

Liquor Hearing before the Mayor and Council was held on Monday, May 22, 2017 in the Borough Hall was called to order by Mayor O'Brien at 5:35 pm followed by a salute to the flag.

Notice of the meeting had been satisfied in accordance with Open Public Meetings Act Chapter 231, P.L. 1975 and NJ Administrative Code 13:2-7.5 by advertising in the Home News Tribune, notifying the Sentinel Publishing Co. and the Star Ledger, posting on the bulletin board and filing with the Municipal Clerk.

Roll Call: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo, Melendez and Novak.

Absent: None

Others Present: Mayor O'Brien, Municipal Clerk Theresa A. Farbaniec, and Borough Attorney Michael DuPont, ABC Counsel Peg Schaffer, Esq.

Others Present: - Skip Reale, Law firm of Helmer, Conley & Kasselmann, Willingboro, NJ, representing Snookers, LLC.
- Bryant Mitchell, Applicant
- James J. Addonizio, representing Bourbon Street

(Speaking on mic)

- Skip Reale, Law firm of Helmer, Conley & Kasselmann, Willingboro, NJ
Representing Snookers, LLC.

Borough Attorney DuPont announced that this is a hearing on an objection received for the Place to Place Transfer of PRCL #1219-33-043-005, Snookers, LLC to locate to 960 Route 9 South and to hear application for Waiver of Ordinance #6-5.8.

Hearing was conducted by Borough Attorney Michael DuPont. He also noted for the record that everyone has the following exhibits:

- Application for Transfer
- Correspondence dated July 6, 2016 from Snookers
- Business Plan
- Correspondence from Route 9 Associates, LLC
- Correspondence from Mr. Reale dated May 16, 2017 to the Borough Clerk.
- Analysis of the application by Snookers, LLC for an application for waiver from section 6-5.8 of the Revised General Ordinances
- Correspondence from James Miller, License #1755 dated March 6, 2017
- Correspondence dated January 23, 2017, an analysis report from Global Cartographics, LLC
- Map of the Borough of Sayreville – Plenary License Conformance Map
- Correspondence dated May 11, 2017 from Mr. James Addonizio which enclosed a letter.
- Incident reports dated April 8, 2014; March 20, 2014
- A Place to Place Transfer resolution #2013-69 dated Feb. 25, 2013.

Mr. DuPont stated that we are here for two issues.

- 1) Whether the transfer should occur.
- 2) If transfer is approved what and if conditions should be placed on this license.

Peg Schaffer, ABC Counsel added that there is also an application for waiver of distance restriction, which is one of the key issues.

Mr. DuPont turned the meeting over to Peg Schaffer. She stated that this is an application for a transfer from pocket status to 960 Route 9 South. She said that there are many documents before you and at this time asked the applicant and the applicant's attorney to add to these documents at this time and to have his expert certify to them.

She explained to the Council that if they decide to grant the waiver they need to make sure they make findings of all the requirements of the ordinance 6-5.8. She said that there is an attorney representing the objector, Route 9 Associates, the Police Chief.

Ms. Schaffer called upon Mr. Reale on behalf of the applicant.

Samuel Reale Jr., of Halmer, Conley & Kasselmann. Representing the applicant, Snookers. He stated that they have three witnesses present this evening.

- Bryant Mitchell, Managing Member, can speak on what he plans on doing with that location.

- Steven Fernandez, University of South Florida, GIS Mapping Expert.

Who has taken the ordinance and compared it with....(Mayor paused the meeting to allow the court stenographer time to set up) ... the zoning map to determine if there are any sites in Sayreville where you could in fact site a license in the municipality.

- Jim Miller, Professional Planner, licensed in the State of New Jersey, who will be addressing the conditions in the ordinance.

Borough Attorney DuPont asked the ABC Counsel, Peg Schaffer if she accepts the qualifications of the expert witness. Ms. Schaffer stated that they have been accepted.

Mr. Mitchell was called forward.

Mr. Reale asked if he was associated with Snookers. Mr. Mitchell replied that he was the sole managing member.

Is Snookers making the application for the place to place transfer of the license and what site.

Mr. Mitchell said that it is and it is to be transferred to 960 Route 9 South.

Ms. Schaffer reminded Mr. Reale that the council has all of that information in the packets so if he has any additional information of questions.

Mr. Dupont said that they have all the documents before them, they've read them and know that he wants to operate a pool hall.

