

***City of Littleton***

**Minutes of Proceeding**

**Littleton Licensing Authority**

**December 14, 2011**

The Littleton Licensing Authority met in a regular session on Wednesday, December 14, 2011 at the Littleton City Center, 2255 West Berry Avenue, Littleton, Colorado.

**THOSE PRESENT:** Bill Bradish – Authority Member  
Susan Price - Authority Member  
Donovan O’Dell - Authority Member  
Andrew Cole - Authority Member  
Ann Mather – Authority Member

**THOSE ABSENT:** Earl Gunia – Authority Member  
Christopher Forrest – Authority Member

**ALSO PRESENT:** Tricia McCarthy – Prosecuting Attorney  
Michael Penny – City Manager  
Richelle Work - Deputy City Clerk  
Kim Ferber – Police Lieutenant  
Cindy Mitchell – 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, five members were present. Authority Members Gunia and Forrest were absent. A quorum was declared. The following business was transacted.

**3. MINUTES**

**(a) Minutes of Regular Meeting November 9, 2011**

**Action: Approved as submitted**

It was moved by AUTHORITY MEMBER COLE, seconded by AUTHORITY MEMBER O’DELL TO APPROVE THE MINUTES AS SUBMITTED.

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

Nays: None

Absent: Authority Members Gunia and Forrest

**MOTION CARRIED: 5 to 0**

Authority Member O’Dell discussed how the Authority was directed by City Council to deal with stipulations and preliminary hearings. He is proposing to amend the agenda to include a short discussion regarding previous discussions with Council.

It was moved by AUTHORITY MEMBER O'DELL, seconded by AUTHORITY MEMBER PRICE TO AMEND THE AGENDA TO ALLOW THIS DISCUSSION.

Ayes: Authority Members Price, O'Dell, Cole, and Mather

Nays: Authority Member Bradish

Absent: Authority Members Gunia and Forrest

MOTION CARRIED: 4 to 1

Authority Member O'Dell stated that this issue came before the Authority in Spring 2010. There was a discussion among the Authority and they had a special meeting with City Council. The bottom line was that the Authority and Council agreed that the Authority would not accept stipulations.

Authority Member Price agreed and stated that this was regarding written stipulations and preliminary hearings. At that time, City Council said "if it wasn't broke, don't fix it." They indicated that the board would proceed as they had been and would not be having preliminary hearings.

Authority Member O'Dell distinctly remembered that at the Licensing Authority meeting held after the meeting with Council, he raised the question to the board if they wanted to have preliminary hearings. The Authority agreed that they did not want to have preliminary hearings.

Michael Penny, City Manager stated that neither he nor the Prosecuting Attorney was at those meetings, but there was no formal action taken, and went further to say that Council does not have the authority to limit stipulations on behalf of the city attorney. It is a standard practice to propose stipulations and the board can deny or accept them. As a procedural matter, think of it as a staff recommendation, similar to a recommendation that is given to Council. City Council or a board have no binding requirement to accept it, but should discuss whether to accept the recommendation. From a procedural standpoint, the board can deny the stipulation and set it for a full hearing. If the city attorney feels it is the way to go, they will make that recommendation. He is ready to have a conversation with the board about the process and make sure it is clear to the Authority of their role and the role of staff. It is unfortunate that a liquor license renewal is caught up in these procedural issues and it should be separated. He recommends that the Authority accept the agenda, make a decision on the facts presented, and then in the near future talk about procedural issues.

Authority Members stressed that they felt that the direction given by City Council was to not accept stipulations nor have preliminary hearings.

Authority Member Price stated that she went back and watched all those meetings and it was clear and it would have been nice to have the discussion before tonight. She does not think there should be a preliminary hearing tonight and it should be a show cause hearing.

It was moved by AUTHORITY MEMBER PRICE, seconded by AUTHORITY MEMBER BRADISH TO AMEND THE AGENDA AND TAKE OUT THE PRELIMINARY HEARING AND CHANGE TO SHOW CAUSE HEARING WITH A RECOMMENDED STIPULATION.

