

A Special Meeting of the City Council was held Tuesday, January 6, 2015 at 7:10 PM in the Conference Room in City Hall, 111 Outwater Lane, Garfield, NJ 07026.

Deputy Mayor Glenn A. Mati presided. City Clerk Andrew J. Pavlica announced that the meeting was being held in accordance with provisions of the Open Public Meetings Act and that adequate notice was provided by mail and fax to the official City newspapers and to other interested parties and by posting the meeting notice on the bulletin boards in City Hall.

Councilmembers Present: Frank J. Calandriello, Louis G. Aloia and Glenn A. Mati
Councilmembers Absent: Tana M. Raymond and Joseph Delaney
Also Present: City Manager Thomas J. Duch, City Clerk Andrew J. Pavlica, City Attorney Representative Robert Ferraro of the Law Firm of Bruno and Ferraro (for City Attorney John Bruno) and Police Chief Kevin Amos

ALCOHOLIC BEVERAGE CONTROL

The City Council and Cabinet conducted a Disciplinary Hearing of Plenary Retail Consumption License of No 0221-33-049-005 held by Ever Wide, Inc., t/a Nice Food Restaurant, 237 Palisade Avenue, Garfield, New Jersey 07026.

The license holder, Pan Shoushin, was present along with his attorney, Bennett Wasserstrum, Esq., with law offices located at 3 Botany Village Square West, Clifton, New Jersey 07011.

Detective/Sergeant Thomas Johnson of the Saddle Brook Police Department was sworn in and testified on the sale of alcoholic beverages to a person under the legal age of consumption on October 23, 2012.

Items were marked into evidence and the City Council questioned the witnesses.

City Attorney Representative Ferraro proposed that, considering that the license holder had previously pled guilty to fifteen charges, and to other charges pursuant to Resolution No. 09-405 adopted December 8, 2009, if the license holder is found guilty of the charge, that the penalty should be revocation.

Councilmember Aloia moved that the license holder be found guilty of the charges and that the penalty be revocation of the license. Councilmember Mati seconded the motion.

On call of roll, Aye 3, Absent 2 –
Councilmembers Delaney and Raymond

Police Officer Glenn Reno of the Garfield Police Department was sworn in and testified concerning the sale of spirituous liquors after the hour of 10:00 PM on June 13, 2014.

Councilmember Aloia moved that the license holder be found guilty and that a 30 day suspension be imposed. Councilmember Calandriello duly seconded the motion.

On call of roll, Aye 3, Absent 2 –
Councilmembers Delaney and Raymond

Police Officer Nicolas Santillo of the Garfield Police Department was sworn in and testified on the sale of spirituous liquors after the hour of 10:00 PM on November 22, 2013.

Councilmember Aloia moved that the license holder be found guilty and that a 30 day suspension be imposed. Councilmember Calandriello duly seconded the motion.

On call of roll, Aye 3, Absent 2 –
Councilmembers Delaney and Raymond

Police Officer Marc Amos of the Garfield Police Department was sworn in and testified on the sale of alcoholic beverages to a person under the legal age of consumption on October 23, 2012.

The City Council questioned the witness.

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Ms. Ling Yang was sworn in and testified that she was employed by the license holder starting about a year prior to October 23, 2014 as a waitress of Nice Food Restaurant and sold liquor as part of her job. She testified on the events of October 23, 2014.

The City Council questioned the witnesses.

Councilmember Aloia moved that the license holder be found guilty and that a 30 day suspension be imposed. Councilmember Calandriello duly seconded the motion.

On call of roll, Aye 3, Absent 2 –
Councilmembers Delaney and Raymond

Police Officer Marc Amos of the Garfield Police Department and Detective/Sergeant Thomas Johnson of the Saddle Brook Police Department testified on the sale and transport of alcoholic beverages to a person under the legal age of consumption on January 22, 2014.

The City Council questioned the witness.

Councilmember Mati moved that the license holder be found guilty and that a 30 day suspension be imposed. Councilmember Aloia duly seconded the motion.

On call of roll, Aye 3, Absent 2 –
Councilmembers Delaney and Raymond

Councilmember Mati moved that all the penalties imposed at this Special Meeting be effective immediately. Councilmember Aloia duly seconded the motion.