Mr. Reale asked Mr. Mitchell what he plans to operate at the location.

Mr. Mitchell responded – a small pub and grill, billiards hall. He said that Middlesex County is actually one of the strongest areas as far as billiards players go. He spoke about championships and that top players come to this area to play.

Questioned if he has a current lease with the landlord and the landlord is aware of the operation he proposes to place in that unit.

Mr. Mitchell responded that was correct.

The Mayor and Council had no questions for this witness.

Appearing was Mr. James J. Addonizio, Esq., of the firm Rudnick, Addonizio, Pappa, Casazza representing Bourbon Street.

Asked Mr. Mitchell how much space would be bar and how much billiards.

Mr. Mitchell responded, 8,230 sq ft total – Pool Hall approx. 6,200 sq ft. and bar 1,200 sq. feet pub. The rest is kitchen, grill and offices.

Mr. Addonizio asked if he was familiar with the prior business. Mr. Mitchell said that he was involved with the pool hall only. Mr. Addonizio said that then he was involved with the Red Zone establishment. He responded that he was incorrect. Mr. Addonizio asked if that was the one given the liquor license transfer on Feb. 13.

Other attorney said that he would have to yield to ABC Counsel. Stating that this is a place to place transfer not a person to person transfer and suggested that this is inappropriate.

ABC Counsel said that she was just about to state that also. What was conducted at the location prior to this application is not before counsel. They are aware of the Red Zone. It was a night club. This is a different use and the subject of this application is a place to place transfer. This is not about the person or conduct of the person prior.

Mr. Addonizio disagreed. This was definitely a night club. This council had heard testimony at that time it was completely understood that it was going to be a pub and billiards hall and a night club developed, as outlined in his objection letters to Mr. DuPont. Mr. DuPont stated that there were special conditions attached to the license. He asked that he narrow his objection to the pool hall and pub.

Mr. Addonizio questioned Mr. Mitchell's credibility, asked about the police coming to the establishment – the Red Zone on March 24, 2014.

Other attorney Samuel Reale, Jr. said that this is not a qualification for holding a license. This is a place to place application. If this were an issue as to qualifications and events that happened in the past it should have been challenged at the time.

Borough Attorney Mr. DuPont said ABC Counsel Ms. Schaffer has taken his position which is that Mr. Addonizio needs to concentrate on the proposed use not prior violations of the prior owner. That right now the current owner is proposing a pool hall, pub and grill.

Mr. Addonizio said that any time someone testifies to a judicial system or council – credibility comes into play. Three and a half years ago my client came before the council when his client had an objection on the previous owner. They wanted to make sure there was not going to be any live entertainment.

Mr. DuPont stated that this Mayor and Council aware of the prior history of the prior use. He said that he had attached the exhibits. They are well aware of it and have knowledge of it and asked that he concentrate on the present.

Mr. Addonizio said that he was looking to see if Mr. Mitchell had an ownership interest in that bar back in 2013. He said that is the man that is going to be running the operation and he is the gentlemen that is going to have to comply with the ordinance.

Mr. DuPont said that was a legitimate question.

Mr. Mitchell said NO.

Do you remember the police came to your place in March of 2013.

Mr. DuPont said that he did not have an ownership interest so it was not his.

Mr. Addonizio said that there was a police investigation.

Both the ABC Counsel and Borough Attorney stated that all of that information was presented to council previously so they are aware.

Mr. Addonizio asked if he lied to the police when they came to the establishment back in 2014 stating he was the owner.

Mr. Reale objected to that and the borough attorney stated that he understands his objection. Mr. DuPont went on ask if he had any further questions of the testimony, and remember his testimony was very short, all he is proposing is a pool hall.

Mr. Addonizio said that he just wanted to make sure that this individual, who stated to the police that he was the current owner in 2014, and continually violated this borough's ordinance, makes him responsible back then and if he lied to the police back then how does this council know that he is going to be truthful to his words now if you add the same conditions that you did 3 ½ years ago.

ABC Council and Borough Attorney responded that the police department is perfectly capable of enforcing the ordinances.

Mr. Mitchell clarified for the record that if he said he was the owner-he was the owner of the pool hall which he sub-leased.

The Borough attorney called for Mr. Reale to call his next witness.

Mr. Reale called Mr. Fernandez.

Borough Attorney asked if his credentials were accepted. ABC Counsel, Peg Schafer said that they were.

