

City of Littleton

AGENDA

REGULAR MEETING

LITTLETON LIQUOR LICENSING AUTHORITY

MEETING DATE AND TIME: Wednesday, March 11, 2009 at 7:00 p.m.

MEETING LOCATION: Littleton City Center
2255 West Berry Avenue
Littleton, Colorado 80120

ORDER OF BUSINESS

1. Call meeting to order
2. Roll call
3. Minutes
 - a) Minutes of regular meeting February 11, 2009
4. Approval of agenda
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 application - None
 - d) Summary suspension - None
 - e) Change of corporate structure - None
 - f) Change of location – None
 - g) Renewal Application
 - i) MI COCINA EXPRESS, INC.
MI COCINA EXPRESS
137 WEST COUNTY LINE RD
LITTLETON, CO 80129
 - ii) MI COCINA INC.
MI COCINA SOUTH
1600 WEST BELLEVIEW AVE
LITTLETON, CO 80120
7. Findings of probable cause of liquor code violations and scheduling show cause hearings
 - a) INTERNATIONAL MARKETING CORPORATION
DBA: FAT FROG CAFE
2530 WEST MAIN STREET
LITTLETON, CO 80120
 - b) ALL SPIRITS LLC
DBA: TOTAL WINE AND LIQUORS
6901 SOUTH BROADWAY
LITTLETON, CO 80122

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- c) SANTA FE TEQUILA COMPANY SOUTH LLC
D/B/A SANTA FE TEQUILA COMPANY
2630 WEST BELLEVIEW AVE SUITE 150
LITTLETON, CO 80123

- 8. Liquor license application hearings – **amendment to application**
 - a) BLUE MOO'D LOUNGE, INC.
DBA: BLUE MOO'D RESTAURANT & LOUNGE
5950 S. PLATTE CANYON RD B18-22

- 9. Show cause hearings

- 10. General Business
 - a) Discontinue Court reporter for hearings

- 11. Reports
 - a) Staff
 - b) Authority Members
 - c) Chairperson

- 12. Adjournment

City of Littleton

Minutes of Proceeding

Littleton Liquor Licensing Authority

March 11, 2009

The Littleton Liquor Licensing Authority met in a regular session on Wednesday, March 11, 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

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. **MINUTES**

(a) Minutes of Regular Meeting February 11, 2009

Action: Approved as presented

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

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

Nays: None

Absent: None

MOTION CARRIED: 5 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

- i) MI COCINA EXPRESS, INC.
DBA: MI COCINA EXPRESS
137 WEST COUNTY LINE RD
LITTLETON, CO 80129
- ii) MI COCINA INC.
DBA: MI COCINA SOUTH
1600 WEST BELLEVIEW AVE
LITTLETON, CO 80120

Chairperson Gallagher stated this was a probable cause determination for checks presented for renewal fees that were returned for non-sufficient funds (NSF). The NSF checks have been paid and the renewal is awaiting state approval. He stated he would like to recommend that a letter be sent stating the information concerning what can happen for in the future should issues arises again with finances, as it could be detrimental to the community.

Attorney Katz will draft a letter for Chairman Gallagher to sign.

Authority Member Gunia asked if this could be an issue concerning the character and reputation and asked why there were not sufficient funds.

Attorney Katz stated that all we know was that the checks were not honored by the bank. He stated these cases are not so much an issue of character, but protection of the community.

Authority Member Price stated the letter says there may be a hearing, but since they did submit the funds, why did we still have a hearing. She thinks the letter should clearly state that the money needs to be paid in full on time, and list what the consequences for not doing so would be.

Deputy Clerk Richelle Work stated that the NSF checks were paid in cash on Tuesday, March 10, which was one day before the scheduled hearing. There was not sufficient time to remove the hearing from the agenda, as it was posted and distributed already.

The Authority agreed to send a letter regarding the possible penalties for any future issues with finances.

7. **FINDINGS OF PROBABLE CAUSE OF LIQUOR CODE VIOLATIONS AND SCHEDULING SHOW CAUSE HEARING**

- a) INTERNATIONAL MARKETING CORPORATION
DBA: FAT FROG CAFE
2530 WEST MAIN STREET
LITTLETON, CO 80120

Authority Chairperson Gallagher stated this hearing was for a Probable Cause determination on Police report #2009000605, dated February 10, 2009.

Alan Katz presented the police report and alleged violation information to the Authority and stated the alleged violation would be for failure to maintain an orderly establishment.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER PRICE TO FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT INTERNATIONAL MARKETING CORPORATION, DBA: FAT FROG CAFÉ, 2530 WEST MAIN STREET, LITTLETON, ARAPAHOE COUNTY, COLORADO, ON JANUARY 31, 2009, AT APPROXIMATELY 1:50 A.M., DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET FOR THE 8TH DAY OF APRIL, 2009, FOR THE PURPOSE OF CONSIDERING THE STATUS OF SAID TAVERN 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 INTERNATIONAL MARKETING CORPORATION, DBA: FAT FROG CAFÉ, 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

- b) ALL SPIRITS LLC
DBA: TOTAL WINE AND LIQUORS
6901 SOUTH BROADWAY
LITTLETON, CO 80122

Authority Chairperson Gallagher stated this hearing was for a Probable Cause

determination on Police report #2009001089, dated March 3, 2009.

