

City of Littleton

Minutes of Proceeding

Littleton Licensing Authority

June 13, 2012

The Littleton Licensing Authority met in a regular session on Wednesday June 13, 2012 at the Littleton City Center, 2255 West Berry Avenue, Littleton, Colorado.

THOSE PRESENT: Bill Bradish – Authority Member
Earl Gunia – Authority Member
Donovan O’Dell - Authority Member
Andrew Cole - Authority Member
Christopher Forrest – Authority Member
Ann Mather – Authority Member
Anthony Gallagher – Authority Member

THOSE ABSENT: None

ALSO PRESENT: Kristin Schledorn – Deputy City Attorney

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. **AGENDA**

Action: Approved as submitted

4. **MINUTES**

Minutes of Regular Meeting April 11, 2012

Action: Authority Member O’Dell requested that the previous minutes be amended to remove Authority Member Price from “Those Absent” and asked that it be changed to “None”.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER COLE TO APPROVE THE MINUTES OF April 11, 2012 WITH SUGGESTED CORRECTION FROM AUTHORITY MEMBER O’DELL

Ayes: Authority Members Bradish, O’Dell, Gunia, Cole and Forrest

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

LIQUOR LICENSE CASES:

5. SETTING NEIGHBORHOOD BOUNDARIES AND SCHEDULING APPLICATION HEARINGS – None

6. LIQUOR LICENSE APPLICATION HEARING

- a) WAL-MART STORES INC.
DBA: WALMART MARKET #3125
3615 W BOWELS AVE

Kevin Coates from Dill & Dill, the attorney for Walmart, addressed the Authority and named three individuals who would be speaking in favor of the issuance of this license. Max Scott from Oedipus Incorporated, the company responsible for conducting the neighborhood petition; Jennifer Platt, manager of the Walmart Market; and Michelle Edmunds, a local business owner speaking in favor of issuance of the license.

Deputy Attorney Schledorn 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

It was moved by AUTHORITY MEMBER COLE seconded by AUTHORITY MEMBER O'DELL to approve admittance of the above exhibits.

Ayes: Authority Members Bradish, O'Dell, Gunia, Cole and Forrest

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Mr. Coates called Miss Edmunds first to offer testimony as to the approval of issuance of a 3.2% Beer license to Walmart Market. Miss Edmunds confirmed her business address as 3625 West Bowles Avenue, neighboring the Walmart Market. Miss Edmunds stated that she has ownership in a small deli business and expressed her wishes that the license be issued. Based on the fact that there is only one other licensed 3.2% Beer business within the designated mapped boundaries, Miss Edmunds stated that she felt there was an insufficient number of outlets for 3.2% beer in the immediate vicinity, the next closest being between 1 ½ and 2 miles down Santa Fe. She also stated that since 3.2% beer was allowed at Chatfield, her hope was that patrons stopping at Walmart Market to buy alcohol might also frequent her deli to get sandwiches. She inferred that the issuance of the 3.2% license would be of benefit to not only the local residents but to local businesses as well. With no questions from the City Attorney or the Authority, Miss Edmunds was excused to leave the premises.

Max Scott, owner/operator of Oedipus Incorporated, reviewed the petition information and results. Mr. Scott stated that there were 28 businesses, 144 residences and 3 verbal responses in favor of issuance. Mr. Scott stated that the 3 verbal positive responses did not want to sign a petition. There were 4 businesses in opposition to the issuance of the license, 12 residences in opposition and no verbal opposition. Mr. Scott stated this was 92% in favor of issuing the license. Authority Member Gunia confirmed with Mr. Scott that 191 persons, residences and businesses, had been polled and asked if he (Mr. Scott) felt that was an adequate representation of the surrounding area. Mr. Scott stated that he felt confident that it was. Authority Member Mather asked for confirmation that this was a full service grocery store in addition to offering 3.2% beer. Mr. Scott confirmed this by reading the definition of the store from his survey briefing sheet.

Mr. Coates called on Jennifer Plant, store manager for the new Walmart Market. Ms. Plant stated that she has worked for Wal-Mart Stores for 10 years, 7 of that in salaried management. She briefly described the automated training system used by Wal-Mart to ensure that staff is adequately trained. Ms. Plant stated that the system in place by Wal-Mart Stores Inc. would not allow a cashier to utilize a machine until he/she has achieved 100% compliance on all modules. Ms. Plant has put herself through the TIPS training and has sent her leadership team through TIPS training as well. Employees have been made aware that failure to adhere to liquor laws and rules would result in termination of their employment and that they may be held liable for criminal charges. Mr. Coates asked what other systems were in place to prevent the sale of alcohol between the hours of midnight and 5:00 a.m. Ms. Plant stated that the registers are programmed to lock the sale of any alcohol beverages between those hours. She feels that with the programmed fail-safe, the training provided and the fact that there is a cashier at the front of the store at all times monitoring the door, the risk of any impropriety is minimal to non-existent. Mr. Coates asked Ms. Plant to address the Authority and discuss the floor plan as submitted in relation to the location of the alcohol beverages, the door and the registers. Because the liquor coolers are located behind the produce and bakery areas, which are stocked overnights and early mornings, Ms. Plant feels that there will be good visibility of the licensed area.