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

Nays: None

Absent: Authority Members Gunia and Forrest

MOTION CARRIED: 5 to 0

Authority Members said they want to have a discussion regarding procedures with staff and the City Manager.

Authority Member Price expressed concern about the timeliness of the stipulation and that getting it one day before the scheduled hearing was not acceptable.

Attorney McCarthy stated that she was not given authority to go forward with a stipulation until after Thanksgiving and worked with Attorney Beimford to get it done.

Attorney Beimford apologized and stated that his wife was in the hospital and he was not able to get it done sooner.

City Manager Penny stated that Attorney Crawford gave City Council a memo advising them that staff would be bringing a stipulation to the Authority and none of the Council indicated any concern about proceeding in that manner.

**4. AGENDA**

**Action: Approved as amended**

**5. SETTING NEIGHBORHOOD BOUNDARIES AND SCHEDULING APPLICATION HEARINGS – None**

**6. CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS FOR 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** - None
11. **MEDICAL MARIJUANA DISPENSARY LICENSE APPLICATION HEARINGS** - None
12. **SHOW CAUSE HEARINGS FOR LIQUOR LICENSES** - PRELIMINARY HEARING - AMENDED TO SHOW CAUSE HEARING WITH RECOMMENDED STIPULATION
- a) TAVERN LITTLETON, INC.  
DBA: TAVERN LITTLETON  
2589 WEST MAIN STREET

Authority Chairperson Bradish stated this was for a Show Cause Hearing on Police Liquor Renewal report dated August 12, 2011.

Attorney McCarthy presented the proposed stipulation to the Authority and it was marked as Exhibit A. She proposed that the license be renewed with conditions A-L, as listed in the stipulation. The items must be completed in a timely fashion and she recommended that a review be set in approximately one month to see if the items have been completed. She read the proposed stipulation and conditions into the record.

Authority Member Bradish asked about police incidents reports subsequent to the incidents in the renewal report.

Attorney McCarthy stated that Attorney Crawford handled this issue with a memo indicating that no issues would be relevant at this particular hearing.

Authority Member Price stated that in considering mitigation on a renewal with conditions, subsequent reports should be available and the board was told at the probable cause hearing that they would get those reports.

Attorney McCarthy stated that the city attorney's position on the subject is that she does not feel it is relevant and sent a memo to the Authority with her position. The licensee indicated they have taken measures and they would be bound from this point forward to comply with the conditions of the stipulation. Other incidents do not show whether they are or are not operating in a proper manner. Part of what the board does not see is all the incidents that happen at establishments, because they do not indicate whether the establishment is being operated properly. They are required to call police when something happens.

Authority Member Price questioned how they are supposed to gauge what they have done if they do not see the reports.

Attorney McCarthy stated they should take what is relevant from this point forward, whether there are other incidents is not relevant to see if they are doing a good job.

Authority Member Bradish stated that at this point, they must agree to disagree.

Authority Member Cole asked if it is appropriate for the board to ask the licensee if there have been any further violations.

Attorney McCarthy stated it is a legitimate question and they could address it with the licensee.

City Manager Penny stated they can ask the applicant about further violations and that he understands the frustration on the timing.

Authority Member Price stated that she is frustrated and she stated back in October that she does not want to be facing just renewal or non-renewal and wants to have other choices as a penalty.

Attorney McCarthy stated that in October she was asked for the possible outcomes of a show cause hearing and possible sanctions. She told them that that they could decide to deny the renewal, approve the renewal, or approve the renewal with conditions and/or penalties. At this point, we are not at the end of a show cause hearing. She is presenting a stipulation. If you want to accept it, then you can. If you do not want to accept it, then it would be set for show cause hearing, then there are sanctions that could be imposed.

Authority Member Price does not know how to look at the renewal without the subsequent reports.

