

**LIQUOR AND BEER MEETING
LOCAL LICENSING AUTHORITY
CITY OF GRAND JUNCTION, COLORADO
MUNICIPAL HEARING ROOM, CITY HALL, 250 NORTH 5TH STREET**

MINUTES

WEDNESDAY, MAY 22, 2013, 2:00 P.M.

HEARING OFFICER MICHAEL GRATTAN

I. CALL TO ORDER

Hearing Officer Grattan convened the meeting at 2:00 p.m. Those present were City Attorney John Shaver and Deputy City Clerk Juanita Peterson. Hearing Officer Grattan recognized the others in attendance which were Mr. Ed Crilly, with the Elks, Mr. Don Byrd, the Event Manager, Mr. Howard Carroll with Mr. Byrd, Mr. Brent Jagger, with Citadel Security, and Commander Matt Smith with the Grand Junction Police Department.

II. APPLICATION FOR A SPECIAL EVENTS PERMIT

1. Grand Junction Elks Home Association, 249 S. 4th Street, Grand Junction, CO 81501 "Grand Valley Rally" June 7, 2013 from 9:00 a.m. to 10:00 p.m., June 8, 2013 from 9:00 a.m. to midnight, and June 9, 2013 from 9:00 a.m. to 3:00 p.m., at 515 S. 7th Street, Malt, Vinous, and Spirituous – **Continued from May 15, 2013**

Secretary of Org.: Edward W. Crilly, 511 Crawford Ln., Palisade, CO 81526
Event Manager: Don Byrd, 214 W. N. 1st, Montrose, CO 81401

Hearing Officer Grattan explained this would be more of an open dialog since it was only this one item and there were several concerns unanswered at the last meeting.

Hearing Officer Grattan started with Commander Matt Smith. Commander Smith said that he spoke with Patrol Commander Martinez and that he and Mr. Byrd met. There are still concerns regarding the number of people and that the event is driven by having motorcycles and alcohol and the crowd it attract. Commander Smith named several motorcycle groups and the potential of the event spilling out into the community.

Mr. Byrd addressed the issue of the motorcycle groups and that he has visited with several of them and several of the groups of concern do not typically cause any issues in a public venue. Mr. Byrd hoped that there would be enough interest in things going on at the event to keep people in attendance.

Commander Smith said that still after the event they would be going out into the community to the bars and there would still be issues. Mr. Byrd agreed.

Mr. Brent Jagger with Citadel Security gave a brief history of the background of the company, events they have done, and the philosophy on how the event will go from their history. He explained the number of security they will have at the event along with himself, the owner, and his partner.

City Attorney Shaver asked if his security will be armed. Mr. Jagger said they can be, but he doesn't think they will need it for this event. The venue can be enjoyable and fun and they will focus on positive policing. City Attorney Shaver asked Mr. Jagger who he was contracted with. Mr. Jagger said The Grand Valley Rally, but he will meet with all parties involved in this event.

Hearing Officer Grattan said he believes this to be a long event and asked how much security Mr. Jagger was anticipating. Mr. Jagger said to start with 4 plus himself and his partner and they monitor the event the entire time and would have additional staff available to dispatch if needed. He will be on site before the event to mitigate and evaluate. Mr. Jagger said he is very confident with his staff and gave a description of who, where, and what they will be looking for in the attendees.

City Attorney Shaver asked if Mr. Byrd had considered a charge or limiting the number of persons who can enter. Mr. Byrd said there will be a \$5 gate fee per day or \$10 for the whole event. They will limit entry to 2,000 at any one time. The 3,000 number was expected for the whole event. City Attorney Shaver asked about the site being paved. Mr. Byrd said yes, but not entirely, some is gravel. City Attorney Shaver's concern is the dust and noise the event might generate.

Commander Smith mentioned two motorcycle groups, the Mongols and the Outlaws which are both local and do not get along. Mr. Byrd said from his experience if it is a charity event, the Mongols do not show up. Mr. Byrd can understand about the "patch riders" but they also have doctors, lawyers, and others who are riders who will be attending this event.

Mr. Crilly said the Elks would like to amend the location on the diagram. They believe this would be a safer environment and in order for them to watch the events they would have to leave the beer garden. Hearing Officer Grattan asked Mr. Crilly to mark on the diagram marked Exhibit C the new area. Both City Attorney Shaver and Hearing Officer Grattan agreed this would be a better location for the beer garden.

