

ALCOHOLIC BEVERAGE CONTROL BOARD

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DAWN ZIMMER
Mayor



Robert W. Phillips, Chairman
Michael Blumenfeld, Vice Chairman
Steven Bauman, Commissioner

**Minutes of the August 27, 2015
Alcoholic Beverage Control Board Meeting**

The meeting was called to order at 6:10p.m.

The Open Public Meeting Act statement was read by Suzanne Hetman, Board Secretary.

ROLL CALL:

BOARD MEMBERS	
Chairman Robert W. Phillips	✓
Vice Chairman Michael Blumenfeld	✓
Commissioner Steven Bauman	✓

Also Present: Suzanne Hetman, board secretary; Alysia Proko, attorney for the board; Jon Tooke, Director of Public Safety and Daisy Amado, recording secretary.

APPROVAL OF THE MINUTES OF THE JULY 23, 2015 MEETING:

Move to approve the minutes.

BOARD MEMBER	Move	Second	Yes	No	Abstain	No Vote
Chairman Phillips			✓			
Vice Chairman Blumenfeld	✓		✓			
Commissioner Bauman		✓	✓			

2015-2016 LIQUOR LICENSE RENEWAL – EXHIBIT C

Board reviewed and discussed Exhibit C. Vice Chairman Blumenfeld advised that he would recuse himself from voting on license renewal of Victory Tavern, LLC as he has a business relationship with them. He will vote on all other licenses up for renewal. Board asked why these licenses were not up for renewal with original list and board secretary advised many of these had not requested online yet, etc. All licenses are active except Morgan Pubster.

Motion to approve liquor license renewals on Exhibit C.

BOARD MEMBER	Motion	Second	Yes	No	Abstain	No Vote
Chairman Phillips		✓	✓			
Vice Chairman Blumenfeld			✓ ALL BUT VICTORY TAVERN RENEWAL		✓ VICTORY TAVERN RENEWAL	
Commissioner Bauman	✓		✓			

2015-2016 LIQUOR LICENSE RENEWAL – SPECIAL RULING

Liquor License #0905-33-068-010, JFP Group, LLC, 1300 Park Avenue

Board secretary advised the resolution is for one term, but Licensee petitioned the State for two terms and State granted permission to renew. We can only vote on renewing for the 2015-2016 term tonight. They are actively trying to sell the license. Board asked why they would petition for two terms and board attorney stated it is administratively easier to do it that way.

Move to approve renewal of license.

BOARD MEMBER	Move	Second	Yes	No	Abstain	No Vote
Chairman Phillips			✓			
Vice Chairman Blumenfeld	✓		✓			
Commissioner Bauman		✓	✓			

Board attorney asked the board if we could go to the Hearings portion of the agenda as the liquor license renewal would take more time due to members of the public present and that wish to speak, etc.

HEARINGS

(1) Liquor License #0905-060-006, Bluto Entertainment, LLC d/b/a Cork City, 239 Bloomfield Street, Case Number 15-8

Robert Williams, Esq. appeared before the board along with Daniel DeKemper, 100% owner of the license. Plead non-vault to local ordinance of overcrowding. Per Mr. Williams, this is their first ABC violation, they have operated for a number of years and his client runs a nice establishment. Mr. Williams stated that the penalty is 2 days/5 held in abeyance and asked the board to consider holding all days for one year. His client has established safeguards for this not to happen again. Board attorney advised the board they are pleading non-vault; first violation; penalty is 2 days served/5 held in abeyance and they are asking for none; the board needs to first either accept or reject their plea; and she released all city’s witnesses so we cannot have a hearing. Mr. Williams stated that his client also paid a Fire Department fine of \$2,000 and they are pleading for some consideration. Board attorney advised the board they can either accept or reject the plea or mitigate before plea is established. Board discussion about bad precedent as they are pleading no contest and not accepting two day suspension and how if the matter goes to trial should they not want to accept the two days. They are asking us to waive penalty and the penalty chart is there for a reason. Would like to hear facts but we do not have witnesses. Board attorney advised she is not comfortable without the witnesses. Mr. Williams stated if the board wishes to hold to schedule or not it is up to them but the schedule is a recommendation.

