

# City of Littleton

## Minutes of Proceeding

### Littleton Liquor Licensing Authority

January 14, 2009

The Littleton Liquor Licensing Authority met in a regular session on Wednesday, January 14, 2009, at the Littleton City Center, 2255 West Berry Avenue, Littleton, Colorado.

**THOSE PRESENT:** Anthony Gallagher - Chairperson  
Bill Bradish - Vice Chairperson  
John Cole - Authority Member  
Earl Gunia – Authority Member  
Susan Price - Authority Member  
Victoria England - Authority Member  
Donovan O'Dell - Authority Member

**THOSE ABSENT:** None

**ALSO PRESENT:** Alan Katz - Deputy City Attorney  
Richelle Work - Deputy City Clerk  
Greg Bohlen – Police Sergeant

1. **CALL MEETING TO ORDER**

Chairperson Gallagher called the meeting to order at 7:00 p.m.

2. **ROLL CALL**

Upon a call of the roll, seven members were present. A quorum was declared. The following business was transacted.

3. **MINUTES**

**(a) Minutes of Regular Meeting December 10, 2008**

**Action: Approved as submitted**

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER BRADISH TO APPROVE THE MINUTES AS SUBMITTED.

Ayes: Authority Members Gallagher, Bradish, Cole, Gunia and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

4. **AGENDA**

**Action: Approved as amended**

It was moved by AUTHORITY MEMBER COLE, seconded by AUTHORITY MEMBER GUNIA TO MOVE THE SHOW CAUSE HEARINGS BEFORE THE PROBABLE CAUSE HEARINGS.

Ayes: Authority Members Gallagher, Bradish, Cole, Gunia and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

5. **SETTING NEIGHBORHOOD BOUNDARIES AND SCHEDULING APPLICATION HEARINGS** - None

6. **CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS**

(a) **MODIFICATION OF PREMISES** - None

(b) **TRANSFER OF OWNERSHIP** - None

(c) **MANAGER'S REGISTRATION** - None

(d) **SUMMARY SUSPENSION** - None

(e) **CHANGE OF CORPORATE STRUCTURE** – None

(f) **CHANGE OF LOCATION** - None

(g) **RENEWAL APPLICATION**

9. **SHOW CAUSE HEARING**

a) TOAD TAVERN, INC.  
DBA: THE TOAD TAVERN  
5302 SOUTH FEDERAL CIRCLE  
LITTLETON, CO 80123

**ACTION: VIOLATION DISMISSED, STIPULATION TO 2<sup>nd</sup> CHARGE**

Authority Chairperson Gallagher stated this hearing was for a Show Cause determination on Police report #2008004957, dated September 10, 2008.

Alan Katz stated there is a proposed stipulation. This case will be dismissed and the licensee will admit to the violation in the second case.

James Beimford, Attorney for licensee, stipulates for the licensee for failure to report.

Bryce Hancock, licensee, addressed the Authority and explained what happened and the remedies taken to prevent another incident. He stated that all staff is scheduled for TIPS training in the near future provided by the Blue Moo'd Lounge. He also stated the person involved in the incident has been demoted.

**City of Littleton**

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It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER BRADISH TO FIND THAT THERE IS INSUFFICIENT EVIDENCE TO CONCLUDE THAT THERE HAVE BEEN VIOLATIONS TOAD TAVERN, INC., DBA: THE TOAD TAVERN, 5302 SOUTH FEDERAL CIRCLE, LITTLETON, ARAPAHOE COUNTY, COLORADO.

Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

- b) TOAD TAVERN, INC.  
DBA: THE TOAD TAVERN  
5302 SOUTH FEDERAL CIRCLE  
LITTLETON, CO 80123  
**ACTION: VIOLATION FOUND**

Authority Chairperson Gallagher stated this hearing was for a Show Cause determination on Police report #20095558, dated September 22, 2008.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER PRICE TO FIND THAT TOAD TAVERN, INC., DBA: THE TOAD TAVERN, 5302 SOUTH FEDERAL CIRCLE, LITTLETON, ARAPAHOE COUNTY, COLORADO, ON SEPTEMBER 22, 2008, AT APPROXIMATELY 1:43 A.M., DID VIOLATE COLORADO LIQUOR REGULATION 47-900(a) AND LITTLETON MUNICIPAL CODE 3-2-11(A)(2), BASED ON SAID FINDINGS THAT TOAD TAVERN, INC., DBA: THE TOAD TAVERN, 5302 SOUTH FEDERAL CIRCLE, LIQUOR LICENSE BE SUSPENDED FOR 5 DAYS WITH 4 DAYS HELD IN ABEYANCE FOR ONE YEAR, SUSPENSION BEGIN ON JANUARY 28, 2009, AND THAT NOTICES OF SUCH SUSPENSION BE POSTED IN AND OUTSIDE OF THE LICENSED PREMISES IN ACCORDANCE WITH LIQUOR CODE REGULATION 47-600(F).

Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

- c) BLUZ, INC.  
DBA: THE BREAK ROOM  
5151 SOUTH FEDERAL BLVD.  
**ACTION: VIOLATION FOUND**

Authority Chairperson Gallagher stated this hearing was for a Show Cause determination on Police report # #2008005871, dated October 6, 2008.

Alan Katz stated that the licensee is going to admit to the violation.

Patrick Tooley, Attorney for licensee addressed the Authority. The licensee asked for a one-day suspension, being held in abeyance. He explained the circumstances of the violation and noted that the licensee cut off the person, and that person is no longer permitted to come into the bar.

Michael Robledo, licensee stated that he refused him any more after the first beer.

Stacey Rees, cocktail waitress at the Break Room, addressed the Authority, stating that Mr. Robledo told both staff members not to serve the person any more alcohol, but she believes someone else bought him another beer. He stated that his staff has been TIPS trained in past, but does not know how recently.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER COLE TO FIND THAT BLUZ, INC., DBA: THE BREAK ROOM, 5151 SOUTH FEDERAL BLVD., LITTLETON, ARAPAHOE COUNTY, COLORADO, ON OCTOBER 5, 2008, AT APPROXIMATELY 10:15 P.M., DID VIOLATE COLORADO REVISED STATUTES 12-47-901(1)(a), 47-900(a), AND LITTLETON MUNICIPAL CODE 3-2-11(A)(2), BASED ON SAID FINDINGS THAT BLUZ, INC., DBA: THE BREAK ROOM, 5151 SOUTH FEDERAL BLVD., LIQUOR LICENSE BE SUSPENDED FOR 1 DAY, WITH 1 DAY HELD IN ABEYANCE FOR ONE YEAR TO INCLUDE TIPS TRAINING BEING SET-UP WITHIN 90 DAYS.

Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

e) AMA ENTERPRISES, INC.  
DBA: DUBB'S PUB  
5301 S. BROADWAY  
**ACTION: VIOLATION FOUND**

Authority Chairperson Gallagher stated this hearing was a Show Cause determination on Police Report #2008006694, dated November 21, 2008.

Brooke Montague and Toni Montague appeared representing the licensee.

Jeff Farmer, Littleton Police Officer. Officer Farmer stated that he and Officer Brian Rauzi went to Dubbs for a routine bar check. They witnessed a fight between two

females. He then talked to employees and was told that Celina Rivera was cut off after one drink, but was allowed to remain in the establishment with her cousin.

Celina Rivera: Ms. Rivera stated that she was at Dubbs Pub. She did not know people at table, but went to sit with her cousin at a table next to those tables. She stated she was served about seven drinks there, but was not intoxicated when she got there.

Regina Keith: Ms. Keith stated that she was at Dubbs Pub that night with friends. Ms. Rivera came and sat at their table and they repeatedly asked her to leave, but she would not leave. Ms. Rivera picked up a pitcher of beer and threw it at them. Ms. Rivera jumped and fell back. She appeared very intoxicated. No staff or management came by and told her she needed to leave. She stated that Ms. Rivera came to the table with drinks, but was not served at the table. She stated that they went to the bar to get their drinks and she did not see any staff walking around the bar.

Tanya Paschke: Ms. Paschke stated that she was at Dubbs with Ms. Keith, her husband another couple. Ms. Rivera and her cousin came and sat at their table and started using profanity. They were asked numerous times to move away from their table, but would not leave. Ms. Rivera was highly intoxicated. She stated that no Management or servers even came by their table. She stated they did not talk to the bar staff about Ms. Rivera.

Brooke Montague asked why they did you not inform staff of Ms. Rivera's behavior.

Ms. Paschke stated that she does not know why, they were just trying to get them to leave, but that the police officers got involved before they could do anything.

Brooke and Toni Montague addressed the Authority, stating that they were both present at scene.

