

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

MINUTES

WEDNESDAY, JANUARY 6, 2010 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 Debbie Kemp.

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

1. LOCO, Inc. dba LOCO Food Store No. 14, 2902 F Road, Grand Junction, CO 81504, 3.2% Beer Retail (Off Premises)

Stephanie McDonnell, Store Manager, was present.

The application for renewal was found to be in order and approved.

2. Feather Petroleum Company dba Stop N Save No. Three, 723 Horizon Drive, Grand Junction, CO 81506, 3.2% Beer Retail (Off Premises)

No one was present representing the applicant.

The application for renewal was found to be in order and approved.

3. Mimosa, Inc. dba Fairground Wine & Liquor, 2771 B ½ Road, Grand Junction, CO 81503, Retail Liquor Store

No one was present representing the applicant.

The application for renewal was found to be in order and approved.

4. Providence Project, Inc. dba La Bamba Mexican Restaurant, 546 Main Street, Grand Junction, CO 81501, Hotel and Restaurant

No one was present representing the applicant.

Ms. Kemp advised that both the Mesa County Health Department and the Grand Junction Fire Department reported outstanding violations.

City Attorney Shaver recommended the application for renewal be continued to the January 20, 2010 liquor and beer meeting.

The application for renewal was continued to the January 20, 2010 liquor and beer meeting. Hearing Officer Grattan asked Ms. Kemp to send a letter to the applicant requesting his appearance at the January 20, 2010 liquor and beer meeting.

5. Los Reyes Restaurant, Inc. dba Los Reyes Restaurant, 811 S. 7th Street, Grand Junction, CO 81501, Hotel and Restaurant

No one was present representing the applicant.

The application for renewal was found to be in order and approved.

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

1. JEMSKT, Inc. dba Country Club Liquors, 683 Horizon Drive, #105, Grand Junction, CO 81506, Retail Liquor Store

No one was present representing the applicant.

The application for renewal with tasting permit was found to be in order and approved.

IV. APPLICATION FOR A SPECIAL EVENTS PERMIT

1. Diocese of Pueblo dba Holy Family Catholic School, 786 26 ½ Road, Grand Junction, CO 81506, Holy Family Catholic Winter Gala and Auction on February 6, 2010, from 6:00 p.m. to 11:30 p.m., malt, vinous, and spirituous

Pres./Secretary of Org.: Kateri Bigler, 653 Young Street, Grand Junction, CO 81505

Kateri Bigler, Secretary of Holy Family Catholic School, was present.

City Attorney Shaver asked Ms. Bigler how many people they were expecting for their event. Ms. Bigler stated that they were hoping for 300 people.

City Attorney Shaver asked which establishments she contacted for availability. Ms. Bigler stated that she checked with Two Rivers Convention Center and Doubletree Hotel, and neither one was available. She also checked with Two Rivers Winery and the Grand Vista Hotel, and neither one had a banquet room large enough for the event.

City Attorney Shaver asked Ms. Bigler to tell the Authority what the nature of the event is and asked her if it was open to the public. Ms. Bigler said the event is a fundraiser to raise as much money as possible for the Holy Family Catholic School and it is open to the public, however, most people that attend are

parents and grandparents of children who attend the school and church members.

City Attorney Shaver said in reference to 12-48-103, C.R.S. regarding that existing licensed facilities are inadequate for the purpose of serving members or guests of the organization and that additional facilities are necessary by reason of the nature of the special event, the statute has been complied with, and he recommended approval.

The application for a special events permit was found to be in order and approved.

V. APPLICATION FOR NEW LICENSE – RESOLUTION, AND FINDINGS AND DECISION

1. Areios Western Slope Colorado, LLC, dba Smashburger, 1840 N. 12th Street, Unit F, Grand Junction, CO 81501, Hotel and Restaurant

Member: James P. Cagle Jr., 2440 ½ Jack Creek Rd., Grand Junction, CO 81505

Member: Kenneth B. Milyard, Jr., 868 Quail Run, Grand Junction, CO 81505

Todd Colosimo, director of operations, and Brian Leonhardt, circulator of petition, were present.

Ms. Kemp reported the paperwork was found to be in order and accepted. The applicant requested a concurrent review. Reports came back fine from the Police Department, Code Enforcement, the Health Department, the Fire Department, and the Sales Tax Department. Ms. Kemp advised that the place of business is already open for business.

Ms. Kemp read the results of the survey into the record (see attached).

