
City of Daytona Beach Special Magistrate

City Commission Chambers, 301 S Ridgewood Ave, Daytona Beach, FL 32115

Robert J. Riggio, Special Magistrate

August 16, 2023 Minutes

Attendees:

Robert J Riggio, Special Magistrate

Staff present:

Mr. Ben Gross, City Attorney

Mr. Anthony Jackson, Assistant City Attorney

Mr. Jakari Young, Chief of Police

Mr. Denzil Sykes, Code Compliance Manager

Lt. Gernert, Daytona Beach Police Officer

Det. Lewindowski, Daytona Beach Police Officer

Sgt. Timothy Blowers, Daytona Beach Police Officer

Off. Isabella Preiss, Daytona Beach Police Officer

Ms. June Barnes, Rental Program Coordinator

Mr. Joe Graves, Audio/Visual

Approval of Minutes by:  Special Magistrate

Mr. Riggio called the meeting to order at 10:05 a.m. and asked if there were representatives present for the City and Respondent.

Mr. Riggio explained his understanding of the process set out in the City Code and the nature of the violation that is now before him.

Mr. Tony Jackson stated he is representing the City and is ready to present the City's case.

Mr. Aaron Delgado stated he is representing Razzles and is ready to present their case.

Mr. Riggio asked if there has ever been a proceeding of this nature in the past and if there is any guidance as to how the hearing is to take place.

Mr. Jackson stated not that he is aware of a prior proceeding.

Mr. Riggio stated he is looking at the provisions in Subsection C of Chapter 11 and would like the parties to agree that his decision would be premised on substantial competent evidence.

Mr. Jackson agreed.

Mr. Riggio stated he would like agreement on the grounds that the City is seeking remedy which includes calling witnesses, documents or whatever is needed to support their case. He further

stated that Mr. Delgado will have the opportunity to object and cross examine any witnesses. He stated Mr. Delgado can also call witnesses if they desire.

Mr. Jackson stated the case will be presented by Sgt. Timothy Blowers. He stated it is their intention to provide evidence in support of the Chief's decision in Chapter 10-3 Subsection 11. He stated they will present their evidence as to why they believe the revocation should continue. Without objection, Mr. Jackson entered into evidence "Exhibit A" which is a copy of the documents served to the business on August 12, 2023.

Mr. Delgado stated the owners were served with the emergency suspension last weekend. He stated the family has owned the business for almost 40 years and want to be good partners with the City. He stated they have been in extensive talks with counsel for the City and they understand that there is a concern in the community about the Seabreeze corridor. He stated some of the calls for service may say Razzles but are in fact other locations around the area. He stated they have added additional security measures at their own expense such as metal detectors and Real ID Intellicheck scanners with the same degree of verification that law enforcement uses. He stated he is asking to terminate the suspension or modify it in a way that allows them to re-open as soon as possible. He stated they have additional training in place and believes the main areas of contention are asking the owners to restrict baggage which is not practical. He stated they do have security and a magnetometer at the front. He stated this was prompted by the shooting a few weeks ago and pointed out that the shooting occurred before midnight and it was not someone under 21 who also committed several felonies. He stated they will do a more invasive search of people's property as they enter and will place signage advising that which the City has asked for. He stated he is asking to lift the bag restriction or place some sort of definition on a hand-held bag. He stated the second concern is that the City wants them to change their business model to 21 and up but to impose that on one business on that street is unfair on the establishment and gives other businesses an advantage and is asking to continue to operate under the permit as is. He stated they are willing to do more in some of the areas the City is requesting. He stated they would like to have the assistance of the City to have more police officers available.

Sergeant Timothy Blowers came forward and was sworn in. He stated the business' demonstrated danger to the health, safety and welfare of the public has forced the City to take action. He stated per City Ordinance Chapter 10-3 Subsection 11, the Chief can suspend an extended hours permit which is a privilege and not a right. Sergeant Blowers read aloud the basis from the Notice as to how the Chief can suspend the license. He then stated specific actions which gave rise to the action taken which included a female who brought a firearm into the business and later shot four people in the Razzles' parking lot. He noted that this could have been a mass casualty event. He then stated that there had also been a fight in the parking lot and that since May 1st there had been 121 calls for underage drinking and fighting resulting in injuries and arrests. Finally, he noted that the City had received complaints of underage drinking from parents. He stated video is available. He stated that he provided a packet of all the calls to the Respondent.