Toni Montague stated that when Celina walked in, she showed no signs of intoxication. She was not stumbling or stuttering. She stated that it was the 11<sup>th</sup> year of the death of Ms. Rivera's sister. She did cut her off, and all bartenders on staff were informed not to serve her. She said that Celina's cousin may have been getting drinks and taking them to her in the back, but she was not sure. She stated that as far as she knows, she was only served one drink, but could have been getting drinks from cousin. She stated that it was a very busy night with four staff on duty. She stated that all staff are TIPS trained, except the doorman. She does not know where the pitcher of beer came from, as they did not serve it to Ms. Rivera. She stated she was walking around the bar throughout the evening, but was not aware of any problems. She knew that Celina was there with cousin and that was her ride, so she allowed her to remain in the establishment, but did not serve her and does not know how she got seven drinks. She stated that she did not cut her off because she felt she was intoxicated, but rather because of her state of mind and did not feel that she needed anything to drink. She stated that she did suggest to the cousin that she take Ms. River home, but did not tell her she had to leave.

Authority Member Gallagher asked Ms. Keith how long Ms. Rivera was sitting at their table.

Ms. Keith stated it was about 7-10 minutes. She said her group first met at the Shack and got to Dubbs at about 8:00. She said they had no contact with Ms. Rivera prior to her sitting at their table. She said Ms. Rivera brought the pitcher with her to the table. She stated she did not see any employees walking around the bar at all.

Authority Member Gallagher asked Ms. Rivera where she got the pitcher of beer.

Ms. Rivera said she ordered the pitcher of beer at the bar about 30 minutes before the incident. She stated she also drank four long island iced teas, two rum and sprites and part of the pitcher of beer.

She stated she does not specifically remember being cut off, but was told by the police that she was. She stated that someone at table pulled out clip from a gun and she threw the pitcher of beer in defense. Her cousin also told the police that someone at the table pulled a gun. She stated that one person was found with three guns, but no one else saw him pull out the clip. She stated that when she fell, she was totally knocked out. She also said that some of the drinks were purchased by her and some by her cousin.

Attorney Katz gave a summation of the case, citing Colorado Liquor Code regulation 47-900(a) and Littleton Municipal Code 3-2-11(a)(2) as the violations.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER BRADISH TO FIND THAT AMA ENTERPRISES, INC., DBA: DUBB'S PUB, 5301 S. BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO, ON NOVEMBER 15, 2008, AT APPROXIMATELY 1:25 A.M., VIOLATE COLORADO LIQUOR REGULATION 47-900(a) AND LITTLETON MUNICIPAL CODE 3-2-11(A)(2)

Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Attorney Katz presented the mitigating circumstances.

Toni Montague stated that she felt that she and her staff were doing what they should have by refusing to serve her are they are continuing to do so. She stated that there would be a financial hardship if have to close down.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER PRICE BASED ON SAID FINDINGS THAT AMA ENTERPRISES, INC., DBA: DUBB'S PUB, 5301 S. BROADWAY, LIQUOR LICENSE BE SUSPENDED FOR 10 DAYS, WITH 5 DAYS HELD IN ABEYANCE FOR ONE YEAR, TO HAVE

STAFF SET UP TO COMPLETE TIPS TRAINING WITHIN 30 DAYS, THAT SUSPENSION BE SERVED FROM JANUARY 29-FEBRUARY 2, 2009, AND THAT NOTICES OF SUCH SUSPENSION BE POSTED IN AND OUTSIDE OF THE LICENSED PREMISES IN ACCORDANCE WITH LIQUOR CODE REGULATION 47-600(F)

Ayes: Authority Members Gunia, Bradish, and Price

Nays: Authority Members Gallagher and Cole

Absent: None

MOTION CARRIED: 3 to 2

- d) DREAMS FOUNDATION, INC.  
DBA: THE CASTLE BAR AND GRILL  
6657 SOUTH BROADWAY  
**ACTION: MOTION TO DISMISS DENIED**

Authority Chairperson Gallagher stated this hearing was for a MOTION TO DISMISS on Police report # #2008005852, dated October 6, 2008.

Thomas Dunn, attorney for licensee, presented the motion to dismiss. He stated that the licensee's position is that there is no violation of the liquor code, but that they should have called the police that night. The licensee is alleged to have a violation of conduct of establishment within the license premises, which would require a violation inside the building. The police reports are very clear that no disturbance occurred inside the premises. He stated that the persons involved had an argument, but there was no evidence that it was a disturbance. There was no inference of over serving or allowing visibly intoxicated persons.

