pinellas County, Florida, on December 27<sup>th</sup> indicating there had been no changes to the corporation. Mr. Bekiri stated he was trying to assist Mr. Trujillo with the move, that he did not read the document, but did sign the affidavit.

Mr. Boyle stated Mr. Bekiri had been fined \$2,000 for his failure to previously appear, and asked when the payment would be made. Mr. Bekiri stated he would pay the following day.

Mr. Boyle requested a continuance of this matter to the May 17, 2018 Special Meeting to allow for payment arrangement and to discuss the complaints relating to the portion of taxes for which he is responsible, and possibly come up with an agreement.

Mr. Boyle stated this is the first time that Mr. Bekiri has participated with any substance in these hearings. He requested that Mr. Bekiri be ordered to pay prior to the end of the week, and that he be ordered to re-appear at the Special Liquor Commission Meeting on May 17th at 3 p.m.

Commissioner Bataoel asked what is to be accomplished with Mr. Bekiri, is the City trying to recover the sales tax that is unpaid? Commissioner Renner stated the main principle is that when we have transitions of ownership, it's the responsibility of both parties especially if it involves liquor.

Mr. Boyle explained there are a few issues at hand. First of all, Mr. Bekiri had this license holder from the period of July 2016 through November 2017. Approximately two months of taxes were paid during that time. The City is attempting to collect those taxes. Secondly, the Commission is looking to have a deterrent against long periods of nonpayment of taxes. Third, when a subpoena has been issued by an administrative agency such as the Liquor Commission regarding information as to ownership, we try to encourage compliance rather than allowing the person subpoenaed to miss two hearings in a row.

**Motion by Commissioner Bataoel, seconded by Commissioner Powell, that Mr. Bekiri is ordered to pay \$2,000 by the close of business tomorrow and appear at our May 17 Special Liquor Commission Meeting.**

**Ayes: Commissioners Bataoel, Powell, and Renner**

**Nays: None**

**Motion carried.**

8. Continuance of. Hearing on the Complaint and Citation of CJ's Catering Inc. d/b/a CJ's Restaurant, located at 2901 E. Empire Street.

No one appeared for the Licensee. Mr. Boyle asked the matter be continued to the regular June meeting. The matter was continued to the regular June meeting.

9. Consideration of the request from Castle Productions LLC d/b/a Castle Theater for an Outdoor Concert Series on the following dates: May 26, May 27, June 8, and August 25, 2018 from 6 P.M. to 11 P.M. at 203 E. Washington requesting suspension of portions of Chapter 6 of the Bloomington City Code pertaining to possession of open alcohol in public on the date of their event for portions of downtown Bloomington.

Mr. Boyle stated this is a hearing to consider a suspension of the ordinance for four days, for four different types of concerts that the Castle Theater will be putting on and Mr. Rory O'Connor will provide an overview of the scheduled events. In addition to those, a secondary license is required; however, a hearing before the Commission is not required for that. When a licensee has a primary liquor license, such as the Castle, they are able to obtain a secondary license for a different premise other than its primary premise. This item is primarily to determine suspension of the ordinance for the dates and times of the events.

Rory O'Connor, Owner and Operator of the Castle Theater, stated they will be having a Summer Concert Series. The events will be held on City, County and County Building Commission property which has made this process a little complicated. The area of the events is nearly adjacent to the Castle Theater property. There are four concert events, each are a ticketed event, and he has been working with Ms. Stiller since September 2017. It was decided that they could not do an Extension of Premise Liquor License as the events are not directly adjacent to the Theater, but rather would require a special permit. They have submitted all of the necessary paperwork to the City as an ordinance suspending the code to allow for alcoholic beverages would be required for these events. Mr. O'Connor stated they put on these types of concerts three or four times per week inside of the theater. Last year, they held a similar concert at the BCPA without any problems with crowds or over-serving. There was plenty of security on-hand to ensure a successful event.

Mr. Boyle stated that Mr. O'Connor has agreed to pay an event fee of \$1,000 per event with the first two payments being made prior to the first concert event. Then \$1,000 payable before each of the following concerts. He asked Mr. O'Connor whether the payment schedule was agreeable to him. Mr. O'Connor was agreeable to the proposed payment schedule.

Commissioner Renner deferred to Assistant Chief (AC) Bays for comments or concerns related to overserving of alcohol. AC Bays stated traditionally, that would be a concern for the department when events are held on city property as there will not be limitations on the type of service. He is cautiously optimistic that the event will be successful. Should there be any issues, there needs to be some sort of provision to address the other shows that have not occurred with the alcohol service.

Mr. O'Connor explained it is not his plan to sell any type of shots during these events. He stated that there is more revenue outside of the fees as there is the food, beverage, and entertainment tax as well.

**Motion by Commissioner Bataoel, seconded by Commissioner Powell to refer this application to the City Council for its consideration from Castle Productions LLC d/b/a Castle Theater for an Outdoor Concert Series on the following dates: May 26, May 27, June 8, and August 25, 2018 from 6 P.M. to 11 P.M. at 203 E. Washington requesting suspension of portions of Chapter 6 of the Bloomington City Code pertaining to possession of open alcohol in public on the date of their event for portions of downtown Bloomington.**

**Commissioner Renner directed the Clerk to call the roll:**

**Ayes: Commissioners Bataoel, Renner and Powell**

**Nays: None.**

**Motion carried.**

10. Consideration of the request from WGLT for an Outdoor Summer Concert on Saturday, June 9, from 3 P.M. to 11 P.M. in Downtown Bloomington from Main Street to Jefferson requesting suspension of portions of Chapter 6 of the Bloomington City Code pertaining to possession of open alcohol in public on the date of their event for portions of downtown Bloomington.

Linda Healey of WGLT appeared before the Commission stating the event is exactly the same as other years. Beer and wine only will be sold.

**Motion by Commissioner Powell, seconded by Commissioner Bataoel to refer this application to the City Council for its consideration of the application from WGLT for an Outdoor Summer Concert on Saturday, June 9, from 3 P.M. to 11 P.M. in Downtown Bloomington from Main Street to Jefferson requesting suspension of portions of Chapter 6 of the Bloomington City Code pertaining to possession of open alcohol in public on the date of their event for portions of downtown Bloomington.**

**Commissioner Renner directed the Clerk to call the roll:**

**Ayes: Commissioners Bataoel, Renner and Powell**

**Nays: None.**

**Motion carried.**

11. Notification of Officer Change for Chipotle Mexican Grill, Inc. d/b/a Chipotle Mexican Grill located at 305 N. Veterans Pkwy, Suite 101, currently holding a RAS (Restaurant All Types with Sunday Sales) liquor license.

The Commission acknowledged the change of officer and directed the Clerk to notify the State Liquor Control.

12. Notification of Officer Change for Green Top Grocery Cooperative d/b/a Green Top Grocery located at 921 E. Washington, currently holding a PBS (Package Sales – Beer and Wine with Sunday Sales) liquor license.

The Commission acknowledged the change of officer and directed the Clerk to notify the State Liquor Control.

13. Notification of Officer Change for John H. Kraus VFW Post – 454 d/b/a John H. Kraus VFW Post 454 located at 1006 E. Lincoln Street, currently holding a CAS (Clubs All Types with Sunday Sales) liquor license.

The Commission acknowledged the change of officer and directed the Clerk to notify the State Liquor Control.

14. Adjournment.

**Motioned by Commissioner Powell to adjourn the meeting, seconded by Commissioner Bataoel. Meeting adjourned at 5:03 PM.**

**Motion carried**

Respectfully submitted,

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Cherry Lawson, City Clerk