



**ABO HEARING
MEETING AGENDA
TUESDAY, MARCH 15, 2011
1:00 P.M. COUNCIL CHAMBERS**

AGENDA

ALCOHOL BEVERAGE HEARINGS TUESDAY, MARCH 15, 2011 1:00 P.M. THE ALCOHOL BEVERAGE CONTROL BOARD Rodney A. Seydel, Jr., Chairman Nyka Scott, Vice Chair Gwendolyn Hawkins Robert Jenkins, Jr. Ellen Hazeur Nikolaus Richard Jerry Speir CALL TO ORDER RODNEY A. SEYDEL JR., CHAIRMAN ROLL CALL SHARON B. TEMPLE ALCOHOL BEVERAGE CLERK/SECRETARY PLEDGE OF ALLEGIANCE TO THE FLAG RODNEY A. SEYDEL, JR.

1. **Hearing Number: 22-10 (TX) DISTRICT (C) GISLESON PALMER /JENKINS PERMITTEE: SOUND CAFÉ, L.L.C. D/B/A SOUND CAFE ADDRESS: 2700 Chartres St., New Orleans, LA 70117 LICENSE NO. 43086 & 43087 Allegations:**

(a) New Orleans City Code Section 10-47. Permit prerequisite to engaging in business. It shall be unlawful for any person to sell, offer for sale, import, manufacture, distill, rectify or have in possession, for sale, handling, storage or distribution, either at wholesale, retail or otherwise, any alcoholic beverage or to engage in the business of dealer without first having obtained from the department of finance of the city a permit to engage in such business or a temporary number as provided in section 10-108.

- b. **New Orleans City Code Section 10-157:**

(a) Any city retail alcoholic beverage permit shall be suspended or revoked, or remedial sanctions as set forth in section 10-160 shall be imposed, for any one of the following reasons:

(11) Failure to pay any sales, amusement or other excise taxes due the city in connection with the licensed premises.

- c. New Orleans City Code Section 150-726 : It shall be unlawful for any person to commit the crime of failure to remit sales or use tax as hereinafter defined. Failure to remit sales or use tax is the intentional failure on the part of any person to file any sales tax returns or any use tax returns when due, or to fail to remit to the city sales or use taxes collected from purchasers or consumers or otherwise due the city when due under the provisions of this article. RECOMMENDATIONS:

- 2. Hearing Number: 05-10 (A) DISTRICT (B) HEAD / SCOTT PERMITTEE: FRIAR TUCKS II, L.L.C. D/B/A FRIAR TUCKS ADDRESS: 5130 Freret St., New Orleans, LA 70115 LICENSE: 42811 & 42812 Allegations:
 - a. New Orleans City Code Section 10-47: Permit prerequisite to engaging in business. It shall be unlawful for any person to sell, offer for sale, import, manufacture, distill, rectify or have in possession, for sale, handling, storage or distribution, either at wholesale, retail or otherwise, any alcoholic beverage or to engage in the business of dealer without first having obtained from the department of finance of the city a permit to engage in such business or a temporary number as provided in section 10-108.
 - b. New Orleans City Code Section 150-953: New business; license due upon commencement. MCS 17271: Relative to an expired occupational license-new business: License required before commencing.
 - c. New Orleans City Code Section. 150-726: Failure to remit tax a misdemeanor.

(a) It shall be unlawful for any person to commit the crime of failure to remit sales or use tax as hereinafter defined. Failure to remit sales or use tax is the intentional failure on the part of any person to file any sales tax returns or any use tax returns when due, or to fail to remit to the city sales or use taxes collected from purchasers or consumers or otherwise due the city when due under the provisions of this article.

(11) Failure to pay any sales, amusement or other excise taxes due the city in connection with the licensed premises.

- d. New Orleans City Code Section 10-157: Maintaining or Creating a Public Nuisance:

(19) Determination of the existence of a public nuisance, as defined in titles 13, 14 and 40 of Louisiana Revised Statutes or any other applicable law, by a court of competent jurisdiction.