Attorney Katz stated that this would all be determined at the show cause hearing and felt that the police reports show that something happened within the establishment that continued to the parking lot. He stated it is up to the Liquor Licensing authority to determine if the evidence presented constitutes a violation, which requires them to be able to hear the testimony of the witnesses at a show cause hearing. He stated that the city's position is to deny the motion to dismiss and hold a show cause hearing.

All Authority Members stated that they want to hear from the witnesses to determine if there is evidence of a violation.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER PRICE TO DENY THE MOTION TO DISMISS REGARDING DREAMS FOUNDATION, INC., DBA: THE CASTLE BAR AND GRILL, 6657 SOUTH BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO.

Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Licensee is going to admit violation.

Attorney Dunn stated that the licensee would admit to the violation and asked to address the Authority tonight for penalty determination.

Authority Member Gallagher stated that there would be a short recess, then the Authority would conduct the Probable Cause hearings, then address the Castle Bar & Grill admission.

Authority Member Gallagher called for a brief recess at 9:00 p.m.

The meeting reconvened at 9:08 p.m.

7. **FINDINGS OF PROBABLE CAUSE OF LIQUOR CODE VIOLATIONS AND SCHEDULING SHOW CAUSE HEARING –**

- (a) ROCKY INC.  
DBA: SUPER DISCOUNT LIQUOR OF LITTLETON  
60 WEST LITTLETON BLVD.  
LITTLETON, CO 80120  
ACTION: PROBABLE CAUSE FOUND

Authority Chairperson Gallagher stated this hearing was for a Probable Cause determination on Police report #2008005465, dated December 15, 2008.

Alan Katz presented the police report and alleged violation information to the Authority.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER BRADISH TO FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT ROCKY INC., DBA: SUPER DISCOUNT LIQUOR OF LITTLETON, 60 WEST LITTLETON BLVD., LITTLETON, ARAPAHOE COUNTY, COLORADO, ON SEPTEMBER 17, 2008, AT APPROXIMATELY 10:12 P.M., DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET FOR THE 11TH DAY OF FEBRUARY, 2009, FOR THE PURPOSE OF CONSIDERING THE STATUS OF SAID RETAIL LIQUOR LICENSE. WHEREIN THE ABOVE-MENTIONED LICENSEE MAY BE PRESENT TO SHOW CAUSE, IF ANY, WHY ITS LICENSE SHOULD NOT BE SUSPENDED OR REVOKED, AND FURTHER THAT NOTICE OF THESE FINDINGS AND THE HEARING TO SHOW CAUSE SHALL BE FORWARDED AND SERVED TO DREAMS FOUNDATION, INC., DBA: THE CASTLE BAR AND GRILL, IN ACCORDANCE WITH THE PROVISIONS OF STATE LAW.



Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Attorney Katz stated that there is an additional police report for Super Discount Liquors from a sting operation on November 25, 2008. He stated that report will be presented to the Authority via email for review and probable cause determination prior to the next meeting and that Clifton Hypsher, attorney for the licensee has agreed to have both Show Cause hearing held at the February meeting.

(b) KURT A. MELSTROM  
DBA: PYRAMID DISCOUNT LIQUORS  
599 WEST LITTLETON BLVD.  
LITTLETON, CO 80120  
ACTION: PROBABLE CAUSE FOUND

Authority Chairperson Gallagher stated this hearing was for a Probable Cause determination on Police report #2008006938, dated January 7, 2009.

Alan Katz presented the police report and alleged violation information to the Authority.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER BRADISH TO FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT KURT A. MELSTROM, DBA: PYRAMID DISCOUNT LIQUORS, 599 WEST LITTLETON BLVD., LITTLETON, ARAPAHOE COUNTY, COLORADO, ON NOVEMBER 25, 2008, AT APPROXIMATELY 6:32 P.M., DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET FOR THE 11TH DAY OF FEBRUARY, 2009, FOR THE PURPOSE OF CONSIDERING THE STATUS OF SAID RETAIL LIQUOR LICENSE, WHEREIN THE ABOVE-MENTIONED LICENSEE MAY BE PRESENT TO SHOW CAUSE, IF ANY, WHY ITS LICENSE SHOULD NOT BE SUSPENDED OR REVOKED, AND FURTHER THAT NOTICE OF THESE FINDINGS AND THE HEARING TO SHOW CAUSE SHALL BE FORWARDED AND SERVED TO IS PROBABLE CAUSE TO BELIEVE THAT, IN ACCORDANCE WITH THE PROVISIONS OF STATE LAW.

Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

(c) METRO OIL CO., INC.  
DBA: DIAMOND SHAMROCK #1109  
6857 SOUTH BROADWAY  
LITTLETON, CO 80122  
ACTION:

Authority Chairperson Gallagher stated this hearing was for a Probable Cause determination on Police report #2008006939, dated January 7, 2009.

Alan Katz presented the police report and alleged violation information to the Authority.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER GUNIA TO FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT METRO OIL CO., INC., DBA: DIAMOND SHAMROCK #1109, 6857 SOUTH BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO, ON NOVEMBER 25, 2008, AT APPROXIMATELY 6:35 P.M., DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET FOR THE 11TH DAY OF FEBRUARY, 2009, FOR THE PURPOSE OF CONSIDERING THE STATUS OF SAID 3.2% OFF PREMISE LIQUOR LICENSE, WHEREIN THE ABOVE-MENTIONED LICENSEE MAY BE PRESENT TO SHOW CAUSE, IF ANY, WHY ITS LICENSE SHOULD NOT BE SUSPENDED OR REVOKED, AND FURTHER THAT NOTICE OF THESE FINDINGS AND THE HEARING TO SHOW CAUSE SHALL BE FORWARDED AND SERVED TO IS PROBABLE CAUSE TO BELIEVE THAT, IN ACCORDANCE WITH THE PROVISIONS OF STATE LAW.

Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

8. **LIQUOR LICENSE APPLICATION HEARINGS - NEW APPLICATION** - None

**DREAMS FOUNDATION, INC.**  
**DBA: THE CASTLE BAR AND GRILL**  
**6657 SOUTH BROADWAY**  
**ACTION: ADMISSION OF VIOLATION**

Attorney Dunn stated that the licensee is admitting to the violation. He stated that there was a minor argument between the couple and that in reviewing the video, there was nothing to indicate that they were visibly intoxicated. He stated that licensee was taking responsibility for failing to call the police. He stated that all staff is TIPS trained. He said that management has met with staff and instructed to them to always call the police for

any disturbances, whether inside or outside the establishment. He stated that both individuals involved in the incident cannot come into the bar anymore. The licensee is asking for a minimal penalty.

Attorney Katz stated that the City's position is for a seven-day suspension, with four days held in abeyance for one year because of the severity of the injuries. He stated that this licensee also had a violation in March 2007.

It was moved by AUTHORITY MEMBER COLE, seconded by AUTHORITY MEMBER GALLAGHER THAT ON OCTOBER 3, 2008 DREAMS FOUNDATION, INC., DBA: THE CASTLE BAR AND GRILL, 6657 SOUTH BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO, DID VIOLATE CRS 47-900(A) AND LITTLETON MUNICIPAL CODE 3-2-11(A)(2). BASED ON SAID FINDINGS, MOVE THAT THE LIQUOR LICENSE FOR DREAMS FOUNDATION, INC., DBA: THE CASTLE BAR AND GRILL, 6657 SOUTH BROADWAY BE SUSPENDED FOR 7 DAYS WITH 4 DAYS HELD IN ABEYANCE FOR ONE YEAR AND THAT NOTICES OF SUCH SUSPENSION BE POSTED IN AND OUTSIDE OF THE LICENSED PREMISES IN ACCORDANCE WITH LIQUOR CODE REGULATION 47-600(F) AND THAT THE SUSPENSION BE SERVED ON FEBRUARY 8, 9, and 10, 2009.

Ayes: Authority Members Gallagher, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

**11. REPORTS**

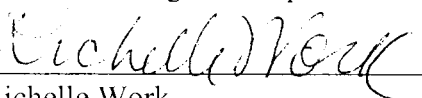
a) **Staff** – None

**Assistant City Attorney** – Attorney Katz reported that Super Discount also has another issue for probable cause. The attorney will be asking that the probable cause be found through stipulation and have the hearing for both issues on the same date in February.

b) **Authority Members** – None

c) **Chairperson** – None

**12. ADJOURNMENT** – There being no further business, Chairperson Gallagher adjourned the meeting at 9:43 p.m. on January 14, 2009.

  
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Richelle Work  
Deputy City Clerk/Recording Secretary