



TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING FOR TUESDAY, JUNE 14, 2011
MEETING BEGINS AT 5 PM
AVON TOWN HALL, ONE LAKE STREET

PRESIDING OFFICIALS
CHAIRMAN RICH CARROLL
VICE CHAIRMAN KRISTI FERRARO
BOARD MEMBERS DAVE DANTAS, CHRIS EVANS, TODD GOULDING
AMY PHILLIPS, ALBERT "BUZ" REYNOLDS, JR.

TOWN STAFF
TOWN ATTORNEY: ERIC HEIL TOWN MANAGER: LARRY BROOKS TOWN CLERK: PATTY MCKENNY

ALL LIQUOR BOARD MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS
COMMENTS FROM THE PUBLIC ARE WELCOME DURING PUBLIC HEARINGS
PLEASE VIEW AVON'S WEBSITE, [HTTP://WWW.AVON.ORG](http://www.avon.org), FOR MEETING AGENDAS AND MEETING MATERIALS
AGENDAS ARE POSTED AT AVON TOWN HALL AND RECREATION CENTER, ALPINE BANK, AND AVON LIBRARY

1. ROLL CALL

2. INQUIRY OF THE PUBLIC FOR COMMENT AND APPROVAL OF AGENDA

3. PUBLIC HEARING ON TRANSFER OF OWNERSHIP

- a. Applicant Name: Yerf, Inc. d/b/a Ticino Italian Restaurant
Address: 100 W. Beaver Creek Blvd. Unit 127
New Owner: Charles E. Frey & Sacha C. Frey
Type: Hotel and Restaurant Liquor License

4. PUBLIC HEARING ON MODIFICATION OF PREMISES

- b. Applicant Name: China Garden
Address: 100 W. Beaver Creek Blvd.
Manager: Sharon Mou
Type: Hotel and Restaurant Liquor License

5. LIQUOR LICENSE RENEWAL

- a. Applicant Name: TCF 1 d/b/a Zacca Za
Address: 101 Fawcett Road #100
Manager: Paul Ferzacca
Type: Hotel and Restaurant Liquor License

6. SHOW CAUSE HEARING

- a. Liquor License Violation: Avon Police Incident Report Case No. 2011-000289
Establishment Name: Finnegan's Wake Irish Pub, Inc. d/b/a Finnegan's Wake
Address: 82 E. Beaver Creek Blvd.
Manager: Maggie Parker
Date Reported: 03/17/11
- b. Renewal of Hotel and Restaurant Liquor License
Establishment Name: Finnegan's Wake Irish Pub, Inc. d/b/a Finnegan's Wake
Address: 82 E. Beaver Creek Blvd.
Manager: Maggie Parker

7. CONSENT AGENDA

- a. Minutes from May 24, 2011

8. ADJOURNMENT

Memo

To: Avon Liquor Licensing Authority
Thru: Larry Brooks, Town Manager
Eric Heil, Town Attorney
From: Patty McKenny, Asst. Town Manager Management Services
Date: June 9, 2011
Re: Yerf, LLC d/b/a Ticino Italian Restaurant
Transfer of Ownership Application – PUBLIC HEARING

Summary:

The Avon Liquor Licensing Authority is asked to consider a Transfer of Ownership Application for a Hotel and Restaurant Liquor License as submitted by:

New Owner: Yerf, LLC d/b/a Ticino Italian Restaurant
Owner & Manager: Charles Frey and Sacha Frey
Address: 100 W. Beaver Creek Blvd. Unit # 127
Mailing Address: PO Box 1081, Edwards, CO 81632

Current Owner: Ticino LLC d/b/a Ticino
Owners/Manager: Daniel and Ronda Niederhauser
Address: 100 W. Beaver Creek Blvd. Unit #127

Background

A transfer of ownership must be reported to and approved by the Local and State Licensing Authorities prior to any actual change of ownership. The applicable state and local license fees must accompany these applications. Both the state and town will issue new licenses for all transfers of ownership. The Town's Liquor Code states that "the burden of proof in an application for the transfer of an existing license shall be upon the applicant." The Avon Town Council acting as the Local Liquor Licensing Authority has the duty to conduct hearings and make findings of fact as to whether to grant or deny a transfer of ownership on an existing license. The Town Clerk, Town Attorney and Police Department handle the review of the liquor license applications administratively. In the case of a transfer of license, an investigation of the background of the parties is completed and a public hearing is set. The applicant may also apply for a temporary permit which allows an applicant for a transfer of ownership to operate the establishment until the Authority considers the application.