Authority Member Bradish stated that back in October, Attorney Beimford made the comment that the board could renew the license any time and then proceed with the issue of suspension or revocation later. He would like to listen to the Tavern make their presentation, ask questions, then a vote on the stipulation. It bothers him that this has been an issue since July, and should have addressed the renewal then and not held it up because of other things.

James Beimford, attorney for licensee, spoke to the Authority. He stated he has three people from the downtown area, the owner and the manager of the Tavern, who all wish to speak. The issue on renewal is whether this is a good bar or bad bar. An incident report can be anything. The requirement placed on the licensee is to call the police. In the first few months, the Tavern had 70,000 people come in. He is not aware of any subsequent reports with violations, but they are required to call the police for any incident.

Authority Member Price asked about business hours.

Frank Schultz stated they were open until 1:30 a.m. on weekends and midnight on weeknights.

Greg Reinke, 5663 South Prince St. Mr. Reinke stated that he has been in business in Littleton since 1999. The Tavern has brought a lot of business into the city. He goes to the Tavern regularly and he sees a lot that goes on there. The Tavern runs one of the most professional places in Littleton. They have bouncers and handle things quickly. His business is just across the street and he is there late at night and early in the morning. He sees no evidence that the Tavern has negatively affected the neighborhood.

Authority Member O'Dell stated that Mr. Reinke is the President of the Historic Downtown Littleton Merchants Association and his goal is to see that downtown is prosperous, and the merchants make money. He asked if Mr. Reinke realizes that the Tavern will stipulate that these things did happen if their license is renewed.

Mr. Reinke stated that his goal is to provide an economic base to increase income for businesses, with a safe, happy, wonderful place. He stated that the previous bars downtown had many problems.

Authority Member Price stated that the problems have all been between midnight and 1:30 a.m.

Mr. Reinke stated that the crowd at that time is mainly 21-30 years old, well dressed, and the same people that come to his establishment. He stated the crowd is well behaved and he would not be embarrassed to take his children there late at night. He thinks there are several hundred people there on a Friday or Saturday.

Attorney Beimford stated that the stipulation does not say that a violation occurred, but there is a risk that the board might find there was one if going to a show cause hearing.

Authority Member O'Dell corrected his statement.

Nick Gulotta, employee at Opus Restaurant. Opus is located next to the Tavern Littleton. He stated he has been around downtown Littleton for 17 years working at several different places. He has not seen any activity at the Tavern that negatively affects the safety of the neighborhood. It is a clean, professional operation. He has seen no fights. The Opus closes earlier, but staff is there cleaning up late at night and he has not seen anything happening. Opus operates for lunch and dinner and takes reservations up to 10 p.m.. Diners are there up to two hours past that, so they are in the restaurant until past midnight.

Kal Murib. Mr. Murib stated he has been in business on Main Street since 1980, starting with a vacuum cleaner store. There used to be no businesses on the weekend. He has brought five restaurants to Littleton with liquor licenses. He read a statement about The Tavern. He has not seen nor experienced any adverse incidents. The Tavern has shown they are a positive, safe, courteous minded business.

Frank Schultz, owner. Mr. Schultz stated that the first Tavern restaurant started in 1997. They currently have six taverns and two nightclubs in Colorado. They employ over 500

people at their restaurants. The Littleton location is his #2 business of all the locations. When they first opened, it was a little overwhelming. They have made adjustments and pulled in more help. The company averages 55% liquor to 45% food. Lunch is usually local business people, happy hour is generally neighbors and businesses, dinnertime is usually families, and then nighttime is from all over the area and is a younger crowd. The volume in the first three months has died off and they have made some changes and have discouraged certain types of people from coming back. There is a dress code in place and after 9 p.m., there are no hats allowed and pants must be above the waist. They have ladies night and happy hour. They have adjusted the ladies night to limit specials to make them a little less attractive and help clear away some of the trouble guests. He contacted Chief Coogan for a meeting to discuss how to fix everything several months ago. They sent in a plan to the police and they have already done almost everything in the stipulation, except signage posting. They have purchased ID scanners and they have been in use for about one month. They asked Littleton Police if they could hire an off-duty officer, but were not allowed to do that. They have increased the number of security people that roam around the establishment and police are coming through and doing bar checks regularly. He discussed how they handle situations and they should call the police on incidents. They have only had one violation in the last 15 years at all their establishments.

