

City of Littleton

Minutes of Proceeding

Littleton Licensing Authority

March 9, 2011

The Littleton Licensing Authority met in a regular session on Wednesday, March 9, 2011 at the Littleton City Center, 2255 West Berry Avenue, Littleton, Colorado.

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

THOSE ABSENT: None

ALSO PRESENT: Kirsten Crawford – Assistant City Attorney
Tricia McCarthy – Prosecuting Attorney
Richelle Work - Deputy City Clerk
Kim Ferber – Police Sergeant

1. **CALL MEETING TO ORDER**

Chairperson Bradish 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 February 9, 2011**

Action: Approved as submitted

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

Ayes: Authority Members Bradish, Gunia, John Cole, Price, and England

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

4. **AGENDA**

Action: Approved as submitted

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

6. **CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS FOR LIQUOR LICENSES**

(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** - None

7. **CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS FOR MEDICAL MARIJUANA DISPENSARIES** - None

8. **FINDINGS OF PROBABLE CAUSE AND SCHEDULING SHOW CAUSE HEARINGS FOR LIQUOR LICENSES** - None

9. **FINDINGS OF PROBABLE CAUSE AND SCHEDULED SHOW CAUSE HEARINGS FOR MEDICAL MARIJUANA DISPENSARY VIOLATIONS** - None

10. **LIQUOR LICENSE APPLICATION HEARINGS** – None

11. **MEDICAL MARIJUANA DISPENSARY LICENSE APPLICATION HEARINGS** – None

12. **SHOW CAUSE HEARINGS FOR LIQUOR LICENSES**

- a) JESSHERI CORP.
DBA: ADVANCE LIQUORS
7945 S BROADWAY

Chairperson Bradish stated this hearing was for a Show Cause determination on Police report #2011-000108, dated January 10, 2011.

Attorney McCarthy presented the following Exhibits to the Authority: Exhibit A, Proof of Publication of Hearing; Exhibit B, Certified Letter to Licensee Regarding Show Cause Hearing; and Exhibit C, Licensing Authority Communication with Attachments for Show Cause Hearing, and Exhibit D, Stipulation.

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. The stipulation is for a penalty of three days with three days held in abeyance for one year. The licensee completed TIPS training on 2/20/11 and provided a certificate of completion to the Authority.

Authority Members discussed the stipulations and how they should handle acceptance or

rejection of the punishment. The cases on the agenda for tonight would be heard first, and then discussion on future use of written stipulations would be discussed under general business.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER PRICE TO ADMIT EXHIBITS A-D.

Ayes: Authority Members Bradish, Gunia, John Cole, Price, and England

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Jesse Vance addressed the Authority about how he misread the identification.

Authority Member Price asked when he completed the TIPS training and when he received the license.

Jesse Vance stated he received the license last year and completed the TIPS training in February.

Authority Member O'Dell discussed the differences between adult and under-age identification cards.

It was moved by AUTHORITY MEMBER PRICE, seconded by AUTHORITY MEMBER JOHN COLE TO FIND THAT JESSHERI CORP., DBA: ADVANCE LIQUORS, 7945 SOUTH BROADWAY, 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. BASED ON SAID FINDINGS, I MOVE THAT JESSHERI CORP., DBA: ADVANCE LIQUORS, 7945 S BROADWAY, LIQUOR LICENSE BE SUSPENDED FOR THREE DAYS WITH THREE DAYS HELD IN ABEYANCE FOR ONE YEAR.

Authority Member Gunia stated he has concerns with giving an active suspension of no days.

Authority Member Prices says that a first offense is OK to be suspended as they will have the suspended days added on if another violation.

Ayes: Authority Members Bradish, John Cole, Price, and England

Nays: Authority Member Gunia

Absent: None

MOTION CARRIED: 4 to 1

b) ALL SPIRITS LLC

DBA: TOTAL WINE AND LIQUORS
6901 SOUTH BROADWAY

Chairperson Bradish stated this hearing was for a Show Cause determination on Police report #2011-000113, dated January 10, 2011.

