

## **REGULAR MEETING**

OF THE ALCOHOLIC BEVERAGE CONTROL BOARD OF THE CITY OF BAYONNE, IN THE COUNTY OF HUDSON, NEW JERSEY, HELD IN THE COUNCIL CHAMBER, MUNICIPAL BUILDING, 630 AVENUE C, ON MONDAY, APRIL 15, 2013.

The Board met at 11:15 A.M.

The Board Secretary called the roll.

Present were: Board Member Patrick Colasurdo, and Chairman H. Mickey McCabe

The Chairman announced, "I would like to advise all those present that notice of this Regular Meeting of the Alcoholic Beverage Control Board of the City of Bayonne of April 15, 2013 has been provided to the public in accordance with the provisions of the Open Public Meetings Act of the State of New Jersey. Notice of time and place of the meeting has been included in the annual notice of meetings, which was posted and filed with the City Clerk, and with the Jersey Journal and the Star Ledger. an additional notice of time and place was posted and filed with the City Clerk and was forwarded the Jersey Journal and the Star Ledger by fax and regular mail on April 11, 2013."

The board secretary led the Pledge of Allegiance to the Flag.

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**01.** Board Member Colasurdo moved that the following communication be received and filed, seconded by Chairman McCabe, which motion was adopted.

April 10, 2012

Robert F. Sloan, Esq.  
Board Secretary  
630 Avenue C  
Bayonne, NJ 07002

RE: Special Meeting  
Monday, April 15, 2013

Dear Mr. Sloan:

This is to advise that I am hereby calling a special meeting of the Alcoholic Beverage Control Board of the City of Bayonne for Monday, April 15, 2013 at 11:15 A.M., in the City Clerk's Office. The meeting is called for consideration of the following matters:

1. Call of the Meeting.
2. Approving the place to place transfer of plenary retail distribution license No.

0901-44-067-004 held by A. Horlick, Inc. t/a Harry's Wine Cellar from 295 Broadway to 297 Broadway, Bayonne, NJ.

3. Approving the person-to-person transfer of plenary retail consumption license No. 0901-33-113-002 from Alex Pasiechnik, Executor of the Estate of Nicholas Pasiechnik to The Vic Tavern LLC for premises to be located at 107 Hobart Avenue, Bayonne, NJ.
4. Rescinding resolution No. 13-02-25-003 approving the annual renewal of Plenary Retail Consumption License No. 0901-33-059-007 held by BAD Associates, LLC t/a Buon Appetito for premises located at 906-908 Broadway, pending receipt of N.J.S.A 33:12.18 ruling..
5. Receipt of charges preferred by the Chief of Police against Pair of Jacks Pub, LLC t/a Pair of Jacks, holder of Plenary Retail Consumption License No. 0901-33-011-006, for premise located at 812 Broadway, Bayonne and resolution fixing Thursday, May 30, 2013 at 5:00 p.m. for said hearing.
6. Cancelling the meeting scheduled for April 25, 2013.
7. Approving the minutes of February 25, 2013.

Very truly yours,

H. Mickey McCabe, Chair

Ayes - Board Member Colasurdo and Chairman McCabe.

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**02.** Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

WHEREAS, A. Horlick, Inc. t/a Harry's Wine Cellar, located at 297 Broadway in the City of Bayonne, County of Hudson, State of New Jersey, has made application for the place to place transfer of Plenary Retail Distribution License No. 0901-44-067-004 for premises located at 295 Broadway, in the City of Bayonne, to premises located at 297 Broadway in the City of Bayonne, and there being no good cause why the said transfer should not be allowed; now, therefore, be it

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid and the license has been properly renewed for the current license term; now, therefore be it

RESOLVED, that Plenary Retail Distribution License No. 0901-44-067-004, above described, be and is hereby transferred from premises located at 295 Broadway to premises located at 297 Broadway, both in the City of Bayonne; and be it further

RESOLVED, that the Board Secretary be and is hereby authorized and directed to execute the endorsement of the transfer herein made, upon the said license on behalf of the Alcoholic Beverage Control Board; and be it further

RESOLVED, that the effective date of the said transfer is April 15, 2013

Ayes - Board Member Colasurdo and Chairman McCabe.