Authority Member Cole stated that when the board asks for incident reports; they are able to look at what happened and know that not everything in the reports is a violation. The board is trying to do due diligence to understand the totality of the situation. He asked Mr. Schultz to explain their policy on over serving.

Mr. Schultz stated that all managers and servers have to be TIPS certified. They have hired a company to train their employees. Over serving is a judgment call. If an employee over serves, they are written up. The third write-up usually ends in termination.

Authority Member Bradish asked about the rules of conduct.

Mr. Schultz stated that the code of conduct is going to be developed as part of the stipulation.

Authority Member Bradish stated that he feels this is going the extra mile and is kind of a gutsy thing.

Mr. Schultz stated they have a policy manual of about 150 pages that each employee has to read and sign. There is a big section in there regarding over serving.

Authority Member Price stated that when they applied for their license they stated they would only be open until midnight every night.

Mr. Schultz stated he does not remember saying that would be the hours. He said they would not limit the hours until midnight, as this is an important piece of business. It is not an option to be successful if closing at midnight. They have a presence at the front, the rear and inside the restaurant at closing time. Food is always available, but the full menu kitchen closes at midnight.

Authority Member Price stated that on the report of a drunken underage person, when police asked the servers, they said they had no idea if she was served by bar staff or if friends gave her the alcohol. How will you protect against that in the future?

Mr. Schultz stated that they have trained staff and increased presence on the floor to watch to see if people are giving other people drinks. They would not let someone in that is visibly intoxicated and would not let staff over serve. They watch to see if other people are giving alcohol to another person. Increased presence on the floor will make sure that does not happen again.

Authority Member Bradish stated that the bar is responsible for that one way or the other, no matter who gave the person the alcohol.

Kevin Pritchard, manager for three years. He stated that they take pride in their management team. He stated he is there late into the night on most nights.

Authority Member Bradish stated that the board is less concerned with incidents in the past, but with what they will be doing from this point forward.

Mr. Pritchard explained that Ladies night is Thursday from 9 p.m. to midnight. Originally, it was from 9 p.m. to 1 a.m. During Ladies Night, all ladies drink for free for a period of time with limited drink types. Each person must come to the bar to get a drink and the bartender can only give one drink per person. Overall, the purpose of ladies night is to draw ladies into the establishment, which draws men into the establishment.

Authority Member Cole asked about the August 12 incident.

Mr. Pritchard stated he was issued a citation and it is still pending in court. He stated that one young lady in the group was turning 21 at midnight. He asked the group to stay outside until 12:05 until she was officially 21. The people did not appear to be intoxicated. The group of six people entered at 12:10 a.m. He was informed 20 minutes later that the young lady needed assistance in the restroom. He assessed her condition and escorted her out of area. He took her to an elevator to get downstairs, get fresh air, and assess her condition. When he walked her out the back door, the police were there and called for a medic unit. The group was only there for 40 minutes and did not appear to be intoxicated when they entered. Her friends said they gave her the drinks. The new policy of having more staff watching on the floor should help alleviate that problem in the future.

Authority Member Mather asked about training.

Mr. Pritchard stated that before the restaurant opened, all employees had to go through an in-depth training period of three weeks to educate them on the policies, TIPS training, alcohol service, and products. They now have a 5-day training period for all new employees. They are tested and quizzed each day. Depending on the offense, management always does a write-up to have a paper trail, but some are considered a warning and some are a reprimand. Reprimands are more serious, full write-ups show what they violated and



the employee is given coaching on how to not do the same thing again. There are two managers on all weekend nights.

