

## **MINUTES**

**CITY OF HIALEAH GARDENS  
TUESDAY, MARCH 20, 2018  
CITY COUNCIL CHAMBERS  
10001 NW 87 AVENUE**

- 1. Call to Order:** Chairman Luciano Garcia called the meeting to order at 7:30 p.m.
- 2. Roll Call:** Present were Chairman Luciano Garcia, Councilman Elmo L. Urra, Councilman Jorge Gutierrez, Councilman Jorge A. Merida and Councilman Rolando Piña. Also present were Mayor Yioiset De La Cruz and Assistant City Attorney Aida Martinez-Ruiz. City Attorney Charles A. Citrin was absent.
- 3. Invocation:** Chairman Garcia gave the invocation.
- 4. Pledge of Allegiance:** Chairman Garcia asked members of the Boy Scout troop in attendance to lead the Pledge of Allegiance.
- 5. Deletions/Emergency Additions:** None were offered.
- 6. Review of Minutes: February 20, 2018** Chairman Garcia made a motion to approve the minutes of February 20, 2018. The motion was approved unanimously.
- 7. Public Comments:** None were offered.

**8. Public Hearing to determine revocation of Alcohol Beverage and Local Business Tax Receipt licenses:** Fun Time Billiards, 11300 N.W. 87<sup>th</sup> Court #137-140, Hialeah Gardens, FL 33018.

Chairman Garcia introduced the item into the record. Mr. J. Frost Walker III, City Attorney for Hialeah Gardens, came forward and stated that the purpose of the item is to revoke the business tax receipt license and the alcohol beverage license for Fun Time Billiards. This proceeding is required by law to be a quasi-judicial proceeding. City of Hialeah Gardens has brought this action against the business and the law thus requires that it present evidence supporting the effort to revoke the license. The defendant will also present evidence, and the City will then respond; any questions will be heard and answered. Mr. Walker emphasized that this case involves serious incidents of misconduct. Chairman Garcia asked anyone who intended to provide testimony to rise to be sworn in. Ms. Martinez-Ruiz read the oath. Chairman Garcia asked the applicant to come forward; Mr. Isaac Mamane introduced himself to the Counsel as the attorney representing Fun Time Billiards and Mr. Julio Genao; 10800 Biscayne Blvd., Suite 350A, Miami, FL 33161. An interpreter was utilized to translate for Mr. Genao, who stated his address as 11300 NW 87<sup>th</sup> Court.

Mr. Mamane came forward and stated that he is not fully aware of some of the evidence and had not received any witness lists or documents that would be presented at this meeting, but is aware of several police reports. He acknowledged these reports as concerning, but explained that their position is to show that they (the business) can improve. Mr. Genao recently returned from the Dominican Republic to attend this hearing and his intention is to fully comply with court ordinances and state statutes to be able to continue operating his business. He will refer to section 10-4B which allows this Council to either revoke the licenses or condition the license to continue operating. He believes that if Council conditions their license they will be able to rectify the issues.

Mr. Walker explained that the City is not required to provide witness lists or other documents; they are, however, required to provide police report records to the defendant and public notice of the hearing. The hearing was publicly advertised in the newspaper and the business was also hand-delivered a "Notice of City Council Hearing" 14 days in advance of the current meeting. Mr. Walker went on to detail the procedure of the quasi-judicial hearing. He then explained each specific code/law applicable to the case and the revocation of their business license and outlined the exhibits to be presented during the hearing.

Mr. Arturo Ruiz, Director of Administration, came forward and addressed the Council and presented a brief video put together by the Code Compliance department and himself, detailing the events of January 28, 2018, where the PD in conjunction with the Code Compliance department conducted an investigation into a nightclub performance that was set to occur at this restaurant on said date; they were concerned with the sale of alcoholic beverages and the conduct that was going to be observed at this location. Mr. Ruiz then detailed the conditions of the business' occupational license, license #BL19111, issued to Mr. Julio Genao; which notes in the provisions, among other things, that alcoholic beverages **must** be sold with full

course meals (LIC# BEV2321540 (2COP) Beer & Wine); no bar, nightclub, or live entertainment are permitted; limit 10 pool tables.