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**03.** Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

WHEREAS, The Vic Tavern LLC, residing or located at 107 Hobart Avenue in the City of Bayonne, County of Hudson, State of New Jersey, has made application for the transfer to it of Plenary Retail Consumption License No. 0901- 33-113-002, now held by Alex Pasiechnik, Executor for the Estate of Nicholas Pasiechnik for premises currently inactive in the City of Bayonne, and there being no good cause why the said transfer should not be allowed; and

WHEREAS, the applicant has disclosed and the issuing authority has reviewed the source of all funds used in the purchase of the license and the licensed business, and all additional financing obtained in connection with the licensed business; and

WHEREAS, a tax clearance certificate issued by the New Jersey Division of Taxation has been received in connection with this application; now, therefore, be it

RESOLVED, that Plenary Retail Consumption License No. 0901-33-113-002, above described, be and is hereby transferred from Alex Pasiechnik, Executor for the Estate of Nicholas Pasiechnik, the present holder of the same, to The Vic Tavern LLC ; and be it further

RESOLVED, that the Board Secretary be and is hereby authorized and directed to execute the endorsement of the transfer herein made, upon the said license on behalf of the Alcoholic Beverage Control Board; and be it further

RESOLVED, that the effective date of the said transfer is April 19, 2013.

Ayes - Board Member Colasurdo and Chairman McCabe.

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**04.** Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

WHEREAS, by Resolution No. 13-02-25-003 this board approved the renewal of Plenary Retail Consumption License No. 0901-33-059-007, held by BAD Associates LLC t/a Buon Appetito, for premises located at 906-908 Broadway, Bayonne, NJ; and

WHEREAS, the board has been advised by the State of New Jersey, Division of Alcoholic Beverage Control that said renewal be rescinded under the provision of N.J.S.A. 33:1-12.18; now, therefore, be it

RESOLVED, Resolution No. 13-02-25-003, adopted February 25, 2013 granted the renewal of Plenary Retail Consumption License No. 0901-33-059-007 held by BAD Associates LLC t/a Buon Appetito, for premises located at 906-908 Broadway, Bayonne, NJ, be and the same is hereby rescinded; and be it further

RESOLVED, that the effective date of this resolution is April 15, 2013, nunc pro tunc.

Ayes - Board Member Colasurdo and Chairman McCabe.

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**05.** Board Member Colasurdo moved that the following disciplinary charges be received and filed and that the resolution following same be adopted, seconded by Chairman McCabe, which motion was adopted.

April 2, 2013

Alcoholic Beverage Control Board  
Municipal Building  
630 Avenue C  
Bayonne, NJ

Dear Commissioners,

Attached hereto is a synopsis of a case against Pair of Jacks Pub, LLC located at 812 Broadway, Bayonne, N.J., and holder of Plenary Retail Consumption Liquor License Number 0901-33-011-006.

As Chief of Police of the City Of Bayonne, I recommend that disciplinary proceedings be brought against said license for the following violations:

E141 Maintaining Current List of Employees  
FETAL Posting of Notice Required  
HINS1 Investigations, Inspections, Searches & Examinations  
HRS1 Violation of Ordinance; Closing Provisions  
HRS2 Violation of Ordinance; Closing Provisions  
NUIS2-N Prohibition of Immoral Activities; Disturbance Nuisance on Premise  
ORDIN Violation of any Municipal Ordinance (4 Counts)  
TOX2 Intoxicated Workers Prohibited  
BOOKS2 Records to be maintained on the licensed premises  
TOX1 Prohibition against serving persons under legal age and intoxicated persons

Upon receipt of your notification as to time and place of hearing, the necessary witnesses from this department will be instructed to appear for this case.