The Liquor Code of Colorado provides that in making any decision, the Local Licensing Authority must consider the following before approving or denying the application:

- Facts and evidence resulting from the investigation and any facts brought to the attention of the Authority.
- Any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

Requests for licenses may be denied for various reasons such as the applicant is not of good moral character, the applicant's character, record, or reputation is unsatisfactory, or the proposed outlet is within 500 feet of any school.

Discussion:

The Town Clerk and Town Attorney have reviewed the application materials as follows:

✓ Colorado Liquor Retail License Application (DR 8404)

The application form has been completed and executed by the applicant. The hearing has been set for June 14, 2011 with appropriate notice posted.

✓ Diagrams of Premises

The diagram of the premises has been provided and includes the outdoor patio area. The Revocable License Agreement authorizes the applicant using town owned property for a patio.

✓ Temporary Permit & Affidavit of Transfer & Statement of Compliance

The applicant applied for and received a Temporary Permit dated May 25, 2011 that allows them to operate for 120 days until the transfer of ownership application has been approved. The affidavit of Transfer & Statement of Compliance is also a part of this process.

✓ Lease between Niederhauser Family LLC and Yerf, LLC

An executed copy of the lease has been included.

✓ Individual History Records & Memos from Avon Police Department

The background investigation has been completed by the Avon Police Department and the report indicates no concerns with the applicants' background. The Colorado Bureau of Investigation results are still pending.

✓ Articles of Organization

A copy of the articles of organization are included.

✓ Operating Agreement

An executed copy of the operating agreement has been included.

✓ Revocable License Agreement Between Town of Avon & Yerf, LLC

This license agreement authorizes Yerf, LLC the ability to encroach upon and occupy the town property for use of an outdoor patio. The Town Manager and Town Attorney signatures are still required on this document.

If approved by the Local Licensing Authority, the Town of Avon & the State of Colorado will issue new licenses. A public hearing has also been scheduled for this application; the public notice was posted on the premises. The applicants Charles Frey and Sacha Frey will be present for the hearing.

Financial Implications:

The transfer of ownership application fees has been submitted to the Town and the State fees will be forwarded with the application materials upon Local Liquor Authority approval.

Town Manager Comments:

Memo

To: Avon Liquor Licensing Authority
Thru: Larry Brooks, Town Manager
Eric Heil, Town Attorney
From: Debbie Hoppe, Court Clerk, Patty McKenny, Asst. Town Manager Management Services *DM*
Date: June 7, 2011
Re: Public Hearing for Report of Changes – Modification of Premises for China Garden, Inc.

Summary:

The Town Council serving as the Local Liquor Authority will consider a Permit Application & Report of Changes for a modification of premises for China Garden located at the Avon Center. The application is submitted in order to create a patio area outside. This application will require a **public hearing** in order to obtain input on the needs and desires of the neighborhood.

Background:

Sharon Mou, owner of China Garden has submitted a Permit Application & Report of Changes for a modification of premises to allow the restaurant to expand its food and liquor services to a patio area outside. This area is contiguous with the patio area that is being used by Ticino Restaurant. The patio area is on town owned property. A review was made of the following exhibits that make up the modification of premises application for China Garden:

- Exhibit A: The State’s Permit Application & Report of Changes form
- Exhibit B: The diagrams of the licensed premises currently and proposed (which adds a patio area)
- Exhibit C: The Revocable License Agreement which allows the establishment owner the use of the town owned property as the patio space

Discussion:

The applicant has submitted the required materials for making this request to the local authority and the state of Colorado liquor enforcement division. Site plans have been submitted for the modification of premises which outlines the location of the new area to be included as “new licensed premises”. It should be noted that the owner is working with Community Development staff on the “type of materials” to be used for the fencing. Also included in the packet is the “License Agreement” (Exhibit C) which authorizes the business to use the “town owned property” for this purpose. There is a request to expand the existing area to the 35 feet by 17 feet concrete patio area. The Revocable License Agreement document satisfies the possession of the premises requirement of the Liquor Code.


