

City of Littleton

Minutes of Proceeding

Littleton Licensing Authority

September 8, 2010

The Littleton Licensing Authority met in a regular session on Wednesday, September 8, 2010 at the Littleton City Center, 2255 West Berry Avenue, Littleton, Colorado.

THOSE PRESENT: Bill Bradish - Chairperson
Earl Gunia - Vice Chairperson
John Cole - Authority Member
Susan Price - Authority Member
Donovan O'Dell - Authority Member
Andrew Cole - Authority Member

THOSE ABSENT: Victoria England - Authority Member

ALSO PRESENT: Kirsten Crawford – Assistant City Attorney
Richelle Work - Deputy City Clerk
Kim Steen – Police Sergeant

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. Authority Member England was absent. A quorum was declared. The following business was transacted.

3. **MINUTES**

(a) Minutes of Regular Meeting August 11, 2010

Action: Approved as submitted

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER JOHN COLE TO APPROVE THE MINUTES AS SUBMITTED.

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

Nays: None

Absent: Authority Member England

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 LIQUOR LICENSES**
 - (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** - None
7. **CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS FOR MEDICAL MARIJUANA DISPENSARIES** - None
8. **FINDINGS OF PROBABLE CAUSE AND SCHEDULING SHOW CAUSE HEARINGS FOR LIQUOR LICENSES** - None
9. **FINDINGS OF PROBABLE CAUSE AND SCHEDULED SHOW CAUSE HEARINGS FOR MEDICAL MARIJUANA DISPENSARY VIOLATIONS** - None
10. **LIQUOR LICENSE APPLICATION HEARINGS**
 - a) ASPEN GROVE 0122 LLC
DBA: TWO TEN NAIL, WAX & DRY BAR
7301 S SANTA FE DR #342

Attorney Crawford 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 PRICE seconded by AUTHORITY MEMBER O'DELL TO ADMIT EXHIBITS A-F.

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

Nays: None

Absent: Authority Member England

MOTION CARRIED: 5 to 0

Tina Colburn-McDonnell, manager, was present and addressed the Authority. Ms. Colburn-McDonnell explained the business, saying they provide nail service, facials, waxing, and washing and blow-drying of hair. A customer can have a 3 ½ oz. pour for each service they purchase, with a maximum of two pours no matter how many services they are receiving. Wine or champagne is \$4.50 per 3 ½ oz. serving. The manager serves all alcohol. Employees are not permitted to serve. Ms. Colburn-McDonnell has been a bartender in the past, and is going through the City of Lakewood alcohol training. She will be looking at IDs for all customers. The general demographics of customers are from 30-60 years old, mostly women. Alcohol will be stored under lock and key in the office. A customer must be receiving a service in the salon in order to purchase alcohol.

Kelly Pietrs, Esquire Petitioning explained the petitioning process. The petitioners completed 520 door knocks, with 113 residents and 24 business owners in support of issuance of the license, for a total of 137. There were 15 residents in opposition and 1 business in opposition. This is 87.8% in favor of the license. There were 10.2% people in opposition and 1.9% people that were neutral.

It was moved by AUTHORITY MEMBER JOHN COLE, seconded by AUTHORITY MEMBER BRADISH THAT THE PUBLIC HEARING BE CLOSED AND A RESOLUTION OF THE LITTLETON LICENSING AUTHORITY BE APPROVED WHICH GRANTS ASPEN GROVE 0122 LLC, DOING BUSINESS AS TWO TEN NAIL, WAX & DRY BAR, 7301 S SANTA FE DR #342, LITTLETON, COLORADO, A BEER & WINE 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, Gunia, John Cole, Price and O'Dell

Nays: None

Absent: Authority Member England

MOTION CARRIED: 5 to 0

11. **MEDICAL MARIJUANA DISPENSARY LICENSE APPLICATION HEARINGS** –
None

12. **SHOW CAUSE HEARINGS FOR LIQUOR LICENSES**
 - a) INTERNATIONAL MARKETING CORPORATION
DBA: FAT FROG CAFE
2530 WEST MAIN STREET

Attorney Crawford presented the Authority with a motion to dismiss and explained the history behind this case. After further investigation, there were some issues surrounding probable cause, and the City Prosecutor was unable to find anything more than the fact that a

fight happened. The bar did make the call to the police about the fight. They were alleged to have over-served the customer. The police department was unable to determine if the bartenders did in fact over-serve.