On call of roll, Aye 3, Absent 2 –
Councilmembers Delaney and Raymond

Resolution No. 15-3

RESOLUTION AUTHORIZING DISCIPLINARY ACTION AGAINST PLENARY RETAIL CONSUMPTION LIQUOR LICENSE NO. 0221-33-049-055

WHEREAS, the Mayor and Council of the City of Garfield, upon the recommendation and request of the Garfield Police Department, authorizing the filing of disciplinary charges against Ever Wide Inc., doing business as Nice Foods Restaurant; and

WHEREAS, these disciplinary charges related to the operation located at 235 Palisade Avenue and/or in connection with the operation of Plenary Retail Consumption Liquor License no. 0221-33-049-055; and

WHEREAS, in accordance with the authorization of the Mayor and Council, the City Attorney prepared a Statement of Charges and arranged for the service of the same upon the Licensee; and

WHEREAS, the Statement of Charges included a total of six (6) charges as follows:

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| Charge No. 1 | October 23, 2012 – Sale of alcoholic beverages to a person under the legal age of consumption. |
| Charge No. 2 | November 22, 2013 – Sale of spirituous liquors after the hour of 10:00 p.m. |
| Charge No. 3 | December 2013 – Sale of spirituous liquors after the hour of 10:00 p.m. |
| Charge No. 4 | January 22, 2014 – Sale of alcoholic beverages to a person under the legal age of consumption. |
| Charge No. 5 | June 13, 2014 – Sale of spirituous liquors after the hour of 10:00 p.m. |

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Charge No. 6 June 24, 2014 – Sale of alcoholic beverages to a person under the legal age of consumption; and

WHEREAS, upon service of the charges, the Licensee retained the services of the Law Offices of Wasserstrum and Fabiano; and

WHEREAS, at a previous disciplinary hearing held on November 10, 2009 and December 10, 2009 the Licensee plead guilty to the following violations:

- Charge No. 1 July 20, 2009 – Offer of sale or sale of alcoholic beverages after the legal hour for sale
- Charge No. 2 July 20, 2009 – Offer of delivery of alcoholic beverages off premises.
- Charge No. 3 January 31, 2009 – Sale of alcoholic beverages after hours in violation of N.J.S.A. 33-1-31(h)
- Charge No. 4 February 28, 2008 – Failure to have proper delivery vehicle with insignia.
- Charge No. 5 Various dates prohibited delivery sale off premises
- Charge No. 6 October 8, 2007 – Sale to underage individual, under the age of 21 but older than the age of 18.

WHEREAS, at a previous disciplinary hearing held on November 29, 2010 the Licensee plead guilty to the following violations:

- Charge No. 1 January 5, 2009 – Sale of spirituous liquors after the hour of 10:00 p.m.
- Charge No. 2 January 17, 2009 – Sale of alcoholic beverages to a person under the legal age of consumption.
- Charge No. 3 June 3, 2009 – Allowing off premises consumption and Failure to maintain employee worksheet
- Charge No. 4 June 10, 2009 – Sale of spirituous liquors after the hour of 10:00 p.m. and failure to maintain employee list
- Charge No. 5 June 19, 2009 – Sale of spirituous liquors after the hour of 10:00 p.m.
- Charge No. 6 July 10, 2009 – Allowing premises to be operated as a nuisance
- Charge No. 7 August 14, 2009 – Sale to person under legal age of consumption and Sale of spirituous liquors after the hour of 10:00 p.m.
- Charge No. 8 August 26, 2009 – Sale of spirituous liquors after the hour of 10:00 p.m.
- Charge No. 9 October 5, 2009 – Sale to person under legal age of consumption and Sale of spirituous liquors after the hour of 10:00 p.m.
- Charge No. 10 November 20, 2009 – Sale of spirituous liquors after the hour of 10:00 p.m.
- Charge No. 11 November 25, 2009 – Sale of spirituous liquors after the hour of 10:00 p.m.
- Charge No. 12 November 25, 2009 – Sale of spirituous liquors after the hour of 10:00 p.m.
- Charge No. 13 November 29, 2009 – Sale of spirituous liquors after the hour of 10:00 p.m.