Chairman began to make a motion to accept the penalty of one day with five held in abeyance. Further board discussion and attorney discussion ensued. Chairman then withdrew his motion.

Mr. Daniel DeKemper was sworn in and stated that it was a fundamental disagreement between his count and Fire Department count. The difference in the count was double. Mr. Williams explained that there were six counts taken and they all ranged from 112 to 142 occupants. Mr. DeKemper stated they have now acquired a new security company and also give out cards to all patrons from 1 to 82. Certificate of Occupancy is 82. They will walk around and pass out cards with Fire Department and this will not happen again, they have been there six years. Board discussion ensued. Vice Chairman mentioned they have taken extraordinary measures and they feel comfortable with one day compromise.

Move to accept the plea of one day closure with five held in abeyance – closure on October 3, 2015.

BOARD MEMBER	Move	Second	Yes	No	Abstain	No Vote
Chairman Phillips				✓		
Vice Chairman Blumenfeld	✓		✓			
Commissioner Bauman		✓	✓			

(2) Liquor License #0905-33-150-007, Rex Pep Inc. d/b/a Madison Bar & Grill, 1316 Washington Street, Case Number 15-09

Frank Marciano, attorney appeared before the board with David Carney, owner. Board attorney stated she administratively seeks dismissal of nuisance charge as the Police Department has no recollection and the Fire Marshall said it was a scuffle, asking we withdraw Count Two of the charges. Mr. Marciano stated his client is pleading to Count One and asked the board if they can serve on upcoming Labor Day holiday, on Sunday and Monday. Board asked about the third count. Board attorney advised it was in connection to the bar card and advised she needs to dismiss as card did exist and the bartender went to Municipal Court and testified. Mr. Marciano stated his client paid a fine of \$2,500.

Move to accept the plea of non-vault for Count One and Counts Two and Three have been dismissed.

BOARD MEMBER	Move	Second	Yes	No	Abstain	No Vote
Chairman Phillips			✓			
Vice Chairman Blumenfeld	✓		✓			
Commissioner Bauman		✓	✓			

Mr. Marciano explained that there are two doors at Madison and they are very strict. They had the front door handled but the security company was letting people in through the side door and they have fired this security company. Mr. Marciano said his client will take the two days but asked if the board would allow them to serve on a Sunday and Monday. Mr. David Carney was sworn in, said his wife owns most of it but he is 20% owner and the manager at the Madison. Mr. Carney explained they have clickers. It was a beautiful day out and they had the doors open the restaurant entry on Washington Street.

Motion for two day closure on Sunday and Monday September 6 and 7th, 2015.

BOARD MEMBER	Move	Second	Yes	No	Abstain	No Vote
Chairman Phillips			✓			
Vice Chairman Blumenfeld		✓	✓			
Commissioner Bauman	✓		✓			

2015-2016 LIQUOR LICENSE RENEWAL

Liquor License #0905-44-006-006, Zafar Chudhry M. & Qaisra, d/b/a Hoboken Liquor & Deli, 98 Willow Avenue

Board attorney explained that this license is up for renewal, however Hoboken Police Department and members of the public asked if it could be pulled and if they could come before the board and speak on their own behalf. Licensee has his attorney with him and his attorney is entitled to cross examine. Board asked if this is a package license establishment. Robert Williams, Esq. appeared before the board and requested to have any copies of any documents that the board attorney or board secretary may have on this matter that will be used tonight. Mr. Williams further said he has no idea what the objections to his client’s renewal are and that they are at a disadvantage since

they have received no warnings and nothing from the Hoboken Police Department. He said this is not how hearings work. Board advised that we have received notice from the police department on several loitering complaints; board secretary said she has the minutes of that meeting. Mr. Williams said his client has been there 25 years. Board attorney advised that we are not being adversarial; the board entertains conversations or concerns at the time of renewal; and the Hoboken Police Department, the public and City reserve all rights.