Attorney McCarthy presented the following Exhibits to the Authority: Exhibit A, Proof of Publication of Hearing; Exhibit B, Certified Letter to Licensee Regarding Show Cause Hearing; and Exhibit C, Licensing Authority Communication with Attachments for Show Cause Hearing, and Exhibit D, Stipulation.

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. The licensee had two previous violations; the first in April 2009 for sale to an intoxicated person, and second in September 2009 for sale to a minor. The stipulation is for a penalty of fifteen days with ten days held in abeyance for one year, with proof of TIPS training by 5/9/11. The licensee is to serve an active suspension of five days, dates to be determined by the Authority.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER PRICE TO ADMIT EXHIBITS A-D.

Ayes: Authority Members Bradish, Gunia, John Cole, Price, and England

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Tony Leopard, licensee, addressed the Authority. He stated he was not present the night of the violation, but is aware of what happened and agrees that the violation took place. The employee was terminated after this incident. He discussed the previous violations and the circumstances of the current violation.

Authority Member Bradish asked why they do not have a policy to check every ID, no matter what the person's age or appearance.

Mr. Leopard said they are a neighborhood store, the majority of the customers are regular customers, and they check ID on everyone who is not familiar. The policy is that anyone that appears 35 or younger must be carded unless you know the person and have personally seen their ID.

Authority Member Bradish stressed the importance of paying attention to not only the ID, but also the appearance of the person.

Mr. Leopard stated that the employee did not even ask for an ID from this person.

Mr. Leopard said that the employee must be absolutely sure they have personally seen the ID

or must ask for an ID. The employee must know they have already seen the person's ID. Mr. Leopard has completed TIPS training, which said to check 35 years or under.

Authority Member Price asked if they approve the stipulation, what days of the week he would ask to serve.

Mr. Leopard requested Sunday through Thursday to serve. He understands that another violation would mean he would have to serve the suspended 10 days.

It was moved by AUTHORITY MEMBER PRICE, seconded by AUTHORITY MEMBER BRADISH TO FIND THAT ALL SPIRITS, LLC, DBA: TOTAL WINE AND LIQUORS, 6901 SOUTH BROADWAY, 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. BASED ON SAID FINDINGS, I MOVE THAT ALL SPIRITS, LLC, DBA: TOTAL WINE AND LIQUORS, 6901 SOUTH BROADWAY, LIQUOR LICENSE BE SUSPENDED FOR FIFTEEN DAYS WITH TEN 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).

Authority Member John Cole thinks they abeyance period should be for two years because of the prior violations and there should be a longer active penalty.

Authority Members Price and Bradish think the penalty is sufficient.

Vote on main motion:

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

Nays: Authority Member John Cole

Absent: None

MOTION CARRIED: 4 to 1

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER JOHN COLE THAT THE 5 DAYS BE SERVED APRIL 3 THROUGH APRIL 7, 2011.

Ayes: Authority Members Bradish, Gunia, John Cole, Price, and England

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

c) H & T, INC.

DBA: COLUMBINE VALLEY LIQUOR OF LITTLETON
3615 WEST BOWLES AVE.

Chairperson Bradish stated this hearing was for a Show Cause determination on Police report #2011-000109, dated January 10, 2011.

Attorney McCarthy presented the following Exhibits to the Authority: Exhibit A, Proof of Publication of Hearing; Exhibit B, Certified Letter to Licensee Regarding Show Cause Hearing; and Exhibit C, Licensing Authority Communication with Attachments for Show Cause Hearing, and Exhibit D, Stipulation.

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. The licensee and his one staff member completed TIPS training on February 1, 2011 and provided a certificate of completion to the Authority.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER GUNIA TO ADMIT EXHIBITS A-D.

Ayes: Authority Members Bradish, Gunia, John Cole, Price, and England

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Hailemariam Gezahagn addressed the Authority and explained what happened with his employee, that she was having an emotional crisis with her family and was not paying proper attention. The employee was suspended for a few days for the violation and she has since taken the TIPS training, which is attached to the stipulation.

