



PROCEEDINGS OF THE BELOIT CITY COUNCIL

Special Meeting

100 State Street, Beloit, WI 53511

September 23, 2013

Presiding: Charles M. Haynes

Present: Sheila De Forest, Chuck Kincaid, Kevin D. Leavy, David F. Luebke, Mark Spreitzer, and James E. Van De Bogart

Absent: None

Deputy City Attorney Elizabeth Krueger represented the City.

Attorney William Henderson appeared as Independent Counsel to the City Council.

1. The special meeting was called to order at 6:31 p.m. in accordance with Section 2.02(3) of City Ordinances.
2. Consideration of a recommendation from the Alcohol Beverage License Control Committee (ABLCC) that the **Alcohol Beverage License for HRNS V Entertainment, LLC, d/b/a Adiktion**, 1310 Cranston Road, Jaime Hernandez, Agent, be suspended for a period of 60 days.

Deputy City Attorney Elizabeth Krueger presented the complaint and recommendation from the City of Beloit Alcohol Beverage License Control Committee and said that the defendants are contesting the facts of the case, requiring a hearing. She said that Alfredo Arteaga, on behalf of HRNS V Entertainment, LLC, is present and was served with the complaint. The City Council had no questions for the defendant and decided to move forward with the hearing.

Ms. Krueger called Officer Dave Elrod of Beloit Police Department to testify, and Attorney William Henderson swore him in. Officer Elrod testified to some of the facts of the case including the location of Adiktion and that the business is open on Saturday nights and some Friday nights but closed during the week. He said that there have been several instances where the parking lot has been full of cars and the business was very busy.

Ms. Krueger called Special Agent Jason Lee, Wisconsin Department of Revenue – Alcohol and Tobacco Enforcement Unit, to testify, and Mr. Henderson swore him in. Agent Lee testified that he received an anonymous complaint that Adiktion was purchasing alcohol from an unauthorized source. He performed surveillance twice before making contact with owners of Adiktion on April 13, 2013. He said that when he made contact, he was accompanied by a Spanish-speaking Special Agent and two uniformed Beloit Police Officers. He referenced his report as Exhibit 4. He indicated that the last time the defendants could produce receipts for the legal purchase of alcohol from a licensed distributor was in the fall of 2012. Agent Lee said that a license holder going out of business may transfer the alcohol stock to a new license holder, provided that the license holders complete and retain an Alcohol Beverage Stock Transfer Form. He indicated that no such form was on the premises at Adiktion, which would have legally transferred stock from La Movida. Agent Lee said that he found sales receipts for beer and liquor on the premises that were not from a licensed distributor. He said that the Department of Revenue Publication 302 provides guidance regarding the purchase of alcohol from Wisconsin distributors, the requirement to maintain receipts on the premises for two years, and information regarding the Stock Transfer Form. Agent Lee said that, as a result of the investigation, he and another agent seized 306 bottles of liquor from the premises. Councilor Van De Bogart asked Agent Lee about the benefit of purchasing alcohol from an unauthorized source. Agent Lee said that the individual could avoid paying sales tax on the alcohol and avoid paying income tax on the revenue received from selling alcohol because the quantities could not be tracked. Agent Lee said that this is a common problem that he deals with but that it has only happened in Rock County a handful of times over the years. Councilor De Forest asked who Agent Lee spoke with during the investigation, and Agent Lee said that he spoke with Jaime Hernandez, the Corporation Agent. Councilor Spreitzer asked if the stock on the invoices was the same as the stock that was

confiscated, and Agent Lee said that dates of the receipts were old and he was not expecting to find stock from six-eight months ago but that the bar was fully-stocked. Councilor De Forest asked if the fact that the grocery store receipts were provided to Agent Lee meant that the owners of Adiktion did not understand the law, and Agent Lee said that does not necessarily mean that they did not understand.