Mr. Reale said that Mr. Fernandez has been retained by Snookers, LLC to do a review of the proximately ordinance that places a restriction on licenses within 2,000 feet of each other. He asked Mr. Fernandez to briefly describe the report the council has before them.

Mr. DuPont said that for record purposes, Mr. Fernandez is being proffered as a Planner.

Mr. Reale said that Mr. Fernandez is the GISP

Mr. Fernandez said that he was hired to analyze the ordinance. This entails taking the zoning map and GEO referencing it so that it lines up with the parcel layer of Middlesex County. Now that is completed he could identify the locations of the liquor licenses obtained from the ABC and could determine which were zoned properly and also not within 2,000' of another liquor establishment, etc. which are the exhibits before you.

Mr. Reale asked if he reviewed whether currently all the licenses are in conformance with the ordinance.

Mr. Fernandez said that he did and it is in the report and 20 of the 28 licenses are not conforming.

Mr. Reale asked that as a result how many locations were available to site this license.

Mr. Fernandez said that the exact number is in the report and that - map 3, 4 and 7 were the only locations that could contain a new license.

Mayor asked what his analysis is showing-that most of the licenses are not in conformance. He then gave the borough's history background and that most of these licenses were neighborhood bars years back, and now that the town has changes the neighborhood bars no longer have a viable business model. He also said that because of this Sayreville is over licensed based upon the legal number of bars to ratio of people.

Mayor stated that Sayreville is not out of compliance with our own ordinance on a deliberate basis. He said that we are completely in tune with what we are, etc.

Mr. Reale stated that there is no suggestion here by this applicant that this or any previous council has done anything affirmatively to create this situation. This is something that has developed over time simply because of the nature of what Sayreville was. ABC Counsel, Peg Schafer said that the point that they are trying to bring before the council is that there a limited number of sites available to place a license.

Councilman Grillo stated that the waiver ordinance goes back a long way and was curious as to how many licenses have been issued since this ordinance.

Mr. Fernandez said that he does not have access to that information.

Mayor commented that they have not issued any new licenses but they have retired several.

Mr. Reale said that there have not been that many transfers relocating licenses.

Ms. Schafer asked the council if there were any further questions. None made.

She than called upon Mr. Addonizio.

Mr. Addonizio asked Mr. Fernandez if he could tell him – that there are three other locations in the town where the license can be placed that does meet with the borough ordinance, besides this one.

He responded yes.

Councilwoman Novak said that he had sited locations. But does he know if there was a building appropriate in those areas.

Mr. Addonizio called upon Mr. Miller, State Licenses Planner.

He asked him if he reviewed the Ordinance with regards to the waiver provision and if he had issued a report with respect to this.

Mr. Miller stated that he did and that he looked at all the criteria that applies to the waiver provision and believes this application meets all the criteria. He said that they have the report in detail.

ABC Counsel called Police Chief John Zebrowski and asked if he had an opportunity to review the application and are familiar with the location. Chief said that he did review and was familiar with the area but had a question as to the exact location. If it was going to be the theatre and where the billiards hall previously was or both or individual.

Mr. Mitchell said that the theatre is locked. There is a pool hall and a section between the theatre and pool hall where there is the kitchen and that is the only part in the application.

Chief asked if the theatre was going to be used for food preparation.

Mr. Bryant said no, not at all. He said that there is a billiards hall and right next to it there was a small pub and in the back there was the grill. These will be the areas. He said that the doors to the theatre are locked.

Chief asked if he would be renting both the theatre and pool hall. Mr. Mitchell said absolutely not.

Chief then asked what the primary business plan was. He said that he read in the plan that 80% was a billiards hall and when he read Mr. Reale's report that was an ancillary issue. That it was really a restaurant and pub.

Chief said he wants a clarification on the primary use of the business.

Mr. Mitchell said the primary use is for billiards. He plays billiards nationally, etc. He said that there is no place in Central Jersey that caters to billiards players as far as drinks and food as well.

Ms. Schafer asked the chief if he was familiar with this location and in his opinion was this location of additional facility-an additional licensed premises going to have an adverse impact on the adjacent residential area.

The chief said possibly. That something of this nature where you have a high volume of people in and out can have issues relating to quality of life, loitering, littering and issues relating to intoxicated patrons.

