



City of Littleton

Littleton Center
2255 West Berry Avenue
Littleton, CO 80120

Meeting Agenda Licensing Authority

Monday, February 2, 2015

6:30 PM

Council Chamber

Special Meeting - Special Time

****WARNING** THIS VIDEO CONTAINS EXPLICIT LANGUAGE WHICH MAY NOT BE
SUITABLE FOR ALL VIEWERS**

1. Roll Call

2. Approval of Agenda

3. Certification of Minutes

4. Scheduling renewal hearings for liquor licenses

5. Liquor License Cases:

6. Setting neighborhood boundaries and scheduling application hearings for liquor licenses Liquor license application hearings

7. Liquor License Application Hearings

8. New Liquor License Applications

9. Findings of probable cause and scheduling show cause hearings for liquor code violations

10. Preliminary hearing of liquor code violations

11. Show cause hearings for liquor code violations

- a) [LA# 15-001](#) Determine sanctions for show cause hearing - Vasilios Frangiskakis, d/b/a Old Mill Brewery, 5798 South Rapp Street - Continued from January 14, 2015, January 28, 2015 and February 2, 2015.

12. Medical Marijuana Application Hearings

13. Consideration of other applications and requests for medical marijuana centers

14. Findings of probable cause and scheduling show cause hearings for medical marijuana center violations

15. Preliminary hearing of medical marijuana center violations

16. Show cause hearings for medical marijuana center violations

17. Reports:

- a. Staff
- b. Authority Members
- c. Chair

18. Adjournment



Staff Communication

File #: LA# 15-001, **Version:** 4

Agenda Date: 02/11/2015

Subject:

Determine sanctions for show cause hearing - Vasilios Frangiskakis, d/b/a Old Mill Brewery, 5798 South Rapp Street - Continued from January 14, 2015, January 28, 2015 and February 2, 2015.

Presented By: Kristin Schledorn, City Attorney

ISSUE

Whether to suspend or revoke the license of Vasilios Frangiskakis, d/b/a Old Mill Brewery.

INTRODUCTION/HISTORY AND FACTS

This matter is continued from hearings held on January 14, 2015, January 28, 2015 and February 2, 2015, following the citation for an incident occurring on November 5, 2014, at approximately 9:50 p.m. At a special meeting held on February 2, 2015, the Licensing Authority sustained violations of Littleton City Code § 3-2-11 (A)(2) and Regulation 47-900(A).

HEARINGS AND GUIDELINES FOR SANCTIONS

A hearing on suspension or revocation of a liquor license must be carried out pursuant to C.R.S. 12-47-601 and Regulation 47-600. Paragraphs (C)-(E) of Regulation 47-600 provide (I have underlined the portions of the regulation pertinent to the Authority's consideration of sanctions):

- C. A hearing shall be held at a place and time designated by the Licensing Authority on the day stated in the notice, or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, or any other violation, evidence and statements in aggravation of the offense shall also be permitted.

- D. If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the licensee, but standing alone establishes the guilt of the licensee of a violation of some other law, rule or regulation, the licensee shall be permitted to give evidence and statements in defense, explanation and mitigation if then prepared to do so. If such evidence is not then available, but can be obtained by the licensee, the licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than ten days, and shall then continue under the same procedure as though no recess had occurred.

- E. In the event the licensee is found not to have violated any law, rule or regulation, the charges against

him will be dismissed. If the licensee is found to have violated some law, rule or regulation, his license may be suspended or revoked.

In addition, in order to guide the Licensing Authority in the appropriateness of any particular sanction it may choose to impose, Section 3-2-14 of the Littleton Municipal Code states:

3-2-14: Hearings; Aggravating and Mitigating Factors:

In all cases where a hearing is held regarding a suspension, revocation or non-renewal of any license issued pursuant to this Chapter, the licensing authority shall consider the following factors in mitigation or aggravation:

- (A) Seriousness of the violation(s) (affront to the public);
- (B) Corrective action(s) taken (if any);
- (C) Prior violations and offenses at the licensed premises and effectiveness of the prior corrective action;
- (D) Prior violations and offenses by this licensee;
- (E) Violation as a repeated course of conduct or as a single event;
- (F) Likelihood of recurrence;
- (G) All circumstances surrounding a violation;
- (H) Willfulness of violation(s);
- (I) Hardship on this licensee for the sanction imposed;
- (J) Length of time a license has been held by this licensee;
- (K) Previous sanctions imposed against this license; and
- (L) Other factors making the situation with respect to the licensee or premises unique.

Section IV of the Licensing Authority Guidelines provide the following recommended guidelines for sanctions:

A. Conduct of Premises - (Regulation 47-900):

1. A licensee must conduct the licensed premises in a decent, orderly, and respectable manner.
2. A licensee cannot permit the serving or loitering of an apparently intoxicated person or habitual drunkard on the licensed premises.
3. A licensee may not permit profanity, rowdiness, undue noise and other disturbances or activities which are offensive to the senses of the average citizen or resident of the neighborhood.
4. A licensee cannot engage in or permit exposure or touching of sexual body parts on the licensed premises.
5. A licensee cannot permit entertainment on the licensed premises which displays or simulates sexual acts.

First offense: Five (5) days suspension with three (3) days held in abeyance for one (1) year; allow a fine in lieu of a suspension.

Second offense within five (5) years: Fourteen (14) days suspension with seven (7) days held in abeyance for one (1) year; no fine in lieu of a suspension. In the event a second offense occurs within one (1) year of the first offense, any days held in abeyance from the first offense will be imposed in addition to separate sanctions for the second offense.

PROPOSED MOTION

Based on the foregoing evidence and testimony concerning factors in mitigation and aggravation, I move that the liquor license of Vasilios Frangiskakis, d/b/a Old Mill Brewery, 5798 South Rapp Street be:

Suspended

Suspended for a period of ____ days [*with ____ days to be held in abeyance for a one year period and that during such period there be no further violation of the Colorado Liquor Code and associated regulations and/or the Littleton City Code*] 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 beginning _____, 2015.

OR

Fine-in-Lieu of Suspension

Suspended for a period of ____ days [*with ____ days to be held in abeyance for a one year period and that during such period there be no further violation of the Colorado Liquor Code and associated regulations and/or the Littleton City Code*] and that the licensee's petition for a fine-in-lieu be approved and that ____ days of the active suspension will be paid by fine-in-lieu of suspension 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 beginning _____, 2015.

OR

Revoked