

## City of Littleton

### Minutes of Proceeding

#### Littleton Licensing Authority

February 10, 2010

The Littleton Licensing Authority met in a regular session on Wednesday, February 10, 2010, at the Littleton City Center, 2255 West Berry Avenue, Littleton, Colorado.

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

**THOSE ABSENT:** None

**ALSO PRESENT:** Kirsten Crawford - Deputy City Attorney  
Tricia McCarthy - Prosecuting Attorney  
Richelle Work - Deputy City Clerk  
Russ Hoffman - Police Detective

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 January 13, 2010**

**Action: Approved as submitted**

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

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

4. **AGENDA**

**Action: Approved as AMENDED**

Attorney Crawford asked to remove agenda item 6g, as the licensee has filed the appropriate

documents and a hearing is no longer necessary.

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**

DON CARLOS TAQUERIA LLC  
DBA: DON CARLOS TAQUERIA  
1409 WEST LITTLETON BLVD

ACTION: REMOVED FROM AGENDA

7. **FINDINGS OF PROBABLE CAUSE AND SCHEDULING SHOW CAUSE HEARING**

a) BROADWAY WINE & LIQUOR, INC.  
DBA: BROADWAY WINE & LIQUOR  
7945 SOUTH BROADWAY

Authority Chairperson Gallagher stated this hearing was for a Probable Cause determination on Police report #2010000426, dated January 22, 2010.

Authority Member Gallagher stated that the licensee has been before the board before and at the last hearing, Mr. Ghebremedhin said he would not be working in the store. He stated that there is a regulation that allows a temporary suspension and scheduling a public hearing for the show cause hearing, feels that action should be taken tonight, and bring the licensee in for a hearing within 15 days.

Attorney Crawford explained that Colorado Liquor Regulation 47-602 allows for a temporary suspension and that the Authority would need to find deliberate and willful violation.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER COLE TO TEMPORARILY SUSPEND THE LICENSE FOR BROADWAY WINE AND LIQUOR FOR 15 DAYS UNTIL THE AUTHORITY CAN CONVENE FOR SPECIAL HEARING FOR SHOW CAUSE.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER COLE TO FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT BROADWAY WINE & LIQUOR, INC., DBA: BROADWAY WINE & LIQUOR, 7945 SOUTH BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO, ON JANUARY 21, 2010, AT APPROXIMATELY 7:01 P.M., DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET WITHIN 15 DAYS, FOR THE PURPOSE OF CONSIDERING THE STATUS OF SAID RETAIL 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 BROADWAY WINE & LIQUOR, INC., DBA: BROADWAY WINE & LIQUOR IN ACCORDANCE WITH THE PROVISIONS OF STATE LAW.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

**8. LICENSE APPLICATION HEARINGS**

- a) TAVERN LITTLETON, INC.  
DBA: TAVERN LITTLETON  
2589 WEST MAIN STREET

James Beimford, attorney, appeared for applicant.

Attorney Crawford entered the following city exhibits into the record:

- Exhibit A - Waiver of hearing
- Exhibit B - Affidavit of posting of premises
- Exhibit C - Proof of publication
- Exhibit D - Licensing Authority Communication with Attachments
- Exhibit E - Petition Information
- Exhibit F - Public Hearing Roster

Exhibit G – Background on Hospitality Group (entered by applicant)

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER BRADISH TO ADMIT EXHIBITS A-G.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Kelly Pietrs, Esquire Petitioning, Ms. Pietrs explained the petitioning process. The petitioners completed 642 doorknocks, with 196 residents and 39 business owners in support of issuance of the license, for a total of 239. This is 98% in favor of the license. There were four persons who signed in opposition.

Francis Schultz, President, addressed the Authority. Mr. Schultz addressed Exhibit G, explaining the business and location to the Authority. He explained the liquor serving policy of the business and stated that all staff will be TIPS trained and that they have never had a liquor violation at any location.