Sharon Mou will be present to provide support for this application as well as answer any questions. The public hearing notice was posted on the premises noting the hearing date for this application. If the Authority approves this modification, it is forwarded to the State of Colorado for review and approval of the application as well. It is noted that the licensee must comply with Community Development’s requirement on the type of materials to be used for the fence. As well the applicant must also obtain approval for the modification of premises from both the town and the state prior to any changes on the premises.

Financial Implications:

There are local fees associated with this type of liquor licensing application; the applicant has submitted these fees.

Town Manager Comments:

Memo

To: Avon Liquor Licensing Authority
Thru: Larry Brooks, Town Manager
cc: Eric Heil, Town Attorney
From: Debbie Hoppe, Court Clerk
Patty McKenny, ATM Management Services 
Date: June 10, 2011
Re: Renewal of Liquor Licenses

Summary:

The Town Council serving as the Avon Liquor Licensing Authority will consider the following liquor license application for renewal at its board meeting next week:

- a. Applicant Name: TCF 1 d/b/a Zacca Za
Address: 101 Fawcett Road #100
Manager: Paul Ferzacca
Type: Hotel and Restaurant Liquor License

Background & Discussion:

Colorado Liquor Code, 12-47-302, provides for guidelines related to liquor licensing renewals; applications for the renewal of an existing license shall be made to the local licensing authority. The Town Clerk, Town Attorney, and Police Department have reviewed the applications submitted referenced above and the materials are in order. The Police Report results are summarized below:

- a. Mr. Ferzacca was arrested for DUI by the Eagle Police Department on April 1, 2011 (see attached report for further details).

The Liquor Authority Board has broad discretion to consider any character issues related to the licensee holder at renewal in the same manner as granting a license. There have been various types of behavior, such as failure to pay taxes and fraud that have been held in the courts as valid reason to find the applicant does not possess character. Please find attached the Colorado Liquor Code §12-47-302 that sets forth the local authority's ability to hold a hearing on the application for renewal.

Owner Paul Ferzacca has been invited to attend the liquor board meeting to answer questions.

Financial Implications:


There are local and state liquor licensing fees associated with renewal applications that have been submitted to the Town, which have been paid.

Town Manager Comments:

Attachments:

- State of Colorado Forms for Liquor License Renewals
- Avon Police Department Background Memo & Incident / Investigation Report
- Colorado Liquor Enforcement Division:

Memo

To: Avon Local Liquor Licensing Authority
Thru: Larry Brooks, Town Manager
Eric Heil, Town Attorney
From: Patty McKenny, Asst. Town Manager Management Services 
Date: June 10, 2011
Re: Liquor Board Agenda – Finnegan’s Wake Irish Pub: Show Cause Hearing & Renewal Application

Summary:

The Town Council serving as the Avon Liquor Licensing Authority set a show cause hearing for the following matters related to Finnegan’s Wake Irish Pub, Inc. d/b/a Finnegan’s Wake Irish Pub:

Address: 82 E Beaver Creek Blvd. #1B
Manager: Maggie Parker
Type: Hotel and Restaurant Liquor License

- a. Liquor License Violation: Avon Police Incident Report Case No. 2011-000289
- b. Renewal of Hotel and Restaurant Liquor License

Background:

The Avon Liquor Authority was provided with police reports related to the following two cases for the May 10, 2011 board meeting:

Case No. 2011-000284

Offender: Cameron Maurice
Charges: Disorderly Conduct, Illegal Possession or Consumption of Alcohol by Minor, Possession of Liquor by Underage Person

Case No. 2011-000289

Offender: Margaret Parker
Charges: Sale of Alcohol to Minors (Statute 9.12.070) and Sale to Intoxicated Person (Statute 9.12.040)
Arrest Report # 11000213 on 4/15/11
Complaint and Summons Citation No. 23136; Court date set for June 15, 2011

These reports informed the Local Liquor Licensing Authority about a violation that occurred on March 17, 2011 at Finnegan’s Wake Irish Pub. Please note that the first case was provided as supplemental to the second report No. 2011-000289 which describes that Margaret Parker was issued a “Complaint and Summons” to Avon Municipal Court on June 15, 2011 for “Sales to Intoxicated Persons”. In light of these reports provided by Chief Ticer, the “Authority” adopted the following Resolution No. 11-01 as follows:

- A Resolution Finding Probable Cause To Believe That Finnegan’s Wake Irish Pub LLC d/b/a Finnegan’s Wake Irish Pub Has Violated A Law, Rule Or Regulation With Respect To The Operation Of Its Licensed Premises; Setting A Hearing With Respect Thereto; And Directing The Issuance And Service Of A Notice Of Hearing And Order To Show Cause As To Why The Hotel and Restaurant Liquor License Of Such Licensee Should Not Be Suspended Or Revoked.