First member of the public to appear before the board:

Mr. Robert Tainsky was sworn in, lives at 89 Willow. Mr. Tainsky complained of all the cars, horn blowing, traffic, excessive noise and has witnessed the police on several occasions keeping an eye on the location. Mr. Tainsky stated he is a business man himself, but the noise is out of control people having loud conversations in front of the store, cursing. Board asked if he has taken any measures. Mr. Tainsky said he has called the police department; people outside the store holding a brown paper bag this goes on until 2 or 3 in the morning. Robert Williams asked how long he has been there – nine years. Mr. Williams asked if he is sure whether these people were at the liquor store – Mr. Tainsky replied no.

Second member of the public to appear before the board:

Mrs. Harriett Tainsky was sworn in; Robert Tainsky's wife; resident of 89 Willow. Mrs. Tainsky stated that she understands that everyone has to make a living but what are the rules for late hours? She said the store is open past 3a.m.; seen people urinating and having sex; such an "unsavory variety of people." She has called the police. Owner leaves at 3:20 and she is still there awake. She stated she has no problem with him being there but it should be normal hours of operations. Board asked if she has called the police at 3a.m. and she said yes and that she has also given statements. Mrs. Tainsky said the women are worse than men and that the police come and chase them away and they go around the corner and come back. Robert Williams asked if there are other businesses open in her area and she said yes. She also said she has seen 'them' when he has the gate down and they clean with him. He is letting drunks in and selling to them.

Third member of the public to appear before the board:

Mr. Orin Knishinsky was sworn in, resident of 89 Willow. He thanked the Hoboken Police Department, Director Jon Tooke and Alysia Proko. Stated the liquor store has a persistent issue of loitering and noise with the patrons. Mr. Knishinsky said he has given pictures and videos to Director Tooke. Noise worsens on the weekends. People yelling or cars double parked and honking horn, playing loud music. They purchase liquor and repeatedly go in and come back. The store has a table with some chairs and a flat screen television. People drinking out of clear cups or red cups or from brown bag with bottle this lasts until 3a.m. and on several occasions seen it past 3a.m. He said he has a 2 year old that wakes up crying because the noise is so bad. Checked if he could install different windows. Robert Williams asked if the noise is coming from the delicatessen itself? Mr. Knishinsky responded it is coming from the patrons, making noise, smoking cigarettes and re-entering the store.

Fourth member of the public to appear before the board:

Mr. Fabian Duvuc resident of 89 Willow was sworn in. Said he has been in here three years from France; has two kids. After a few weeks of moving in he noticed lots of noise from liquor store then he and his wife switched bedrooms with their kids as his daughter was up crying – gave master bedroom to the kids. On Fridays and Saturdays there are people shouting, cars honking the

horns and playing loud music. One day, I heard music coming from the liquor store and the lights were off and there was a party. It is not respectful; sometimes he keeps the door open. Tried to have a discussion with owner of liquor store the next day and was shocked at his response – he didn't know what happened. Most noise is between 2 to 3a.m. and people hanging out. Robert Williams asked if people hangout in front of the store? Mr. Duvuc responded yes smoking cigarettes, going in again and the door stays open. Mr. Williams asked if we experience this in the winter? He said yes and he calls Police Department. Robert Williams asked how many times. Mr. Duvuc said six.

