

City of Littleton

Minutes of Proceeding

Littleton Liquor Licensing Authority

April 8, 2009

The Littleton Liquor Licensing Authority met in a regular session on Wednesday, April 8, 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
Susan Price - Authority Member
Earl Gunia – Authority Member
Victoria England - Authority Member
Donovan O’Dell - Authority Member

THOSE ABSENT: None

ALSO PRESENT: Arnie Shunneson - Contracted 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 March 11, 2009

Action: Approved as presented

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

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

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**
 - (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. **FINDINGS OF PROBABLE CAUSE OF LIQUOR CODE VIOLATIONS AND SCHEDULING SHOW CAUSE HEARING**
 - a) BUBBY'S CAFE, LLC
DBA: GORILLA ROOM
5654 SOUTH PRINCE STREET

Authority Chairperson Gallagher stated this hearing was for a Probable Cause determination on Police report #2009001373, dated March 19, 2009.

Attorney Arnie Shunneson 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 BUBBY'S CAFE, LLC, DBA: GORILLA ROOM, 5654 SOUTH PRINCE STREET, LITTLETON, ARAPAHOE COUNTY, COLORADO, ON MARCH 13, 2009, AT APPROXIMATELY 2:07 A.M., DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET FOR THE 13TH DAY OF MAY, 2009, FOR THE PURPOSE OF CONSIDERING THE STATUS OF SAID TAVERN 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 BUBBY'S CAFE, LLC, DBA: GORILLA ROOM, 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

- a) BB O'REILLEY'S LLC
DBA: BB O'REILLEY'S GRILL & TAVERN
1500 W. LITTLETON BLVD. #120

Attorney Shunneson 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 - Liquor Authority Communication with Attachments
- Exhibit E - Petition Information
- Exhibit F - Public Hearing Roster

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER COLE TO ADMIT EXHIBITS A-E.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Max Scott, Oedipus Petitioning, explained the petitioning process. He stated there was a 95% favorable response, which is a very favorable response for issuance of the license.

Brad Brallier, applicant. Mr. Brallier explained his experience in the restaurant and bar industry. Mr. Brallier is also a partner in two other liquor establishments, Dewey's American Grill in Littleton and Dewey's in Highlands Ranch. His partner will be doing the day-to-day operation for those two establishments. He discussed the diagram of the premises, explaining the back patio and front patio areas. He stated that the patio areas would be getting appropriate fire exits. He stated that the open-air patio in the front cannot be entered except from inside the restaurant. All employees will be TIPS trained and they have in-house training. Mr. Brallier is currently the registered manager for the Dewey's Littleton location, but a change of manager registration has been filed.

Authority Member Gallagher asked about Mr. Brallier's previous restaurant in Colorado Springs and about Mr. Brallier's criminal history.

Mr. Brallier stated that his restaurant in Colorado Springs was not successful for several reasons, mainly being that he was too far away to properly manage the restaurant. He explained that all past incidents in his criminal history have been resolved and the incidents

were the result of bad judgment. He stated that he has learned his lesson and they will not happen again. Mr. Brallier stated that he plans to open around the beginning of May. He explained that alcohol would mainly be stored behind the bar, but also in a storage cabinet near the front of the restaurant Mr. Brallier said there would be about 15-20 employees and they may have live music at a later date.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER BRADISH THAT THE PUBLIC HEARING BE CLOSED AND A RESOLUTION OF THE LITTLETON LIQUOR AUTHORITY BE APPROVED WHICH GRANTS BB O'REILLEY'S LLC, DOING BUSINESS AS BB O'REILLEY'S GRILL & TAVERN, 1500 WEST LITTLETON BLVD #120, LITTLETON, COLORADO, A HOTEL AND RESTAURANT LIQUOR LICENSE CONTINGENT UPON APPROVAL FROM THE COLORADO BUREAU OF INVESTIGATION AND THE COLORADO LIQUOR ENFORCEMENT DIVISION AND LITTLETON PLANNING DEPARTMENT 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

9. SHOW CAUSE HEARING - None

- a) INTERNATIONAL MARKETING CORPORATION
DBA: FAT FROG CAFE
2530 WEST MAIN STREET
LITTLETON, CO 80120

Authority Chairperson Gallagher stated this hearing was for a Show Cause hearing on Police report #2009000605, dated February 10, 2009.

Arnie Shunneson presented the police report and alleged violation information to the Authority as well as exhibits A-C.

