

# *City of Littleton*

## AGENDA

### REGULAR MEETING

#### LITTLETON LICENSING AUTHORITY

**MEETING DATE AND TIME:** Wednesday, July 11, 2012 at 7:00 p.m.

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

#### ORDER OF BUSINESS

1. Call meeting to order
2. Roll call
3. Approval of agenda
4. Approval of Minutes
  - a) Minutes of Regular Meeting June 13, 2012

#### **Liquor License Cases:**

5. Setting neighborhood boundaries and scheduling application hearings for liquor licenses – None
6. Liquor license application hearings - None
7. Consideration of other applications and requests for liquor licenses
  - a) RELISH IT LLC – DBA: RELISH IT, 5350 S SANTA FE DRIVE UNIT G – Renewal
8. Findings of probable cause and scheduling show case hearings for liquor code violations – None
9. Preliminary hearing of liquor code violation – 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
15. General business – None

16. Reports:

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

8/8 (Guia/este) unanimous  
MTC @ Courthouse 2012 as Littleton Blvd

17. Adjournment

Cite - closed

7a

Not to renew

Bradley	Y
Guia	Y
Spill	Y
Cole	Y
Mother	Y

# 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 Plack, manager of the Walmart Market; and Michele 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 Ferrest

Nays: None

Absent: None

**MOOTION 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 1/2 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

CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS FOR LIQUOR LICENSES - None

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

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

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Colleen Norton

Acting Deputy City Clerk/Recording Secretary



# City of Littleton

## MEMORANDUM

TO: Kristin Schledorn, Deputy City Attorney

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FROM: Colleen L. Norton

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DATE: July 11, 2012

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SUBJECT: Exhibits for public hearing

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Attached are copies of the following exhibits for Relish It LLC; DBA: Relish It, 5350 S. Santa Fe; public hearing before the Licensing Authority. Please let me know if you need anything further.

- |         |   |   |                                                     |
|---------|---|---|-----------------------------------------------------|
| Exhibit | A | - | Affidavit of posting of premises                    |
| Exhibit | B | - | Proof of notice to the applicant                    |
| Exhibit | C | - | Agenda Memo / Communication                         |
| Exhibit | D | - | Public Hearing Sign-in sheet (will have at hearing) |

AFFIDAVIT

STATE OF COLORADO )  
 ) SS  
COUNTY OF ARAPAHOE )

I, Colleen Norton, being first duly sworn upon oath, depose and say that for a period of not less than 10 days, beginning on June 28, 2012, there was posted upon the property located at 5350 South Santa Fe, Littleton, Colorado, a notice that there will be a hearing to review an application for renewal of a Hotel & Restaurant license for Relish It LLC d/b/a Relish It, 5350 South Santa Fe Drive, on the 28th day of June, 2012 and that said notice was in due form of the law.

Colleen Norton

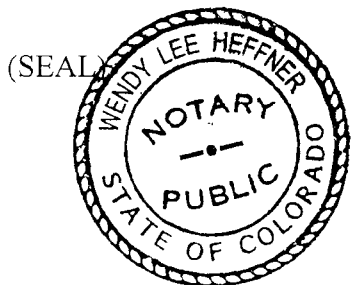
Colleen Norton, Acting Deputy City Clerk

Subscribed and sworn to before me this 28th day of June, 2012

Witness my hand and seal.

Wendy Lee Heffner

Notary Public



11/21/2013

My commission expires

EXB

CERTIFICATE OF HAND DELIVERY

Subject: Relish It  
5350 South Santa Fe Drive Unit G  
Littleton, CO 80120

I HEREBY CERTIFY that a true copy of the attached letter addressed to:

Relish It  
5350 South Santa Fe Drive Unit G  
Littleton, CO 80120

was hand-delivered to:

Bryan Bennett at, 5350 South Santa Fe Drive Unit G,  
Littleton, CO., on

the 28<sup>th</sup> day of June, 2012.

William Johnston  
Littleton City Clerk's Office

**EXC**

# City of Littleton

## Licensing Authority Communication

Date	Agenda No.	Subject
7/11/12	7(a)	Liquor License Renewal Hearing – Relish It, LLC
<b>Action Proposed:</b> Renewal application for Liquor License		
<b>Presented By:</b> Kristin Schledorn, Deputy City Attorney		

### INTRODUCTION/HISTORY AND FACTS

Routine liquor license renewals generally are handled administratively under Section 3-2-16 of the City Code. That section states that the chairperson of the authority is authorized to grant renewals 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.” The Finance Department notified the City Clerk and the City Attorney that the licensee was in violation of the City Code for failure to remit its sales tax as required by Section 3-9-3. As of June 29, 2012, the licensee currently owes \$3,808.07 in unpaid sales tax and has not filed a sales tax return for May, 2012.