Very truly yours

Ralph Scianni  
Chief of Police  
City of Bayonne

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**Synopsis of Case**

**License:** Plenary Retail Consumption License  
**Number:** 0901-33-011-006  
**Owners:** Pair of Jacks Pub LLC  
**T/A:** Pair of Jacks Pub  
**Location:** 812 Broadway, Bayonne, NJ

**Registered agent:** John Howells – 193 West 48<sup>th</sup> Street, Bayonne, NJ

**Persons Involved:**  
Police: Detective Czapla - #149  
Detective Galano - #239

Detective Timothy Donaway #236  
Police Officer Lindquist #85  
Police Officer Morel #271  
Patron: Donte Porter

Bartenders: Madeline Castillo  
Cynthia Bizukiewicz

**Complaining Officer:** Detective Joseph J. Czapla - #149

**A.B.C. Supervisor:** Captain George Farley  
Sergeant Anthony Gonzalez #S67

Violations:

**E141**

On March 3, 2013 you conducted your licensed business without keeping on your licensed premises or having available for inspection upon demand an employee list complete in all respects in violation of N.J.A.C. 13:2-23.13(a)3.

N.J.A.C. 13:2-23.13 Maintaining copies of current license certificate; 3. A list, on a form prescribed by the Director, containing the names and addresses of, and required information with respect to, all persons currently employed on retail licensed premises, is kept on the licensed premises. A licensee shall be deemed to have complied with this requirement if this information is contained in a computer system, accessible from the licensed premises, and the information can be immediately produced.

**FETAL**

On March 5, 2013, you the holder of a retail license failed to prominently post a warning notice prepared by the Department of health in any service area as well as on a wall, towel dispenser or other appropriate location in any public rest room for women patrons on the licensed premises warning the alcohol consumption during pregnancy has been determined to be harmful to the fetus in violation of N.J.S.A. 33:1-12a.

§33:1-12a. Posting of notice required:

A person who holds a Class C license, except a plenary retail transit license, or a club license shall ensure that a warning notice prepared by the Department of Health is posted prominently in any service area as well as on a wall, towel dispenser or other appropriate location in any public rest room for woman patrons on the licensed premises. The notice shall warn patrons that alcohol consumption during pregnancy has been determined to be harmful to the fetus and can cause birth defects, low birth

weight and Fetal Alcohol Syndrome, which is one the leading causes of mental retardation.

**HIND1**

On February 23, 2013, Cynthia Bizukewicz, a person employed by the licensed business, failed to facilitate, hindered, delayed or caused the hindrance or delay, or attempted to hinder, delay, or cause the hindrance or delay, of an investigation or inspection of the licensed premises or of the licensed premises or of any search thereof, viz; Detective Czapla observed a female sitting on a chair by the car cut where the bartenders walk out from behind the car. Bizukewicz was drinking a Budweiser beer in a glass bottle. Detective Czapla displayed his badge and informed her that he was a Detective with the Bayonne Police Dept., ABC Unit. Detective Czapla asked that she put her beer down and exit the bar. Detective Czapla stated that she appeared to be intoxicated, her eyes were watery and bloodshot, she became verbally argumentative. She stated that she was working as a bartender and that she was allowed to drink. She stated that once the crowd left she had to clean up the bar. Detective Czapla asked here to produce her ABC Bar Card. She stated the she "did not have to, and he should know who she is". Detective Czapla requested that the managed produce her ABC Bar Card. As the manager was obtaining the ID Card she told the bartenders "Don't give it to him". She was identified by her bar card as Cynthia Bizukewicz, 124 West 29<sup>th</sup> Street, Bayonne, NJ 07002.

33:1-35. Investigations, inspections, searches and examinations; examination of witnesses; subpoenas; procedure on failure to obey;

Every applicant for a license, and every licensee, and every director, officer, agent and employee of every licensee, shall, on demand, exhibit to the director or other issuing authority, as the case may be, or to his or its deputies or investigators, or inspectors or agents all of the matters and things which the director of the division or other issuing authority, as the case may be, is hereby authorized or empowered to investigate, inspect or examine, and to facilitate, as far as may be in their power so to do, in any such investigation, examination or inspection, and they shall not in any way hinder or delay or cause the hindrance or delay of same, in any manner whatsoever. Investigations, inspections and searches of licensed premises my be made without search warrants by the director, his deputies, inspectors or investigators, by each other issuing authority and by any officer.

**HRS1**

On February 23, 2013, at approximately 3:09 A.M., you sold or delivered alcoholic beverages before or after the legal hour of sale as set forth in a Municipal Ordinance or in the Division of Alcoholic Beverage Control's regulation, viz., by serving a patron, Donte Porter, in violation of N.J.S.A. 33:1-31h, N.J.A.C. 13:2-38.1 or - 38.2.