Lieutenant Roofe of the Hoboken Police Department was sworn in. Based on complaints and history of establishment since May 2015 similar to complaint made in May of 2014 by another resident. The HPD created a Zero-Tolerance Policy. They had patrolled area and issued summonses and for the most part that settled it. This year the new Chief of Police enforced another Zero Tolerance policy again. Between May 2014 and May 2015 police were dispatched to that location 1100 times. That is a strain on the department. This establishment has a history of violations. The problem does exist. Did an inspection and found the same issues. He was there on May 27, 2015 at 6p.m. and he observed open bottles on shelves, empty bottles in trash along with empty cans. He suggests we suspend selling alcohol beyond 10p.m. only beer and wine. Other agency conducting investigation on this establishment as well on their end. This location has a bad element that hangs out there. Found hyper dermic needed inside establishment. Lt. Roofe has had discussions about the issues. He is aware of problem but not in the position to police it. By suspending sales after 10p.m. is might solve the problem. Robert Williams asked 1100 times HPD visited the establishment and not one charge has been filed. Lt. Roofe said there are charges pending all information forwarded to Director of Public Safety and attorney for the Board. Mr. Willams mentioned he was not provided with any documents. Board attorney objected and stated he has been made aware of every tavern sheet provided in discovery. Director Tooke stated all sheets are reviewed and passed on to the prosecutor. Robert Williams would like to see all the tavern sheets and move this hearing to September 10, 2015. He further asked how many arrests were made in the 1100 calls. Complaints of noise and loitering, could it be attributed to other establishments? The poor parking = there is nowhere to park. During the entire year client was not charged with serving minors, correct? So, four people with complaints and no other problems except noise on a public street – my client is operating lawfully. Lt. Roofe said no but the establishment had about 40 open bottles on the shelves. Robert Williams asked could those open bottles be trash? Board asked if any video showing place open past hours of operation. Lieutenant Roofe responded no but said the issue is not the time rather the content in the establishment. There is a table, about 30-40” and two chairs in the place. There were hard liquor and beer bottles open and in the trash; a dart board on the wall; red cups in the trash. This is a discussion on whether he can police himself. He has not been able to. Robert Williams stated there is one table and three chairs, they sell sandwiches. Lieutenant Roofe said he was there 5/21/15 and no one was arrested.

John Tooke, Director of Public Safety was sworn in and stated 1100 visits were specific to complaints and specific to that location.

Robert Williams said there were two people from one family and two other from area complaining about noise and loitering problems before the board today. How much do you put on licensee – there are people on street there are bars in that area open until 3a.m. Some of those bars do not sell cigarettes, but his client does. His client has been there 25 years and has done everything lawfully

and yet it is recommended to stop selling liquor at 10p.m.? He has big players/competition such as Buy Rite or Sparrow in the area, he is a little store with big competition. You cannot change his hours without an ABC violation. He has no charges within the last year. Mr. Williams said his client has to make sure people in and out of his place are not a “bad element.” No one arrested shouldn’t be standing on the street. Local loitering ordinances must be enforced, but his client has no violations. This is all useless and board needs more testimony. Asked board to renew license. His client works seven days a week until 2a.m. and 3a.m. and adheres to all regulations. Do not curtail his hours. If he violates laws, charge him. Will come back September 10 and have people testify what a great place it is, up to the board if they want to go through with that.

**TAPE STOPPED RECORDING AT 7:37p.m. - MEETING WAS STOPPED.
BACK ON THE RECORD AND RECORDING AT 7:39p.m.**

Board stated they take the concerns and issues of the public and the police department very serious. We need to look at this further. These are aggravated neighbors. Board attorney said lets carry it so we can give licensee opportunity to give his case. She advised the members of the public that they are not obligated to come back. Robert Williams said he wants to see everything and said that they are open to any suggestions from the Hoboken Police Department.

Motion to carry the hearing to the September 10th meeting

BOARD MEMBER	Motion	Second	Yes	No	Abstain	No Vote
Chairman Phillips	✓		✓			
Vice Chairman Blumenfeld		✓	✓			
Commissioner Bauman			✓			

CLOSED SESSION FOR THE PURPOSE OF DISCUSSING PENDING LITIGATION

Motion to go into closed session at 7:45p.m.

BOARD MEMBER	Motion	Second	Yes	No	Abstain	No Vote
Chairman Phillips	✓		✓			
Vice Chairman Blumenfeld			✓			
Commissioner Bauman		✓	✓			

Motion to come out of closed session was made at 7:50p.m.

BOARD MEMBER	Motion	Second	Yes	No	Abstain	No Vote
Chairman Phillips	✓		✓			
Vice Chairman Blumenfeld		✓	✓			
Commissioner Bauman			✓			

The meeting was adjourned at 8:00 p.m.