



LOCAL LICENSING AUTHORITY

Minutes
February 3, 2016

ROLL CALL

The Regular Meeting of the Broomfield Local Licensing Authority was called to order by Chairperson Claussen at 5:32 p.m. on February 3, 2016, in the Council Chambers of the George Di Ciero City and County Building.

Present: Mr. Ken Claussen
Councilmember Martha Derda, Alternate
Mr. Leon Murray
Councilmember Mike Shelton

Absent: Councilmember David Beacom
Mr. Nolan Garrido, Alternate

Also present were: Deputy City and County Attorney Pat Gilbert
Assistant City and County Attorney Karl Frundt
Records and Licensing Administrator / Deputy Clerk Tricia Kegerreis

DISPOSITION OF MINUTES

- (a) Minutes of the Regular Meeting of January 6, 2016.

There being no corrections or additions, the Minutes of the Regular Meeting of January 6, 2016, were approved as submitted.

LOCAL LICENSING AUTHORITY BUSINESS

- (a) Irwin Beverage Incorporated d/b/a Beverage Werks Beer Wine Spirits – Retail Liquor Store – Request for a Tastings Permit

Irwin Beverage Incorporated d/b/a Beverage Werks Beer Wine Spirits, 1285 East 1st Avenue, #A, has applied for a Tastings Permit. John Irwin, Owner, was present on behalf of the applicant. In response to Authority Member questions, Mr. Irwin stated that although the Control Plan was simple, he understood the tastings rules as well as all of the employees, who have been through TIPS and Broomfield Police Department alcohol training. There will be a briefing of all employees before each tastings. Any change to the regular Friday tastings day will be reported to the Police Department, and tastings will be confined to the back of the store.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER DERDA SECONDED THAT THE LOCAL LICENSING AUTHORITY APPROVE A TASTINGS PERMIT FOR THE RETAIL LIQUOR STORE LICENSE OF IRWIN BEVERAGE INCORPORATED DBA BEVERAGE WERKS BEER WINE SPIRITS. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

- (b) Modmarket, LLC d/b/a Modern Market – Application for a Beer & Wine License

Deputy City and County Attorney Pat Gilbert presented the Staff summary, stating that all that is necessary at this point is to note receipt of the application, establish the neighborhood boundaries, and set a

date and time for the hearing. The suggested neighborhood boundary is the area within a radius of one mile from the premises proposed for the license.

Rob McColgan, Manager, gave Max Scott, Oedipus, Inc., and Wyatt Williams, who will be the registered manager, authority to appear on behalf of the Applicant. Mr. Scott agreed to the proposed one-mile neighborhood boundary.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER SHELTON SECONDED THAT THE LOCAL LICENSING AUTHORITY NOTE RECEIPT OF THE APPLICATION FOR A BEER AND WINE LICENSE AT 4800 W. 121ST AVENUE, UNIT 1; THAT THE LOCAL LICENSING AUTHORITY SET A PUBLIC HEARING ON SAID APPLICATION FOR 5:30 P.M. ON MARCH 2, 2016, TO BE HELD IN THE CITY COUNCIL CHAMBERS OF THE GEORGE DI CIERO CITY AND COUNTY BUILDING; AND THAT THE LOCAL LICENSING AUTHORITY ESTABLISH THE NEIGHBORHOOD BOUNDARIES FOR THE SUBJECT APPLICATION AS THE AREA WITHIN A RADIUS OF ONE MILE FROM THE APPLICANT'S PROPOSED LOCATION. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

- (c) G. Sidhu, Inc. and 7-Eleven, Inc. d/b/a Seven Eleven Store #35336A – Show Cause Hearing Re: Alleged Violation of Colorado Revised Statute 12-47-901(5)(a)(I) and BMC 9-64-010