Furthermore, he stated since the Notice police logged a call of an underage teenager passed out on the sidewalk at the business. He stated the teenager was carried out of the business, put on the sidewalk and flagged down officers. He stated the teenager was transported to the hospital as a Marchman act and she was under the age of 21. He stated while officers were dealing with that intoxicated female there were two other females passed out on the ground in the parking lot of Razzles. He stated later that night 2 officers were struck by an underage driver

in the parking lot. He stated she had a Razzles stamp on her hand. He stated she then struck two other patrons and one was transported to the hospital. He stated there are numerous additional calls for service some with serious injuries. Sergeant Blowers relayed some calls by parents received by the police. He stated the City is requesting to keep the suspension active until Razzles implements additional security measures and stated nine conditions the City would like implemented to alleviate the danger to the community and patrons.

Mr. Delgado declined review of the calls for service.

Sergeant Blowers referred to the bikes that are non-operational in the Chamber and stated he has witnesses. He stated he has Officer Pries present who was on one of the bicycles when it was struck and Detective Lewindowski who investigated the shooting.

Mr. Jackson referred to the conditions the City is requesting and asked Sergeant Blowers to explain why they are important.

Mr. Riggio suggested a wall of lockers may be a solution.

Mr. Delgado stated he would discuss that with his client and stated he believes increased security measures and signage would be reasonable.

Mr. Riggio stated he hopes to have a specific framework at the end of the hearing to allow the business to go on and alleviate future danger.

Mr. Jackson asked Sergeant Blowers to explain the reason for the request of not having people congregate in the parking long, the reason for requesting 21 and up and the reason they are important.

Sergeant Blowers stated he believes 18 – 21 year olds make up approximately 30% of attendance at the establishment.

Mr. Jackson presented the proposed list of conditions to alleviate immediate danger to the Magistrate which was entered as City Exhibit "B".

Mr. Riggio asked how they produced the Razzles call history and asked for definitions of some of the call references.

Sergeant Blowers stated he prepared the report and they have a computer aided call system that generates the document.

Mr. Delgado asked Sergeant Blowers some general questions regarding the shooting, the underage driving incident and call history report. He asked questions regarding the officer's knowledge of the security measures at the business, possible training available and officer detail availability. There was discussion regarding private security's ability to detain someone, arrest someone or hold an ID, other nearby business models and security and suggestions to alleviate the situation.

Mr. Jackson asked Sergeant Blowers additional questions regarding the night of the shooting, details and business security going "hands on".

Mr. Riggio asked Sergeant Blowers what you do with someone who is so inebriated they can't stand up.

Sergeant Blowers stated risking moving them could cause harm and they send fire and rescue in.

Mr. Jackson called Lt. Kimberly Gernert, Daytona Beach Police Department.

Lt. Gernert came forward and was sworn in. She stated she was the shift Lieutenant the night of the shooting and gave details about the activities of the suspect on that night. She stated she was also the shift Lieutenant on duty the night the officers were hit by a car. She gave details relating to the incident and the underaged driver. She stated the conditions were thought out on how the businesses can alleviate future danger.

Mr. Delgado questioned Lt. Gernert regarding the drinking of the underaged drivers and she confirmed they were stamped as being underage. There was discussion regarding if it is allowable to show ID on a phone, fake IDs and the appearance of the girls entering the business.

There was discussion regarding what a curfew violation is and the appearance of the girls entering the business in that incident.

Lt. Gernert stated the businesses are generally cooperative with the Police Department.

Mr. Delgado further questioned Lt. Gernert regarding closing time for businesses in the area and authority of business security at closing time, detail staffing and requests for off-duty officers.

Mr. Jackson asked follow-up questions regarding reports of fighting at the bars, and whether Lt. Gernert agreed the purpose of this hearing is the alleviation of future danger to the public.

