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**CITY OF WHITEWATER ALCOHOL LICENSING COMMITTEE MEETING**

**Tuesday, July 22, 2014 – 6:00 p.m.**

**City of Whitewater Municipal Building Community Room**

**312 W. Whitewater St., Whitewater, Wisconsin**

**(2014-15 Alcohol Licensing Committee Members: Singer, Abbott, Bregant)**

- I. CALL TO ORDER
- II. ROLL CALL
- III. HEARING OF :
  - \*Request from GARRETT WITTERHOLT, Taco Fresco, for Class “B” Beer License and Class C License.
  
  - \*Request from ROBERT SWEET, Downstairs Sports Bar and Grill, 204 W. Main St., for “Class B” Beer and Liquor License.
  
  - \*Appeal of Denial of Beverage Operator License for Tricia Pellerino.
- IV. RECOMMENDATION(S) TO CITY COUNCIL
- V. ADJOURNMENT

Please contact the City Clerk’s Office (473-0500, Extension 202) at least 72 hours prior to the Hearing if Special Arrangements are needed.

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WHITEWATER POLICE DEPARTMENT  
INTEROFFICE MEMORANDUM

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TO: Michelle Smith, City Clerk  
FROM: Lisa K Otterbacher, Chief of Police  
DATE: February 17, 2014  
SUBJECT: Alcohol Beverage License Disapproval Memorandum  
Garrett W Witterholt - Taco Fresco  
CC:

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Effective 02/17/2014, the following information is being supplied on an official basis concerning the Original Alcohol Beverage License application of Garrett W Witterholt. Pertinent records of the local and state agencies have been searched as of this date with the following results: (Only that information which would bear upon this application is recorded. Traffic violations are excluded.)

**WHITEWATER POLICE DEPARTMENT**

12/15/12 Possession of Drug Paraphernalia – Dismissed  
12/15/12 Underage Alcohol Consumption – Guilty  
12/15/12 Fail to Prevent Underage Alcohol Consumption – Guilty  
07/24/12 Furnish Alcohol to Underage Persons – Guilty  
07/24/12 Underage Consumption Alcohol Consumption – Guilty

It should be noted that Garrett W Witterholt was issue a Beverage Operator's license on July 16, 2014 for his employer, Gus' Pizza, and on July 24<sup>th</sup> he was arrested on that premise. The following is an excerpt from WPD Incident 20121702:

*"On Tuesday, July 24, 2012 at about 4:12a.m., I, Officer Weston, responded to Gus's Pizza, 139 W. Center St., in regards to a noise complaint possibly involving the Juke box. Upon arrival, I found that the Juke box was on with loud music, and that three subjects were inside drinking beer and eating pizza, after hours. The subjects refused to answer the door and hid. A key holder responded, opened the door, and the three subjects were taken into custody. Subsequent an investigation, Garrett Witterholt was issued for furnishing alcohol to underage persons and underage alcohol consumption - on licensed premises... Witterholt was found to be a manager of Gus's Pizza..."*

And then on December 15<sup>th</sup> of that same year, he was arrested at his residence for an underage alcohol party. The following is an excerpt from WPD Incident 20122981:

*"On Saturday, December 15, 2012, at 1:40am, I, Officer Erickson, was dispatched to 329 W. Main St. for a report of loud music and voices. An underage alcohol party was broken up. The residents, Garrett W. Witterholt ... were cited for underage alcohol consumption. Witterholt was additionally cited for failing to prevent underage alcohol consumption and possession of drug paraphernalia."*

**WALWORTH COUNTY SHERIFF'S OFFICE**

01/26/14 Disorderly Conduct – case still open

01/26/14 Simple Battery – case still open

Garrett W Witterholt failed to mention on his application that he was arrested on 01/26/14 by the Walworth County Sheriff's Office for Disorderly Conduct and Simple Battery.

Qualifications for license in accordance with Wisconsin State Statute 125.04(5)(a) as affected by Chapter 79 and 391, Laws of '81 effective 1/1/82 which states in part: "Natural persons. Licenses and permits related to alcohol beverages, issued to natural persons under this chapter, may be issued only to persons who: 1. Do not have an arrest or conviction record, subject to s. 111.321, 111.322, and 111.335: . . ." Statute 111.335---Arrest or conviction record: Exceptions and special cases---reads in part: "(c) Notwithstanding s.111.322 it is not employment discrimination because of conviction record to refuse to employ or license, or to terminate from employment or licensing any individual who: 1. Has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity; or . . ."

Based on the above information, this licensee would not qualify for a license due to those arrests and/or convictions cited, which substantially relate to the circumstances of the particular job or licensed activity as required under Chapter 125. However, the council has the discretion whether or not to issue a license.

LKO/cas

6.16.2014

To whom it concerns,

This is my written request for an appeal  
on my denial of a bartending license.