Chairperson Claussen advised that at the January 6, 2016, meeting, the Authority received a report from the Broomfield City Prosecutor alleging violations of the Colorado State Liquor Code and the Broomfield Municipal Code by the Licensee on December 11, 2015. The Authority issued a Show Cause Order stating there was probable cause to believe the Licensee had violated: C.R.S. §12-47-901(5)(a)(I) which provides that it is unlawful for any person to sell at retail an alcohol beverage to any person under the age of twenty-one years and Broomfield Municipal Code Section 9-64-010 which provides that it is unlawful for any person to sell, serve, give away, dispose of, exchange, deliver, or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person under the age of twenty-one years. The Local Licensing Authority set the Show Cause Hearing for February 3, 2016, at 5:30 p.m. The purpose of the hearing is to determine whether the Licensee is in violation of the Colorado State Liquor Code and/or the Broomfield Municipal Code for an offense for which the Authority may take action against the Licensee, and whether any action is to be taken against the Licensee.

Karl Frundt, Broomfield Municipal Prosecutor, provided a status update and advised that a Stipulation had been reached with the Licensee whereby the Licensee admitted to violations of C.R.S. §12-47-901(5)(a)(I) and B.M.C. Section 9-64-010, having occurred December 11, 2015. Based on the Stipulation entered by the Licensee, a Findings and Decision imposing a suspension of ten days with six days to be held in abeyance until December 10, 2016, and the Licensee is to serve a four-day suspension. Because this is a convenience store, the store will not be closed, but will be prohibited from selling alcohol for those four days. There was one previous violation for this licensee on December 20, 2013.

Harpreet Sidhu, representative for Gurpreet Sidhu, Owner, and Auneet Singh, Store Manager, were present on behalf of the Licensee. In response to Authority questions, Mr. Sidhu explained the circumstances surrounding the violation and noted that if this employee experiences another violation, he will be fired.

In response to Authority Member questions, Attorney Frundt explained that the six days of the suspension held in abeyance would be served if the Licensee were to have another violation before December 10, 2016. He also responded that historically, the Authority's preference has been for the Licensee to serve suspended days, consecutively. In the past, the Authority has allowed liquor stores to split the days, serving two days at a time, since liquor stores have to close entirely; but, this is a convenience store and will not close and can make other sales, except for alcohol during the four-day suspension. Attorney Frundt stated the Authority should choose the suspension dates to be served, which should be within the next 60 days. Attorney Frundt stated that the employee admitted guilt to the violation in Municipal Court.

After discussion, the Authority chose February 22 through February 25 as the dates for the Licensee to serve the suspension.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER DERDA SECONDED THAT THE PROPOSED FINDINGS BE ADOPTED, AS STIPULATED; AND THAT THE SHOW CAUSE HEARING IN THIS MATTER SCHEDULED FOR 5:30 P.M., FEBRUARY 3, 2016, BE VACATED; AND THAT THE FOUR DAYS SUSPENSION WILL BE SERVED ON FEBRUARY 22, 23, 24, AND 25, 2016. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS, CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER SHELTON SECONDED, THAT THE LOCAL LICENSING AUTHORITY IMPOSE A SUSPENSION OF TEN DAYS, WITH SIX DAYS TO BE HELD IN ABEYANCE IF NO FURTHER VIOLATIONS OCCUR ON OR BEFORE DECEMBER 10, 2016; IN ACCORDANCE WITH STATE STATUTES; AND LICENSEE WILL PROVIDE DOCUMENTATION REGARDING TRAINING COMPLETED BY EMPLOYEES. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS, CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

- (d) N & S Inc. d/b/a Liquorville – Show Cause Hearing Re: Alleged Violation of Colorado Revised Statute 12-47-901(5)(a)(I) and BMC 9-64-010