William Schallmosser, registered manager, addressed the Authority and gave his background. He has been in the restaurant business going back almost 30 years. He stated that about 2/3 of the employees will handle alcohol and all will be TIPS trained. They are planning on opening in about eight months, and are still waiting on Historic Preservation Board approval.

Attorney Beimford stated that the diagram previously submitted in the packet will be replaced with the current diagram submitted in Exhibit G.

Mr. Schultz addressed the seating capacity and patio area.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER COLE THAT THE PUBLIC HEARING BE CLOSED AND A RESOLUTION OF THE LITTLETON LICENSING AUTHORITY BE APPROVED WHICH GRANTS TAVERN LITTLETON INC., DOING BUSINESS AS TAVERN LITTLETON, 2589 WEST MAIN STREET, LITTLETON, COLORADO, A HOTEL & RESTAURANT LIQUOR LICENSE CONTINGENT UPON APPROVAL FROM THE COLORADO BUREAU OF INVESTIGATION AND THE COLORADO LIQUOR ENFORCEMENT DIVISION AND BASED UPON THE FOLLOWING FINDINGS OF FACT: (1) THAT THE NEEDS OF THE NEIGHBORHOOD ARE NOT NOW BEING MET; AND (2) THAT IT IS THE DESIRE OF THE ADULT INHABITANTS OF THE NEIGHBORHOOD THAT THE LICENSE BE ISSUED.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

**9. SHOW CAUSE HEARING**

- a) CAPS LIQUOR MART LLC  
DBA: CAPS LIQUOR  
5196 SOUTH LOWELL BLVD.

Authority Chairperson Gallagher stated this hearing was for a Show Cause determination on Police report #2009006386, dated December 31, 2009.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER GALLAGHER TO ADMIT EXHIBITS A-C.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Attorney McCarthy presented the police report and alleged violation information to the Authority. She stated that the licensee would be stipulating to the sale of alcohol to three minors. The licensee has no prior violations. The stipulation is for a 3-day suspension, with 3 days held in abeyance for one year and proof of TIPS training by 4/10/10.

Emmalee Pham, licensee, addressed the Authority. She explained their policy on liquor sales.

Authority Member Gallagher asked what the licensee is going to do to prevent this from happening again.

Ms. Pham stated that after this happened, she sent a couple people in with fake IDs to see if her employee was checking and he did check and did not sell to minors. She stated that they would now have two people working during busy times. She has posted check ID signs at the cash registers. Her current store manager has 14 years experience and was the previous owner before she purchased the business.

Authority Member Bradish asked of the current status of employee that sold the alcohol.

Ms. Pham stated that he still works there stocking liquor, only works once in awhile, but always has another person there with him.

It was moved by AUTHORITY MEMBER PRICE, seconded by AUTHORITY MEMBER BRADISH THAT THE AUTHORITY FIND THAT CAPS LIQUOR MART LLC, DBA: CAPS LIQUOR, 5196 SOUTH LOWELL BLVD., LITTLETON, ARAPAHOE COUNTY, COLORADO DID VIOLATE C.R.S. 12-47-901(1)(A) REGARDING THE SALE OF ANY ALCOHOL BEVERAGE TO ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS ON THREE SEPARATE OCCASIONS. BASED ON SAID FINDINGS, I MOVE THAT CAPS LIQUOR MART LLC, DBA: CAPS LIQUOR, 5196 SOUTH LOWELL BLVD. LIQUOR LICENSE BE SUSPENDED FOR 3 DAYS WITH 3 DAYS HELD IN ABEYANCE FOR ONE YEAR AND THAT ALL EMPLOYEES BE TIPS TRAINED AND PROOF SUBMITTED BY APRIL 10, 2010.

Ayes: Authority Members Gallagher, Bradish, and Price

Nays: Authority Members Gunia and Cole

Absent: None

MOTION CARRIED: 3 to 2

b) RAMMAR, LLC  
DBA: NAPA NECTARS  
5302 SOUTH FEDERAL CIRCLE

Authority Chairperson Gallagher stated this hearing was for a Show Cause determination on Police report #2009006381, dated December 31, 2009.