Peg Schafer said that our ordinance states that when considering whether or not to waive the distance requirement. Do you have an opinion whether or not this transfer application should be granted and the restriction should be waived?

Chief said that if the application is granted there will have to be a number of conditions set forth on this license.

Ms. Schafer asked if he could specify the conditions he would like the council to consider.

Chief said that he does not know if he could specify all, but the license that was previously there...

Mr. DuPont said that if we could just expand upon his opinion...

Mayor said that he wanted to talk about the first topic thoroughly, which is if the council was going to waive... said he was looking for two things. He was looking for a blueprint of the hall.

Mr. Reale said that there was not a blue print, there was a floor plan.

Mr. DuPont told Ms. Schafer to have the chief to give his opinion as to the certain adverse impacts and if the Mayor and Council have any questions or comments on that impact then we would have reached our next conclusion.

Ms. Schaffer said that he did answer the first question regarding whether or not it would have an impact. The next question is whether this would be an area where patrons would tend to congregate or consume alcoholic beverages outside.

Chief said that he thought they would not as long as there is security. Congregate they would. People who attend or participate in these types of locations would congregate on the sidewalks or parking lot areas to smoke or wait for other people, especially when the business is closing.

Peg Schafer asked if the chief was familiar with the two other liquor businesses within 2000' radius of this proposed premises and asked if they were similar.

Chief said that he was aware and they were not similar.

Peg said one was a package goods store and the other an entertainment business.

She then asked if the use of this property as a billiards hall. Chief said that a billiards hall operated at this location previous and that if this was the primary business it would not have any adverse impact.

Mayor said that he would like to hear from the owners of Bourbon Street because they have made quite a sizeable financial investment here in Sayreville.

Skip Reale stated that if people were at a number of other retail establishments they might congregate outside. It is not limited to a pool hall, bar or restaurant. Chief said correct.

Chief said that when you are having a pub, tavern or restaurant of that nature you tend to have more people congregating more than people coming out of a shopping center or a convenience store.

Mr. Reale said to the chief that one of his earlier comments that it could be a deterrent and that deterrent could be controllable by conditions, correct?

The Chief said yes.

He then asked what conditions would he suggest be placed on this license.

Mayor said that this was not relevant yet. We are still talking about whether or not we are going to allow you to set up business there. Talking about conditions is not relevant yet.

Mr. DuPont said that what they could do is just ask the chief, he had a limited testimony as to criteria as the chief had set up earlier.

Mr. Reale disagreed with the Borough attorney.

Mr. Reale then asked the Chief what specific deterrents do you identify as a part of this application.

The Borough Attorney stated that the chief said that there were quality of life issues with regards to this application. That included outside quality of life – litter, etc.

Mayor stated that he would like to hear from Mr. Addinizio's clients as to what the financial impact would be to a business that has been here for 30 or more years.

Called forward wan Anthony Spalliero, Managing Member Route 9 Associates.. DBA Bourbon Street.

Attorney (Unidentified) said that 3-4 years ago the borough passed an ordinance permitting a pool hall and a pub be placed at this location. Before they closed down did you suffer any adverse consequences of that operation the years that it was opened.

Mr. Spalliero said yes. The attorney asked him to identify those for the Mayor and Council.

Mr. Spalliero said that he did a person to person transfer with his father and bought the license from him. He said that having a liquor license in New Jersey is a privilege. He said that he worked very hard for him before he retired. And continue to work just as hard to protect the patrons that come into the bar, the bartenders, staff. He makes sure everyone is tip certified. Has his staff attend classes regularly. Hire extra security so there are no issues. Have a very good clientele that come in. Spoke about the types of party events he caters.

Went on to say that when the Sports Bar and Red Zone came together it became a problem. Underage people would try and come into his bar and would have to be escorted out. There were numerous fights in the side parking lot. His security would have to intervene separating from their side to his side. He said that he sat with Bryant and Kevin at the time. Understands that Bryant wants to make money and have businesses but there comes a point that he needs to be protected. That is why there are these ordinances. To protect people. His concerns are that if one person walks into his establishment drunk, does not even have one beer, gets escorted out, gets into a car accident and the last thing that they show on the video camera is that they left his establishment. Talked about the cross promotions Kevin and Bryant described back then and what it turned into. And the Gordon Ramsey's chef's restaurant turned from a restaurant to a sports bar to girls dancing on the bar, live bands, DJ's, Hot 97. Does not want to work hard just to just shut down and be out of a job.

