

A special meeting of the Montrose City Council was held on Monday, February 26, 2024, at 2:00 p.m. in the City Council Chambers located in the Elks Civic Building at 107 S. Cascade Avenue. Said meeting was posted in accordance with the Sunshine Law.

Present: Barbara Bynum, J. David Reed, Dave Frank, Doug Glaspell, Ed Ulibarri, Bill Bell, Matt Magliaro, Chris Dowsey, Tim Cox, Joseph Adkin, Jonathan Roberts, Michelle Berry, Lisa DelPiccolo, Briceida Ortega, Shani Wittenberg

Guests: Preston McEachern

CALL TO ORDER

Mayor Barbara Bynum called the meeting to order at 2:01 p.m.

LIQUOR LICENSE RENEWAL HEARING

A public hearing was held on the renewal of the Tavern liquor license at 35 N. Cascade Avenue held by Daisy McEachern, doing business as Red, White and Brew Tavern.

City Attorney Chris Dowsey stated for the record that J. David Reed represented Preston McEachern in an unrelated business matter approximately 25 years ago. Mr. Dowsey said it is his opinion and Mr. Reed's that there is not a conflict of interest, and Mr. Reed will participate in the proceedings.

Mr. Dowsey stated that this special meeting is for a contested liquor license renewal hearing. City Council is the local licensing authority with the mayor as the presiding officer. An electronic recording will serve as the record of the proceedings and will be kept by the City Clerk's office. The Legal Department will draft a written findings and decision following the proceedings which will be signed by the mayor and provided to the licensee. Mr. Dowsey reviewed the procedures for the hearing.

Assistant City Attorney Matt Magliaro stated that the initial Tavern liquor license was approved by City Council on February 7, 2023, and expired on February 23, 2024. A renewal application signed by Preston McEachern was submitted on January 29, 2024. Mr. Magliaro stated that City staff object to the renewal of the license and recommend denial.

Preston McEachern was present to represent the licensee.

Mr. Magliaro stated that a notice of this hearing was posted on the premises of the tavern on February 14, 2024, by the City Clerk and Sgt. Jonathan Roberts, and a notice of the hearing was published in the Montrose Daily Press on February 15, 2024. Notice was hand delivered and sent via certified mail to the applicant and to Benjamin Lewis, a registered agent of an associated corporation.

City Clerk Lisa DelPiccolo was administered an oath by Mr. Dowsey.

Ms. DelPiccolo stated that she received an application from Preston McEachern for renewal of the liquor license on January 29 and collected the applicable fees. The local fees were paid with a credit card at 10:24 a.m. on January 29, 2024, and Mr. McEachern signed the application forms in her presence.

Ms. DelPiccolo stated that she posted a notice of this hearing on the premises on February 14, 2024, and published a notice in the Montrose Daily Press on February 15, 2024.

Preston McEachern had no questions for Ms. DelPiccolo.

Montrose Police Officer Joseph Adkin was administered an oath by Mr. Dowsey.

Officer Adkin provided a summary of his law enforcement career, including DUI/impairment training, and previous experience with serving alcohol in restaurants and bars. Mr. Adkin stated that he is familiar with overservice laws and laws related to service to minors.

Officer Adkin stated that he was at Red, White, and Brew Tavern on an undercover special assignment on December 16, 2023. He stated that IDs were not checked at the main entrance or when alcohol was ordered. Multiple intoxicated individuals were observed on the premises, and two visibly intoxicated females served themselves alcohol behind the bar. Officer Adkin stated that he observed only one individual who was asked to provide ID, no intoxicated individuals were asked to leave or were denied alcohol, and no food was served.

Officer Adkin stated that multiple groups of individuals were observed entering a bathroom for short periods of time. Officer Adkin had photo evidence of Mr. McEachern with a full bottle of alcohol, pouring the alcohol into the mouths of customers, and allowing them to drink from the bottle without limit.

Mr. McEachern stated that he knew the officers were present and a private party was being held on the premises that night.

Mr. Dowsey administered an oath to Sgt. Roberts. Sgt. Roberts reviewed his police experience, his experience with alcohol impairment detection, and his assigned role to conduct special investigations.

Sgt. Roberts stated that he participated in the undercover operation at Red, White and Brew Tavern on December 16, 2023. Sgt. Roberts stated that he was stationed outside of the tavern and observed visibly intoxicated individuals entering and leaving. Based on observations and photos taken by Officer Adkin, the bar was closed by the officers and citations were issued for overservice and DUI. The sentencing orders for guilty convictions for Preston McEachern, Benjamin Lewis and Michelle Martinez, dated January 29, 2024, were reviewed.

Sgt. Roberts summarized the record of reported multiple disturbances and numerous DUIs between April 26, 2023 and January 27, 2024.

Mr. McEachern questioned the witness.

Sgt. Roberts stated that the recipients of DUI arrests were seen exiting the establishment or were in the vicinity of the tavern before entering vehicles. Sgt. Roberts also said that an officer who provided video evidence of an altercation was not present.

Mr. Magliaro stated that the City rested its case.

Mr. Dowsey advised Preston McEachern of his Fifth Amendment rights and Mr. McEachern acknowledged that he understood.

Mr. McEachern stated that his daughter is the licensee, and he became a bouncer and ordered alcohol for the business after it opened. He said that midway through the first year of business problems began to develop and more bouncers were brought on board. Mr. McEachern stated that he will step down from operations of the business and others will take over. When asked if he is a convicted felon, Mr. McEachern stated that he has been convicted of a crime.

Mr. Dowsey administered an oath to Mr. McEachern.

Mr. McEachern stated that On January 29, he completed the liquor license renewal application on behalf of his daughter and in the presence of Ms. DelPiccolo. He acknowledged that earlier in the day, he pled guilty to overservice charges along with Benjamin Lewis and Michelle Martinez but did not disclose the convictions on the renewal application. Mr. Magliaro stated that this constitutes perjury in the second degree.

Closing remarks were presented.

Mr. Magliaro stated that the liquor license renewal application, signed by Mr. McEachern on behalf of Red, White & Brew Tavern, contains a false statement related to the convictions for overservice of patrons. Mr. Magliaro stated that in the one year the business has been open, fighting, disorderly conduct, and overservice have been documented. Mr. Magliaro requested denial of the renewal application.

Mr. McEachern acknowledged the problems with the establishment and requested 30 days to shut down the business.

Mr. Dowsey stated that the decision of City Council is effective upon the signed written findings document.

City Council discussed the information presented as well as the late filing of the liquor license renewal application and the uncertain ownership of the business.

A motion was made by Dave Frank, seconded by Doug Glaspell, to deny the renewal of a Tavern liquor license at 35 N. Cascade Avenue held by Daisy McEachern doing business as Red, White and Brew Tavern. All voted yes. Motion passed.

MOTION TO ADJOURN

At 3:38 pm, a motion was made by Doug Glaspell, seconded by Ed Ulibarri, to adjourn with no further action taken.

ATTEST:



Lisa DelPiccolo, City Clerk


Barbara Bynum, Mayor