Lt. Gernert agreed and stated it was not specific to one business.

There was discussion regarding the Hookah pub, police presence in the area, past shootings.

Officer Isabella Priess came forward and was sworn in. She stated she was dispatched to a disturbance. She stated a vehicle wanted to leave and she was moving the bicycle and was hit by the car in the Razzle's parking lot. She stated a 17 year old was driving and the passenger was 16 and alcohol was found in the vehicle. She stated they failed DUI testing and had a stamp under 21 from Razzles. She stated the driver admitted to being inside Razzles.

There was discussion regarding the date the issue occurred. Officer Priess stated the incident happened Friday night going into Saturday.

Mr. Riggio asked if there was anyone patrolling or drinking in the parking Lot.

Officer Priess stated security should be monitoring the parking lot and officers do come in with calls for service.

Mr. Riggio stated alcohol is cheaper if you can drink it in the car and then go into the establishment and he wondered if anyone was monitoring that and preventing people from loitering there.

Mr. Jackson asked if there is prohibition in the After Hours Permit against drinking in the Parking Lot.

Officer Priess stated yes.

Mr. Delgado stated the underage incident happened after the date of the hearing notice and should not be considered as evidence.

Mr. Jackson stated he believes the Notice was served on the 11th and it is a date error. He stated the need to address immediate danger should continue after the business is served and would ask the Magistrate to consider it.

Detective Lewindowski, Daytona Beach Police Department, investigated the shooting came forward and was sworn in. He stated they received video from Razzles of a subject walking into the business and then out of the business. He stated she is out of range for 30-45 seconds and a fight occurs and she pulls a firearm from her purse and fires it. He stated he believes the firearm was in her purse because she was not near her car. He stated they reviewed video of her entry into the business and the metal detector went off. He stated the metal detector went off for every single person. He stated he did not know their metal detector and it may be a sensor showing someone walking in or out. He agreed that it appeared to be ineffective for that night. He stated he did not observe a subsequent search or anyone opening the bag.

Mr. Delgado asked Det. Lewindowski if the woman created a crime – attempted murder and he said yes.

There was discussion regarding conditions of the after hours permit as far as cooperation and surveillance.

Mr. Jackson stated that is the evidence from the City and offered the 2 video's the city has available.

Mr. Riggio stated the testimony hits the relevant factors.

Mr. Delgado stated his issue is with the date of the notice and doesn't object to Mr. Riggio later reviewing the video.

Kyriakos Drymonis came forward and was sworn in. He stated his family owns businesses on Seabreeze including Razzles since 1985. He stated he lives in Volusia County and his brother is involved in the business and they are commonly there. He stated the occupancy is 900 with one main entrance. He stated the metal detectors were added the weekend before Thanksgiving in 2022. He stated you walk through the metal detector and if it doesn't buzz, then ID is shown. He stated if the metal detector buzzes, there is a secondary search with a wand. He stated the metal detector has a bar and tells you where to search. He stated if they have a bag then it is searched. He stated 4 angles of cameras are pointing to this location. He stated in the situation of the shooter, the metal detector does go off. He explained how the metal detector works. He stated in the case of the shooter, there was a divider in the purse that she pushed against upon opening and kept the gun behind the divider from being seen.

There was discussion regarding fake IDs and whether the business can take the ID if it is fake.

Mr. Drymonis stated after the underage driver incident, they sent an email to a company to inquire about ABT grade software to identify fake IDs and identities of the people that come into the establishment. There was further discussion regarding this system and a cell phone based app. He stated he applied for the application on Monday. He stated it is their intent to display signage regarding the new system. He stated they are implementing a new divestiture table so that the patron does not retain hold of their bags as well.

There was discussion regarding the size of the bags to be allowed in the business.

There was further discussion regarding the stamp placed on the hand when the patron enters the business.

Mr. Drymonis stated there are over 40 cameras in the business. He stated the establishment does "Responsible Vendor Training" 3 times a year for about an hour and a half and get updated on new trends. He stated he has explored hips training which is a 3 year certification which will be a requirement for bartenders and they send people into the business to spot check similar to a secret shopper.

