

## *City of Littleton*

### Minutes of Proceeding

#### Littleton Liquor Licensing Authority

May 13, 2009

The Littleton Liquor Licensing Authority met in a regular session on Wednesday, May 13, 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:** 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. **ELECTION OF OFFICERS**

Chairperson Gallagher called for nominations for the permanent Chair and Vice Chair.

It was moved by AUTHORITY MEMBER PRICE, seconded by AUTHORITY MEMBER BRADISH TO ELECT ANTHONY GALLAGHER AS CHAIRPERSON.

Chairperson Gallagher closed nominations.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER GUNIA, TO ELECT WILLIAM BRADISH AS VICE CHAIRPERSON.

Chairperson Gallagher closed nominations.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

The Authority Chairperson is Anthony Gallagher and the Vice Chairperson is William Bradish.

**4. MINUTES**

**(a) Minutes of Regular Meeting April 8, 2009**

**Action: Approved as presented**

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

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

**5. AGENDA**

**Action: Approved as amended, moving item 10(a) before 8(a)**

Attorney Katz asked that item 10(a), Show Cause Hearing for Gorilla Room be moved before item 8(a) Probable Cause hearing for Broadway Wine & Liquor.

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

**7. 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**

**10. SHOW CAUSE HEARING - None**

- a) BUBBY'S CAFE, LLC  
DBA: GORILLA ROOM  
5654 SOUTH PRINCE STREET

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

Attorney Katz presented the police report and alleged violation information to the Authority as well as exhibits A-D. He stated that there will be an admission, and the city's request is that there is no more than a 5-day suspension with at least 3 days held in abeyance for one year. If the Authority does decide that there will be days to serve, that those days be consecutive to have the least impact on the business.

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

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Attorney Katz stated that the server involved was issued a criminal violation and accepted responsibility. His case is resolved and consequences were issued.

Daniel Levin, attorney; Abe Suter, owner; and Marcel Mendofik, server were present.

Attorney Levin stated that the licensee accepts responsibility. He stated that the individual that was allegedly intoxicated had been served five or six drinks, but over an extended period of time. The server has been in the restaurant business for 21 years, with 16 of that being a server, and has never had an incident before. He did not see any indications from this individual of evidence of intoxication, which is why the person was not cut off. He later learned from the customer that he was also on medication and had been drinking at another establishment earlier in evening. The server called the police himself when the person fell to the floor. The licensee has taken steps to make sure this does not happen again. The server has retaken TIPS training. The licensee has installed surveillance cameras and he has moved upstairs over the bar, to have constant availability. They have instituted weekly meetings with all staff to review policies. There is no prior history and this type of incident is not likely to reoccur. The licensee is asking for no active suspension.

Attorney Katz stated that Littleton Fire Rescue was reimbursed \$250 for expenses related to this incident from the licensee.

Authority Member Bradish asked how a person is trained to see if a person is intoxicated, when there are no apparent signs of intoxication.

Marcel Mendofik stated that this person had six drinks over a 7-hour period; so theoretically, he would still be able to drive. He said he is trained to look for signs of intoxication, but did not see anything. The man sat at the bar, was working on homework on his computer, and did not show any signs that he was intoxicated.

Authority Member O'Dell stated that if he came in, drink steadily, and consumed six drinks and his blood alcohol test showed .228, would it be reasonable to assume he came in intoxicated and would have exhibited signs.

Mr. Mendofik stated that it is rare for a person to not show some signs of intoxication, but he has seen it with some people. He stated that the customer told him and Fire personnel after the fact that he was also taking anti-depressants and painkillers.

Abe Suter stated that this business is his livelihood and he tries to run a respectful place.

Authority Member Bradish stated that this could have potentially been serious if the customer had gotten into a car and driven.

Attorney Levin stated that the licensee was admitting to a violation of C.R.S. 12-4-901(1)(a), Colorado Liquor Regulation 47-900(a), and Littleton Municipal Code 3-2-11(A)(2). The licensee is requesting that the Authority consider the totality of the circumstances and hold all days in abeyance.

Attorney Katz stated that the city's recommendation is not binding, that the Authority can impose whatever penalty they see fit, but if it is more than the recommended 5 days, the licensee will withdraw the admission and there would need to be a hearing next month.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER GUNIA THAT THE AUTHORITY FIND THAT BASED ON THE ADMISSION BY THE LICENSEE, BUBBY'S CAFÉ, LLC, DBA: GORILLA ROOM, 5654 SOUTH PRINCE ST, LITTLETON, ARAPAHOE COUNTY, COLORADO DID VIOLATE C.R.S. 12-47-901(1)(a), COLORADO LIQUOR REGULATION 47-900(A), AND LITTLETON MUNICIPAL CODE 3-2-11(A)(2). BASED ON SAID FINDINGS, I MOVE THAT BUBBY'S CAFÉ, LLC, DBA: GORILLA ROOM, 5654 SOUTH PRINCE ST LIQUOR LICENSE BE SUSPENDED FOR 5 DAYS WITH 5 DAYS HELD IN ABEYANCE FOR ONE YEAR.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

**8. FINDINGS OF PROBABLE CAUSE OF LIQUOR CODE VIOLATIONS 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 #2009001542, dated March 23, 2009.

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

Authority Member Gunia asked when the sale became final, since the person had not yet signed the credit card slip.

Attorney Katz stated that the city code says that an attempt to commit an act is the same as if the act were completed.

It was moved by AUTHORITY MEMBER BRADISH , seconded by AUTHORITY MEMBER GUNIA 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 MARCH 20, 2009, AT APPROXIMATELY 9:57 P.M., DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET FOR THE 10TH DAY OF JUNE, 2009, 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, Gunia, Bradish, Cole, and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

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9. **LIQUOR LICENSE APPLICATION HEARINGS** - None

11. **GENERAL BUSINESS**

a) Change of August 2009 meeting location.

Deputy City Clerk Work stated that the August 2009 meeting would not be held at the City Center, as there is a conflict with Western Welcome Week activities. City Council has been advised and has approved that the meeting not be televised. The meeting will be held at the Littleton Courthouse, if there is any business to be conducted.

12. **REPORTS**

a) **Staff** – None

**Assistant City Attorney** – Attorney Katz stated that he has one police report that he has asked for additional information on and if necessary, will bring it to the Authority next month.

b) **Authority Members** – Authority Member Gunia asked Attorney Katz about laws regarding the auction of alcohol at a retail liquor store, and whether a person could take their own liquor into a restaurant.

Attorney Katz stated that as long as the alcohol is being sold within the licensed premise of the liquor store, an auction would be permissible. He stated that a person cannot bring their own alcohol into a restaurant and consume it.

c) **Chairperson** – None

13. **ADJOURNMENT** – There being no further business, Chairperson Gallagher adjourned the meeting at 7:40 p.m. on May 13, 2009.



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Richelle Work

Deputy City Clerk/Recording Secretary