§33:1-31. Suspension, revocation of license.

Any license, whether issued by the director or any other issuing authority, may be suspended or revoked by the director, or other issuing authority may suspend or revoke any license issued by it, for any of the following causes:

- h. Any violation of any ordinance, resolution or regulation of any other issuing authority or governing board or body:

### **HRS2**

On February 23, 2013, at approximately 3:09 A.M., you allowed, permitted or suffered the presence of non-employees on the licensed premises before or after the legal hour of sale as set forth in a municipal ordinance, viz., **ORD. 6-5.1(a) Hours of Operation.**

(a) No alcoholic beverages shall be sold, served or delivered by licensees of any class nor shall any such licensee suffer or permit the sale, service or delivery of any alcoholic beverages directly or indirectly upon the licensed premises on the following days, between the hours set forth opposite such days:

*Weekends, except Saturdays, Sundays and legal holidays, 2:00 a.m. to 6:00 a.m.  
Saturdays and legal holidays, except holidays falling on Sunday, 3:00 a.m. to 6:00 .m.  
Sundays, 3:00 a.m. to 9:00 a.m..* in violation of N.J.S.A. 33:1-31h.

### **NUIS2-N**

On or about February 23, 2013, you allowed, permitted or suffered your licensed place of business to be conducted in such a manner as to become a nuisance requiring police intervention, or adversely affecting public safety or rights of the public, viz., (Incident 1) At 1:36 AM on 2/23/2013, (CC #2013-13659), (Incident 2) at 2:29 A.M. on 2/23/2013, (CC#2013-13665, (Incident 3) at 3:09 A.M. on 2/23/2013, (CC#2013-13671) in violation of N.J.A.C. 13:2-23.6(b), which were detailed in Bayonne Police Investigation Report 2013-13665.

13:2-23.6 Prohibition against immoral activities; disturbance; nuisance on premises

(b) Every licensee shall operate its business in an orderly and lawful fashion, so as not to constitute a nuisance. A licensee's responsibility under this subsection includes the conduct of the licensee, its employee and patrons, if such conduct is contrary to the public health, safety and welfare.

### **ORDIN**

On or about February 23, 2013 you engaged in, allowed, permitted or suffered the violation of a municipal ordinance(s) or regulation(s) of the issuing authority or municipal governing body, viz.,

ORD. 6-5.3 Access of Light

ORD. 4-5.12.2 Noise (3 Counts), in violation of N.J.S.A. 33:1-31h.

§33:1-31. Suspension, revocation of license

Any license, whether issued by the director or any other issuing authority, may be suspended or revoked by the director, or the other issuing authority may suspend or revoke any license issued by it, for any of the following causes:

- h. Any violation of any ordinance, resolution or regulation or any other issuing authority or governing board or body.

## **TOX2**

On February 23, 2013, at approximately 3:09 A.M., you the holder of a plenary retail license or an employee thereof, worked on the licensed premises while actually or apparently intoxicated, viz., Detective Czapla observed a female sitting on a chair by the bar cut out where the bartenders walk out from behind the bar. She was drinking a Budweiser beer in a glass bottle. Detective Czapla showed her his badge and informed her that he was a Detective with the Bayonne Police Dept., ABC Unit. She appeared to be intoxicated, her eyes were watery and bloodshot, and she became verbally combative. She stated that she was working as a bartender and she was allowed to drink. She stated that once the crowd left she had to clean the bar. Detective Czapla requested that the manager produce her ABC Bar Card. She was identified by her bar card as Cynthia Bizukiewicz, 124 West 29<sup>th</sup> Street, Bayonne, NJ

§13:2-23.20 Intoxicated workers prohibited. No licensee shall work in any capacity in or upon the licensed premises while actually or apparently intoxicated, or allow, permit, or suffer any actually or apparently intoxicated person to work in any capacity in or upon the licensed premises.

