

# **Town of West New York Hudson County, New Jersey**

## **Alcoholic Beverage Control Board**

Minutes of Regular Meeting  
(Regular Session)  
January 27, 2010

Rosendo Jimenez  
Rafael Martell  
Michael Parkes  
Board of Alcoholic Beverage Control

**Attest:**      **Cosmo A. Cirillo**  
                    **Board Secretary**

**Alcoholic Beverage Control Board**  
**January 27, 2010**  
***Regular Meeting***

Minutes of a regular stated meeting of the ABC Board of the Town of West New York, in the County of Hudson, State of New Jersey, held in the **Police Training Room, Municipal Building, WNY, NJ** on Wednesday, January 27, 2010 at 7:00 p.m.

Present: Chairman Michael Parkes, Board Member Rafael Martell, Board Member Jimenez, Board Attorney Frank Gioia, Sgt. Michael Clement, Board Prosecutor Marlene Caride and Board Secretary Cosmo A. Cirillo  
Absent: None

Meeting commenced at 7:10 p.m.

At the request of Board Attorney Frank Gioia, Chairman Parkes made the following announcement:

As presiding officer of this regularly scheduled meeting of the ABC Board of the Town of West New York, held Wednesday, January 27, 2010, at 7:00PM, I do hereby publicly announce, and I direct that this announcement shall be placed in the minutes of this meeting and that the notice requirements provided for in the "Open Public Meetings Act" have been satisfied. Notice of this meeting was properly given in Resolution dated and adopted by the ABC Board of the Town of West New York on June 25, 2009. Said Resolution was transmitted by the ABC Secretary to the Jersey Journal and the Bergen Record and publicly posted on the Municipal Bulletin Board, Town Hall and filed with the Town Clerk.

Copies are available to the public in accordance with the law.

**Note: Board Attorney Gioia stated that the Board could begin with matters that just pertain to the Board. The reason for this was because Board Prosecutor Caride was in the hall dealing with matters that have charges filed. Therefore, Board Attorney Gioia recommended that the Board consider R-1; the approval of minutes from the Board's last two meeting.**

**RESOLUTION**  
**RE: APPROVAL OF MINUTES**

**BE IT RESOLVED** that the Board of Alcoholic Beverage Control of the Town of West New York approves the Minutes as recorded for the following meetings:

- October 27, 2009 – Regular Session
- November 18, 2009 – Regular Session

It was regularly moved by Chariman Parkes, seconded by Vice-Chairman Martell to accept this Resolution as adopted, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez  
NAYS: None  
ABSENT: None

**Note: Board Attorney Gioia stated that the next item is Resolution R-2; the approval of Licensee Karla Albuja for the 2009-2010 license term. He continued by stated that this particular license is in pocket status and stated that the Board received the Tax Clearance certificate for the 2009-2010 license term, therefore it can act upon this license.**

**Alcoholic Beverage Control Board**  
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**RESOLUTION**  
**RE: RENEWAL OF LIQUOR LICENSES FOR LICENSE TERM 2009-2010**

**BE IT RESOLVED** that the Board of Alcoholic Beverage Control of the Town of West New York has no objections and does hereby consent to the granting of the following licenses, a list of which is attached hereto and made a part hereof:

Two (1) Plenary Retail Consumption Licenses  
(Includes Restaurants & Bars)

AND

**BE IT FURTHER RESOLVED** that the Alcoholic Beverage Control Board is not aware of any circumstances or provisions of law or local ordinance, which prohibits the issuance of such licenses.

**BE IT FURTHER RESOLVED** that the foregoing licenses are hereby renewed.

<u>License No.</u>	<u>Name</u>	<u>Address</u>
0912-33-005-008	Karla P. Albuja	POCKET STATUS

It was regularly moved by Chairman Parkes, seconded by Board Member Jimenez to accept this Resolution as adopted, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez  
NAYS: None  
ABSENT: None

**Note:** Board Attorney Gioia proposed that the Board move now to Resolutions R-6 and R-7; Applications for Special Permits for Social Affairs. He stated that these matters were brought to the Board's attention in December by telephone. The applicants in these matters were St. Mary's Church and St. Joseph's of the Palisades Church. These resolutions ratify the Board Secretary's actions which were taken in December due to the time sensitivity of these applications.