The Resolution and Notice of Hearing and Order to Show Cause were given to the owner, Maggie Parker, with the hearing date set for next Tuesday, June 14, 2011.

Discussion:

Seth Murphy, representing the Avon Police Department, met with Finnegan's owner Maggie Parker and Avon Police Department personnel regarding this matter. There has been some agreement by the owner Maggie Parker to a ***Stipulation Findings of Fact and Admission of Violation***. However that was only agreed upon by the owner earlier today. Therefore, Town Attorney Eric Heil has requested that this matter be continued until June 28, 2011 in order to give the town an opportunity to review this document. Finnegan's was notified of this request for a continuance until June 28th.

It is also noted that consideration of the renewal application for Finnegan's Wake Irish Pub would also be continued to June 28th. Because the application was submitted prior to its expiration date of May 16, 2011, the state allows an extension on the expiration date until the license is processed by both the local authority and the state.

Town Manager Comments:

TOWN OF AVON, COLORADO
MINUTES OF THE LOCAL LIQUOR LICENSING AUTHORITY MEETING
HELD MAY 24, 2011

The Avon Town Council acting as the Local Liquor Licensing Authority for the Town of Avon, Colorado convened at 5:25 PM at the Avon Town Hall, One Lake Street, Avon, Colorado. A roll call was taken and Board members of the Authority present were Rich Carroll as Chairperson, and Board members Dave Dantas, Chris Evans, Kristi Ferraro, Amy Phillips, and Buz Reynolds. Board member Todd Goulding was absent.

1. PUBLIC HEARING ON SPECIAL EVENTS PERMIT

- a. Applicant Name: Eagle Valley Humane Society
Event Name: Salute to U.S.A.
Event Date: July 3, 2011
Event Manager: Char Quinn
Event Location: Harry A. Nottingham Park

Chairman Carroll asked if the application materials were in order; Town Clerk Patty McKenny noted that all materials were submitted. Char Quinn, event manager, reviewed the annual special event noting that she had been doing this for many years. Mayor Carroll opened the public hearing no comments were made and the public hearing was closed. Board member Ferraro moved to approve Special Events Permit for Eagle Valley Humane Society, Board member Phillips seconded the motion and it passed unanimously by those present.

- b. Applicant Name: Eagle Valley Humane Society
Event Name: Salute to U.S.A.
Event Date: July 3, 2011
Event Manager: Char Quinn
Event Location: Harry A. Nottingham Park: Fishing Pier Deck and Entrance Area

Chairman Carroll asked if the application materials were in order; Town Clerk Patty McKenny noted that all materials were submitted. Char Quinn, event manager, noted that this was a new venue for the event and would be used by some of the sponsors of the event. Board member Dantas moved to approve the Special Event Permit for Eagle Valley Humane Society, Fishing Pier Deck and Entrance Area; Board member Phillips seconded the motion and it passed unanimously by those present.

- c. Applicant Name: Team Evergreen Bicycle Club
Event Name: Tripe Bypass Bicycle Tour
Event Date: July 9, 2011
Event Manager: Jenny Anderson
Event Location: Harry A. Nottingham Park

Chairman Carroll asked if the application was in order; Town Clerk Patty McKenny noted that all materials were submitted. Jenny Anderson, event manager, was present to comment on the event and thank the town for its support over the years. The public hearing was opened, no comments were made, the hearing was closed. Board member Ferraro moved to approve the Special Events Permit for Team Evergreen Bicycle Club, Inc.; Board member Evans seconded the motion and it passed unanimously by those present.

CONSENT AGENDA:

Board member Phillips moved to approve the Consent Agenda; Board member Ferraro seconded the motion and it passed unanimously.

- a. Minutes from May 10, 2011

There being no further business to come before the Board, the meeting adjourned at 5:35 PM.

RESPECTFULLY SUBMITTED:

Patty McKenny, Secretary

APPROVED:

Rich Carroll _____
Dave Dantas _____
Chris Evans _____
Kristi Ferraro _____
Todd Goulding _____
Amy Phillips _____
Albert "Buz" Reynolds _____