It was moved by AUTHORITY MEMBER GALLAGHER seconded by AUTHORITY MEMBER GUNIA TO ADMIT EXHIBITS A-C.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Attorney McCarthy presented the police report and alleged violation information to the Authority. She stated that the licensee would stipulate to selling to a minor two times, The stipulation is for a penalty of five days with five days held in abeyance for one year, with proof of TIPS training by 4/10/10.

Adam Krier, owner, and Steve Rodgers, Manager, addressed the Authority. Mr. Rodgers stated that he is the manager and works seven days a week. Ryan Pittsenbarger is a friend who he had helping on the day after Thanksgiving so he could have a day off and he was the person who sold to the minor. They have a policy to ID everyone. He stated that in

the future, anyone who works would be TIPS trained. Mr. Pittsenbarger does not work at the store any more.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER PRICE THAT THE AUTHORITY FIND THAT RAMMAR, LLC, DBA: NAPA NECTARS, 5302 SOUTH FEDERAL CIRCLE, LITTLETON, ARAPAHOE COUNTY, COLORADO DID VIOLATE C.R.S. 12-47-901(1)(A) REGARDING THE SALE OF ANY ALCOHOL BEVERAGE TO ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS ON TWO SEPARATE OCCASIONS. BASED ON SAID FINDINGS, I MOVE THAT RAMMAR, LLC, DBA: NAPA NECTARS, 5302 SOUTH FEDERAL CIRCLE LIQUOR LICENSE BE SUSPENDED FOR 5 DAYS WITH 5 DAYS HELD IN ABEYANCE FOR ONE YEAR AND THAT ALL EMPLOYEES BE TIPS TRAINED AND PROOF SUBMITTED BY APRIL 10, 2010.

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

Nays: Authority Member Cole

Absent: None

MOTION CARRIED: 4 to 1

- c) METRO OIL CO., INC.  
DBA: DIAMOND SHAMROCK #1109  
6857 SOUTH BROADWAY

Authority Chairperson Gallagher stated this hearing was for a Show Cause determination on Police report #2009006384, dated December 31, 2009.

Attorney McCarthy presented the police report and alleged violation information to the Authority. She stated that there was a stipulation for a 6-day suspension, to serve two days, and four days held in abeyance for one year, with proof of TIPS training for all employees by 4/10/10.

It was moved by AUTHORITY MEMBER GALLAGHER seconded by AUTHORITY MEMBER COLE TO ADMIT EXHIBITS A-C.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Adam Stapen, attorney, and Petra Bennett, area manager, addressed the Authority. Mr. Stapen stated that they have all the proper procedures in place, have installed POS

machines, have recurrent training for employees, and do not know what else they could do to prevent this from happening.

Ms. Bennett stated that the turnover in that store is less than 30%, meaning that this is low, the turnover rate at most stores is usually much higher. This store is located close to a high school, and has a consistent basis of underage people trying to buy alcohol and tobacco. Store personnel usually do a good job with checking ID. The store has received commendations from the neighborhood for checking IDs of customers. The employee that sold to the minor had worked there for three months and had two separate alcohol trainings during that time.

Christine Nelms, store manager, stated she has five employees at the store. This person was hired to fill in for vacations and only worked part-time. They were told to card everybody, unless they know them as a regular customer and have already asked for their ID.

Attorney McCarthy stated that the 2-day stipulation includes the 1 day held in abeyance from the previous violation.

Authority Members discussed the stipulation, did not agree with the penalty, and stated they would be suggesting a different penalty to involve a 3-day active suspension and 4 days held in abeyance. The licensee and attorney agreed to that stipulation.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER COLE THAT THE AUTHORITY FIND THAT METRO OIL CO., INC., D/B/A DIAMOND SHAMROCK #1109, 6857 SOUTH BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO DID VIOLATE C.R.S. 12-47-901(1)(A). BASED ON SAID FINDINGS, I MOVE THAT METRO OIL CO., INC., D/B/A DIAMOND SHAMROCK #1109, 6857 SOUTH BROADWAY LIQUOR LICENSE BE SUSPENDED FOR 7 DAYS, WITH 4 DAYS HELD IN ABEYANCE FOR ONE YEAR, TIPS TRAINING BY 4/10/10 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 BEGIN ON MARCH 1, 2 and 3, 2010.