(22) Maintaining or creating a nuisance within the meaning of article 667 of the Louisiana Civil Code.

e. New Orleans City Code Section 10-157:

(3) Allowing or permitting any person under the age of 18 years to visit or loiter on any premises where alcoholic beverages are the principal commodity sold. RECOMMENDATIONS:

3. Hearing Number: 01-11 (TX) DISTRICT (A) GUDIRY/SPEIR PERMITTEE: MAPLE STREET ENTERTAINMENT, L.L.C. D/B/A ROCCO'S ADDRESS: 7601 Maple St., New Orleans, LA 70118 LICENSE NO. 41755 & 41756 Allegations:

a. New Orleans City Code Section 10-47. Permit prerequisite to engaging in business. Permit prerequisite to engaging in business. It shall be unlawful for any person to sell, offer for sale, import, manufacture, distill, rectify or have in possession, for sale, handling, storage or distribution, either at wholesale, retail or otherwise, any alcoholic beverage or to engage in the business of dealer without first having obtained from the department of finance of the city a permit to engage in such business or a temporary number as provided in section 10-108.

b. New Orleans Sec. 30-69 provides to wit: Mayoralty permits required for various calling or occasions. Mayoralty permits required for various callings or occasions. Permits shall not be required for the sale by an individual of tickets at or below face value to athletic contests or other amusement events, provided that tickets are not sold or offered for sale within 750 feet of the grounds of the Superdome when the event related to the ticket is being conducted or within six hours of the scheduled commencement of such event. Except for such sale by an individual of tickets at or below face value to athletic contests or other amusement events, within said 750-foot buffer zone, every person who shall desire to use the public streets, sidewalks or other public or private places of business establishments for the conduct of any of the businesses or callings hereinafter set forth shall first apply to and obtain from the department of finance a permit. Such permit shall in each instance state the occasion for which it is issued and the date upon which it will expire and shall be in addition to any other tax or license to which permittee may be liable. Except as otherwise provided, annual permits expire on December 31. Such permits, however, are not valid within the central business district area bounded by the river on the east, Claiborne Avenue on the west, Esplanade Avenue on the north, and Howard Avenue on the south, except as provided in this article.

c. New Orleans City Code Section 10-157: Maintaining or Creating a Public Nuisance:

(19) Determination of the existence of a public nuisance, as defined in titles 13, 14 and 40 of Louisiana Revised Statutes or any other applicable law, by a court of competent jurisdiction.

(22) Maintaining or creating a nuisance within the meaning of article 667 of the Louisiana Civil Code.

d. New Orleans City Code Section 10-157 Grounds:

(a) Any city retail alcoholic beverage permit shall be suspended or revoked, or remedial sanctions as set forth in section 10-160 shall be imposed, for any one of the following reasons:

(1) Selling or serving alcoholic beverages to any person under the age of 21 years.

(5) Permitting any disturbance of the peace or obscene, lewd, sexually indecent, immoral or improper conduct on the licensed premises. Improper conduct, as specified in this subsection, shall consist of actions which violate the penal provisions of this Code or other penal ordinances of the city. RECOMMENDATIONS:

4. Communication- From Gerri Broussard Baloney, Attorney Requesting a Motion to reconsider Jericho's Hookah Lounge & Café, L.L.C "revocation" d/b/a Jericho's Hookah Café & Mediterranean Chartres Street for an Alcoholic Beverage Liquor License for property located at 2106 Chartres St., New Orleans, LA 70116.

5. Hearing Number: 02-10 (A) DISTRICT (C) GISLESON PALMER / JENKINS PERMITTEE: BRIGGS of DEGAULLE, INC. D/B/A NEW ORLEANS ORIGINAL DAIQUIRIS ADDRESS: 3637 Gen. Degaulle Dr., New Orleans, LA 70114 LICENSE: 41475 & 41476 Allegations:

a. The City of New Orleans request to clarify its judgment of February 15, 2011 as to whether the Board held that Briggs of Degaulle, Inc. d/b/a New Orleans Original Daiquiris violated New Orleans City Code

b. New Orleans City Code Section 10-157: provides to wit: Maintaining or Creating a Public Nuisance

(19) Determination of the existence of a public nuisance, as defined in titles 13, 14 and 40 of Louisiana Revised Statutes or any other applicable law, by a court of competent jurisdiction.

c. New Orleans City Code Section 10-157:

(5) Permitting any disturbance of the peace or obscene, lewd, sexually indecent, immoral or improper conduct on the licensed premises. Improper conduct, as specified in this subsection, shall consist of actions, which violate the penal provisions of this Code or other penal ordinances of the city. RECOMMENDATIONS: 3