**RESOLUTION**  
**RE: RATIFICATION OF AUTHORIZATION OF BOARD SECRETARY**  
**TO ENDORSE APPLICATION FOR SPECIAL PERMIT FOR SOCIAL AFFAIR**  
**(ST. MARY'S CHURCH – DECEMBER 31, 2009)**

**WHEREAS**, an Application for Special Permit for Social Affair has been filed by St. Mary's Church within the jurisdiction of the West New York Board of Alcoholic Beverage Control; and

**WHEREAS**, the submitted application form is complete in all respects, with the exception of the signatures of the Police Director and the ABC Board Secretary; and

**WHEREAS**, the State of New Jersey Division of Alcoholic Beverage Control requires the aforementioned signatories prior to processing any request for a Special Permit for Social Affair;

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**NOW, THEREFORE BE IT RESOLVED** on January 27, 2010 at a regular meeting of the West New York Board of Alcoholic Beverage Control that said Board, having verbally approved such action on November 24, 2009, does hereby ratify the authorization of the Board Secretary to endorse the Application for Special Permit for Social Affair if and only if there is no objection to the issuance of such a permit by the West New York Police Department and the application receives the signature of the Police Director. In the event that the Police Department objects to the issuance of such a permit or the signature of the Police Director is not present on the application, the Board Secretary shall take no action upon same.

It was regularly moved by Vice-Chairman Martell, seconded by Board Member Jimenez to accept this Resolution as adopted, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez  
NAYS: None  
ABSENT: None

**RESOLUTION**

**RE: RATIFICATION OF AUTHORIZATION OF BOARD SECRETARY  
TO ENDORSE APPLICATION FOR SPECIAL PERMIT FOR SOCIAL AFFAIR  
(ST. JOSEPH'S OF THE PALISADES CHURCH – DECEMBER 31, 2009)**

**WHEREAS**, an Application for Special Permit for Social Affair has been filed by St. Joseph's of the Palisades Church within the jurisdiction of the West New York Board of Alcoholic Beverage Control; and

**WHEREAS**, the submitted application form is complete in all respects, with the exception of the signatures of the Police Director and the ABC Board Secretary; and

**WHEREAS**, the State of New Jersey Division of Alcoholic Beverage Control requires the aforementioned signatories prior to processing any request for a Special Permit for Social Affair;

**NOW, THEREFORE BE IT RESOLVED** on January 27, 2010 at a regular meeting of the West New York Board of Alcoholic Beverage Control that said Board, having verbally approved such action on December 10, 2009, does hereby ratify the authorization of the Board Secretary to endorse the Application for Special Permit for Social Affair if and only if there is no objection to the issuance of such a permit by the West New York Police Department and the application receives the signature of the Police Director. In the event that the Police Department objects to the issuance of such a permit or the signature of the Police Director is not present on the application, the Board Secretary shall take no action upon same.

It was regularly moved by Vice-Chairman Martell, seconded by Chairman Parkes to accept this Resolution as adopted, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez  
NAYS: None  
ABSENT: None