The hearing recessed at 2:45 p.m.

The hearing reconvened at 2:50 p.m.

Hearing Officer Grattan explained to the audience that he took the break to see if there was any case law he could reference, this is a difficult one. He is working on three criteria and he is struggling with the "authority may deny the issuance of a special event permit upon the grounds that such issuance would be injurious to the public welfare by reason of the nature of the special event".

He has taken into consideration the position of the Police Department, the witnesses are all credible, the location within the community is good, and this is the first event of this type so there is no history.

Mr. Byrd handed Hearing Officer Grattan a schedule of events and entered into the record as Exhibit D. Mr. Byrd said there are numerous things to do other than sit and drink.

Hearing Officer Grattan said he wants to do a research on this to help guide him. Hearing Officer Grattan will have a written decision to the City Clerk's Office by Friday, May 24, 2013 at noon. Ms. Peterson will get his decision to all parties.

III. OTHER BUSINESS

There was none.

IV. ADJOURNMENT

The meeting was adjourned at 3:09 p.m.

NEXT REGULAR MEETING – June 5, 2013

See attached Decision on the Grand Valley Rally



SPECIAL EVENT PERMIT QUESTIONNAIRE AND AFFIDAVIT

1. Name of Event: GRAND VALLEY RALLY
2. How many attendees are expected at this event?
1000 - 3000
3. Has the event been held in the past? If so, how many years?
No
4. Have there ever been any violations or citations issued during the event in the past?
N/A
5. Describe the premises at which this event will take place.
EMPTY LOT PRIVATELY OWNED WITH APPROXIMATELY 6400 SQ FT
FENCED OFF FOR BEER TENT AT CORNER OF ALLEY & 6th ST
6. What type of security will be provided at this event?
LICENSED SECURITY PERSONEL WILL BE EMPLOYED
7. How many security personnel will be on hand?
3-5
8. How will security personnel be identified?
UNIFORMED WITH NAME AND TITLE, SECURITY EMBLAZONED
9. If this event is being held outdoors, how will the exterior boundaries of the premises be marked (i.e., roped, fenced, etc.)?
6th ST BOUNDRY IS PERMANENT FENCE. TEMPORARY FENCING
WILL BE ERECT AROUND AREA
10. What method will be used in checking identification for proper age of attendees (i.e., at the door, at the bar, etc.) and how will underage patrons be identified so as not to be served alcohol beverages (i.e., stamp or mark on the hand, etc.)
GOVERNMENT ISSUED PICTURE ID WILL BE USED FOR CHECKING
PROPER AGE AND WRIST BAND WILL BE APPLIED AFTER
VERIFICATION

11. How will the conduct and level of intoxication of attendees be monitored and by whom?
VOLUNTEER SERVERS ARE EDUCATED IN THE SIGNS OF INTOXICATION
-
12. Have the volunteers or members of your organization been trained in the sale/service of alcohol beverages?
YES -
-
13. What types of alternate beverages and food/snacks will be available?
WATER AND SODA PRODUCTS FOR ALTERNATE BEVERAGES -
VARIOUS FOOD VENDORS WITH BURGERS, HOT DOGS, ETC, PANCAKES.
14. Has a State and City Sales Tax Number been initiated by you or a member of your organization? If so, provide those numbers in the space provided.
CITY - 556486 STATE: 00401746-0000
-

I hereby certify, under penalty of perjury, that the information provided to the Grand Junction Liquor Licensing Authority contained in this affidavit is true and accurate to the best of my knowledge.

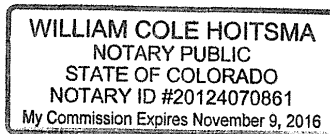
[Signature] Date 5/2/13
 Applicant's Signature