Chairperson Clausen advised that at the January 6, 2016, meeting the Authority received a report from the Broomfield City Prosecutor alleging violations of the Colorado State Liquor Code and the Broomfield Municipal Code by the Licensee on December 11, 2015. The Authority issued a Show Cause Order stating there was probable cause to believe the Licensee had violated: C.R.S. §12-47-901(5)(a)(I) which provides that it is unlawful for any person to sell at retail an alcohol beverage to any person under the age of twenty-one years and Section 9-64-010 of the Broomfield Municipal Code (B.M.C.) which provides that it is unlawful for any person to sell, serve, give away, dispose of, exchange, deliver, or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person under the age of twenty-one years. The Local Licensing Authority set the Show Cause Hearing for February 3, 2016, at 5:30 p.m. The purpose of the hearing is to determine whether the Licensee is in violation of the Colorado State Liquor Code for an offense for which the Authority may take action against the Licensee, and whether any action is to be taken against the Licensee.

Karl Frundt, Broomfield Municipal Prosecutor, provided a status update and advised that a stipulation for penalty had been reached with the Licensee, which includes a suspension of seven days, with four days to be held in abeyance for one year, and payment of a fine in lieu of three days suspension. In addition, the Licensee is required to provide proof that all current employees who are involved with the sale of alcoholic beverages have completed either the Broomfield Police Department's alcohol servers training class or an equivalent program allowed by the Authority.

Alla Sawaged, Owner, was present on behalf of the Licensee.

There were no questions from the Authority or the Municipal Prosecutor.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER SHELTON SECONDED THAT THE PROPOSED FINDINGS BE ADOPTED, AS STIPULATED; AND THAT THE SHOW CAUSE HEARING IN THIS MATTER SCHEDULED FOR 5:30 P.M., FEBRUARY 3, 2016, BE VACATED. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS, CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER SHELTON SECONDED, THAT THE LOCAL LICENSING AUTHORITY IMPOSE A SUSPENSION OF SEVEN DAYS, WITH FOUR DAYS TO BE HELD IN ABEYANCE IF NO FURTHER

VIOLETIONS OCCUR ON OR BEFORE DECEMBER 10, 2016; AND PAYMENT OF A FINE IN LIEU OF THE THREE DAYS SUSPENSION IN ACCORDANCE WITH STATE STATUTES; AND LICENSEE WILL PROVIDE DOCUMENTATION REGARDING TRAINING COMPLETED BY EMPLOYEES. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS, CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

- (e) Quail Creek Wine & Spirits, Inc. d/b/a Quail Creek Wine & Spirits – Show Cause Hearing Re: Alleged Violation of Colorado Revised Statute 12-47-901(5)(a)(I) and BMC 9-64-010

Chairperson Claussen advised that at the January 6, 2016, meeting the Authority received a report from the Broomfield City Prosecutor alleging violations of the Colorado State Liquor Code and the Broomfield Municipal Code by the Licensee on December 11, 2015. The Authority issued a Show Cause Order stating there was probable cause to believe the Licensee had violated: C.R.S. §12-47-901(5)(a)(I) which provides that it is unlawful for any person to sell at retail an alcohol beverage to any person under the age of twenty-one years and Section 9-64-010 of the Broomfield Municipal Code (B.M.C.) which provides that it is unlawful for any person to sell, serve, give away, dispose of, exchange, deliver, or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person under the age of twenty-one years. The Local Licensing Authority set the Show Cause Hearing for February 3, 2016, at 5:30 p.m. The purpose of the hearing is to determine whether the Licensee is in violation of the Colorado State Liquor Code and/or the Broomfield Municipal Code for an offense for which the Authority may take action against the Licensee, and whether any action is to be taken against the Licensee.

Karl Frundt, Broomfield Municipal Prosecutor, provided a status update and advised that a stipulation for penalty had been reached with the Licensee, which includes a suspension of seven days, with three days to be held in abeyance until December 10, 2016, and payment of a fine in lieu of four days suspension in accordance with State statute. In addition, the Licensee is required to provide proof that all current employees who are involved with the sale of alcoholic beverages have completed either the Broomfield Police Department's alcohol servers training class or an equivalent program allowed by the Authority. This Licensee has been pro-active about this violation. This Licensee had a previous violation five years ago.

