

City of Littleton

Minutes of Proceeding

Littleton Licensing Authority

July 11, 2012

The Littleton Licensing Authority met in a regular session on Wednesday July 11, 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
Ann Mather – Authority Member
Anthony Gallagher – Authority Member

THOSE ABSENT: Christopher Forrest – Authority Member

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, six members were present. Chairperson Bradish asked for clarification as to whether there were five voting members or four. It was determined that with Authority Member Forrest’s absence, Alternate 1, Ann Mather would be the fifth voting member. A quorum was declared. The following business was transacted.

3. **AGENDA**

Action: Approved as submitted

It was moved by AUTHORITY MEMBER GUNIA , seconded by AUTHORITY MEMBER COLE TO APPROVE THE AGENDA

Ayes: Authority Members Bradish, Gunia, O’Dell, Cole, Mather

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

**4. MINUTES
Minutes of Regular Meeting June 13, 2012
Action: Approved as submitted**

It was moved by AUTHORITY MEMBER COLE , seconded by AUTHORITY MEMBER GUNIA TO APPROVE THE MINUTES OF June 13, As submitted

Ayes: Authority Members Bradish, Gunia, O’Dell, Cole, Mather

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 – None

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

a) RELISH IT LLC – DBA: RELISH IT, 5350 S SANTA FE DR UNIT G: LICENSE RENEWAL

Deputy Attorney Schledorn entered the following city exhibits into the record:

Exhibit A - Affidavit of posting of premises

Exhibit B - Proof of notice to applicant

Exhibit C – Agenda Memo / Communication

Exhibit D - Public Hearing Roster / Sign-in Sheet

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

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Deputy Attorney Schledorn provided the Authority with a brief background of the renewal process. Generally, routine liquor license renewals are handled administratively pursuant to Section 3-2-16 of the City Code. The section states that the Chairperson is authorized to grant approvals so long as “no information regarding alleged violations of the Colorado Liquor and Beer Codes, or Amendment 20 of the Colorado Constitution or violations of this code have been referred to him or her by the Police Department or otherwise”. Deputy Attorney Schledorn pointed out that the Finance Department notified the City Clerk and the City Attorney’s offices that the licensee was in violation of the City Code for failure to remit sales taxes, as required under Section 3-9-3 of the City Code. As of June 29, 2012, the licensee owed \$3,808.07 in unpaid sales tax and had not filed a sales tax return for May 2012. Deputy Attorney Schledorn stated that she had requested an update on the licensee’s status from the Finance Department but had not yet received one.

Pursuant to Colorado Revised Statute 12-47-302.1, the Licensing Authority may cause a hearing on the application for renewals to be held and may refuse to renew a license for good cause. Deputy Attorney Schledorn referred to CRS 12-47-103.9 to determine if good cause had been established. She was emphatic that good cause does not include non-payment of taxes unless the Licensing Authority finds that the character record and reputation of the licensee is unsatisfactory under CRS 12-47-307.1.a and that if the licensee is delinquent on taxes and only if that delinquency has been filed in a jurisdiction or has been made a public record. As no lien has been filed against Relish It, LLC, she advised the Authority that we do not meet the standard to declare good cause.

Deputy Attorney Schledorn, in response to several members of the Authority feeling that they had no jurisdiction on this case, stated that the Authority does in fact have jurisdiction but has not met the burden of good cause. Authority Member Gallagher stated that he felt that there was reasonable cause to suspend the license however Deputy Attorney Schledorn stated that she did not feel that the burden of proof had been met to suspend the license. She stated that if the Finance Department had filed the lien, there would be good cause to suspend the license. Authority Member Gunia asked for clarification that the Authority would not be able to suspend the license nor deny it. Deputy Attorney Schledorn stated that unless new information came to light in the process of this hearing, she would not advise that they do anything but approve the renewal request. Authority Member Cole stated that he felt this was part of a larger issue and would like to table discussion on possibly involving City Council and/or Finance in trying to rectify the holes in the process. In the interim, he suggested that the licensee be giving an opportunity to speak on his behalf.

The licensee, Terry Sandrin, managing partner of Relish It LLC, went through the timeline of his original license date, construction issues and missed deadlines and other issues that led to his current tax problems. He stated that there had been somebody handling their books and admits that he wasn’t paying close enough attention and should have caught it before it became a \$3,000.00 deficit. He further stated that their liquor sales have not been good, even when offering happy hour specials and drinks in combination with meals. He stated that he’d like to renew his liquor license for one more year to see if they can turn things around. He also said that if it wouldn’t mean starting from scratch with a new application, he would be interested in just a Beer and Wine license, versus a full Hotel and Restaurant license. He went on to talk about how he has plans to improve customer traffic and revenue including

removing wait staff and making the restaurant a walk-up where customers will order and pay at the counter and food will be brought to the table. Wait staff will be replaced with runners.