City Attorney Shaver asked Mr. Leonhardt to briefly describe for the Authority the method he used to conduct the survey. Mr. Leonhardt said he went to homes that it was obvious that people were home, because it was extremely cold outside, knocked on their door and explained that he is conducting a survey for a liquor license for Smashburger located on 12th Street, and asked if they would read the questions and answer the survey. City Attorney Shaver asked Mr. Leonhardt if he heard Ms. Kemp read the results of the survey into the record and asked him if he agrees with the results. Mr. Leonhardt explained that on the first two pages of the survey, question #1, the people answered yes instead of no, which he believed was in error due the misunderstanding of the wording on question #1. City Attorney Shaver asked Mr. Leonhardt if he believed that the results were inaccurate. Mr. Leonhardt said that he believes that the first 30 people just did not understand question #1. City Attorney Shaver asked Mr. Leonhardt what dates and times he conducted the survey. Mr. Leonhardt said he contacted businesses on December 16th during the day

and residential on December 20th all day and evening. City Attorney Shaver asked Mr. Leonhardt to explain the handwritten exhibit he provided with the survey. Mr. Leonhardt said that it is documentation when no one was home or people stating they did not want to take the survey.

There was no one present in opposition or in favor of the issuance of the liquor license.

City Attorney Shaver recommended approval of the liquor license, even though there was some misunderstanding of the questions on the petition, the balance of the petition is supportive of the issuance of the liquor license.

Hearing Officer Grattan agreed with City Attorney Shaver's recommendation and found that Mr. Leonhardt was forthright and creditable. The Hearing Officer found the requirements have been met and approved the new hotel and restaurant liquor license on the local level. The City Clerk's office will prepare a resolution for Hearing Officer Grattan's signature.

2. Trust Trifecta Enterprises, LLC dba Naggy McGee's Irish Pub, 359 Colorado Avenue #102, 103, 104, Grand Junction, CO 81501, Hotel and Restaurant

Member/Operations Manager: Eric C. Wilmot, 354 Teller Avenue, Grand Junction, CO 81501

Member: Vanessa L. Funches, 354 Teller Avenue, Grand Junction, CO 81501

Member: Herbie J. Hays, 559 Cicero Drive, Palisade, CO 81526

Eric Wilmot, member/operations manager, and Vanessa Funches, member, were present.

Ms. Kemp reported the paperwork was found to be in order and accepted. The applicant requested a concurrent review. Reports came back fine from the Police Department for a local investigation, fingerprints were forwarded to C.B.I. for further investigation. Code Enforcement, the Fire Department, the Health Department, and the Building Department will sign off for the Certificate of Occupancy, and the Sales Tax Department reported that the applicant has not yet applied for a City Sales Tax License.

Ms. Kemp read the results of the survey into the record (see attached).

City Attorney Shaver asked about the 44 signatures from residences that failed to answer Question No. 1 that Ms. Kemp reported. Ms. Kemp advised that there was a misunderstanding on the survey; the applicant thought that only businesses were supposed to answer No. 1.

City Attorney Shaver asked who conducted the survey. Ms. Funches stated that she and Mr. Wilmot conducted the survey. City Attorney Shaver asked Ms. Funches to briefly describe for the Authority the method they used to conduct the survey. Ms. Funches said that they surveyed between December 16th and

December 18th, they went door to door targeting businesses in the day and residential in the evenings. They explained that they are opening an Irish pub and are applying for a liquor license and asked if they would be willing to participate in the survey. They did not keep a record of people who were not at home. There was one person at a business that refused to sign at all. City Attorney Shaver asked if they returned to places a second time when they were not home the first time. Ms. Funches said they did return a second time to the residences.

There was no one present in opposition or in favor of the issuance of the liquor license.

City Attorney Shaver recommended approval of the liquor license, the requirements of the needs and desires were met even though there was some misunderstanding on the petition.

Hearing Officer Grattan agreed with City Attorney Shaver's recommendation and found that the requirements have been met and approved the new hotel and restaurant liquor license on the local level. The City Clerk's office will prepare a resolution for Hearing Officer Grattan's signature.

VI. SHOW CAUSE HEARINGS

1. Black Dog Grills, LLC dba Genghis Grill, 2474 Hwy. 6 & 50, Grand Junction, CO 81505, Hotel and Restaurant

Pursuant to Colorado Revised Statutes §12-47-901(1)(a.5)(I), it is unlawful for any person, including a licensee, manager, or agent of any licensed establishment to sell, serve, exchange, or permit the sale and procurement of any alcohol beverage to or for any person under the age of twenty-one years

Leroy Sickler, owner of Genghis Grill and member of Black Dog Grills, LLC, was present.