### LEGAL OPINION

Pursuant to C.R.S. § 12-47-302(1), the local licensing authority may cause a hearing on the application for renewal to be held and may refuse to renew the license for good cause as provided in C.R.S. §12-47-103(9), which states:

#### C.R.S. 12-47-103 Definitions

- (9) “Good Cause”, for the purposes of refusing or denying a license renewal or initial license issuance, means:
- (a) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this article or any rules and regulations promulgated pursuant to this article;
  - (b) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license in prior disciplinary proceedings or arose in the context of potential disciplinary proceeding;
  - (c) In the case of a new license, the applicant has not established the reasonable requirements of the neighborhood or the desires of its adult inhabitants as provided in section 12-47-301(2); or
  - (d) Evidence that the licensed premises have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity, or disorderly conduct. For purposes of this paragraph (d), "disorderly conduct" has the meaning as provided for in section 18-9-106, C.R.S.

Good cause does not include non-payment of taxes unless the authority finds that the licensee’s character, record, and reputation are unsatisfactory under C.R.S. § 12-407-307(1)(a), because the licensee is delinquent in payment of taxes and the delinquency has been filed in a court having jurisdiction or has been made a public record by some other lawful means, as required by Regulation 47-310(E). C.R.S. 12-47-207(1)(a) states:

#### 12-47-307 Persons prohibited as licensees

- (1) (a) No license provided by this article or Article 46 or 48 of this title shall be issued to or held by:
- (II) Any person who is not of good moral character;
  - (III) Any corporation, any of whose officers, directors, or stockholders holding ten percent or more of the outstanding and issued capital stock thereof are not of good moral character;

043

Date	Agenda No.	Subject
7/11/12		Liquor License Renewal Hearing – Relish It, LLC

- (V) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the respective licensing authorities;
- (VI) Any person unless such person's character, record, and reputation are satisfactory to the respective licensing authority.

Regulation 47-310(E) states that "when a licensing authority is required to make a determination as to the character, record and reputation of existing licensees... the authority may consider the following factors... (4) The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes, and record of such tax delinquency has been filed in a court having jurisdiction or has been made a public record by some other lawful means..."

In this case, a lien against Relish It, LLC, has not been filed in court or in the office of the Clerk and Recorder for Arapahoe County or otherwise made a public record.

**CONCLUSIONS AND RECOMMENDATIONS**

Staff recommends that the Authority grant approval of the renewal application for Relish It, LLC, unless the Authority finds there exists "good cause" as defined in C.R.S. § 12-47-103, in which case the license should not be renewed. "Good cause" would not include non-payment of sales tax, as the lien for such unpaid taxes has not been filed in court or otherwise made a public record.

**SUGGESTED MOTION**

THAT THE PUBLIC HEARING BE CLOSED AND A RESOLUTION OF THE LITTLETON LIQUOR AUTHORITY BE APPROVED WHICH GRANTS RELISH IT, LLC AT 5550 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. § 12-47-103, DOES NOT EXIST TO DENY RENEWAL OF THE LICENSE.



TO: Members of the Licensing Authority

FROM: Colleen Norton, Acting Deputy City Clerk

DATE: July 1, 2012

SUBJECT Licensing Activity – June 2012

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This memo is a way to inform you of some of the routine liquor licensing activity that takes place outside of your monthly meetings. These items do not require any action on your part. This list is for your information only.

**Applications for New License:**

Alamo Aspen Grove LLC – pending issuance (waiting on completion of building)  
DBA: Alamo Drafthouse Cinema  
7301 S Santa Fe Dr

Wal-Mart Stores Inc. – COMPLETE  
DBA: WalMart Market #3125  
3615 W Bowles Avenue

Kate's Bistro LLC – COMPLETE  
DBA: Jake's Brew Bar  
2540 W. Main Street

**Liquor License Renewals complete:**

Merle's of Littleton  
2609 W. Main Street

Ted's Montana Grill  
7301 S. Santa Fe Dr.

King Soopers #70  
100 Littleton Blvd

Advance Liquors  
7945 S. Broadway

Delvickios  
819 Littleton Blvd

There are 20 other renewal applications in progress

**Modification of Premises:**

None

**Change of Corporate Structure:**

South Suburban Parks & Recreation District - Pending  
DBA: Littleton Golf and Tennis  
5800 S. Federal Blvd

**Change of Trade Name:**

None

**Art Gallery Permit**

Alamo Antiques & Fine Art Gallery, LLC – Pending @ State  
2606 W. Alamo Ave; Littleton, CO

**Medical Marijuana Center Change of Corporate Structure**

None

**Special Events Permit:**

Millenium 2000 Foundation – COMPLETE  
5662 S Cedar St

Loving Hugs, Inc. – COMPLETE  
P O Box 270612

Denver Active 20/30 Children's Foundation – COMPLETE  
3445 Zuni Street

Humane Society of the South Platte Valley - COMPLETE  
2129 W. Chenango Ave., Unit A; Littleton, CO

BPOE #1650 - COMPLETE  
5749 S. Curtice Street; Littleton, CO

BPOE #1650 – Pending - COMPLETE  
5800 S. Spotswood Street; Littleton, CO

Littleton Sertoma Club - COMPLETE  
2255 W. Berry Avenue; Littleton CO