

CARROLS RESTAURANT GROUP, INC.

FORM 8-K (Current report filing)

Filed 06/14/17 for the Period Ending 06/08/17

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| Address | 968 JAMES STREET SYRACUSE, NY 13203 |
| Telephone | 3154240513 |
| CIK | 0000809248 |
| Symbol | TAST |
| SIC Code | 5812 - Eating Places |
| Industry | Restaurants & Bars |
| Sector | Consumer Cyclical |
| Fiscal Year | 12/31 |

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) June 8, 2017

Carrols Restaurant Group, Inc.

(Exact name of registrant as specified in its charter)



Delaware
(State or other jurisdiction of
incorporation or organization)

001-33174
(Commission
File Number)

16-1287774
(I.R.S. Employer
Identification No.)

968 James Street
Syracuse, New York
(Address of principal executive office)

13203
(Zip Code)

Registrant's telephone number, including area code (315) 424-0513

N/A

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Securities Act.

ITEM 5.02. DEPARTURE OF DIRECTORS OR CERTAIN OFFICERS; ELECTION OF DIRECTORS; APPOINTMENT OF CERTAIN OFFICERS; COMPENSATORY ARRANGEMENTS OF CERTAIN OFFICERS

On June 8, 2017, at the Annual Meeting of Stockholders (the "Annual Meeting") of Carrols Restaurant Group, Inc. (the "Company"), Joel M. Handel retired from the Company's board of directors upon completion of his term effective as of the Annual Meeting.

ITEM 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

On June 8, 2017, the Company amended Section (A) of Article NINTH of its Restated Certificate of Incorporation (the "Restated Certificate of Incorporation") to provide for a majority voting standard in uncontested elections of directors. The text of the changes to Section (A) of Article NINTH of the Restated Certificate of Incorporation is attached hereto as Exhibit 3.1 and incorporated by reference herein.

On June 8, 2017 the Company amended Article II, Section 1 of its Amended and Restated Bylaws (the "Amended and Restated Bylaws") to provide for a majority voting standard in uncontested elections of directors. The text of the changes to Article II, Section 1 of the Amended and Restated Bylaws is attached hereto as Exhibit 3.2 and incorporated by reference herein.

ITEM 5.07. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS.

On June 8, 2017, the Company held the Annual Meeting of Stockholders.

At the Annual Meeting, stockholders (i) re-elected Hannah S. Craven and elected Lawrence E. Hyatt as Class II directors, to serve three year terms that expire at the Company's 2020 Annual Meeting of Stockholders or until respective successors have been duly elected and qualified, (ii) voted to approve an amendment to our Restated Certificate of Incorporation to implement a majority voting standard in uncontested elections of directors, (iii) voted to adopt, on an advisory basis, a resolution approving the compensation of the Company's Named Executive Officers as described in Proxy Statement under "Executive Compensation", (iv) voted to select, on an advisory basis, a frequency of the advisory stockholder vote on the compensation of the Company's Named Executive Officers, and (v) voted to ratify the appointment of Deloitte & Touche LLP as the Company's independent registered public accounting firm for the 2017 fiscal year.

The results of voting for each proposal submitted to the stockholders are as follows:

Proposal 1. Election of Class II Directors, Hannah S. Craven and Lawrence E. Hyatt.

| Name | For | Withheld | Broker Non-Vote |
|-------------------|------------|-----------------|------------------------|
| Hannah S. Craven | 35,092,158 | 2,225,598 | 5,921,107 |
| Lawrence E. Hyatt | 35,774,686 | 1,543,070 | 5,921,107 |

Proposal 2 . Approval of an amendment to our Restated Certificate of Incorporation to implement a majority voting standard in uncontested elections of directors.

| For | Against | Abstain | Broker Non-Vote |
|------------|----------------|----------------|------------------------|
| 36,614,170 | 696,263 | 7,323 | 5,921,107 |

Proposal 3 . Approval, on an advisory basis, a resolution approving the compensation of the Company's Named Executive Officers as described in Proxy Statement under "Executive Compensation".

| For | Against | Abstain | Broker Non-Vote |
|------------|----------------|----------------|------------------------|
| 34,959,173 | 2,166,280 | 192,303 | 5,921,107 |

Proposal 4 . Recommendation, on an advisory basis, of a frequency of the advisory stockholder vote on the compensation of the Company's Named Executive Officers.

| 3 Years | 2 Years | 1 Year | Abstain |
|----------------|----------------|---------------|----------------|
| 14,252,528 | 83,799 | 22,964,748 | 16,681 |

Based on the results of the stockholder advisory vote, the Company has determined, consistent with the recommendation of the Company's Board of Directors stated in the Company's Proxy Statement for the Annual Meeting, that it will hold a stockholder advisory vote on the compensation of the Company's Named Executive Officers every year.