Mr. Arteaga testified on behalf of HRNS V Entertainment, LLC, and Mr. Henderson swore him in. Mr. Arteaga said that he is not here to argue that they did not have the required receipts or the proper transfer form. He said that they did not know they had to maintain the receipts on the premises for two years. Mr. Arteaga said that they are learning the rules as they are going along. He said that he is currently following the laws by purchasing alcohol from Wisconsin distributor and all receipts are maintained on premises. He said that the longer the alcohol license is suspended, the harder it will be to stay in business. Councilor Leavy pointed out that there are questions on the renewal application that directly contradict his statements, and Mr. Arteaga stated that the person who signed the document does not read or speak English and the translation may have been incorrect. Councilor Leavy said that with every new license, the ABLCC asks the agent or representative present if he or she understands the rules. Councilor Spreitzer asked if Mr. Arteaga has found any additional receipts, and Mr. Arteaga stated that he has requested the receipts from the distributors. Councilor Luebke asked if Mr. Arteaga had purchased alcohol from a grocery store, and he stated that he had not but that he could not attest to what happened before he was involved with Adiktion. Councilor Spreitzer asked if there were any alcohol purchases between October 2012 and April 2013, and Mr. Arteaga stated that he did not know. Councilor Spreitzer asked if Mr. Arteaga knew the origin or meaning of the Ott Schweitzer document in Exhibit 5, and Mr. Arteaga said that he did not know what it was. Ms. Krueger asked if Mr. Arteaga was present when Special Agent Lee investigated the complaint, and Mr. Arteaga said that he was. Ms. Krueger pointed out that the exhibits are photographs of the receipts and that the original receipts are in the possession of the business. Ms. Krueger asked if the receipts on page 7 of Exhibit 5 are from a grocery store, and Mr. Arteaga said that from looking at the receipts, the employee probably purchased the alcohol from a grocery store. Ms. Krueger submitted a document labeled Exhibit 8 for the record. Exhibit 8 is the Alcohol License Renewal Application for Adiktion for the 2012-2013 license year. Ms. Krueger pointed out that the answer to question 10, which references the law that alcohol beverage license invoices must be maintained on the premises for two years, is "yes."

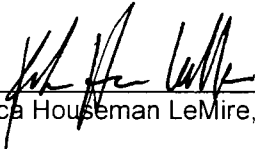
Councilor De Forest indicated that she wanted to hear from the agent for the business, Jaime Hernandez. Ms. Krueger called Jaime Hernandez, the Corporation Agent, to testify. She asked if Mr. Hernandez was purchasing alcohol for the business, and he said yes. Mr. Hernandez requested a translator to assist in answering the questions. Mr. Henderson suggested that Mr. Arteaga translate for Mr. Hernandez. Through Mr. Arteaga, Ms. Krueger asked if Mr. Hernandez purchased alcohol for the business prior to April 2013, and Mr. Hernandez indicated that he did on occasions but not all the time. Ms. Krueger asked when the last time Mr. Hernandez purchased alcohol for the business, and he said August or October of 2012 and that the invoices were kept by Julian Valencia, the president of the LLC. Councilor Leavy said that there were three people who reviewed and completed the application, but none of them understood English. Councilor Leavy asked if Mr. Valencia is present, and Mr. Arteaga stated that his brother is here but that Mr. Valencia is deceased. Councilor Spreitzer asked how many nights the business is open, and Mr. Hernandez stated that the business is open every Saturday and 1-2 Fridays per month. He stated that the size of the crowd depends on the group or band that is playing – a couple hundred people for a local band and 500-600 people for a more well-known group. Councilor De Forest asked if they asked questions when completing the application in the Clerk's office, and Mr. Hernandez stated that he understands that receipts have to be maintained but that was not part of his duties in for the company. Ms. Krueger asked if the business pays the bands, and Mr. Hernandez stated that the groups are paid but that he is not responsible to pay them. He stated that he understands the responsibilities of being an Agent for the corporation but that the paperwork is handled by the owners.

Councilor De Forest asked Agent Lee if the business owners understood the laws regarding alcohol, and Agent Lee stated that he and Agent Altuzar, who is fluent in Spanish, found that the owners understood that alcohol had to be purchased from a Wisconsin Distributor.

City Clerk Rebecca Houseman LeMire testified, and Mr. Henderson swore her in. Ms. Krueger asked Ms. LeMire if she hands out copies of the DOR Publication 302 to liquor license applicants, and she

said yes. Councilor De Forest asked if the document is available in Spanish, and Ms. LeMire stated that there are not any Spanish copies in the Clerk's office and that she would check the DOR's website for documents in Spanish.

3. Councilor Leavy made a motion to adjourn into closed session pursuant to WI Statutes 19.85(1)(a) for deliberations regarding this case. Councilor Luebke seconded, and the Council adjourned into closed session at 7:48 p.m. At 8:12 p.m., Councilor Leavy made a motion to reconvene into open session. Councilor Luebke seconded, and the motion carried 7-0. Councilor Leavy made a motion to suspend the alcohol license of HRNS V Entertainment, LLC, for a period of 90 days starting at 12:01 a.m. on Thursday, September 26, 2013. Councilor Van De Bogart seconded, and the motion carried 7-0. File 8590
4. Councilor De Forest made a motion to adjourn the meeting, and Councilor Spreitzer seconded. The motion carried, and the meeting adjourned at 8:13 p.m.



Rebecca Houseman LeMire, City Clerk

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Date approved by Council: October 7, 2013