

City of Littleton

Minutes of Proceeding

Littleton Liquor Licensing Authority

June 10, 2009

The Littleton Liquor Licensing Authority met in a regular session on Wednesday, June 10, 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
Donovan O'Dell - Authority Member

THOSE ABSENT: Susan Price - Authority Member
Earl Gunia – Authority Member
Victoria England - Authority Member

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, four members were present, Authority Members Gunia, Price and England were absent. A quorum was declared. The following business was transacted.

3. **MINUTES**

(a) Minutes of Regular Meeting May 13, 2009

Action: Approved as presented

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

Ayes: Authority Members Gallagher, Bradish, Cole, and O'Dell

Nays: None

Absent: Authority Members Gunia, Price and England

MOTION CARRIED: 4 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** - None

8. **LIQUOR LICENSE APPLICATION HEARINGS**
 - a) BIG PAPA'S BBQ, INC.
DBA: BIG PAPA'S BBQ
5151 S. FEDERAL BLVD

Robert A. Dill, attorney, John Jensen, Bill Cossoff and Frank Alfonso appeared for applicant.

Attorney Katz 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 O'DELL seconded by AUTHORITY MEMBER COLE TO ADMIT EXHIBITS A-F.

Ayes: Authority Members Gallagher, Bradish, Cole, and O'Dell

Nays: None

Absent: Authority Members Gunia, Price and England

MOTION CARRIED: 4 to 0

Frank Alfonso, principal with Big Papa's BBQ. Mr. Alfonso stated that Big Papa's BBQ has been in operation at one location in Denver since June 2004 and another location in Jefferson County since 2005. There have been no violations at either location. The restaurant style is considered a fast/casual BBQ restaurant, similar to Chipotle. A customer orders food at the counter, and if they want alcohol, they would have to either go to the bar, or a cocktail server may come to the tables during certain hours. Sales from alcohol at their other two restaurants are about 1-1.5% of their total sales. They want to have a full bar at this restaurant, increasing the alcohol sales to about 10-12%. The hours of operation will be from 11 am to about midnight and there will be 25-30 employees. They will have TIPS training for management staff. They have a policy for checking IDs that a person must look 35-40 years old before an ID is not required, but they realize that everyone needs to have ID available if asked. There will be a patio with about 20 seats and roughly 80 seats inside the dining room. The target date for opening is September.

Mr. Alfonso stated that the management staff of the restaurant did the petitioning and received 120 signatures in favor of the license.

Authority Member Gallagher questioned the petitions, as many people listed are not residents of Littleton, nor do they show a business address in Littleton. He stated that the petitions were not acceptable, as there would not be 100 remaining signatures after the non-residents are removed.

Attorney Dill asked if the license could be approved contingent upon new petitions being filed.

Attorney Katz stated that the petitions do not have all the statistics, like the number of door knocks, how many people were not home, persons who were opposed to the license, etc., and people that weren't home. The hearing should be postponed to the next meeting to allow any interested parties to attend the entire hearing and have the ability to speak. He recommended that the hearing be continued to the July meeting. He also stated that if the petitions show a favorable response at the next hearing, that the license would most likely be approved.

Authority Member Gallagher stated that he does not think the license will be denied, but needs valid petitions before making that decision.

Attorney Dill asked if the Authority could hold a special meeting to have the hearing.

Attorney Katz stated that since they are not planning to open until September, there is no need for a special meeting, that the July meeting should be sufficient time to have the license issued.

Attorney Dill asked if the applicant could go through the petitions now, strike any invalid signatures, and submit those that are valid.

Attorney Katz stated that staff has done a quick look at the petitions and found more than 20 that are not valid, which would mean that the petitions do not have the sufficient number of required signatures anyway.

Authority Member Gallagher asked that when the petitions are redone, that the circulators bang on doors, not just approach people in parking lots.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER BRADISH TO WITHDRAW EXHIBITS A-F.

Ayes: Authority Members Gallagher, Bradish, Cole and O'Dell

Nays: None

Absent: Authority Members Gunia, Price and England

MOTION CARRIED: 4 to 0

The hearing will be continued to July 8, 2009.