## **BOOKS2**

On March 12, 2013 you failed to keep or maintain books of account which were true, complete and accurate in all respects on your licensed premises or failed to produce same for inspection upon demand and did not produce same within seven (7) days thereof, in violation of N.J.A.C. 13:2-23.32

Reference is made to an A.B.C. inspection conducted Detective Czapla and Detective Donaway on March 6, 2013, under case 2013-13671: On 3/5/2013, John Howells 4<sup>th</sup> was served with a "Notice to Produce Records Within Seven Days" form which he acknowledged receipt of by signature.

As of March 13, 2013, John Howells 4<sup>th</sup> failed to produce the above requirements, and is in violation of N.J.A.C. 13:2-23.32.

Records to be maintained on licensed premises; other required records.

(d) All licensees shall produce the above-enumerated records for inspection immediately upon requested by the Director, the issuing authority or the agents or representatives thereof and any other law enforcement officer, peace officer or any

other person whose powers or duties include the enforcement of the Alcoholic Beverage Control Act and officers as defined by N.J.S.A. 33:1-1(p), unless a different time period is prescribed in N.J.A.C. 13:2-29.4, at a located designed by the requester. The failure to comply with this subsection shall be considered a violation of N.J.S.A. 33:1-35 and N.J.A.C. 13;2-23.30

### **TOX1**

On 03/21/2013, between the approximate hours of 7 P.M. and 9 P.M., you sold, served or delivered or allowed, permitted or suffered the sale, service or delivery of an alcoholic beverage, directly or indirectly, to a person actually or approximately intoxicated or allowed, permitted or suffered the consumption of an alcoholic beverage by such person on your licensed premises, viz., On March 21, 2013 at approximately 9:14 P.M., Matthew G. Heleno (130 West 47<sup>th</sup> Street, Bayonne, NJ 07002, DOB 07/19/1983) was arrested at 26<sup>th</sup> Street and Avenue A, in Bayonne, NJ 07002, Refer to Bayonne Investigation Report 2013-19651. While being processed for the arrest, Matthew G. Heleno state to Police Officer Fabbriatore that he had 12 beers while in Pair of Jacks Pub, 812 Broadway, Bayonne, NJ 07002. Mr. Heleno had 2 breath samples on ALCOTEST 7110Mark 3C serial number ARXC-0074 which was administered by Police Officer Raslowsky. Mr. Heleno's breath test result was .24.

§13:2-23.1 Prohibition against serving persons under the legal age and intoxicated persons

(b) No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person actually or apparently intoxicated, or permit or suffer the consumption of any alcoholic beverage by any such person in or upon the licensed premises/

### **Synopsis of incident:**

#### **02/22/2013 Bayonne Police File #2013-13671**

On 2/22/2013 Detective J. Czapla #149 and D. Galano #239 proceeded to Pair of Jacks Pub, 812 Broadway, to advise the Licensee holder of numerous complaints that generated from the inside and outside of the bar. These complaints were registered with the police department over a period of time. The complaints ranged from excessive noise from the DJ, unruly crowds outside of the bar during the early morning hours, and fights inside and outside of the bar at closing time. Detectives Czapla and Galano spoke with Bartender Madelyn Castillo at 7:30 P.M. on 2/22/2013 and she was fully advised of the problems. She stated that the owners were away for the weekend and she was the overnight shift manager. Detectives Czapla and Galano spoke with the Doorman-Bouncer Bryant Isaac Sr. once he was on duty and he stated that he was the only one working security and he would do his best to deal with the complaints.

At 1:36 A.M. on 2/23/2013, (CC#2013-13659) P.O. Lindquist called into dispatch that he was stepping out at Pair of Jacks Pub on a very large crowd congregating outside and excessive noise emanating from the inside the bar. Detectives Czapla and Galano arrived and observed 20-30 people outside and the bar windows were opened and the music was entirely too loud. The bass could be felt across the street. Detectives Czapla and Galano broke up a potential physical altercation between two patrons, one was sent on his way, and there was no other police interaction with the two males. Detectives Czapla and Galano could not see inside of the bar from the sidewalk as they have smoked -frosted glass in all of the windows. Detectives Czapla and Galano proceeded into the bar and asked Mr. Isaac Sr. to have the DJ turn down the music and they requested that he close all of the windows. The windows were shut and the volume of the music was turn down. Detectives Czapla and Galano remained on the scene to disperse the crowd and monitor the area. Once the area was cleared and quiet they proceeded with their assignments.

