

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

MINUTES

WEDNESDAY, FEBRUARY 2, 2011 2:00 p.m.

I. **CALL TO ORDER** - The meeting convened at 2:00 p.m. Those present were Hearing Officer Mike Grattan, City Attorney John Shaver, and Deputy City Clerk Juanita Peterson.

II. **APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES**

1. City of Grand Junction dba Two Rivers Convention Center, 159 Main Street, Grand Junction, CO 81501, Hotel and Restaurant

Darren Starr, General Manager and Thomas Cressy, Operations Supervisor, were present representing the applicant. The application for renewal for Two Rivers Convention Center was found to be in order and approved.

2. City of Grand Junction dba Lincoln Park Golf Course, 800 Mantlo Circle, Grand Junction, CO, 81501, 3.2% Beer Retail (On/Off Premises)

No one was present representing the applicant. The application for renewal for Lincoln Park Golf Course was found to be in order and approved.

3. Chipotle Mexican Grill Inc., dba Chipotle Mexican Grill, 2504 Highway 6 & 50, Suite 300, Grand Junction, CO, 81505, Hotel and Restaurant

No one was present representing the applicant. The application for renewal for Chipotle Mexican Grill was found to be in order and approved.

III. **APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES WITH TASTING PERMIT**

1. Crossroads Wine and Spirits, LLC, dba Crossroads Wine and Spirits, 611 24 Road, Grand Junction, CO 81505, Retail Liquor Store

Eleni Sica, Owner, was present. The application for a renewal for Crossroads Wine and Spirits along with the Tasting Permit was found to be in order and approved.

IV. APPLICATION FOR A SPECIAL EVENT PERMIT AND CHANGE IN CORPORATE STRUCTURE

1. Western Colorado Botanical Gardens dba "Earth Day Celebration 2011", 641 Struthers Avenue, Grand Junction CO 81501 – Malt, Vinous, and Spirituous – April 23, 2011 from 11:00 a.m. to 4:00 p.m.

President: Jon Schler, 2905 El Toro Rd., Grand Junction, CO 81521
Event Manager: Dana Hobika, 974 17 ¼ Rd., Fruita CO 81521

Change in Corporate Structure:

Executive Dir. Dana Hobika, 974 17 ¼ Rd., Fruita CO 81521

President Jon Schler, 2905 El Toro Rd., Grand Junction CO 81503

Dana Hobika, Executive Director of the Gardens and Christine Dingman, Office Manager, were present. Hearing Officer Grattan said he would hear these as two separate issues. Ms. Peterson began with the information for the Special Events Permit being requested. The paperwork for this event was submitted timely and correctly and the local police report on the President and Event Manager were fine. Ms. Peterson also read into the record the letter submitted by the applicant regarding other facilities not being available or adequate.

Hearing Officer Grattan asked about the drawing that was submitted and marked it Exhibit A and asked Ms. Hobika to indicate where the alcohol will be served from in the fenced area. City Attorney Shaver asked about the "live animals" referenced in the letter submitted to the Authority. Ms. Hobika indicated that live plants and animals will be part of the Earth Day Celebration and this is the first year for this event. She gave a description of the event as it is planned and noting they will be utilizing Watson Island for part of the event.

Hearing Officer Grattan asked if there was anyone present who wished to speak on this matter. Hearing Officer Grattan seeing no one in the audience wishing to speak regarding this matter, concurred with City Attorney Shaver and the application for Special Events Permit for April 23, 2011 "Earth Day Celebration" be approved.

Hearing Officer Grattan asked Ms. Peterson about the Change in Corporate Structure. Ms. Peterson described the way this was brought to the City Clerk's Office attention. Since 2006, the Western Botanical Gardens has had issues with getting the renewal from the State, filing in a timely manner, and keeping Staff informed of the process to file the renewal of the Arts license they currently hold. Hearing Officer Grattan agreed that these have been issues for the last several years.

Ms. Hobika gave an explanation of the procedure in place to ensure the paperwork will be complete and timely in the future and that they have three people, the President, Office Manager, and herself as the Executive Director working to make sure they will continue to stay current on their filings and what

will need to be done each year regarding the change in the President of the Gardens. City Attorney Shaver asked Mr. Hobika if she agreed with the facts Ms. Peterson spoke of. Ms. Hobika agreed and said Ms. Peterson has tutored both Ms. Dingman and herself on these matters and that keeping current with their liquor license is very important to the Gardens.

Hearing Officer Grattan approved the Change in Corporate Structure and said he would see them in a couple of months for their renewal and hoped Staff will be able to file in a timely manner in the future.