Proposal 5 . Ratification of the appointment of Deloitte & Touche LLP as the Company's independent registered public accounting firm for the 2017 fiscal year.

| For | Against | Abstain |
|------------|----------------|----------------|
| 43,203,324 | 22,681 | 12,858 |

Additionally, on June 8, 2017, the holder of all of the outstanding shares of the Company's Series A Convertible Preferred Stock voted to re-elect directors José E. Cil and Alexandre Macedo to the Company's Board of Directors. Messrs. Cil and Macedo each will serve as a Class A Director for a one year term that expires at the Company's Annual Meeting of Stockholders to be held in 2018 or until their respective successors shall have been elected and shall qualify.

Item 9.01. FINANCIAL STATEMENTS AND EXHIBITS.

(d) Exhibits

- 3.1 Amendment to Section (A) of Article NINTH of Restated Certificate of Incorporation
- 3.2 Amendment to Article II, Section 1 of the Amended and Restated Bylaws

Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CARROLS RESTAURANT GROUP, INC.

Date: June 14, 2017

By: /s/ William E. Myers

Name: William E. Myers

Title: Vice President, General Counsel and Secretary

Text of Amendment to Section (A) of Article NINTH of the Restated Certificate of Incorporation of Carrols Restaurant Group, Inc.

(A) The business and affairs of the Corporation shall be managed by or under the direction of the Board which shall consist of not less than three directors, the exact number of directors to be determined from time to time by resolution adopted by an affirmative vote of a majority of the Board. The directors shall be divided into three classes designated Class I, Class II and Class III. Each class shall consist, as nearly as possible, of one-third of the total number of directors constituting the entire Board. Class I directors shall be originally elected for a term expiring at the first annual meeting of stockholders occurring after the Effective Time, Class II directors shall be originally elected for a term expiring at the second succeeding annual meeting of stockholders, and Class III directors shall be originally elected for a term expiring at the third succeeding annual meeting of stockholders. At each such succeeding annual meeting of stockholders, successors to the class of directors whose term expires at that annual meeting shall be elected by ~~a plurality vote of all votes cast at such meeting, to hold office for a term expiring at the third succeeding annual meeting~~ an affirmative vote of a majority of the votes cast with respect to such nominee at any meeting for the election of directors at which a quorum is present, provided that if the number of nominees exceeds the number of directors to be elected, the directors shall be elected by a plurality of the votes of the shares represented in person or by proxy at any such meeting and entitled to vote on the election of directors. In an election of directors, a majority of the votes cast means that the number of votes cast "for" a nominee must exceed 50% of the votes cast with respect to such nominee (excluding abstentions). If the number of directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of directors in each class as nearly equal as possible, and any additional director of any class elected to fill a newly created directorship resulting from an increase in such class shall hold office for a term that shall coincide with the remaining term of that class, but in no case shall a decrease in the number of directors remove or shorten the term of any incumbent director. A director shall hold office until the annual meeting for the year in which his term expires and until his successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office. Any newly created directorship on the Board that results from an increase in the number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification or removal from office or any other cause shall be filled only by a majority of the directors then in office, although less than a quorum, or by a sole remaining director. Any director so elected to fill a vacancy in the Board resulting from death, resignation, disqualification or removal from office or any other cause shall have the same remaining term as that of his predecessor. Directors may be removed only for cause, and either by majority of the entire Board or the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the voting power of the outstanding Voting Stock, voting together as a single class.

Text of Amendment to Article II, Section 1 of the Amended and Restated Bylaws of Carrols Restaurant Group, Inc.

Section 1. *Number* . The Board shall consist of such number of directors, which shall not be less than three, as shall from time to time be fixed exclusively by resolution of the Board. The directors shall be divided into three classes in the manner set forth in the Certificate of Incorporation, each class to be elected for the term set forth therein. ~~Directors shall be elected by stockholders.~~ A nominee for director election shall be elected by the affirmative vote of a majority of the votes cast with respect to such nominee at any meeting for the election of directors at which a quorum is present, provided that if the number of nominees exceeds the number of directors to be elected, the directors shall be elected by a plurality of the votes cast by holders of the shares present represented in person or represented by proxy at any such meeting and entitled to vote thereon. ~~on the election of directors. In an election of directors, a majority of the votes cast means that the number of votes cast "for" a nominee must exceed 50% of the votes cast with respect to such nominee (excluding abstentions). If a director is not elected, the director shall promptly tender his or her resignation to the Board. The Corporate Governance and Nominating Committee (the "Corporate Governance and Nominating Committee") will make a recommendation to the Board on whether to accept or reject the resignation, or whether other action should be taken. The Board will act on the resignation taking into account the recommendation of the Corporate Governance and Nominating Committee and publicly disclose its decision and the rationale behind it within 90 days from the date of the certification of the election results. The director who tenders his or her resignation will not participate in the decisions of the Corporate Governance and Nominating Committee or the Board that concern such resignation. If a director's resignation is accepted by the Board pursuant to this Bylaw, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board, in its sole discretion, may fill any resulting vacancy pursuant to the provisions of Article II, Section 2 or may decrease the size of the Board pursuant to the provisions of Article II, Section 1.~~ A majority of the total number of directors then in office (but not less than one-third of the number of directors constituting the entire Board) shall constitute a quorum for the transaction of business and, except as otherwise provided by law or by the Certificate of Incorporation, the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board. Directors need not be stockholders.