Attorney (Did not state his name) said to Mr. Spalliero that there has been a representation by the applicant Bryant Mitchell, who is the owner of this license through an LLC, trading as Snookers, that he has your permission for this place to place transfer. Is that accurate?

Mr. Spalliero said that he seen a letter that was sent to the Borough Clerk stating that he was not to opposed that. He said he told him from the beginning when he was going to do a billiards. Then he received his business plan and it was 8,000 sq. ft. He said that he does not believe him.

Mr. Reale asked if he was the managing member. Mr. Spalliero said that he was the sole owner.

Mr. Reale asked if there were other bars. Mr. Spalliero said that there were.

Mr. Reale said so the fact that you may have someone come in that is already intoxicated is not something specific or solely because there might be another licensed premises next door. Mr. Spalliero said he would like to take his chances better on someone coming from the Brick House than someone jumping the railing. Coming into his bar after 15 shots of tequila and 5 beers. Mr. Reale asked if he had such evidence. Mr. Spalliero said that his bouncers could give testimony that people that were intoxicated coming over from next door to his place that he would not allow in. People yelling at is patrons who were outside smoking cigarettes. Mr. Reale asked if it was ever the other way around. Mr. Spalliero stated no. He went on to say that he had to hire more security to protect his employees and patrons when Red Zone was operating because of the chaos. Spoke about people still being in the Red Zone after closing hours, etc.

Discussion on people leaving a bar next door to Bourbon Street or someone leaving any other bar and coming into his establishment.

Mr. Spalliero expressed his concern of an incident happening because of both establishments being so close together. Basing the answer upon history of the establishment in the past.

Mr. Reale said that in the context of this particular application, if there is no live entertainment, if there is control of the premise such as intoxicated patrons- What is your economic loss? Mr. Spalliero said that it goes back into the past with No Live Entertainment on the license. He did not listen to any of it. He had live entertainment – DJ's, bands, etc. Mr. Reale asked about now. The Borough Attorney said that this question had already been answered.

Mr. Reale had not further witnesses. Mr. Addonizio stated the same.

ABC Counsel said that is all we have at this point it will be up to the Council. She said that the Police Chief has not objected. She just wanted to be clear and asked the Police Chief if he reviewed the application and he expressed a position to her that this was an appropriate use from a police perspective. Chief Zebrowski said yes and at this point do not want to get into the second issue as long as certain conditions are in place.

Mayor said what needs to be established is that the chief is neither for or against. He is neutral. He sees no benefit or detriment to the community. He has no objections on the application. There is no problem with the application, meaning criteria.

The Chief said that the police department's position was not a recommendation against the licensee.

Mr. Reale asked the chief in the context of the ordinance, subsection b. He asked if he had an opinion - the operation of Snookers is going to generate inappropriate behavior, as defined in the subsection. Chief said that is a possibility, probability of adverse action based upon the previous business and how it was managed.

Mr. Reale asked the chief he reviewed Snookers business plan and how it proposed to operate? Mr. Reale again asked that based upon the Police Chief's experience, is there still a degree of speculation in your testimony as it related to what may or may not happen at that

location under the business plan as presented. Chief said that as presented there is still a concern.

Ms. Schaffer said that there was nothing further. Mr. DuPont asked Mr. Reale if he had anything to add.

Mr. Reale said it is very clear. You have an ordinance that provides for a waiver. He said that there are some questions with regards to the adoption of that, in light of some cases he spoke to Ms. Schaffer about as to whether or not it is enforceable. When you do an overlay there are not a lot of locations where anyone can site any license that is currently pocketed. This particular location is to operate a billiard hall with a pub restaurant attached. Testimony has been that it is about 80% pool and 20% restaurant and pub. This is a substantially different operation proposed to be operated at that location that what was operated there before. The prior experience was in the past. This licensee, who holds this license in-pocket status is looking to operate something that is vastly different. There is no live entertainment. This is not the type of establishment that will generate those sort of issues. Yes there is a liquor store and yes it is adjacent to a non-related entertainment facility, a go-go bar by its nature is different. This is a billiard parlor with a pub/restaurant attached. Either use does not conflict with the other. He said that he could see Snookers customers going into Bourbon Street and Bourbon Street customers coming to Snookers. Every licensee has the responsibility and the concern of someone coming in who is under the influence who is refused service leaves and gets into an accident. Then you will have to deal with the ABC.