Thank You

Tricia Pellerino

*Tricia Pellerino*

Chief Otterbacher

~~City Clerks Office~~

~~P.O. Box 178~~

~~White water WI 53190~~

# MEMORANDUM

TO: City Clerk Michele Smith  
City of Whitewater Common Council Members

FROM: Lisa K. Otterbacher, Chief of Police

SUBJECT: Disapproval of Beverage Operator's License Application for **Tricia Lynn Pellerino**

DATE: June 5, 2014

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On 05/30/2014, Tricia Lynn Pellerino, 931 W Conger St, Whitewater, applied for a beverage operator's license to work, without supervision, at Beer Here, 617 E Milwaukee St, Whitewater. At that time the usual background investigation was conducted.

Effective 06/05/2014, the following information is being supplied on an official basis concerning the beverage operator's license application of Tricia Lynn Pellerino. Pertinent records of the local and state agencies have been searched as of this date with the following results: (Only that information which would bear upon this application is recorded. Traffic violations are excluded.)

## **COLUMBIA COUNTY SHERIFF'S DEPARTMENT**

<b>07/11/12</b>	<b>Manufacture/Deliver Schedule I, II Narcotics, Felony</b>	<b>Dismissed</b>
<b>07/11/12</b>	<b>Possess/Illegally Obtained Prescription, Misdemeanor</b>	<b>Guilty</b>

An operator at an alcohol establishment has an obligation to reasonably deal with various rules and regulations regarding alcohol. These arrests show that Tricia Lynn Pellerino has displayed an inability to abide by these laws. We therefore do not believe that he/she has the appropriate ability to handle the responsibility that the license requires.

Qualifications for license in accordance with Wisconsin State Statute 125.04(5)(a) as affected by Chapter 79 and 391, Laws of '81 effective 1/1/82 which states in part: "Natural persons. Licenses and permits related to alcohol beverages, issued to natural persons under this chapter, may be issued only to persons who: 1. Do not have an arrest or conviction record, subject to s. 111.321, 111.322, and 111.335: . ." Statute 111.335---Arrest or conviction record: Exceptions and special cases---reads in part: "(c) Notwithstanding s. 111.322 it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensing any individual who: 1. Has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity; ..."

Based on the above information, I recommend that this applicant be denied his/her beverage operator's license application. These offenses he/she has been arrested for DO substantially relate to the circumstances of the particular job or licensed activity as required under Chapter 125.

LKO/cas

**CITY OF WHITEWATER APPLICATION FOR BEVERAGE OPERATOR'S LICENSE**

NOTICE: All of the above request for information must be answered. Application may be denied upon discovery of untrue or omitted information.

FULL NAME Pellerino Tricia Lynn  
Last First Full Middle Former Name (s)  
CURRENT ADDRESS 931 W. Conger St. Whitewater Wi 53190  
Street City, State Zip  
PERMANENT ADDRESS, IF NOT YOUR CURRENT ADDRESS:

Street City State Zip

DRIVERS LICENSE INFO (STATE AND DL NUMBER): WI 812-9229-05

TELEPHONE NUMBER 920 691 2826

DATE OF BIRTH 01/29/1977 PLACE OF BIRTH Milwaukee Wi  
City & State

Height 5'7" Weight 140 Hair Color Blonde Eye Color Blue Sex F Race White

**LIST ALL ADDRESSES YOU HAVE LIVED AT OVER THE PAST FIVE YEARS:**

Dates: 02-14-2011 / present Street Address: 931 W. Conger St.  
City Whitewater State WI County Walworth

Dates: 1-1-09-02 14-14 Street Address: W1570 CTH J  
City Princeton State WI County Marquette

Dates: \_\_\_\_\_ Street Address: \_\_\_\_\_  
City State County

Dates: \_\_\_\_\_ Street Address: \_\_\_\_\_  
City State County

Dates: \_\_\_\_\_ Street Address: \_\_\_\_\_  
City State County

Have you completed the Responsible Beverage Server Training Course?  Yes  No  
If yes, Where did you complete it? Tavern League 360° online Date 5.30.2014  
Do you currently have a Beverage Operator License in another Municipality?  Yes  No  
If yes, what municipality issued the License? \_\_\_\_\_  
City of Whitewater Employing Establishment Beer Here

HAVE YOU EVER BEEN CONVICTED OF ANY CRIME, TRAFFIC VIOLATION, OR VIOLATION OF A MUNICIPAL ORDINANCE (excluding parking tickets)?  Yes  No

If Yes, please provide the following :

Date of Arrest: 06-01-2012 Offense: fraud prescription drugs / misdemeanor  
Arresting Agency: Columbia County (incident happened 2009 charged 2012 any)

CALL ME  
920 691  
2826

Date of Arrest: Numerous speeding tickets Offense: from the age of 18-25  
Arresting Agency: most in Columbia county / Marquette

Date of Arrest: \_\_\_\_\_ Offense: \_\_\_\_\_  
Arresting Agency: \_\_\_\_\_

Date of Arrest: \_\_\_\_\_ Offense: \_\_\_\_\_  
Arresting Agency: \_\_\_\_\_

Date of Arrest: \_\_\_\_\_ Offense: \_\_\_\_\_  
Arresting Agency: \_\_\_\_\_

NOTICE: All of the above requests for information must be answered. Application may be denied upon discovery of untrue or omitted information.