Sgt. Steen addressed the Authority, saying she pulled the 911 records for that night, and the call came from within the establishment, but were unable to determine if staff or a patron made the call. The phone was an inside telephone available to employees and patrons. Sgt. Steen stated that the officers were unable to establish over-service. Receipts only showed that one drink was served to each person. There were no witnesses indicating that the individuals appeared intoxicated prior to the police contact. Many police officers responded to the scene. During the investigation, some of those officers were called away to other locations, so they had to split resources, go back, and finish the investigation later.

Authority Member O'Dell said that the police report stated that the officers at the scene noted that the two individuals involved in the fight appeared to be intoxicated.

Authority Member John Cole asked the City Attorney if it was proper for the Authority to have access to the history of prior incidents of the bar.

Attorney Crawford stated that the history could be seen. She stated that when the prosecutor reviews any case, they have discretion to weigh the evidence and she does not believe she has enough evidence to go forward.

Paul Laird, owner of Fat Frog Café, addressed the Authority. He stated that he reviewed the incident and spoke to the City Prosecutor. He did not bring any evidence with him tonight, as he did not believe he needed it at this time.

Attorney Crawford stated that Mr. Laird does not need to make a case tonight. If the motion to dismiss were denied by the Authority, then he would have an opportunity to present his case at a later date.

Paul Laird stated that he was not present at the time of the incident, but did go back and get statements from persons that were present. Christie, the bartender, made the phone call to the police, but the phone was not accessible for patron use as Sgt. Steen stated. He explained what he was told happened during the incident, saying that no one had any indication that the persons involved were intoxicated or that there was any problem. He does not know why the bartender did not get back to the police after the incident, but said she told him she felt she needed to have an attorney before any further discussion with the police.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER GUNIA THAT AFTER FURTHER REVIEW AND INVESTIGATION, THERE IS INSUFFICIENT EVIDENCE FOR THE LICENSING AUTHORITY TO CONCLUDE THAT THERE HAVE BEEN VIOLATIONS OF THE COLORADO LIQUOR CODE AND THAT THEREFORE THE ALLEGATIONS AGAINST INTERNATIONAL MARKETING CORPORATION, DBA: FAT FROG CAFÉ LOCATED AT 2530 WEST MAIN STREET SHALL BE DISMISSED.

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

Nays: None

Absent: Authority Member England

MOTION CARRIED: 5 to 0

13. SHOW CAUSE HEARINGS FOR MEDICAL MARIJUANA DISPENSARIES - None

14. GENERAL BUSINESS

a) Discussion on updates of medical marijuana ordinance

Authority Member John Cole asked if either of the two medical marijuana businesses that were denied a license were still operating.

Attorney Crawford said that one of them is operating, but are not licensed to do so.

Authority Member O'Dell stated that the State of Colorado has passed new laws and the City has updated the ordinance to match the state laws. When the Authority initially licensed the dispensaries, they imposed an additional condition that the dispensaries were not able to accept customers within the initial 35-day period. He asked for clarification from Attorney Crawford on the status of this as it pertains to the new state law.

Attorney Crawford stated that state law says that a person has to have the card in their possession or proof of mailing in order to obtain medical marijuana, but only after 35 days from their application for a card. No one is permitted to get any medical marijuana in the initial 35-day waiting period.

15. REPORTS

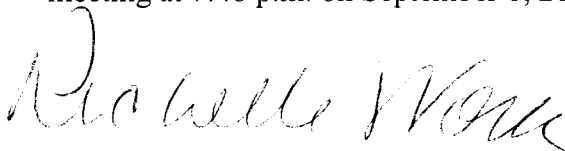
a) Staff – None

City Attorney – None

b) Authority Members – None

c) Chairperson – None

16. ADJOURNMENT – There being no further business, Chairperson Bradish adjourned the meeting at 7:48 p.m. on September 8, 2010.



Richelle Work

Deputy City Clerk/Recording Secretary