He said that it is not a primary focus of being a sports bar. It is not a situation where is going to compete with the go-go bar.

It will enhance the strip mall because it increases traffic into that strip mall and fill two of the vacant units. This does have an economic advantage.

Understands that there were issues with the operation of Red Zone and that is why Red Zone is not here and Snookers is. Snookers has acquired a license at the store fronts to operate. From a planning perspective this is a good use of that license at that location and should be approved.

Recommended to the council it would be best to grant the Place to Place transfer then determine what if any conditions are appropriate to attach to that license.

Mr. Addonizio said that four years ago he appeared before this council. Four years ago we placed our objections on the record. Four years ago you made a decision to grant this transfer. Four years ago you had the owner of the establishment make representations to each and everyone of you at that time. They said that they would agree to the restriction they would put on that license. Then in a very short time they presented live entertainment, a direct violation of the ordinance. They provided DJ's, party girls and did not provide the proper security. There is a police report indicating that they had ten police cars at that location. He said that he had asked Mr. Mitchell as to whether or not he had an ownership interest and in the police report, when asked by the police officer if he was the owner, he positively states said that he was. Said that Mr. Mitchell is part of the past transgressions and if this application goes forth and is granted, he will make the same transgressions. He wondered how a billiard hall that went out of business four years ago is now going to be successful. He suggested that an Irish Pub or alike would be a better fit. He said that Mr. Mitchell has made it clear in his business plan that he plans to make it successful then sell it.

He said this to the council in closing.
Fool me once, shame on me; fool me twice, shame on all of you.

If you allow this to proceed to grant this place to place transfer it is going to have Jim Addonizio and Mike DuPont in the Middlesex County Superior Court on an Order To Show Cause and for those reasons I am asking that you enforce the ban on a liquor license within 2,000 feet. Thank you.

Mr. DuPont said to Ms. Schafer that this would conclude this hearing. She agreed. Mr. DuPont stated we will be retreating into closed session and render a decision. Borough Attorney DuPont read the following resolution into record.

- **EXECUTIVE SESSION**

At this time the Borough Attorney announced that there is a need to go into Closed Session.

- 10 minutes / Litigation

Mr. DuPont read the following Resolution into record:

RESOLUTION FOR CLOSED SESSION

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting in certain circumstances, and

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Sayreville, County of Middlesex, State of New Jersey, as follows:

1. The public portion of this meeting is hereby adjourned in order that the Governing Body may meet in a closed, private session for approximately 15 minutes to discuss the following matters:

Possible Litigation – ABC Decision Transfer Application

2. Following the conclusion of said closed session, the Governing body shall reconvene the open portion of this meeting to consider any other matters which may be properly brought before it at this time.

3. The nature and content of discussion which occurs during closed session shall be made public at the time the need for non-disclosure no longer exists.

NOW, THEREFORE BE IT RESOLVED that the public be excluded and this resolution shall take effect immediately.

/s/ Mary J. Novak, Councilwoman

APPROVED:

/s/ Kennedy O'Brien, Mayor

Councilwoman Novak moved the Executive Session Resolution be adopted on Roll Call Vote. Motion seconded by Councilwoman Kilpatrick.

Roll Call: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo, Melendez, Novak, all Ayes.

Carried. Time: 6:43 PM

- **RECONVENE – 6:54 PM**

Council President Buchanan made a motion to reconvene. Motion seconded by Councilwoman Novak.

Roll Call: Voice Vote, all Ayes.

- **PUBLIC PORTION**

At this time Mayor O'Brien opened the meeting to the public for questions or comments and this liquor license and waiver.

There were no appearances.

Councilwoman Novak moved the public portion be closed. Motion was seconded by Councilwoman Kilpatrick.

Roll Call: Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo, Melendez, Carried.

At this time the Borough Attorney asked if there was a motion to approve or deny the application for Place to Place Transfer from pocket status to 960 Route 9.

Motion made by Councilwoman Novak. Seconded by Councilman Buchanan.

Mike DuPont said that there is an application at this point and time and read the following resolution into record. And that this resolution is subject or conditions being imposed upon the license. And that the attorneys are to submit to the Mayor and Council for a finding at a later date when the submission are accepted. Ms. Schaffer said that they want submissions from counsel for the objector and counsel for the applicant. Conditions they recommend and she will consult with the Police Chief.