V. APPLICATION FOR CHANGE IN CORPORATE STRUCTURE

1. Bookcliff Country Club dba Bookcliff Country Club, 2730 G Road, Grand Junction, CO 81506

Pres., Bret Pomrenke, 2479 H Rd., Grand Junction, CO 81505 replaces Barbara Smith

V.P., Brian Mahoney, 2567 G Rd., Grand Junction, CO 81505 replaces Barry Blanchard

Treas., Stephen Love, 1553-G Crestview Way, Grand Junction, CO 81506 replaces Dennis Granum

Sec., Thomas Maveal, 3067 Hill Avenue, Grand Junction, CO 81504 replaces Scott Howard

No one was present representing the applicant. Ms. Peterson reported the local police report for the new officers is fine but C.B.I. is still pending. The application for Change in Corporate Structure for Bookcliff Country Club was found to be in order and approved.

VI. APPLICATION FOR A TRANSFER OF OWNERSHIP

1. City of Grand Junction dba Tiara Rado Golf Course Grill, 2057 S. Broadway, Grand Junction, CO 81507, previously The Pinon Grill at Tiara Rado, Hotel and Restaurant with three optional premises

City Manager, Laurie Kadrich, 625 Mt. Julian Dr., Grand Junction, CO 81504
Convention Dir., Debbie Kovalik, 2284 Shane Ct., Grand Junction, CO 81507
General Manager, Tom Cressy, 2994 Bret Dr., Grand Junction, CO 81504

Tom Cressy, Manager, was present. Ms. Peterson reported the paperwork was submitted in a timely manner and the reports for the local police on the City Manager, Convention Director and General Manager were good but C.B.I. was pending. Ms. Peterson reported that upon the vacation of Pinon Grill, the Health and Fire Departments will be in to inspect the facilities again.

Hearing Officer Grattan said the only thing he knew about this item is what he has read in the media and asked Ms. Peterson to explain what is happening.

Ms. Peterson said the current contract with Pinon Grill will expire on February 11, 2011 and the City, by doing a Transfer of Ownership, will acquire the liquor license for a time until the concessions can be re-bid. Hearing Officer Grattan asked what Mr. Cressy's role is. He said he would be the General Manager for the restaurant.

Hearing Officer Grattan asked if there was anyone present who would like to speak on this matter. City Attorney Shaver said Mr. Steve Hoefer was present who currently holds the license but Mr. Hoefer did not wish to speak.

Mr. Tom Orehek identified himself as a citizen wanting to present a petition with approximately 20 signatures he collected regarding not wanting the City of Grand Junction to have the liquor license. They are against the transfer of this license; they believe it is a conflict of interest. Mr. Orehek stated his belief that to have the City Attorney sitting on the board is a conflict in awarding anything to the City. Secondly the City has a Police Department which is hired to stop people from drinking and driving. He also doesn't believe the City needs to go into a full 7 day a week liquor business. Mr. Orehek said that he may not have activated this petition quickly enough; this was just collected yesterday in a matter of 2 hours. Hearing Officer Grattan marked it Exhibit A and submitted to the Clerk and Hearing Officer Grattan told Mr. Orehek if he wants a copy of this it will be available at the City Clerk's office.

Hearing Officer Grattan asked Mr. Orehek why is Tiara Rado any different than the two other licenses presented today for the City. Mr. Orehek responded that it is a 7 day a week operation; 365 days a year which serves more than beer and wine; it is a full service liquor distribution which is a whole different game to be running 7 days a week, serving liquor. He believes there are too many funds being used to get drunken people off the streets for the City to become that involved.

Mr. Shaver stated statutorily a Municipal Corporation can hold an alcohol beverage license. Certainly Mr. Orehek's comments are directed more on a policy basis than from a legal stand point. He understands Mr. Orehek's statements regarding appearance and his concerns. As for the statement that the City Attorney has a conflict of interest sitting on this board, the City Attorney is just here to represent and advise the Authority on the law. The law does allow for the City to hold a license.

Hearing Officer Grattan said he would take this under advisement and does not have the Authority to issue policy determination. Hearing Officer Grattan said he is inclined to do a written determination on his findings (such findings are attached).