Ayes: Authority Members Gallagher, Bradish, Cole and Price

Nays: Authority Member Gunia

Absent: None

MOTION CARRIED: 4 to 1

d) OLD MILL BREWERY LLC  
DBA: OLD MILL BREWERY  
5798 SOUTH RAPP STREET



Authority Chairperson Gallagher stated this hearing was for a Show Cause determination on Police report #2009006688, dated January 4, 2010.

Attorney McCarthy presented the police report and alleged violation information to the Authority. She stated that the licensee would stipulate to selling to a minor two times, The stipulation is for a penalty of five days with five days held in abeyance for one year, with proof of TIPS training by 4/10/10.

It was moved by AUTHORITY MEMBER GALLAGHER seconded by AUTHORITY MEMBER GUNIA TO ADMIT EXHIBITS A-C.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Attorney McCarthy presented the police report and alleged violation information to the Authority. She stated that the licensee would stipulate to a violation of Littleton Municipal Code 3-2-11(A)(2) and Colorado Liquor Regulation 47-900(a), and the remaining charges would be dismissed. The stipulation is for a penalty of one day with one day held in abeyance for one year, with proof of TIPS training by 4/10/10.

Vasilios Frangiskakis, licensee, addressed the Authority, explaining the altercation. He stated he has never had a violation.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER GALLAGHER THAT THE AUTHORITY FIND THAT OLD MILL BREWERY, LLC, DBA: OLD MILL BREWERY, 5798 SOUTH RAPP STREET, LITTLETON, ARAPAHOE COUNTY, COLORADO DID VIOLATE 3-2-11(A)(2) REGARDING CONDUCT IN ESTABLISHMENT AND COLORADO LIQUOR REGULATION 47-900(A) REGARDING CONDUCT IN ESTABLISHMENT AND DISMISS C.R.S. 12-47-901(1)(A), AND LITTLETON MUNICIPAL CODE 3-2-10(F),. BASED ON SAID FINDINGS, I MOVE THAT OLD MILL BREWERY, LLC, DBA: OLD MILL BREWERY, 5798 SOUTH RAPP STREET LIQUOR LICENSE BE SUSPENDED FOR 1 DAY WITH 1 DAY HELD IN ABEYANCE FOR ONE YEAR WITH PROOF OF TIPS TRAINING BY 4/10/10.

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

Nays: None

Absent: None

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MOTION CARRIED: 5 to 0

10. **GENERAL BUSINESS** - None

11. **REPORTS**

a) **Staff** – None

**Assistant City Attorney** – Attorney Crawford spoke about the expansion of jurisdiction for the Licensing Authority and the upcoming application process for medical marijuana dispensaries. There will be a training session in March for Authority members.

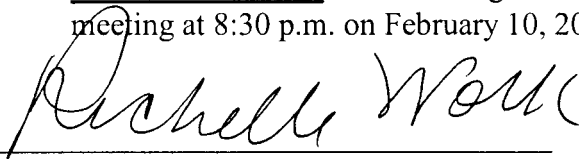
b) **Authority Members** – Authority Member Gunia asked about the procedures for an emergency suspension.

Attorney Crawford stated that the police would go out and close business tomorrow, and it will be set for hearing within 15 days.

Authority Member Gunia also spoke about several liquor licensees closing down in Littleton.

c) **Chairperson** – None

12. **ADJOURNMENT** – There being no further business, Chairperson Gallagher adjourned the meeting at 8:30 p.m. on February 10, 2010.



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Richelle Work

Deputy City Clerk/Recording Secretary