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- Charge No. 14 December 5, 2009 – Vehicle without paper insignia and sale beyond licensed premises
- Charge No. 15 December 23, 2009 – Violation of suspension order and prohibited activity during suspension period

WHEREAS, a Disciplinary Hearing was held on January 6, 2015 in which the Licensee’s counsel was present and the Mayor and Council heard and considered documentary evidence and testimony by Officers Amos, Johnson, Santillo and Reno.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Garfield, county of Bergen, State of New Jersey as follows:

1. The Mayor and Council hereby find that Charges No. 3 has not been sustained based upon the documentary and testimonial evidence presented and the Licensee is hereby found NOT GUILTY of the same.
2. The Mayor and Council hereby find that charges No 1,2,4,5, and 6 have been sustained based upon the documentary and testimonial evidence presented and the Licensee is hereby found GUILTY of the same.
3. As a result of the aforementioned finding, along with the previous offenses the Licensee has plead guilty to, the Mayor and Council impose the following penalty with the Licensee which are to be served consecutively:
 - A. Charge No. 1 – Permanent Revocation of Plenary Retail Consumption Liquor License No. 0221-33-049-055.
 - B. Charge No. 2 – 30 Day Suspension of Plenary Retail Consumption Liquor License No. 0221-33-049-055.
 - C. Charge No. 4 – Permanent Revocation of Plenary Retail Consumption Liquor License No. 0221-33-049-055
 - D. Charge No. 5 – 30 Day Suspension of Plenary Retail Consumption Liquor License No. 0221-33-049-055.
 - E. Charge No. 6 – Permanent Revocation of Plenary Retail Consumption Liquor License No. 0221-33-049-055.
4. The aforementioned penalties are effective as of the passage of the resolution.

NOW THEREFORE BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to forward certified copies of the within Resoluition to Ever Wide Inc., doing business as Nice Foods Restaurant located at 235 Palisade Aenue, Garfield, New Jersey, the Division of Alcoholic Beverage Control of the State of New Jersey, the Law Offices of Wasserstrum & Fabiano, located at 3 Village Square West Clifton, New Jersey 07011.

Passed, Approved and Effective on this 6th day of January 2015.

Resolution No. 15-4

WHEREAS, pursuant to Ordinance 73-17 which establishes the hours of service for liquor licensed premises, no alcoholic beverages may be sold or consumed after 2:00 AM; and
WHEREAS, local ordinances have uniformly been interpreted by the Division of Alcoholic Beverage Control to mean that the prohibition of sale also requires that all members of the general public must be off of the licensed premise; and
WHEREAS, on occasion, the Mayor and Council have granted exceptions to this Municipal regulation, such as New Years Eve/New Years Day; and
WHEREAS, the Mayor and Council have now received a specific request by the Polish-American Travelers Club which is hosting its Annual Traveler’s Ball on February 14th, 2015;

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WHEREAS, this organization is a cultural organization and, in attendance will be various distinguished guests and elected officials some of whom have traveled from overseas to participate in this event; and

WHEREAS, this organization has requested authorization to extend its hours of operation until 3:00 AM on the morning of February 14th, 2015; and

WHEREAS, the request is not for permission to continue to sell alcoholic beverages but is a request to allow the event to continue, without sale of alcoholic beverages, so that participants may conclude the affair with social interaction and dancing;

WHEREAS, the Mayor and Council have reviewed this request and in view of the fact that it is a cultural event have concluded that it would be acceptable to allow such extension; and

WHEREAS, the Mayor and Council also believe that in order to be fair to other licensed premises within the Municipality, this extension should be permitted for all liquor licensed establishments.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Garfield, County of Bergen, State of New Jersey as follows:

1. All liquor licensed establishments shall be permitted to remain open until 3:00 AM on the morning of February 14th, 2015.
2. No sale, service or delivery of alcoholic beverages shall be permitted after 2:00 AM in accordance with the provisions of Section 73-17(A) of the Code of the City of Garfield.
3. The approval granted herein is based upon the consideration of the unique facts and circumstances presented for this day and shall not serve as a precedent or basis for enlargement of time for any other date, event or licensed premises.

NOW THEREFORE BE IT FURTHER RESOLVED that the City Clerk be and he is hereby authorized and directed to forward certified copies of the within resolution to the Garfield Police Department and the Office of the City Manager. The City Clerk be and is hereby further authorized and directed to make certified copies of the within resolution available to any interested party and to any liquor licensee within the City of Garfield.

On call of roll, Ayes 3, Absent 2 -
Councilmembers Delany and Raymond

(Sgd) Louis G. Aloia
Frank J. Calandriello

ADJOURNMENT

At 10:00 PM, there being no further business, Councilmember Aloia moved to adjourn the meeting. Councilmember Calandriello duly seconded the motion.

On call of roll, Ayes 3, Absent 2 -
Councilmembers Delaney and Raymond

Andrew J. Pavlica, CITY CLERK