VII. ADJOURNMENT – 2:35 p.m.

NEXT REGULAR MEETING – February 16, 2011

EXHIBIT A

(A)

WE THE BELOW SIGNED CITIZENS OF THE CITY OF GRAND JUNCTION DO HEREBY OBJECT TO THE ISSUANCE OF A LIQUOR LICENSE TO THE CITY OF GRAND JUNCTION TO DISPENSE AND SELL ANY ALCOHOL AT TIARA RADO GOLF COURSE. WE ALSO BELIEVE THAT THIS LIABILITY SHOULD REMAIN IN THE PRIVATE SECTOR AND REMAIN THERE DUE TO CONFLICT OF INTEREST. WE THEREFORE DEMAND THE REJECTION OF THE APPLICATION AND PLACED ON PUBLIC REFERENDUM FOR ANY FURTHER CONSIDERATION.

SIGNATURE	PRINTED NAME	ADDRESS	COUNTY RESIDING
<i>William Sherman</i>	SHARON WILLIAM	6106 MAIN ST	MESA
<i>Rock Cesario</i>	Rock Cesario	530 MAIN ST.	MESA
<i>Don E. Doga</i>	Donna Doga	514 Main St	MESA
<i>Quinn Lockhart</i>	Linda Lockhart	510 MAIN ST	MESA
<i>Nina Gluckman</i>	NINA Gluckman	504 MAIN ST.	Mesa
<i>Karen Hildebrandt</i>	Karen Hildebrandt	336 Main Street	Mesa
<i>Chris Cope</i>	Chris Cope	131 Main St	Mesa
<i>C. Fleming</i>	C. Fleming	2235 Fernwood	Mesa
<i>Vivian Morris</i>	Vivian MORRIS	2855 B Dottie Ln	Mesa
<i>Monique Huff</i>	Monique Huff	632 29 1/4 Road	Mesa
<i>Dianna Murray</i>	Dianna Murray	315 Main St	Mesa
<i>Henry Morlock</i>	Henry Morlock	2000 Elm Av G500 81501	MESA
<i>Chris Brown</i>	Chris Brown	549 Main St. G.5. G.5000	Mesa
<i>Stacy Milward</i>	Stacy Milward	601 MAIN ST	MESA
<i>Michael Peralto</i>	Michael Peralto	2567 CORRAL DE BISOS	MESA
<i>Thomas Ornduck</i>	Thomas Ornduck	960 Main st 81501	MESA
<i>Christine Ornduck</i>	Christine Ornduck	960 MAIN ST. 81501	MESA
<i>Kennic Deerman</i>	Kennic Deerman	585 25 1/2 Rd 81505	Mesa

LOCAL LIQUOR LICENSING AUTHORITY
CITY OF GRAND JUNCTION

Application for Transfer of Ownership for City of Grand Junction d/b/a Tiara Rado Golf Course Grill previously The Pinion Grill at Tiara Rado

Decision

This Application for a Transfer of Ownership came for hearing on February 2, 2011, at the Authority's regularly scheduled meeting. The Application sought transfer of a Hotel and Restaurant license from *The Pinion Grill at Tiara Rado* to the *City of Grand Junction d/b/a Tiara Rado Golf Course Grill*. The Applicant complied with all ministerial requirements associated with the application and appeared by its representative Tom Cressy. As part of the Application, the Applicant represented that it would be in lawful possession of the subject premises immediately upon the expiration of the current licensee's concession term on February 11, 2011.

At hearing, citizen Thom Orehek appeared and objected to the City's acquisition of a this license on the basis that it was a conflict of interest for the City to hold the license. Mr. Orehek objected to the Application because the City should not be in the full time seven day a week liquor business. Furthermore, Mr. Orehek asserted that, given the fact that liquor and drunk driving laws are enforced by the City's police department (assertions the Authority accepts as true), any such enforcement by the City could be construed as entrapment; Mr. Orehek indicated that, in any event, enforcement will not be the way it needs to be. Mr. Orehek also indicated that having the City Attorney "sitting on the board" was a conflict to award anything to the City. Mr. Orehek also stated that the City might not be able to afford the associated liability while businesses in the private sector are better equipped to handle the liability and if there should be a violation. Mr. Orehek also generally objected to the liquor license issued for Lincoln Park Golf Course. Finally, Mr. Orehek indicated that he wanted the City to be aware that there were a group of people who object to the transfer of this license to the City. To support this last contention, Mr. Orehek provided a document (the "Petition") signed by 18 individuals which indicated as follows:

WE THE BELOW SIGNED CITIZENS OF THE CITY OF
GRAND JUNCTION DO HEREBY OBJECT TO THE
ISSUANCE OF A LIQUOR LICENSE TO THE CITY OF
GRAND JUNCTION TO DISPENSE AND SELL ANY
ALCOHOL AT TIARA RADO GOLF COURSE. WE ALSO
BELIEVE THAT THIS LIABILITY SHOULD REMAIN IN THE

PRIVATE SECTOR AND REMAIN THERE DUE TO CONFLICT OF INTEREST. WE THEREFORE DEMAND THE REJECTION OF THE APPLICATION AND PLACED ON PUBLIC REFERENDUM FOR ANY FURTHER CONSIDERATION.