Authority Member Gunia said he understands the person said he was born in 1984, but the responsibility falls on the store to make sure the ID is verified and the person is old enough to purchase the alcohol.

Authority Member Bradish asked about the daily routine for determining the date a person must be born on in order to be at least 21 years old.

Mr. Gezahagn stated they have a daily list at the register of what birthday a person must have to be 21 years old.

Authority Member Bradish asks if he understands that he will have three days held in abeyance for one year.

Mr. Gezahagn said he understood.

Authority Member Price asked he has gone with no violations.

Mr. Gezahagn stated that he has had the Littleton license for five years and had another location outside Littleton for six years.

It was moved by AUTHORITY MEMBER PRICE, seconded by AUTHORITY MEMBER JOHN COLE TO FIND THAT H & T INC., DBA: COLUMBINE VALLEY LIQUOR OF LITTLETON, 3615 WEST BOWLES AVENUE, 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 H & T INC., DBA: COLUMBINE VALLEY LIQUOR OF LITTLETON, 3615 WEST BOWLES AVENUE, LIQUOR LICENSE BE SUSPENDED FOR THREE DAYS WITH THREE DAYS HELD IN ABEYANCE FOR ONE YEAR.

Authority Member Gunia stated he thinks there should be some time served.

Authority Members Bradish and Price are concerned about the sale, but will accept that it is the first violation in a long time.

Authority Member John Cole stated that he thinks it is good that they were proactive about completing the TIPS ahead of the hearing.

Vote on main motion:

Ayes: Authority Members Bradish, John Cole, Price, and England

Nays: Authority Member Gunia

Absent: None

MOTION CARRIED: 4 to 1

13. SHOW CAUSE HEARINGS FOR MEDICAL MARIJUANA DISPENSARIES - None

14. GENERAL BUSINESS - Discussion about written stipulations.

Authority Members discussed the new procedure of receiving written stipulations. Attorneys Crawford and McCarthy explained the reasoning behind the written stipulations and that there is no promise of a penalty. That the person is advised that it is a recommendation only and the board may impose something different.

Authority Members stated that they think the person may believe that the recommended penalty is set, even though they have been told it is not and do not like having a signed stipulation prior to the hearing.

Attorney McCarthy stated that her law firm works in 12 different municipalities and this is typically how it is done, and it promotes efficiency. She stated that she could add language stating that the penalty recommendation is just a proposal to board and they are no way

bound to that agreement.

Authority Member Bradish asked if they could accept the stipulation to the violation but not accept the penalty.

Attorney Crawford stated that if the person agreed to the changed penalty, they could do that, but if the person does not, then it would have to be set over for another hearing for a hearing on the penalty.

Attorney McCarthy explained that if the stipulation is rejected by the board, then the hearing would go to a determination of the facts and to see if the person would agree to the facts, and if so, would then proceed to a penalty phase. Without the stipulation to the facts, would be back to square one and would need to have a hearing.

Attorney Crawford said that there might be situations where people would stipulate to the facts and not necessarily have to stipulate to a penalty.

Attorney McCarthy stated that she always attempts to get a stipulation on every case prior to the hearing.

Authority Members stated they would like a verbal recommendation, but not a written agreement signed ahead of time.

Attorney McCarthy stated that if we do not do a stipulation ahead of time, then all witnesses would still have to come to the hearing.

Authority Members stated that they want to make the decision on penalty, without a recommendation from the attorney.

The Authority agreed that they do not want written stipulations at all, but will accept verbal stipulations the night of hearing.

15. REPORTS

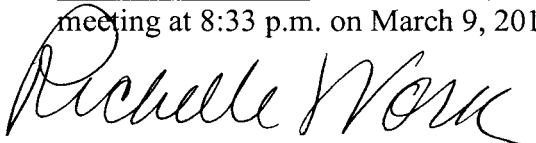
a) **Staff** – None

City Attorney – None

b) **Authority Members** – None

c) **Chairperson** – None

16. ADJOURNMENT – There being no further business, Chairperson Bradish adjourned the meeting at 8:33 p.m. on March 9, 2011.



Richelle Work
Deputy City Clerk/Recording Secretary