9. **SHOW CAUSE HEARING**

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

Authority Chairperson Gallagher stated this was for a Show Cause hearing on Police report #2009-001542 dated March 23, 2009.

Adam Stapen, attorney for licensee and Isaac Ghebremedhin, licensee appeared.

Attorney Katz stated that there is a stipulation that the licensee will admit to the violation, counsel will present mitigation, and the Authority will evaluate. He stated that there was a favorable event during a sting operation in November 2008 where the licensee passed and was sent a commendation letter by the Authority.

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

Exhibit A - Proof of Publication of Hearing

Exhibit B - Certified Letter to Licensee Regarding Show Cause Hearing

Exhibit C - Liquor Authority Communication with Attachments for Show Cause Hearing

Exhibit D - Licensee History

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

Ayes: Authority Members Gallagher, Bradish, Cole, and O'Dell

Nays: None

Absent: Authority Members Gunia, Price and England

MOTION CARRIED: 5 to 0

Mr. Ghebremedhin stated that the store is family owned and has had no previous violations. Both he and his wife have backgrounds in other liquor stores, and neither of them received any violations. They are both Budweiser TIPS trained, as was the employee that sold the alcohol. The employee is no longer working for them because of this violation. The employee said the person was a regular at the store and that is why he did not ask for ID. They are now asking everyone for ID and they have been getting complaints from their customers about it, but they are trying to prevent this from happening again. So far, they have not hired another person to work for them and are only working the store themselves.

Attorney Stapen said that the licensee is asking that any suspension be held in abeyance and there be no active suspension.

Authority Member Gallagher stated that the transaction did take place and the customer had used his credit card to pay. He stated that this is a serious violation, as so many things can happen, like car accidents, or people getting hurt, etc. The licensee's record looks good, they have not been before the authority before, and passed the sting last November. He feels that there should be some penalty imposed.

Attorney Katz asked what training that will be given if they hire another employee.

Mr. Ghebremedhin stated that the employee will be trained for at least one week on the cash register and checking for IDs and they will be buying a machine that checks IDs. He is ready to buy it now, but due to them not having any help at the store, he has not had time. He stated that when he hires another employee, he would be sure the machine has been purchased for use during the training period.

Authority Member Bradish asked how long the employee had been working for them.

Mr. Ghebremedhin stated the man had been working for them for two years on a part-time basis.

Authority Member Cole stated that he feels that the customer had purchased alcohol there before, as he said he had bought alcohol there several other times. The customer was comfortable enough to keep coming back, so he must have purchased alcohol there from that employee in the past.

Attorney Katz stated that it is his understanding that the owners never transacted business with this person, but that he came back and bought alcohol with that same clerk, rather than the owners. The customer was given a ticket for minor in possession.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER COLE THAT THE AUTHORITY FIND THAT BROADWAY WINE & LIQUOR, INC. DBA: BROADWAY WINE & LIQUOR, 7945 SOUTH BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO DID VIOLATE C.R.S. 12-47-

901(1)(a). BASED ON SAID FINDINGS, I MOVE THAT BROADWAY WINE & LIQUOR, INC. DBA: BROADWAY WINE & LIQUOR, 7945 SOUTH BROADWAY LIQUOR LICENSE BE SUSPENDED FOR 5 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 JUNE 21, 2009.

Ayes: Authority Members Gallagher, Bradish, Cole, and O'Dell

Nays: None

Absent: Authority Members Gunia, Price and England

MOTION CARRIED: 5 to 0

10. **GENERAL BUSINESS**

11. **REPORTS**

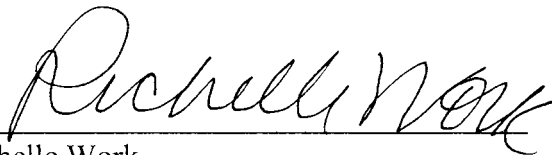
a) **Staff** – None

Assistant City Attorney – No new reports

b) **Authority Members** – None

c) **Chairperson** – None

12. **ADJOURNMENT** – There being no further business, Chairperson Gallagher adjourned the meeting at 7:40 p.m. on June 10, 2009.



Richelle Work

Deputy City Clerk/Recording Secretary