Mr. Ruiz continued and began to read through the report of Case #CE18-0004 as carried out by the Code Compliance department in collaboration with the Police Department beginning on January 27, 2018. The two departments sent personnel to conduct an on-site inspection of "Fun Time Billiards" based on information received that this business was hosting a live performance violating the conditions of its Business Tax Receipt. A flyer was posted in public spaces advertising an "exclusive concert" at the location on January 27, 2018 with a \$5 cover charge. The inspection was conducted past midnight of the same night. Code inspectors found several violations of the City Code of Ordinances as well as other violations of the conditions of the Business Tax Receipt as follows:

- Conducting business under a non-approved classification
- Operating business as a bar despite license issued to operate as a restaurant
- Live entertainment
- No food service

All conditions of the approved business license were being violated. Mr. Ruiz read over the specific conditions of the license once again. Mr. Ruiz explained that before Code Compliance inspectors entered the premises, police officers took video of the live performance. Photos were also taken as evidence of alcoholic beverages including hard liquor (which is not permitted by any license of this business). The video was played for the Council and those in attendance. It clearly shows a performer on a stage performing, and the audience is that of a nightclub and not of a restaurant. A visual presentation of photographic evidence continues, and Mr. Ruiz goes over the large amounts of alcohol found all over the site, including, but not limited to: buckets of beer, empty beer bottles, and bottles of vodka, tequila, rum, and other hard liquors like scotch, but absolutely no evidence of food. It was clearly a bar/nightclub atmosphere. An empty kitchen showed no evidence of food service. Police officers also found drug evidence: baggies with residues of cocaine and marijuana. Evidence of sanitary nuisance: cockroaches, a dirty sink, and a cat lying on the floor inside the building. After the inspection, Code Compliance proceeded to open a case and issue four citations totaling \$1,350. These fines were paid, but the case would remain open until all violations were corrected. This was explained to the manager on site. Mr. Ruiz concluded the presentation concerning the investigation conducted on January 27, 2018.

Mr. Walker then opened the floor to the police officers who went undercover and would be providing testimony for this case about the activity going on inside the business. Sergeant Carlos Zerbinati, who led the investigation, came forward and explained that prior to January 27<sup>th</sup>, information was received about a live performance set to occur. He is aware that they did not have a license for this. There were other issues that PD was dealing with that had occurred at this location, including a kidnapping that led to a shooting in Miami Gardens. Sgt. Zerbinati detailed the organization of the operation and called several of his undercover officers to come forward to provide testimony.

At this point, Officers Jesus Gorotiza and Uriak Leon began to describe the operation they carried out in detail as well as what they saw occurring inside Fun Time Billiards and in the parking lot of the business on January 27<sup>th</sup>, the night of the live performance. This testimony went on for several minutes. Sgt. Zerbinati then detailed what occurred when he arrived the same night as back-up due to a brawl that was getting out of hand; he conducted an inspection of the bar and found numerous violations as described above. Chairman Garcia stated that part of the reason businesses need a license for live performances is to ensure there is adequate security at those events. They either coordinate with the Police Department or hire private security to prevent problems like this.

Sgt. Zerbinati then explained that there are a total of 55 reported incidents over the last four years at that location ranging from trespassing to traffic stops. The report specifies the bay number where the business is located. Chairman Garcia asked whether the same owner had been operating that business during that time period. Mr. Ruiz answered that the same owner has been operating the business for 16 years.

Mr. Walker introduced exhibits 6 and 7. Several arrests were made at the location around the time they were cited. Mr. Walker asked if the illegal conduct had ceased after they had paid the fines. Sgt. Zerbinati answered that they had organized another undercover operation after the business had paid the fines. Officer Edwin Huerta then provided his testimony concerning what he witnessed at the business on February 9, 2018, which included patrons drinking alcohol (without food) and employees serving mixed drinks containing hard liquor. Chairman Garcia pointed out again that this business had never been licensed to sell hard liquor. Officer Huerta was not offered a menu at any point in the night.