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

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Officer John Strong, Littleton Police Department. Officer Strong stated that he was dispatched to 5646 South Crocker Street, which was the residence of Daniel Griggs. Amy Rome was also present. Mr. Griggs advised him that there was a disturbance at the Fat Frog Café that he was involved in and showed him a laceration on his right hand. Mr. Griggs stated that there were two males sitting around the corner of the bar. The bartender called last call and he put \$20 on the bar. One of the men took the \$20 and slid it down in front of his seat. Mr. Griggs took the money back. The man did the same thing again and he then told him not to take his money. The man then got up and the two had an altercation and ended up on the floor fighting. Officer Strong said that the Littleton Police did not receive any call from Fat Frog about the altercation. Officer Strong then went to the Fat Frog Café and spoke to Debra Risch, who was the bartender that night. Mr. Risch told him that she was at the other end of the bar when she heard glass breaking; she broke up the fight and told everyone to leave. She stated that she did not call the police, but he did not verify with her as to why she did not notify police.

Amy Rome spoke, saying she was a friend of Daniel Griggs and a witness to the altercation. She repeated the same story as Officer Strong about the argument with the money and the resulting altercation. She said the bartender was at the other end of the bar and she does not know whether she saw any of the argument or fight, but did come over and tell everyone to leave.

Brian Hedberg spoke on behalf of Fat Frog Cafe. He said that the details of exactly what happened are in dispute and called Debra Risch to speak.

Debra Risch, bartender. Ms. Risch stated that she called last call and there were only about six people left in the bar. She was at the other end of the bar on the phone with a cab driver for another patron. She did not see the incident. She heard the sound of glass breaking, turned her head, and saw people standing at end of bar. She hung up the phone, went around to the end of the bar and all the people were exiting the bar. John Warboys, a customer in the bar, reached down to pick up the broken glass and apologized. She said she did not see anyone hitting each other or on the floor. She did not know there was a disturbance until Officer Strong showed up. She stated that she did not break up any fight. She stated that she did not tell the police officer that she saw the fight, nor did she tell him she broke up the fight. She said she has called the police many times before and would not have hesitated to call if she had been aware of the fight. She said she knew the glass was broken, but thought it had been an accident and Mr. Warboys had broken the glass.

Mr. Hedberg stated that their position was there was an error in the police report by the officer when he stated that Ms. Risch told him she had broken up the fight.

Officer Strong was recalled and stated that he stands by his statement that he was told by Ms. Risch that she broke up the fight.

Amy Rome was recalled and asked for clarification on the total period of time of the altercation. She stated that the altercation lasted less than a minute and the entire

argument was only 3-5 minutes long. She did not see how the glass was broken. She stated that five or six of the customers in the bar broke up the fight, and Ms. Risch ran over to the area as people were leaving. She does not know whether Ms. Risch saw the confrontation or not.

Authority Member Gunia stated that this case is he said/she said, but Officer Strong has an independent review and Ms. Rome supports that the bartender was aware that something took place. He stated that it was clear that Ms. Risch should have been aware of what took place.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER BRADISH THAT THE AUTHORITY FIND THAT INTERNATIONAL MARKETING CORPORATION, DBA: FAT FROG CAFÉ, 2530 WEST MAIN STREET, LITTLETON, ARAPAHOE COUNTY, COLORADO DID VIOLATE C.R.S. 47-900(A), AND LITTLETON MUNICIPAL CODE 3-2-11(A)(2). BASED ON SAID FINDINGS, I MOVE THAT INTERNATIONAL MARKETING CORPORATION, DBA: FAT FROG CAFÉ, 2530 WEST MAIN STREET LIQUOR LICENSE BE SUSPENDED FOR 7 DAYS WITH 5 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 BEGIN ON MAY 1 2009.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

b) ALL SPIRITS LLC
DBA: TOTAL WINE AND LIQUORS
6901 SOUTH BROADWAY
LITTLETON, CO 80122

Authority Chairperson Gallagher stated this hearing was for a Probable Cause determination on Police report #2009001089, dated March 3, 2009.

Arnie Shunneson presented the police report and alleged violation information to the Authority as well as exhibits A-C.