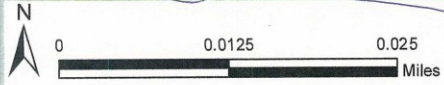
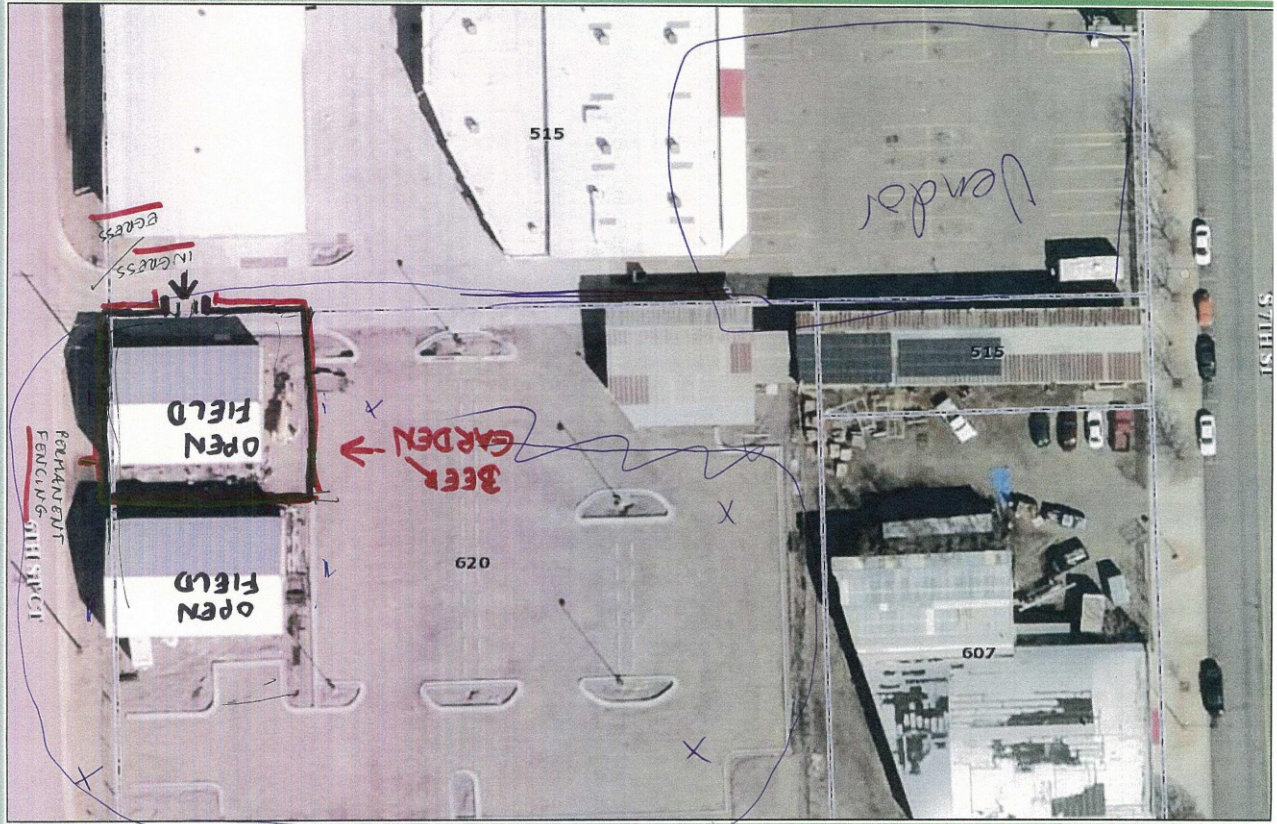
STATE OF COLORADO)
 COUNTY OF MESA) SS.
 CITY OF GRAND JUNCTION)

Subscribed and sworn to before me this 2nd day of May, 20 13.

Witness my hand and official seal.

[Signature] My commission expires 11-09-2016
 Notary Public



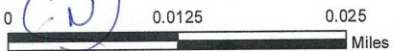


Printed: 4/27/2013

1 inch = 47 feet

City of Grand Junction

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Printed: 4/27/2013

1 inch = 47 feet



SCHEDULE OF EVENTS



THURSDAY Evening, June 6th 2013, 9pm - 9pm

- ⌘ Gates open to rally prep participants only.
- ⌘ On-site show bike & various registrations begin.
- ⌘ Overall staff & grounds preparations finalized.
- ⌘ Vendor check-in & set-up begins.
- ⌘ On-site & surrounding grounds security begins at 9pm through Sunday to approximately 6:30pm.

FRIDAY June 7th

6am - 9am: ⌘ Participants various registrations (6am until gates close at 10pm). Staff availability for this, from 6am until gates open at 9am, will be determined & scheduled on an "as needed" basis.