Sgt. Zerbinati continued and explained that Officers Jorge Martinez and Orlando Victorero conducted a subsequent operation on March 17, 2018. They described the illegal presence of hard liquor and lack of food. An undercover video was taken the night of the operation; it was played for the Council. The Sgt. Zerbinati continued with a description of a stabbing incident that occurred while Detective Joseph Jaus was working at the site in an off-duty capacity on February 25, 2018. Detective Jaus described the incident and the subsequent investigation into the crime in detail.

Mr. Walker identified exhibits 8, 9, 10, 11, 12, 13, and 14 which contained pertinent information including police reports and then rested his case. Chairman Garcia opened the public hearing. No one came forward to comment and the public hearing was closed. At this point Mr. Mamane called his client, owner of Fun Time Billiards Julio Genao, forward. Mr. Genao came forward and began to deliver his testimony to the Council, detailing the personal circumstances surrounding his ownership and management of Fun Time Billiards. He insisted that he was not here to negate the accusations but to prove that he could restore order to his business. An interpreter translated his testimony to English for the Council. Chairman Garcia asked whether he disagreed with any of the evidence that was presented during this meeting; Mr. Genao answered that he did not. He also asked him if he was the person that signed the business tax receipt and alcohol license; Mr. Genao answered that he did sign it. Chairman Garcia then insisted that because of this, everything that happens under

those licenses is Mr. Genao's responsibility, whether he is here or somewhere else. Mr. Genao agreed with this and continued delivering his testimony and offering his apologies for several minutes. At the conclusion of his testimony, he was questioned by Mayor De La Cruz over his alleged timeline of events and the record of violations occurring at the establishment during the time he had returned to the United States. Chairman Garcia questioned whether Mr. Genao was aware that there were violations on March 16, 2018. Mr. Genao denied that there were any. The Council demonstrated that the evidence shown during this hearing points to the continued occurrence of violations at the establishment despite Mr. Genao's argument. Chairman Garcia, Mr. Walker, Ms. Martinez-Ruiz, Councilman Gutierrez, Councilman Urra and Councilman Merida continued questioning Mr. Genao for some time, reiterating the overt violations of the conditions of his business licenses. Mr. Francisco Tejada, 8729 NW 106<sup>th</sup> Lane, Hialeah Gardens, 33018, an employee (manager) of Fun Time Billiards, then came forward to deliver his testimony. He was subsequently questioned by Chairman Garcia on his allegations. Mr. Mamane interjected. The Mayor, Council, Mr. Walker, and Ms. Martinez-Ruiz continued questioning Mr. Genao and Mr. Tejada about their conflicting testimony and the obvious evidence of violations. Chairman Garcia reiterated the laws that mandate the food requirement. The discussion concluded with Mr. Mamane offering a copy of the menu as exhibit A of the defense. Mr. Walker made a few closing comments about the case and his strong recommendation to revoke the license.

At this point, Chairman Garcia states that the evidence presented shows repeated cause under the City ordinances by which the licenses can be revoked. There has been no evidence from the owner that contradicts what has been presented before the Council. Chairman Garcia made a motion to revoke the alcohol beverage license and business tax receipt of Fun Time Billiards, seconded by Councilman Merida. The motion was unanimously approved by individualized voice vote. **(5-0)**

- 9. City Attorney's Report:** No comments
- 10. Mayor's Report – Miscellaneous:** No comments
- 11. Council Members Concerns / Reports / Board Appointments:** None
- 12. Adjournment:** The meeting was adjourned at 8:54 p.m.

Respectfully submitted by:

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Maria L. Joffee  
City Clerk

Any person desiring to appeal any decision made by the Council with respect to any matter considered at this meeting will need a record of the proceedings, and it will be their responsibility to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

**SCHEDULE OF MEETINGS**

**CITY COUNCIL**

Tuesday, May 1, 2018, 7:30 P.M.

**PLANNING AND ZONING BOARD**

Monday, May 7, 2018, 7:30 P.M.

**TECHNICAL REVIEW COMMITTEE**

Thursday, May 3, 2018, 11:30 A.M.

**WATER AND SEWER BOARD**

Wednesday, April 25, 2018, 7:00 P.M.

**POLICE PENSION BOARD**

Tuesday, May 1, 2018, 5:30 P.M.