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**Note: At this point, Board Attorney Gioia recommended that the Board consider a number of discussion items as he will be able to update the Board on a number of different matters. First, he stated that there has been no change in status in regard to Licensee The Clam House and the license has not been renewed. Second is Licensee Coco's Café. This license has not been renewed for the last two years. He stated that the Board may recall, Attorney Alex Locatelli has been attempting to expedite the renewal of this license, however as of this time, there is no change in status for this license. Third, he discussed Santa Lucia Corp. This licensee has submitted an application to move from their current location to a few doors down. To date, there has not been any action of their part in regard to obtain the necessary permits that are needed from the Building Department. In addition, he stated that there may also be a need for them to obtain a special variance from the zoning board for the use of the proposed property. Moving on, he discussed El Fonseca who submitted an application for a change in corporate structure. Board Attorney Gioia stated that he reviewed the application and has sent it to the attorney's representing the buyers and sellers. To this date, he stated we are still waiting on amended documentation from them. Board Attorney Gioia informed the Board of the process taking place between himself and Board Secretary Cirillo when applications are submitted for review. He stated that he believes this new system is working very well. Additionally, Board Attorney Gioia informed the Board that Licensee De Cache, Inc. has submitted an application for an extension of premises. Next, he stated that Goldberg Realty Corp. submitted an application for a change in corporate structure. We are currently waiting for additional documentation from them in regard to this application. Orden Fraternal Unida has also submitted an application; their application is for an amendment to the current application on file. He stated that a review has been sent to them, however we have not received any additional information. Finally, Board Attorney Gioia discussed Marinero Grill, and informed the Board that at this point their attorney had submitted an application and information with an individual by the name of Abel Hernandez and there was some question as to whether or not Mr. Hernandez could qualify because he currently has a license in one community and is scheduled to acquire another license in North Bergen; therefore, this would be his third license. He stated that their Attorney Ms. Alain Grossman indicted to Board Attorney Gioia that Mr. Hernandez was going to be taken off the application and that Mr. Cabrera is going to be the sole owner of the corporation. We are currently waiting to get documents back that reflect the deletion of Mr. Hernandez. There is also a wrinkle in this because the license was renewed in May or June of 2009 however it was signed by Juan Nunez and it is Mr. Nunez that appears in all the documents for Marinero Grill as the seller of the license. The problem is that the State reviews all the applications that they receive, and Sheila who works in conjunction with the Board Secretary, notified him today that Juan Nunez is not listed with them as the owner of Casa Del Faro; it is his wife who is listed on the last twelve page application. Therefore, he indicated that there are still a number of issues that must be corrected with this application. At this point Board Attorney Gioia stated that all the Board's business has been concluded with the exception of the charges, which Board Prosecutor Caride has been working on. Board Attorney Gioia stated that he has been advised by Board Prosecutor Caride that Resolution R-3 must be carried till the Board's next meeting because the licensee's attorney, Mr. Alvaro Alonso, could not be present this evening.**

**RESOLUTION AND ORDER**  
**RE: CHARGES FILED AGAINST LUNA RESTAURANT, INC.**  
**508-512 – 55<sup>TH</sup> STREET (0912-33-025-011)**

It was regularly moved by Vice-Chairman Martell, seconded by Board Member Jimenez to table this Resolution until the Board's next meeting, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez  
NAYS: None  
ABSENT: None

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**Note:** Board Attorney Gioia stated that Resolution R-5, charges against El Balcon Restaurant should be tabled until the Board's next meeting as well. He has been informed that their Attorney is going to discuss a possible offer to his clients.

**RESOLUTION AND ORDER  
RE: CHARGES FILED AGAINST EL BALCON BAR AND RESTAURANT  
520 – 60<sup>TH</sup> STREET (0912-33-056-002)**

It was regularly moved by Vice-Chairman Martell, seconded by Board Member Jimenez to table this Resolution until the Board's next meeting, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez  
NAYS: None  
ABSENT: None

**Note:** Board Attorney Gioia stated that this leaves only Resolution R-4, charges against AAS, Inc., and would like to turn it over to Board Prosecutor Caride for those charges. Board Prosecutor Caride stated that there were nine charges filed against the licensee based on an inspection by Sgt. Clement on August 27, 2009. Present on behalf of the licensee is Attorney Charles M. Hammer. Present with Attorney Hammer was license owner Lori Abdallah. Prosecutor Caride stated she believed they have reached a resolution on this matter which includes a total of sixty days. She informed the Board that their primary business is a grocery store therefore that business will not close down, however they will be required to remove all alcoholic beverages from the premises. She added that the sentence would be starting February 1, 2010 and would be sixty consecutive days which will end on April 1, 2010. Attorney Hammer asked his client if she understood what has been discussed. Ms. Abdallah answered yes. Attorney Hammer asked if she was voluntarily entering into this agreement and no one was forcing her to do this. Ms. Abdallah answered yes. Board Attorney Gioia recommended to the Board that they accept the prosecutor's recommendation which seems to be acceptable to both the licensee and the Police Department. Sgt. Clement stated to the licensee that they will be inspecting the premises during the time of the suspension in order to show that the suspension is being followed properly.