Alan Katz presented the police report and alleged violation information to the Authority and stated the alleged violation would be for selling to an intoxicated person.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER BRADISH TO FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT ALL SPIRITS LLC, DBA: TOTAL WINE AND LIQUORS, 6901 SOUTH BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO, ON FEBRUARY 27, 2009, AT APPROXIMATELY 5:05 P.M., DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET FOR THE 8TH DAY OF APRIL, 2009, FOR THE PURPOSE OF CONSIDERING THE STATUS OF SAID RETAIL LIQUOR 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 ALL SPIRITS LLC, DBA: TOTAL WINE AND LIQUORS, 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

c) SANTA FE TEQUILA COMPANY SOUTH LLC
D/B/A SANTA FE TEQUILA COMPANY
2630 WEST BELLEVIEW AVE SUITE 150
LITTLETON, CO 80123

Authority Chairperson Gallagher stated this hearing was for a Probable Cause determination.

Alan Katz presented the alleged violation information to the Authority, stating the licensee does not have possession of the premises and is no longer operating the business.

Steve Kurtz, representing the property owner, appeared before the Authority. Mr. Kurtz stated that Santa Fe Tequila does not occupy the space any longer and the property owner is trying to find a new tenant. He stated they were going to try to transfer the license to the property owner, but have decided not to do that.

Attorney Katz stated that in order to transfer a license, someone has to be operating the business. They would have to show that the license is being used. Although the property

owner has possession of the property, the licensee still has the license and no one is operating the establishment. Procedurally, the Authority will have to have a show cause hearing to pursue revocation of the license.

It was moved by AUTHORITY MEMBER COLE, seconded by AUTHORITY MEMBER BRADISH TO FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT SANTA FE TEQUILA COMPANY SOUTH LLC, D/B/A SANTA FE TEQUILA COMPANY, 2630 WEST BELLEVIEW AVE SUITE 150, LITTLETON, ARAPAHOE COUNTY, COLORADO, ON JANUARY 22, 2009 DID VIOLATE COLORADO LIQUOR CODE AND LITTLETON MUNICIPAL CODE. BASED ON SAID FINDINGS, I MOVE A PUBLIC HEARING BE SET FOR THE 8TH DAY OF APRIL, 2009, FOR THE PURPOSE OF CONSIDERING THE STATUS OF SAID HOTEL & RESTAURANT LIQUOR 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 SANTA FE TEQUILA COMPANY SOUTH LLC, D/B/A SANTA FE TEQUILA COMPANY, 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

8. LIQUOR LICENSE APPLICATION HEARINGS - amendment to application

- a) BLUE MOO'D LOUNGE, INC.
DBA: BLUE MOO'D RESTAURANT & LOUNGE
5950 S. PLATTE CANYON RD D18-22

Mr. Katz entered the following city exhibits into the record:

- Exhibit A - Affidavit of posting of premises
- Exhibit B - Proof of publication
- Exhibit C - Liquor Authority Communication with Attachments
- Exhibit D - Petition Information
- Exhibit E - Public Hearing Roster

Mark Thomas, Theresa Bentley, and Timothy Bentley appeared representing the licensee. Mr. Thomas explained that he is the property owner, and he is moving the lounge to different part of the complex.

Chairperson Gallagher stated that the representative from Oedipus could not appear to

testify on the petition, but that the report shows a very favorable petition.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER COLE TO ADMIT EXHIBITS A-E.

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

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Attorney Katz explained that the petitions were good and that the Board could approve the petitions without testimony from a representative from Oedipus. If the Board does not wish to do that, they would need to have the representative from Oedipus testify at next month's hearing.

Teresa Bentley brought the new liquor policy of the lounge and distributed it to Authority members.

Authority Member Gunia asked if the business still has the same owners and operators and asked for clarification on the fence around the patio.

Timothy Bentley and Mr. Thomas showed an overhead drawing of the premises, explaining the location within the complex and the fencing on the patio.

Authority Member Bradish asked how this change affects the opening date.

Mr. Thomas said it would push back the opening by approximately 45 days.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER GUNIA THAT THE PUBLIC HEARING BE CLOSED AND THE AMENDMENT TO THE APPLICATION BE APPROVED FOR BLUE MOO'D LOUNGE, INC., DOING BUSINESS AS BLUE MOO'D RESTAURANT & LOUNGE, AT 5950 S. PLATTE CANYON RD D18-22, LITTLETON, COLORADO, FOR A HOTEL & RESTAURANT LIQUOR LICENSE BASED UPON THE FOLLOWING FINDINGS OF FACT: (1) THAT THE NEEDS OF THE NEIGHBORHOOD ARE NOT NOW BEING MET; AND (2) THAT IT IS THE DESIRE OF THE ADULT INHABITANTS OF THE NEIGHBORHOOD THAT THE LICENSE BE ISSUED.

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

Nays: None

Absent: None

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9. **SHOW CAUSE HEARING** - None

10. **GENERAL BUSINESS**

Attorney Katz discussed discontinuing using a Court reporter for liquor hearings. There is no legal impediment to not having a court reporter. Both county and municipal courts use recordings, rather than a court reporter. The requirement is that there is the ability to have the recording transcribed if needed.

Authority Members agreed to no longer use a court reporter for hearings.

11. **REPORTS**

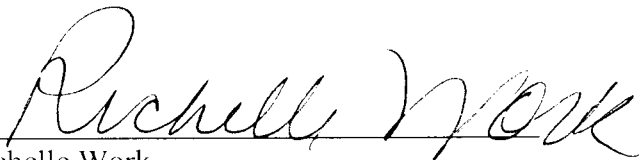
a) **Staff** – None

Assistant City Attorney – None

b) **Authority Members** – None

c) **Chairperson** – None

12. **ADJOURNMENT** – There being no further business, Chairperson Gallagher adjourned the meeting at 7:45 p.m. on March 11, 2009.



Richelle Work

Deputy City Clerk/Recording Secretary