⌘ Vendor check-in & set-up (6am - 9pm). Vendor booths open for business at 9am. Closing down for the night begins at approximately 8pm (for vendors only).

⌘ Three grand valley biker rides (congregating at the grounds back door approximately 20 minutes before departure) are scheduled as follows;

1. All-day ride to Ouray and back departing at 9am.
2. Morning 1/2 day ride through Delta, over Grand Mesa, & back departing at 10am.
3. Afternoon 1/2 day ride through "the monument" departing at 12 noon.

9am - 10pm: ⌘ Gates on-site open at 9am to the general public (rally & GJ Flea market patrons).

⌘ Bounce house open all day. ⌘ On-site photographer all day. ⌘ Food, drink, & vendors available all day.

⌘ On-site activities scheduled as follows;

⌘ 10am-2pm RODEO (judging & photos). Two day rodeo events scheduled are as follows: Show & shine, Burn-out, Keg roll, Slow race, Balloon toss, Weenie bite, & Cone race.

⌘ 10am - 4pm Bikini bike wash ⌘ 10am - 6pm Music via DJ ⌘ 2pm - 6pm Tattoo competition (judging & photos)

⌘ 5pm - 6pm A blessing of the bikes ⌘ 6pm - 8pm Wet t-shirt contest on-stage, outside (judging & photos).

⌘ 6pm - 10pm Live band HOLLOW ⌘ Gates close at 10pm

⌘ Overnight security begins.

10pm-9am:

SATURDAY June 8th

9am - 10pm: ⌘ Gates on-site open at 9am to the general public (rally & GJ Flea market patrons).

⌘ Bounce house open all day. ⌘ On-site photographer all day. ⌘ Food, drink, & vendors available all day.

⌘ Three grand valley biker rides (congregating at the grounds back door approximately 20 minutes before departure) are scheduled as follows;

1. All-day ride to Ouray and back departing at 9am.
2. Morning 1/2 day ride through Delta, over Grand Mesa, & back departing at 10am.
3. The "Gateway Loop" also departing at 10am.

⌘ On-site activities scheduled as follows;

⌘ 9am - 11am Pancake breakfast (portion of the proceeds benefit a local charity "Biker Down"). ⌘ 9am - 6pm Show bikes on display (judging & photos).

⌘ 10am - 4pm Bikini bike wash ⌘ 10am - 6pm Music via DJ ⌘ 12pm - 2pm Tattoo competition (judging & photos)

⌘ 2pm - 4pm RODEO described above resumes (judging & photos) ⌘ 6pm - 8pm Wet t-shirt contest outside, on-stage (judging & photos)

⌘ 6pm - 10pm Live bands FLATHEAD REED & TANKQUERAY'S

8pm - 12am: ⌘ Vendors close for the night starting at 8pm ⌘ Gates close at approximately 12am ⌘ Overnight security begins at 12am

SUNDAY June 9th

9am - 6pm: ⌘ Gates on-site open at 9am to the general public (rally & GJ Flea market patrons).

⌘ Hooters girls available for autographs all day. ⌘ On-site photographer all day. ⌘ Bounce house open all day.

⌘ Food, drink, & vendors available all day. ⌘ Music via radio broadcast indoor & outdoor speakers all day.

⌘ On-site activities scheduled as follows;

⌘ 9am - 11am Pancake breakfast (portion of the proceeds benefit a local charity "Biker Down"). ⌘ 9am - 12pm Off-site scavenger hunt ride

⌘ 11am - 1pm Charity Auction ⌘ 1pm - 3pm Contest winners announced & prizes awarded

⌘ 3pm - 6pm Vendors disperse ⌘ Site clean-up by staff ⌘ Gates close at approximately 6pm

⌘ Security & staff released at approximately 6:45pm



LOCAL LICENSING AUTHORITY
CITY OF GRAND JUNCTION, COLORADO

IN RE:
APPLICATION FOR SPECIAL EVENTS PERMIT SUBMITTED BY GRAND JUNCTION
ELKS ASSOCIATION, 249 S. 4TH STREET, GRAND JUNCTION, CO 81501 FOR THE
“GRAND VALLEY RALLY”

This matter came before the Authority on May 15, 2013, as part of the Authority’s regular hearing calendar and was continued to May 22, 2013 at a special meeting of the Authority. On both May 15th and 22nd, Don Byrd and Edward W. Crilly appeared on behalf of the Applicant. On each occasion, Howard Terrell also attended the hearing in support of the application. At the May 22nd portion of the hearing, Brent Jagger appeared as a representative of Citadel Security which will supply security services for the event should the special events permit be granted. At each portion of the hearing, a representative of the Grand Junction Police Department (“GJPD”) spoke in opposition to the application. At the May 15th portion, that representative was Commander Andy Martinez; at the May 22nd portion, that representative was Commander Matt Smith. Each of the above-named individuals provided information to the Authority.