There was discussion regarding security and whether the business has looked at hiring private policing. Mr. Drymonis stated it was the result of not getting requested details on a consistent basis. He stated many people have told them they don't do bars. There was discussion regarding not being able to get details from the Police Department. Mr. Drymonis stated it is his preference to hire off duty police officers as his security staff has limitation and cannot trespass or arrest if needed. He stated he implemented on Saturday having 2 people in the parking lot during peak times. He stated the City's Notice was served to his Manager and he called the Chief and his Commissioner and shut down at midnight that night.

There was discussion regarding the issues being ameliorated if patrons under 21 were not allowed into the bar.

There was discussion regarding a document that the City put together that they would like to see implemented. Mr. Delgado asked Mr. Drymonis how they will address closing.

Mr. Drymonis stated there are more people on the streets with the earlier closing time implemented about a year ago but there are still other businesses and restaurants open and people are waiting for UBER or deciding whether to drive. He stated their plan is to get the ID scanners going and the contract has already been signed and first payment made and can be implemented immediately. He stated they would be implementing more training but the books have been ordered. He stated security in the parking lots has been implemented since the shut-down. He stated he would put up temporary signs regarding the new rules and replace them with permanent ones at a later time. He stated the request with the bags can be easily solved. He stated he did not feel his operation as a business from 12 to 2 was a danger to the public. He estimated that 30-40 thousand patrons have gone through the business this year and one had a gun. He stated he has citizens that call him regarding underage business. He stated he would ask photos so they can identify the person and notify them. He stated they always cooperate with the police and they have unfettered access to video.

Mr. Jackson stated under 5 B, the ability to remain open and sell or permit the sale of alcoholic beverages is a privilege and Mr. Drymonis agreed.

Mr. Jackson stated that business who sell alcoholic beverages are required to take steps to minimize the negative impacts that their establishments may cause nearby residents or commercial businesses and he agreed.

Mr. Jackson stated that there was a shooting event and they began to take certain action at that time. Mr. Drymonis agreed.

There was further discussion regarding the use of metal detectors and the procedure when the machine goes off. He stated the hand held detector is accurate and was not sure it was used for the shooter security.

There was further discussion regarding fake “novelty” IDs. Mr. Drymonis stated there were additional clues in their demeanor and people act nervous when they are using a fake ID but it is not a perfect science.

There was further discussion regarding implementation of a divesting table. He said they want the person to search the bags and if they find anything, they tell them they cannot bring it in but he is willing to do whatever is necessary.

Mr. Drymonis again stated they are willing to implement the TIPS training and the bartender will be able to take the training with them if they change jobs.

Mr. Jackson stated there are other provisions that would allow the city to seek suspensions for other things that affect the health safety and welfare.

Mr. Drymonis stated he is aware.

Jakari Young, Chief of Police, came forward and was sworn in. He stated the City has presented clear and compelling evidence that on July 22, 4 individuals were shot in the parking lot which justifies suspension of the after hours permit. He stated there is no question the gun was allowed in Razzles. He stated he is surprised at the pushback on bags being allowed in the club since they can leave them in their vehicles. He stated that Mr. Delgado questioned the date of the Notice and it was his intention to suspend prior to what happened with the 17 year old. He stated his intention was to suspend closer to the June 22nd shooting. He stated it was several days later before they arrested the shooter and follow up occurred. He stated he met with City staff before he moved forward with the suspension. Chief Young addressed staffing vacancies with the department and said it may be an issue but it is not an excuse and has directed Command Staff to hire any officers needed and to pay overtime. He stated on the night of the shooting, he checked the report and all 11 officers, except one on his meal break, had been assigned to other calls for service. He stated he is asking for accountability and needs their staff to work with them in the parking lot. He stated the shooting and underage drinking incident happened in almost the very same spot and is asking for them to have security in the parking lot as a deterrent.