At 02:29 on 2/23/2013, (CC #2013-13655) Detectives Czapla and Galano stepped off at Pier of Jacks Pub to address the large group outside being unruly and loud, excessive noise emanating from the inside of the bar, an intoxicated patron lying on the sidewalk in front of 814 Broadway. As Detectives Czapla and Galano began to speak with him, he stated "I was drinking in Jacks and had to get fresh air, there's too many people in there and I drank too much". As the detectives were speaking with a large group started forming up and they once against dispersed them. As Detectives Czapla and Galano turned to talk to the intoxicated male again, and he was getting into a cab with the help of a friend and the cab left the area before they could gather his information. The crowd was dispersed and Detectives Galano and Czapla observed the doors and windows were opened yet again and it was excessively loud. The music was lowered again and the doors and windows were closed. Mr. Bryant Isaac Sr., was advised again.

At 03:09 A.M. on 2/23/2013, Detectives Galano and Czapla observed people standing outside of Pair of Jacks Pub. Detectives Czapla and Galano also observed patrons walking freely in and out of the bar. Detectives Czapla and Galano entered the bar and announced that it was 3 am and the bar was supposed to be closed. Detectives Czapla and Galano observed about a dozen or so patrons inside drinking at the bar and freely walking around the bar, including Donte Porter, resident of 44 East 50<sup>th</sup> Street, Bayonne N.J. who stated that he was waiting for his bar tab receipt. Detective Czapla observed a female sitting on a chair by the bar cut our where the bartenders walk out from behind the bar. She was drinking a Budweiser beer in a glass bottle. Detective Czapla showed her his badge and informed her that he was a Detective with the Bayonne Police Dept., ABC Unit. Detective Czapla informed her that she had to put her beer down and exit the bar. She appeared to be intoxicated, her eyes were watery and bloodshot, and she became verbally combative. She stated that she was working as a bartender and that she was allowed to drink. She stated that once the

crowd left she had to clean the bar. Detective Czapla requested that the manager produce her ABC Bar Card. She was identified by her bar card as Cynthia Bizukiewicz, 124 West 29<sup>th</sup> Street, Bayonne, NJ 07002, ABC Bar Card Number 12-011. She was informed that she could not consume alcohol and work behind the bar. Detective Czapla requested that she leave the premises with the other patrons. She tried to change her story and stated that she was not actively working but wanted to stay to clean up the bar. She continued to be verbally combative but eventually left the bar.

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BE IT RESOLVED, that the Alcoholic Beverage Control Board hereby receives and files disciplinary charges preferred by the Chief of Police against Pair of Jacks Pub LLC t/a Pair of Jacks Pub, holder of Plenary Retail Consumption License No. 0901-33-011-006, for premises located at 812 Broadway , Bayonne, NJ; and be it further

RESOLVED, that the board hereby fixes Thursday, May 30, 2013 , at 5:00 P.M. and the Council Chambers, or the Municipal Court Room, Municipal Building, 630 Avenue C, Bayonne, NJ, as the time and place when and where the Board will meet to hear and consider such charges; and be it further

RESOLVED, that the Board Secretary be and is hereby directed to notify the licensee to show cause why the license should not be suspended or revoked.

Ayes - Board Member Colasurdo and Chairman McCabe.

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**06.** Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

RESOLVED, that the Regular Meeting of the Alcoholic Beverage Control Board scheduled for Thursday, April 25, 2012 at 5:00 PM is hereby cancelled.

Ayes - Board Member Colasurdo and Chairman McCabe.

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**07.** Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

BE IT RESOLVED, that the official minutes of the regular meeting of the Alcoholic Beverage Control Board of the City of Bayonne held Thursday, February 25, 2013, be and the same are hereby approved.

Ayes - Board Member Colasurdo and Chairman McCabe.

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At 11:23 A.M., Member Colasurdo moved to adjourn, seconded by Chairman McCabe, which motion was adopted.

Ayes - Board Member Colasurdo and Chairman McCabe.

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H. Mickey McCabe, Chairman

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Robert F. Sloan, Secretary