Location of Licensed Premises

At the May 22nd portion of the hearing, the Applicant altered the location of the licensed premises from those premises identified in Exhibit B to those premises identified in Exhibit C. The Police Department did not object to this change. The Authority hereby grants this amendment and the applied-for licensed premises shall now be those set forth on Exhibit C.

Applicable Law

The current standard for issuance of a special events permit is set forth in C.R.S. 12-48-106. That statute states:

12-48-106. Grounds for denial of special permit

- (1) The state or local licensing authority may deny the issuance of a special event permit upon the grounds that the issuance would be injurious to the public welfare because of the nature of the special event, its location within the community, or the failure of the applicant in a past special event to conduct the event in compliance with applicable laws.
- (2) Public notice of the proposed permit and of the procedure for protesting issuance of the permit shall be conspicuously posted at the proposed location for

at least ten days before approval of the permit by the local licensing authority.

The Authority has been unable to find any case law which has addressed this statute. Prior to 2011, the standard for issuance of a special events permit was different. At that time, C.R.S. § 12-48-103 required “a satisfactory showing by [an applicant] that other existing facilities are not available or are inadequate for the needs of the [applicant]” as well as certain other showings regarding the subject premises. Thereafter, the statutory standard was changed from requiring a “satisfactory showing” by the applicant to requiring an affirmative showing that “the issuance would be injurious to the public welfare”.

The Authority was unable to find any case law addressing the legal definition of the phrase “injurious to the public welfare”. Though the Authority was able to find numerous cases which addressed “public welfare”, these were primarily in the criminal law context and were not particularly relevant to the matter at hand. *See, e.g., State v. Ellison & Bartholomew*, 14 P.3d 1034 (Colo. 2000). The term “injury” (close enough to “injurious” in this case) is often defined in the workers compensation context but not otherwise. Therefore, the Authority accepts Black’s Law Dictionary Definition of “injury” to be any wrong or damage done to another. Black’s Law Dictionary (5th ed.), page 706. Likewise, given the dearth of Colorado authority defining “public welfare”, the Authority accepts Black’s definition of public welfare to be “the prosperity, well-being, or convenience of the public at large, or of a whole community, as distinguished from the advantage of an individual or limited class. Black’s Law Dictionary (5th ed.), page 706. When taken together, the Authority finds that, in this context, the phrase “injurious to the public welfare” means that the issuance of this special event permit would perpetuate a wrong to the prosperity, well-being, or convenience of the citizens of Grand Junction.

The Parties’ Respective Positions

The Applicant, like most (if not all) applicants has taken the position that this inaugural version of its event will bring people to the community, that the event will be run in accordance with the law, and that the event will not cause a negative public disturbance. Furthermore, the Applicant believes that there is adequate security for the event and that the location is appropriate. In essence, the Applicant suggests that this special event will be positive for the community. GJPD reaches a different conclusion. It asserts that this application should be denied because the issuance of a special event permit would be injurious to the public welfare. GJPD reaches this conclusion based upon three concerns: (1) that the number of people expected at the event will test the amount of security which can be provided either by GJPD or the Applicant itself; (2) that the use of alcohol at an event which by its very nature involves the operation of motor vehicles is injurious; and (3) this event will draw in “patched Motor Cycle Clubs” which will be negative for the community. The Authority notes that Commander Martinez also identified increased costs on the City due to needed enforcement. Because the Authority does not believe this to be a relevant consideration under C.R.S. § 12-48-16, the Authority hereby disregards this argument.