This Petition was reviewed by the Authority and accepted into the record of this matter as Exhibit A. Mr. Orehek also verbally indicated that these signatories opposed the transfer at issue.

As to the claim relating to the Lincoln Park Golf Course, this issue was not before the Authority at the subject hearing and, therefore, the Authority declines to address this issue.

As to the claim that there is a conflict in granting this Application because the City Attorney sits on the Board, the Authority finds this contention to be without merit because there is no "Board". The undersigned is the sole Hearing Officer and makes all decisions related to the various applications which come before the Authority.

As to the rest of Mr. Orehek's contentions, while the Authority understands Mr. Orehek's position, it grants the Application for Transfer of Ownership as requested in the Application because Mr. Orehek's concerns are matters of policy and not of law. The law permits the City to hold this license. To be specific, 1 C.C.R. 203-2, Section 47-308 states as follows:

Regulation 47-308. Municipally, County or Special District Owned Facilities.

A. Any person in legal possession of facilities owned by a municipality, county or special district, may apply for and hold a beer license to possess and serve fermented malt beverages, and may also apply for and hold a liquor license to possess and serve malt, vinous and spirituous liquors. These licenses may be held by the same licensee, for the same municipally, county, special district owned premises, at the same time; however, fermented malt beverages and alcohol beverages may not be served on these same licensed premises at the same time. Any person selling malt, vinous, spirituous liquor or fermented malt beverage at a facility owned by a municipality, county or special district, must have a valid liquor or beer license in full effect before serving or selling any liquor or fermented malt beverages.

B. Separate storing facilities must be available and used for malt, vinous, spirituous liquor to maintain a separation and prevent intermixing with fermented malt beverage.

C. The appropriate liquor or beer license must be prominently

posted at all times it is in effect and use.

D. The licensee is subject to applicable provisions of Articles 46 and 47 of this Title and the limitations imposed by these Articles.

Furthermore, C.R.S. § 12-47-411 specifically contemplates that holders of this type of license may “sell malt, vinous, and spiritous liquors”. See C.R.S. §12-47-411 (1)(a), (b).

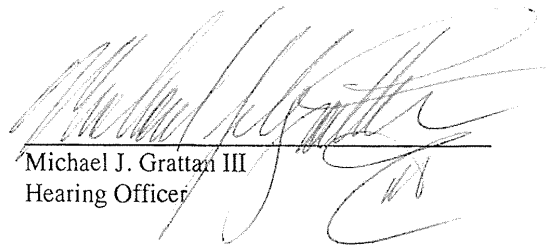
The Authority is unable to locate any authority which prohibits the City of Grand Junction from possessing a license. C.R.S. § 12-47-307, which lists the persons prohibited from holding licenses, does not list a municipality as a prohibited person. The Authority is aware of several licenses or renewals for the City which have been approved over the past three years. By coincidence, two such license renewals were heard and approved without objection at the same hearing in which this Application was heard. Finally, 1 C.C.R. 203-2, Section 47-304(E) provides that an applicant who otherwise comes into possession of the licensed premises by operation of law, may apply for a transfer of license of the underlying license as provided by law pursuant to C.R.S. § 12-47-303. There is no dispute here that the City is the owner of the Tiara Rado Golf Course and that the existing vendor’s lease of those premises is expiring on February 11, 2011.

Given this, the Application is appropriate. Like all applicants, the City is free to assume the risk of any potential liability it may have, whether it is for entrapment or any other source of liability. Furthermore, the Authority believes that the City has been made aware of the concerns of Mr. Orehek and others who signed the petition referenced above by the fact that Mr. Orehek appeared and presented his objections at public hearing. To assure that the City is made aware, the Clerk shall deliver a copy of this Decision to the City Attorney and representatives from the Applicant.

CONCLUSION

Given the authority set forth above, there is no legal basis to withhold approval of the transfer. The Application is, therefore, found to be in order and is approved. The City Clerk is directed to deliver a copy of this Decision to the Grand Junction City Attorney and representatives from the Applicant.

February 3, 2011


Michael J. Grattan III
Hearing Officer