I CERTIFY THAT I HAVE ATTAINED THE AGE OF 18; AND I SPECIFICALLY STATE THAT I HAVE LISTED ABOVE INFORMATION ON ANY CHARGES OR CONVICTIONS RELATING TO ANY FELONY, MISDEMEANOR, MUNICIPAL CITATION, OR ANY OTHER OFFENSE; AND THAT I AM FAMILIAR WITH THE LAWS, ORDINANCES AND ALL PROVISIONS OF SAID LAWS, AND THAT ALL INFORMATION STATED ON THIS APPLICATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Shane Peltier  
Signature of Applicant

Subscribed and Sworn to before me this 30th day of May, 2014  
Jane Wegner Walworth Co., WI Comm. Exp. Date 3-21-17  
NOTARY PUBLIC

**TO BE COMPLETED BY CITY CLERK'S OFFICE:**

Date Fee Received 5-30-14 Amount 25.00 Receipt No. 6.011190 \_\_\_\_\_ 1 YEAR LICENSE  
Application Received by: J. Wegner Checked for completeness by: \_\_\_\_\_  2 YEAR LICENSE  
Date To PD \_\_\_\_\_

**TO BE COMPLETED BY POLICE DEPARTMENT:**

After having investigated the above named applicant, I make the following recommendation for granting said license under the conditions as sworn to above by the applicant.

\_\_\_\_\_ Approve Application for License

\_\_\_\_\_ Disapprove Application for License

\_\_\_\_\_ POLICE CHIEF  
Date: \_\_\_\_\_

**ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION**

Submit to municipal clerk.

For the license period beginning \_\_\_\_\_ 20\_\_\_\_; ending 6-30 2015

TO THE GOVERNING BODY of the:  Town of  Village of  City of } Whitewater

County of Walworth Aldermanic Dist. No. \_\_\_\_\_ (if required by ordinance)

Applicant's Wisconsin Seller's Permit Number: <u>To be provided</u>	
Federal Employer Identification Number (FEIN): <u>11</u>	
LICENSE REQUESTED ▶	
TYPE	FEE
<input type="checkbox"/> Class A beer	\$
<input checked="" type="checkbox"/> Class B beer	\$
<input type="checkbox"/> Class C wine	\$
<input type="checkbox"/> Class A liquor	\$
<input checked="" type="checkbox"/> Class B liquor	\$
<input type="checkbox"/> Reserve Class B liquor	\$
Publication fee	\$
<b>TOTAL FEE</b>	<b>\$</b>

1. The named  INDIVIDUAL  PARTNERSHIP  LIMITED LIABILITY COMPANY  CORPORATION/NONPROFIT ORGANIZATION

hereby makes application for the alcohol beverage license(s) checked above.

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): ▶ Robert A. Sweet

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the name, title, and place of residence of each person.

Title	Name	Home Address	Post Office & Zip Code
President/Member			
Vice President/Member			
Secretary/Member			
Treasurer/Member			
Agent	<u>Robert Sweet</u>	<u>N7598 Larrys Rd., Whitewater, WI</u>	<u>53190</u>
Directors/Managers			

3. Trade Name ▶ The Downstairs Sports Bar Business Phone Number 262-510-3462  
 4. Address of Premises ▶ 204 W. Main Post Office & Zip Code ▶ Whitewater, WI

5. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period?  Yes  No  
 6. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant?  Yes  No  
 7. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business?  Yes  No  
 8. (a) Corporate/limited liability company applicants only: Insert state N/A and date \_\_\_\_\_ of registration.  
 (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company?  Yes  No  
 (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin?  Yes  No  
 (NOTE: All applicants explain fully on reverse side of this form every YES answer in sections 5, 6, 7 and 8 above.)

9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) Basement # (66.7 x 80.4) brick bldg at  
 10. Legal description (omit if street address is given above): 204 W Main, Whitewater, WI  
 11. (a) Was this premises licensed for the sale of liquor or beer during the past license year?  Yes  No  
 (b) If yes, under what name was license issued? most recently: Gezim myklav  
 12. Does the applicant understand they must file a Special Occupational Tax return (TTB form 5630.5) before beginning business? [phone 1-800-937-8864]  Yes  No  
 13. Does the applicant understand a Wisconsin Seller's Permit must be applied for and issued in the same name as that shown in Section 2, above? [phone (608) 266-2776].  Yes  No  
 14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs?  Yes  No

**READ CAREFULLY BEFORE SIGNING:** Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officer(s), members/managers of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

**SUBSCRIBED AND SWORN TO BEFORE ME**

this 17th day of June, 2014  
Michele Smith  
 (Clerk/Notary Public)  
 My commission expires 4-24-18

[Signature]  
 (Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)  
[Signature]  
 (Officer of Corporation/Member/Manager of Limited Liability Company/Partner)  
 (Additional Partner(s)/Member/Manager of Limited Liability Company if Any)

**TO BE COMPLETED BY CLERK**

Date received and filed with municipal clerk <u>6-17-14</u>	Date reported to council/board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	