Findings of Fact

1. All persons who provided statements were credible.
2. The proposed event is the inaugural “Grand Valley Rally”.
3. The licensed premises and nearby locations are regularly used for special events. Though there was some mention of dust in the event that the gravel area near the licensed premises was used for motorcycle events, the Authority does not find that this issue is relevant to the determination of whether this event will be injurious to the public welfare, at least based upon the statements presented at the hearing.
4. The nature of the special event is a motorcycle rally. The Authority accepts that the schedule of events set forth on Exhibit D is accurate.
5. Mr. Byrd estimated that between 1000 and 3000 persons will attend the event, though perhaps not more than 2000 on any given day. There appears to be no basis for this estimate. At the hearing, there was discussion that there may be many fewer attendees.
6. Mr. Jagger’s statements on the security to be provided was reassuring. First, the Authority finds that Citadel Security’s experience and manpower is appropriate to this event. Mr. Jagger specifically indicated that more security personnel could be brought in if necessary. Commander Smith indicated that Citadel was a good company and Mr. Jagger indicated that he would personally be present at times during this event to evaluate the event and the need for additional security. Furthermore, Mr. Jagger indicated that at least four (4) security personnel would be on-site at all times during this event. Given these assurances by Mr. Jagger, the Authority finds that the security is sufficient to handle the estimated number of attendees or any smaller number.
7. Less reassuring is Mr. Byrd’s admission that, if there were going to be problems, they would occur after the event was over when the attendees went out to the bars. This statement causes some concern for the Authority but the Authority notes that the same would presumably be true for any special event, *i.e.*, after the special event is over, trouble could ensue when the attendees left to drink in bars. The position of GJPD appears to be that the attendees at this event are more likely than the attendees at other events to engage in this type of activity but the Authority does not have evidence to this effect and, therefore, does not find the GJPD’ position to be factually supported, at least based upon the statements presented at the hearing.
8. As to the issue of “patched” motorcycle clubs, the Authority finds, based upon the statements of Commander Smith that certain clubs’ members do not like the members of certain other clubs. The Authority also finds, based upon the statements of Mr. Byrd that

there is no indication that those opposing members will be present at this event. Mr. Byrd indicated that he had spoken to certain representatives of those clubs and they indicated that this event was “no place for problems”. Given the vagueness of this statement as well as the fact that it is hearsay, the Authority does not find this particular statement by Mr., Byrd to be credible.

9. As to the drinking and driving issue, the Authority acknowledges that driving under the influence is against the law but notes that this does not go to the nature of the event itself. There is no evidence that the persons who participate in driving activities at this event will be under the influence when they drive. The Authority has previously granted special events permits to events involving motor vehicles. A recent example is the application submitted by La Mexicana Ballet Foklorico for the *Solo's Cinco Hoppin' Fiesta and Car Show 2013* approved on April 17, 2013. The Authority finds that the mere proximity of driving and alcohol use is not sufficient grounds to deny a the issuance of a special events permit.

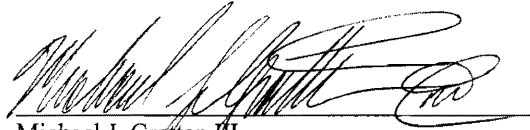
Conclusions of Law

1. Because this is the inaugural Grand Valley Rally, there is no basis to deny this special event permit on the grounds that the failure of the applicant in a past special event to conduct the event in compliance with applicable laws.
2. Because these premises and nearby premises are used for a variety of special events there is no basis to deny this special event permit on the grounds that the issuance would be injurious to the public welfare because of this event's location within the community. More specifically, the Elks have previously received special events permits and there has not been a failure to conduct those events in accordance with applicable law.
3. As to whether the granting of the special event permit would be “injurious to the public welfare because of the nature of the event”, the Authority notes that it believes this issue to be a close call. Having said that, the Authority concludes that there must be an affirmative showing that the nature of the event itself will would perpetuate a wrong to the prosperity, well-being, or convenience of the citizens of Grand Junction. The Authority concludes that this standard has not been met. Commander Smith acknowledged that many motor cycle riders are law-abiding persons. Given the fact that there is no past history for this event and no evidence that the Applicant will not conduct this event properly, the Authority finds that, at least upon the statements provided at the hearing in this matter, there are not sufficient grounds to believe that this event is “injurious to the public welfare” ast that term is used in C.R.S. § 12-48-106.

Conclusion

The Special Event Permit Application submitted by Grand Junction Elks Association, 249 S. 4th Street, Grand Junction, CO 81501 for the "Grand Valley Rally" is hereby GRANTED.

May 23, 2013



Michael J. Gratian III,
Hearing Officer