Barry Bartling, Store Manager, was present on behalf of the Licensee. In response to Authority questions, Mr. Bartling reviewed the circumstances of the violation and stated that employees would be attending training classes.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER SHELTON SECONDED THAT THE PROPOSED FINDINGS BE ADOPTED, AS STIPULATED; AND THAT THE SHOW CAUSE HEARING IN THIS MATTER SCHEDULED FOR 5:30 P.M., FEBRUARY 3, 2016, BE VACATED. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS, CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER SHELTON SECONDED, THAT THE LOCAL LICENSING AUTHORITY IMPOSE A SUSPENSION OF SEVEN DAYS, WITH THREE DAYS TO BE HELD IN ABEYANCE IF NO FURTHER VIOLATIONS OCCUR ON OR BEFORE DECEMBER 10, 2016; AND PAYMENT OF A FINE IN LIEU OF FOUR DAYS SUSPENSION IN ACCORDANCE WITH STATE STATUTES; AND LICENSEE WILL PROVIDE DOCUMENTATION REGARDING TRAINING COMPLETED BY EMPLOYEES. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS, CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

- (f) CST Metro, LLC d/b/a Corner Store #1129 – Show Cause Hearing Re: Alleged Violation of Colorado Revised Statute 12-47-901(5)(a)(I) and BMC 9-64-010

Chairperson Claussen advised that at the January 6, 2016, meeting the Authority received a report from the Broomfield City Prosecutor alleging violations of the Colorado State Liquor Code and the Broomfield Municipal Code by the Licensee on December 11, 2015. The Authority issued a Show Cause Order stating there was probable cause that a violation had occurred. The Local Licensing Authority set the

Show Cause Hearing for February 3, 2016, at 5:30 p.m. The purpose of the hearing is to determine whether the Licensee is in violation of the Colorado State Liquor Code and/or the Broomfield Municipal Code for an offense for which the Authority may take action against the Licensee, and whether any action is to be taken against the Licensee.

The Licensee has requested that the Show Cause hearing to be continued until March 2, 2016 due to a scheduling conflict on the part of the law firm retained by the Licensee. The City Attorney's office had no objection to the request.

There were no Authority Member questions.

AUTHORITY MEMBER MURRAY MOVED AND AUTHORITY MEMBER SHELTON SECONDED, THAT THE LOCAL LICENSING AUTHORITY CONTINUE THE SHOW CAUSE HEARING TO THE AUTHORITY'S NEXT REGULAR MEETING SCHEDULED FOR MARCH 2, 2016 AT 5:30 P.M. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS, CLAUSSEN, DERDA, MURRAY, AND SHELTON VOTING AYE.

PETITIONS AND COMMUNICATIONS

- (a) Wal-Mart Stores, Inc. d/b/a Wal-Mart #5341 and Wal-Mart Store #4288 – Change of Corporate Structure – 3.2% Beer License (Off-Premises)

There were no questions by the Authority.

The Authority acknowledged receipt of the notice of Change of Corporate Structure. No motion by the Authority was required.

POLICE DEPARTMENT REPORT

No report was given.

CITY & COUNTY ATTORNEY'S REPORT

- (a) History of Violations and Penalties Imposed – Report
- (b) Notices regarding State Applications for Colorado Liquor Sales Rooms - Legislative Change

Deputy City and County Attorney Gilbert distributed information and advised the Authority that the State is providing notice to the local jurisdictions regarding Liquor Sales Rooms. The Authority Members suggested that this be discussed at the next meeting if there are any questions.

ADJOURNMENT

The meeting was adjourned at 6:22 p.m.

APPROVAL

Minutes Prepared by Tricia Kegeneb
Deputy City and County Clerk

Approved by Kyu Clausen
Chairperson