Authority Member Price asked about the policy on calling the police.

Mr. Pritchard stated that the Police Department told them that they should call the police whenever they were uncomfortable about a situation or if they felt that a police presence might be warranted. Police have been doing walk-throughs regularly.

Attorney Beimford gave a brief summation and asked that the stipulation be approved. He stated that they should be able to get the remaining conditions in place by mid-January.

Authority Member O'Dell stated he is going to vote no on the stipulation, as he does not believe the board should be micromanaging and does not feel the conditions should be placed on the business.

Authority Member Bradish stated that he is persuaded by Mr. Schultz and the witness testimony. The Tavern is good for Littleton. He knows they are going to succeed, has been there, and thinks it is a good establishment. He believes that it makes no sense to the city to deny the renewal. He has heard everything he needs to hear and feels there is no benefit in having another hearing.

Authority Member Cole stated that practically, there was an incident, which seems to be a violation. That said, he thinks that if anyone else came in here, the board would suspend the license and hold the suspension in abeyance for a year. This stipulation serves the same purpose.

Authority Member Price stated that she agrees that the board should not micromanage. She feels that after looking back at the original liquor license hearing, it was for a very different type of establishment than it is now. She does not want to make decision as to dress code, etc., as the board's job is to make sure there are no violations.

Authority Member Bradish does not see the micromanaging part. They have a list of actions that the licensee will take to conduct business in a manner that is appropriate. The board is not going to go line-by-line and make sure they are doing those. The purpose of listing the conditions is to show that licensee is serious about the management of the establishment.

Authority Member Price stated that they are part of the order.

Attorney McCarthy stated that the board could choose to accept or not accept the stipulation, and if not, go to a show cause hearing in January. The intent is not to micromanage, but that they do as prescribed.

Authority Member Cole does not want this business to suffer because of procedural issues.

Authority Member O'Dell asked if the police would walk in and make sure that the music is appropriate, etc.

Authority Member Cole stated that if the problem is the specifics, the establishment has already taken those steps because of their meeting with the police. It has already happened, whether the board orders it or not.

Authority Member O'Dell asked Attorney McCarthy if the stipulation is a legal document once signed.

Attorney McCarthy stated that it is a legal document.

It was moved by AUTHORITY MEMBER BRADISH, seconded y AUTHORITY MEMBER COLE THAT THE AUTHORITY ACCEPT THE STIPULATION AND RENEW THE LIQUOR LICENSE FOR TAVERN LITTLETON INC., DBA: TAVERN LITTLETON, 2589 WEST MAIN STREET, WITH CONDITIONS AS STATED IN THE STIPULATION.

Ayes: Authority Members Bradish, Cole, and Mather

Nays: Authority Member Price and O'Dell

Absent: Authority Members Gunia and Forrest

MOTION CARRIED: 3 to 2

13. **SHOW CAUSE HEARINGS FOR MEDICAL MARIJUANA DISPENSARIES** - None

14. **GENERAL BUSINESS** - None

15. **REPORTS**

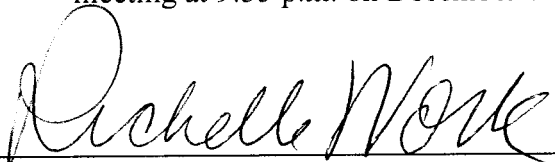
a) **Staff** – City Manager Penny stated that he would speak with Chief Coogan regarding off-duty officers at the Tavern and will follow-up with the Authority.

b) **City Attorney** – None

c) **Authority Members** – Authority Member O'Dell stated he was looking forward to sitting down for a discussion on procedures.

d) **Chairperson** - None

16. **ADJOURNMENT** – There being no further business, Chairperson Bradish adjourned the meeting at 9:35 p.m. on December 14, 2011.



Richelle Work

Deputy City Clerk/Recording Secretary