RESOLUTION #2017- 131/1

**A RESOLUTION OF THE BOROUGH OF SAYREVILLE IN THE
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, APPROVING APPLICATION FOR TRANSFER
OF A PLACE TO PLACE LICENSE FROM POCKET TO 960 ROUE 9 SOUTH**

WHEREAS, Snookers LLC (the "Applicant"), filed an application for a place to place transfer of Plenary Retail Consumption License No. 1219-33-043-005 (the "Application") from pocket, located at 418 John Street, South Amboy, to 960 Route 9 South; and

WHEREAS, the proposed location is within 2,000 feet of other plenary retail licensed establishment in violation to Borough Ordinance # 6-5.8; and

WHEREAS, The Applicant has requested a waiver of the restriction; and

WHEREAS, Route 9 Associated t/a Bourbon Street (the "Objector") has objected in writing the place to place transfer and waiver of the restriction; and

WHEREAS, the Applicant has been given notice of this objection and Applicant and Objector have had an opportunity to present their positions to the Council at a hearing held on May 22, 2017; and

WHEREAS, at the hearing, Applicant was represented by counsel, Samuel Reale, Jr., Esq. of Helmer, Conley & Kasselmann, P.A.; and

WHEREAS, Objector was represented by James Addonizio, Esq. of Rudnick, Addonizio, Pappa & Casazza PC; and

WHEREAS, the Sayreville Police Chief recommended that the transfer be approved and the waiver granted; and

WHEREAS, Ordinance # 6-5.8 vests discretion with the Borough Council acting as the ABC issuing authority to waive the 2,000 foot restriction in its reasonable discretion if it is satisfied that such waiver will not adversely impact the surrounding area and the public health, safety and welfare; and

THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Borough Council of the Borough of Sayreville, after hearing from the Applicant, Objector, and Counsel, and reviewing the police reports and recommendations based thereon, makes the following finding:

- a) The location of an additional facility in the area will not have an adverse impact adjacent residential areas;
- b) The proposed location is not in an area where patrons of licensed facilities tend to congregate and/or consume alcoholic beverages on the adjacent streets, sidewalks and
- c) properties and that the proposed facility is not of such a type that it may be expected that its patrons may engage in similar inappropriate behavior;
- d) The existing premises licensed for plenary retail distribution are within 2,000' feet from the proposed facility;
- e) The proposed facility and existing licensed facilities have different business models as one primarily sells packaged goods for off-premises consumption and the other is a tavern designed for on-premises consumption;
- f) The proposed location would benefit the commercial development of the shopping center in which it is housed;
- g) The proposed facility would facilitate redevelopment of the shopping center which currently has several vacant units; and
- h) The Council believes the approval of this Application and waiver is otherwise in the public interest; and

BE IT FURTHER RESOLVED that the place to place transfer Application of Plenary Retail Consumption License No. 1219-33-043-005 is hereby approved; and

BE IT FURTHER RESOLVED that all requirements of the Unfair Construction Code and Borough Ordinances must be met prior to occupancy; and

BE IT FURTHER RESOLVED that this transfer is subject to conditions being imposed within thirty (30) days.

Mary J. Novak, Councilwoman
(Admin. & Finance Committee)

ATTEST:

APPROVED:

Theresa A. Farbaniec, RMC
Municipal Clerk

Kennedy O'Brien, Mayor

MAY 22, 2017
LIQUOR HEARING

I hereby certify that the above is a true and exact copy of the Resolution adopted by the Municipal Council of the Borough of Sayreville at a Special Meeting held on May 22, 2017.

Theresa A. Farbaniec, RMC
Municipal Clerk

Mayor stated for the record that if this resolution is passed and the waiver is granted he will be returning it unsigned, I do not think it is beneficial to the borough.

Mayor asked if there were any questions or comments. There were none heard.

Roll Call: Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Melendez.
Nay: Councilperson Lembo.

• **ADJOURNMENT**

Councilwoman Novak made a motion to adjourn. Motion was seconded by Councilman Grillo.

Roll Call – Councilpersons Buchanan, Grillo, Kilpatrick, Lembo, Melendez, Novak, all Ayes.

Mayor stated that the next meeting will open in about ten (10) minutes.
Carried.

Time 7:01 P.M.

Respectfully Submitted,

Theresa A. Farbaniec, RMC

Date Approved