He assured the Authority that IDs would still be checked for anybody ordering alcohol. Additionally, he has recently started a delivery service within a two mile radius of the restaurant and has started hosting fund raiser evenings for local schools in an effort to increase foot traffic. Chairperson Bradish thanked Mr. Sandrin for his input.

It was moved by AUTHORITY MEMBER COLE seconded by AUTHORITY MEMBER BRADISH THAT THE PUBLIC HEARING BE CLOSED AND A RESOLUTION OF THE LITTLETON LICENSING AUTHORITY BE APPROVED WHICH GRANTS RELISH IT, LLC AT 5350 S. SANTA FE DRIVE, LITTLETON, COLORADO, A RENEWAL OF A HOTEL AND RESTAURANT LIQUOR LICENSE CONTINGENT UPON APPROVAL FROM THE COLORADO LIQUOR ENFORCEMENT DIVISION AND BASED UPON THE FOLLOWING FINDINGS OF FACT: (1) THE PREMISES, BUSINESS CONDUCTED AND CHARACTER OF THE APPLICANT ARE SATISFACTORY AND (2) GOOD CAUSE, AS DEFINED BY C.R.S. §1 2-47-103, DOES NOT EXIST TO DENY RENEWAL OF THE LICENSE.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

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 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
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15. GENERAL BUSINESS

16. REPORTS:

- a) Staff –

- b) Authority members –

Authority Member Gallagher suggested that there be communication between the Authority, the City Clerk's Office and Finance to determine what action could be taken in the future when we have a licensee who is delinquent on taxes and must come to hearing prior to being renewed. Authority Member Gallagher asked Deputy Attorney Schledorn for guidance in the process to open the lines of communication.

Chairperson Bradish asked if there was a policy in the City Code for failure to pay sales tax. Deputy Attorney Schledorn stated that she believed there was an interest penalty attached to amounts in arrears. The Finance Director has discretion whether or not to file a lien for payment of back taxes. Deputy Attorney Schledorn has addressed this discretionary option with the Finance Director and was told that they do not currently exercise this option.

Authority Member Cole stated that because this is a public meeting and anybody could have just seen that there was no apparent option or leverage available to the Authority in matters of renewal based solely on non-payment of back taxes, it would behoove us to address the matter with the Finance Department or the City Council to develop a policy enforcing the filing of liens. This would give the Authority an option for action with licensees who come before the Authority for non-payment of taxes.

The consensus of the Authority was that they would like Council to review the City Code as it stands and make necessary amendments to either enact enforcement of filing liens for non-payment of taxes or to allow for more discretion on the part of the Authority when these issues are brought to hearing. Suggestions were that there might be a monetary limit at which it would be required that the Finance Department file a lien. Deputy Attorney Schledorn offered to speak with the City Attorney to start the process to for this issue to be addressed to Council.

Deputy Attorney Schledorn acknowledged the frustration of the Authority and stated that she struggled with it herself when making the decision to bring this licensee to hearing. She found that based on current policy, the Chairperson of the Authority could not have signed the renewal forms without a hearing and also

knew that at the hearing she would most likely have to advise that the application for approval be renewed. Deputy Attorney Schledorn stated that the Council could either opt to revise the existing statute as it pertains to the Chairperson being able to sign a renewal form when non-payment of taxes exist or that Council requires the Finance Department to file a lien versus it being a discretionary option.

Deputy Attorney Schledorn pointed out that by posting the business premises and having the licensee appear at a hearing, we did get his attention. Also, there was the real probability that members of the public could have attended and had information or evidence that would have substantiated good cause. In effect, his license was potentially on the line.

Chairperson Bradish, in closing, stated that there was a big hole in the process that needed to be addressed. If hearings of this nature are to be scheduled, the Authority needs to be clear on what, if any, recourse it has in taking action on the license in question. Deputy Attorney Schledorn will take the issue to the Finance Department and/or City Council in an attempt to resolve it.

c) Chairperson –

August Meeting of the LLA will be held at the Municipal Courthouse @ 2069 W Littleton Blvd @ 7:00 p.m. There will be audio recording but no video and the meeting will not be televised

17. ADJOURNMENT - There being no further business, Chairperson Bradish adjourned the meeting at 7:49 p.m. on July 11, 2012.

/s/ Colleen Norton

Colleen Norton

Deputy City Clerk/Recording Secretary