He stated he met with Mr. Drymonis in April regarding underage drinking and we are just now getting to implementing these ID readers. He stated he would like to know the status of the employee that was working the door when the gun was missed. He stated as for details and lack of police that sign up. He stated some law enforcement agencies do not work bars and

clubs like the Sheriff's office. He stated the Police Officers receive additional assistance at other bars that they don't receive at Razzles.

There was discussion regarding the security at the door at the time of the shooting and if the security guard had any further training.

Mr. Delgado asked if the Daytona Beach Police Department offers training.

Chief Young stated they can discuss it.

Mr. Delgado stated they could work out the size of bags and things with Mr. Drymonis.

Chief Young stated he is interested to learn more about the ID and to see if training has taken place yet.

Mr. Delgado asked if the Chief would accept his clients word that they will implement the changes as soon as possible and the Chief stated yes.

Mr. Riggio suggested he senses a convergence of interests and suggested a break to reconvene at 3 pm with a list of conditions to incorporate in this order.

The parties requested a 10 minute recess.

Mr. Riggio called for a recess at 12:35 pm.

The hearing resumed at 1:25 pm.

Mr. Delgado stated they have reached resolution on a list of things that they can do to re-open and will request the Magistrate retain jurisdiction for 7 days.

He stated they have agreed to the following:

1. No bags larger than 5 x 9 x 2 to come into the business. In addition to the metal detectors the business will provide a divesting table for security to use while searching bags.
2. Signage – while not in final form, they would put up signs regarding the bag restriction, no alcohol outside, no alcohol consumption in the parking lot. There will be a sign placed inside the business letting people know they cannot take their bags out.
3. This request would be left as is and the business model will continue with 18 years of age and up.
4. The business will work with the City to be a more enticing employer for off-duty officers to be hired to assist with security details. There will be no hiring of state-licensed security. The business will provide better training for existing security staff.
5. The business will provide staffing in the parking lot. On low frequency nights which is everything but Friday, Saturday and special events, they will have at least one roving security guard at all times while open. During Friday's, Saturdays, events and peak times, they will have at least 2 security in the parking lot during hours of operation.
6. They will implement the TIPS training as well as training from the vendor regarding when to stop serving patrons who have already had a few too many.
7. They will have the scanners on cell phones. They have everything but the log-ins and should have that today. No log ins will get today.

8. This item was struck by agreement as the fire marshal has jurisdiction.
9. The business will work with the Daytona Beach Police Department for procedures at closing time. There are limits as to what their staff can do and some leeway for people deciding if they should drive.

Mr. Jackson stated that for condition #10 they would utilize Sgt. Blowers to go in and verify and check the items. He stated the Magistrate is to maintain jurisdiction to verify the items discussed are implemented.

Mr. Riggio asked what will happen with the existing suspension.

Mr. Jackson stated to the point they are checked off, they are lifted.

Mr. Delgado stated the suspension would be lifted today if they show compliance by the weekend and re-open. Do not show or violate in 7 days.

Ben Gross, City Attorney, came forward. He stated the intent is the Magistrate would maintain jurisdiction for seven days and the sanctions would be lifted today.

Mr. Riggio stated he wanted a clear and concise order and that the timing is critical.

Mr. Gross stated that #1, #2, #5 and #7 would be done immediately. He stated the other items must be in place within the next 7 days. He stated the business can open tonight if all of the items that need to be implemented immediately are documented as complete before 5 pm.

He stated #8 is struck.

DISPOSITION: Based on the sworn testimony and exhibits, substantial competent evidence has been presented which supports a finding that the establishment's operation presents a demonstrated danger to the health, safety and welfare of the public as identified in the Notice and the business owner has responsibly agreed to immediately implement the conditions as stated in open hearing on August 16th in Daytona Beach and with respect to items 1, 2, 5 and 7 will be implemented immediately and upon satisfaction of that being done the business can reopen and that items 4, 6, and 9 will be implemented within the next seven day and the Special Magistrate retains jurisdiction for seven (7) days for reconsideration on any item which is not completed within the agreed upon time period and may consider imposing additional sanctions if these items are not completed as agreed upon.

Mr. Riggio adjourned the meeting at 2:02 a.m.