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

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Jenny Geiser, Littleton Police Department. Officer Geiser stated that she observed a male walking on the west side of Broadway by Ridge Road. The male stumbled and had difficulty walking. Officer Geiser watched him, and drove into the parking lot where Total Wine and Liquors is located. The male went into the liquor store. She parked her vehicle and went into the liquor store. By the time she got inside, the male was at the counter with a brown paper bag, putting his change into his pocket. She approached the male, asked him to go outside, and observed that he had bloodshot eyes and smelled of alcohol. She observed that the brown paper bag contained a bottle of alcohol. She said the male said he had way too much to drink. The male's name was Darrell Mock. Officer Geiser had another police officer transport Mr. Mock to detox. Officer Geiser then went into the store and contacted the owner, Tony Leopard and his employee, Forrest Paskins. She said that both men said they did not notice that Mr. Mock was intoxicated. Officer Geiser said she did not issue a citation, but advised them she would be referring the report to the Liquor Authority.

Tony Leopard, owner of store. Mr. Leopard apologized for the incident. He said that the entire incident took about 45 seconds and neither of them noticed indications of Mr. Mock's intoxication. He said that Mr. Mock is a regular customer and has been refused purchase of alcohol in the past. He said they would never have sold to him if they had any indication that he was intoxicated.

Forrest Paskins stated that he observes customers to see how they speak and looks at their eyes, but he did not see anything with Mr. Mock. He stated that Mr. Mock only spoke to him long enough to ask for the specific alcohol he wanted.

Tony Leopard stated that Mr. Mock is not allowed to come into the store any more. He stated that his establishment passed the compliance check in November of last year and has never had a violation for selling to a minor or an intoxicated person.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER COLE THAT THE AUTHORITY 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) AND LITTLETON MUNICIPAL ORDINANCE 3-2-10 (F). BASED ON SAID FINDINGS, I MOVE THAT ALL SPIRITS LLC, DBA: TOTAL WINE AND LIQUORS, 6901 SOUTH BROADWAY LIQUOR LICENSE BE SUSPENDED FOR 5 DAYS WITH 5 HELD IN ABEYANCE AND PROVIDE PROOF OF SCHEDULED TIPS TRAINING WITHIN 90 DAYS.

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

Nays: Authority Member Gunia

City of Littleton

Littleton Liquor Authority

April 8, 2009

Page 8

Absent: None

MOTION CARRIED: 4 to 1

- c) SANTA FE TEQUILA COMPANY SOUTH LLC
D/B/A SANTA FE TEQUILA COMPANY
2630 WEST BELLEVIEW AVE SUITE 150
LITTLETON, CO 80123

Authority Chairperson Gallagher stated this hearing was for a Show Cause hearing.

Arnie Shunneson presented the police report and alleged violation information to the Authority as well as exhibits A-C.

No one appeared on behalf of the licensee.

Deputy City Clerk Richelle Work advised of the contact made with the licensee through the mail, on the telephone and via email. Ms. Work stated that she explained to the licensee of the options available for the license, when the hearings would be and provided surrender documents to James Falko.

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

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Authority members agreed that the restaurant is closed, the property owner is in possession of the property, but no one is currently operating the business. There is no possession of the premises by the licensee, Santa Fe Tequila Company, therefore; the license should be revoked.

Ms. Work advised that the current license expires in June 2009.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER GALLAGHER THAT THE AUTHORITY FIND THAT SANTA FE TEQUILA COMPANY SOUTH LLC, DBA: SANTA FE TEQUILA COMPANY SOUTH, 2630 WEST BELLEVIEW AVE SUITE 150, LITTLETON, ARAPAHOE COUNTY, COLORADO DID VIOLATE C.R.S. 12-47-301(3)(B). BASED ON SAID FINDINGS, I MOVE THAT SANTA FE TEQUILA COMPANY SOUTH LLC, DBA: SANTA FE TEQUILA COMPANY SOUTH, 2630 WEST BELLEVIEW AVE SUITE 150 LIQUOR

City of Littleton

Littleton Liquor Authority

April 8, 2009

Page 9

LICENSE BE REVOKED.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

10. GENERAL BUSINESS

11. REPORTS

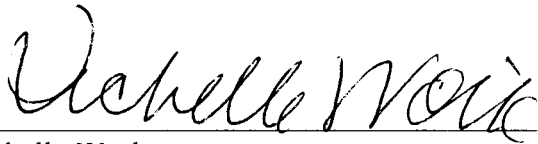
a) Staff – None

Assistant City Attorney – None

b) Authority Members – None

c) Chairperson – None

12. ADJOURNMENT – There being no further business, Chairperson Gallagher adjourned the meeting at 8:20 p.m. on April 8, 2009.



Richelle Work

Deputy City Clerk/Recording Secretary