**RESOLUTION AND ORDER  
RE: CHARGES FILED AGAINST AAS, INC. T/A LA VIRGEN DEL CAMINO  
614 – 61<sup>ST</sup> STREET (0912-43-030-005)**

**In the Matter of Disciplinary Proceedings Against:**

**Licensee: AAS, Inc. T/A La Virgen del Camino  
Address: 614 – 61<sup>st</sup> Street  
West New York, NJ 07093  
Holder of Limited Retail Distribution License 0912-43-030-005**

**WHEREAS**, charges have been heretofore duly served upon the above-named licensee, charging that the licensee was found in violation as follows:

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<u>Charge</u>		<u>Statute/Ordinance/Regulation</u>
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without the licensee being in possession of a copy of the application for current license at premises (12 pages)	N.J.A.C. 13:2-23.13(A)2
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without the licensee being in possession of a copy of the application for current license at premises (short form)	N.J.A.C. 13:2-23.13(A)2
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without books of account in the licensed premises	N.J.A.C. 13:2-23.32
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without maintaining true books or books of account in licensed premises	N.J.A.C. 13:2-23.32
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without the list of names and addresses of all employees	N.J.A.C. 13:2-23.13(A)3
08/27/09	Allowed, permitted, or suffered the unlawful purchase of alcohol from a prohibited source	N.J.A.C. 13:2-23.129(A)
08/27/09	Allowed, permitted, or suffered the unlawful transportation of alcohol without a permit	N.J.A.C. 13:2-2-80.(4)(A)
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without maintaining liquor license invoices	N.J.A.C. 13:2-39.2
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises to possess chilled alcoholic beverages in violation of the restriction upon licensee's retail distribution license	N.J.A.C. 13:2-23.17

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And that at a hearing duly held on: January 27, 2010

\_\_\_\_\_ by virtue of testimony/evidence adduced at hearing

  **X**   by virtue of voluntary guilty plea by licensee

That the truth of the charges set forth below has been established to the satisfaction of all parties

<u><b>Charge</b></u>	<u><b>Statute/Ordinance/Regulation</b></u>
08/27/09      Allowed, permitted, or suffered the unlawful operation of the licensed premises without maintaining true books or books of account in licensed premises	N.J.A.C. 13:2-23.32  <u><b>Suspension</b></u> Fifteen (15) Days
08/27/09      Allowed, permitted, or suffered the unlawful purchase of alcohol from a prohibited source	N.J.A.C. 13:2-23.129(A)  <u><b>Suspension</b></u> Forty (40) Days
08/27/09      Allowed, permitted, or suffered the unlawful operation of the licensed premises to possess chilled alcoholic beverages in violation of the restriction upon licensee's retail distribution license	N.J.A.C. 13:2-23.17  <u><b>Suspension</b></u> Five (5) Days

**IT IS, THEREFORE,** on this 27<sup>th</sup> day of January 2010, on motion duly made and seconded,

**BE IT RESOLVED AND ORDERED** that the Limited Retail Distribution License, heretofore issued to the above named licensee is hereby found:

**Guilty** and said license shall be disciplined as follows:

Sixty day suspension, store to be closed on the following dates:  
February 1, 2010 – April 1, 2010.

It was regularly moved by Chariman Parkes, seconded by Board Member Jimenez to accept this Resolution as adopted, which was carried by the following vote:

YEAS:            Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez  
NAYS:            None  
ABSENT:         None

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**Public Portion**

**Note: Chairman Parkes called for the Public Portion.**

**No one wished to be heard.**

It was regularly moved by Chairman Parkes, seconded by Board Member Jimenez to close the Public Portion and adjourn the meeting at 7:45 p.m., which was carried by the following vote:

YEAS:           Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez  
NAYS:           None  
ABSENT:        None

\_\_\_\_\_  
Rosendo Jimenez, Member

\_\_\_\_\_  
Rafael Martell, Vice-Chairman

\_\_\_\_\_  
Michael Parkes, Chairman

Board of Alcoholic Beverage Control

Attest: \_\_\_\_\_  
Cosmo A. Cirillo  
Board Secretary