Chairperson Bradish asked Ms. Plant if the store would have a pharmacy and the answer was yes. Chairperson Bradish asked what the rules would be when deciding who is asked for ID for the purchase of alcohol beverages. Ms. Plant stated that anyone who appears to be under the age of 40 would be asked for identification. She also stated that the registers prompt the cashier to enter the date of birth from the valid ID into the computer. Authority Member Gunia asked for clarification on this point. Ms. Plant stated that the register will prompt the cashier "does this person appear to be over the age of 40?" and the cashier will have to answer either YES or NO. If the answer is NO, the system will prompt the cashier for a DOB. Authority Member Gallagher asked if they would use a swipe of the ID into the register or if the date would be input manually. Ms. Plant stated that the information would be input manually at any of the 7 registers or 4 self-checkouts. There will be an employee responsible for the self-checkouts at all times. If alcohol is purchased through self-check, the sale is "held" until an associate walks over and goes through the approval process with the customer.

Authority Member Gunia asked Ms. Plant if there had been any liquor violations at any of the other Wal-Mart stores where she had been employed. She stated that she has been at three Wal-Mart stores as a salaried manager and that there were no liquor violations at those stores while she was employed at them. Authority Member Gunia stated that Wal-Marts in Colorado have an average of 3-5 violations per year. He asked Ms. Plant how she would prevent liquor violations from happening in her store. She stated that she feels it is about awareness of staff, making expectations perfectly clear and ensuring that the supervisors in charge have the same expectations. She feels her store has the advantage of being a “ground up” store because staff is being trained on a regular basis and the expectation is made clear.

Authority Member Gunia confirmed that between the hours of midnight and 5:00 a.m. there was only a single point of failure. He asked Ms. Plant if locking the alcohol case between those hours was an option. She stated that had not been discussed because the fixtures housing the 3.2% beer also housed other refrigerated items in their small format. She stated that on average, there would be 12-15 people working as well as two supervisors during the overnight hours.

There were no further questions from the Authority.

Authority Member O’Dell pointed out a typo on the Individual History form for Ms. Plant. The stores address is listed incorrectly as 3165 W. Bowles instead of the correct address of 3615 W. Bowles. The Acting Deputy City Clerk will make the correction.

It was moved by AUTHORITY MEMBER O’DELL seconded by AUTHORITY MEMBER COLE THAT THE PUBLIC HEARING BE CLOSED AND A RESOLUTION OF THE LITTLETON LICENSING AUTHORITY BE APPROVED WHICH GRANTS KATE’S BISTRO LLC, DOING BUSINESS AS JAKE’S BREW BAR, 2540 WEST MAIN STREET, LITTLETON, COLORADO, A TAVERN 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: THAT THE NEEDS OF THE NEIGHBORHOOD ARE NOT NOW BEING MET; AND THAT IT IS THE DESIRE OF THE ADULT INHABITANTS OF THE NEIGHBORHOOD THAT THE LICENSE BE ISSUED.

Ayes: Authority Members Bradish, O’Dell, Gunia, Cole and Forrest

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

7. CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS FOR LIQUOR LICENSES - None

8. FINDINGS OF PROBABLE CAUSE AND SCHEDULING SHOW CAUSE HEARINGS FOR LIQUOR CODE VIOLATIONS - None

9. PRELIMINARY HEARING OF LIQUOR CODE VIOLATIONS - None

MEDICAL MARIJUANA LICENSE CASES:

10. MEDICAL MARIJUANA CENTER APPLICATION HEARINGS - None

11. CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS FOR MEDICAL MARIJUANA CENTERS – None

12. FINDINGS OF PROBABLE CAUSE AND SCHEDULING SHOW CAUSE HEARINGS FOR MEDICAL MARIJUANA CENTER VIOLATIONS - None

13. PRELIMINARY HEARING OF MEDICAL MARIJUANA CENTER VIOLATIONS - None

14. SHOW CAUSE HEARINGS FOR MEDICAL MARIJUANA CENTER VIOLATIONS - None

15. GENERAL BUSINESS

16. REPORTS:

- a) Staff – Authority Member Gunia asked why Millennium Foundations application for a Special Events Permit had been pending on the month-end report repeatedly. The Acting Deputy City Clerk explained that, while our policy states you can submit as early as 90 days prior to your event, Millennium had submitted their application 120 days prior with approval from the City Manager. It has since been forwarded to the State for processing and that we are just waiting for the permit to be issued. Authority Member Gunia asked if City Code states that we will not process a Special Events Permit request sooner than 90 days prior, does the City Manager have the authority to overrule that part of the Code. It was explained that this particular instance with Millennium was the catalyst for stipulating no more than 90 days prior. This event has occurred for more than 15 years without a Special Events permit and the promoter claimed he didn't know he had to have one. Because this was his first time going through the process, he has been very persistent. There was some concern on his part that because his dates overlapped with WWW, there might be a catch in getting the permit. His area, and that of WWW, do not overlap.

Authority Member Gunia also asked about the Elks Lodge being listed twice under Special Events Permits. It was explained that they have two separate events at two separate locations.

- b) Authority members - None
- c) Chairperson - None

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- 17. ADJOURNMENT** - There being no further business, Chairperson Bradish adjourned the meeting at 7:47 p.m. on June 13, 2012.

/s/Colleen Norton

Colleen Norton

Acting Deputy City Clerk/Recording Secretary