DeLayne Merritt, Staff Attorney, advised the Authority that the City has reached a plea agreement with Mr. Sickler. He agreed to a 7 day suspension of the license with 2 days of active suspension and 5 days would be held in abeyance for a period of one year from the date of the approval pending no further violations of the Colorado Liquor Code or local ordinances or regulations during that period. The Licensee and the City have agreed that the Licensee can pay a fine in lieu of active suspension. The fine calculates out to be \$200.00.

Hearing Officer Grattan asked Mr. Sickler if he has reviewed the stipulation and understands it and finds it acceptable. Mr. Sickler said he has reviewed it and he does understand it. Hearing Officer Grattan asked if he entered into the agreement willingly and voluntarily without being coerced. Mr. Sickler said yes.

Hearing Officer Grattan noted that there is a check for \$200.00 attached to the agreement.

City Attorney Shaver recommended approval of the agreement.

Hearing Officer Grattan signed the agreement and asked that the City Clerk's office mail out the signed agreement in accordance with the certificate of mailing.

2. Last Chance Liquors, LLC dba Last Chance Liquors, 1203 Pitkin Avenue, Grand Junction, CO 81501, Retail Liquor Store

Pursuant to Colorado Revised Statutes §12-47-901(1)(a.5)(I), it is unlawful for any person, including a licensee, manager, or agent of any licensed establishment to sell, serve, exchange, or permit the sale and procurement of any alcohol beverage to or for any person under the age of twenty-one years

Roger Ward, owner of Last Chance Liquors, member of Last Chance Liquors, LLC, was present.

DeLayne Merritt, Staff Attorney, advised the Authority that the City has reached a plea agreement with the Licensee. She stated that the Licensee admitted that he had one violation for selling to a minor in late November 2008 through the State Liquor Enforcement Office. He did pay a fine in lieu of suspension for that violation. Because of the prior violation, the City is recommending a 15 day suspension of the license with 5 days of active suspension and 10 days would be held in abeyance for a period of one year from the date of the approval pending no further violations of the Colorado Liquor Code or local ordinances or regulations during that period. A fine in lieu of suspension was not offered because of the previous violation.

Hearing Officer Grattan asked Mr. Ward if he has reviewed the stipulation and understands it and finds it acceptable. Mr. Ward said he has reviewed it and he does understand it. Hearing Officer Grattan asked if he entered into the agreement willingly and voluntarily without being coerced. Mr. Ward said yes.

City Attorney Shaver recommended approval of the agreement.

Hearing Officer Grattan signed the agreement and asked that the City Clerk's office mail out the signed agreement in accordance with the certificate of mailing.

3. El Mescal, Inc. dba Tequila's Mexican Family Restaurant, 2454 Hwy. 6 & 50, Grand Junction, CO 81505, Hotel and Restaurant

Pursuant to Colorado Revised Statutes §12-47-901(1)(a.5)(I), it is unlawful for any person, including a licensee, manager, or agent of any licensed establishment to sell, serve, exchange, or permit the sale and procurement of any alcohol beverage to or for any person under the age of twenty-one years

Anselmo Munoz, part owner of Tequila's Mexican Family Restaurant, Mirna Munoz, registered manager of Tequila's Mexican Family Restaurant, and Ruby Munoz, translator for Anselmo Munoz and Mirna Munoz, were present.

DeLayne Merritt, Staff Attorney, advised the Authority that the City has reached a plea agreement with the Licensee. They have agreed to a 7 day suspension of the license with 2 days of active suspension and 5 days would be held in abeyance for a period of one year from the date of the approval pending no further violations of the Colorado Liquor Code or local ordinances or regulations during that period. The Licensee and the City have agreed that the Licensee can pay a fine in lieu of active suspension.

Hearing Officer Grattan noted that there is a check attached to the agreement for \$212.56.

Hearing Officer Grattan asked Ms. Ruby Munoz her relationship to Anselmo and Mirna Munoz. Ms. Munoz stated that she is the daughter and employee of Anselmo and Mirna Munoz.

City Attorney Shaver asked Ms. Ruby Munoz how she communicated with her parents to help them understand the charge and the agreement.

Ms. Ruby Munoz stated that she spoke to her parents in Spanish and advised them they have to meet with the City because of selling alcohol to a minor and she read the entire agreement to them in Spanish and they said they don't have any disputes with it.

City Attorney Shaver asked Ms. Ruby Munoz to speak Spanish to her parents and ask them if they have any questions for the Hearing Officer or the City Attorney. Ms. Munoz spoke to her parents in Spanish and advised City Attorney Shaver that her parents have no questions. She also advised that her parents have seen other agreements similar to this from a violation that occurred in one of their other locations that they own in Denver.

Ms. Merritt advised that there was an error in calculating the fine. It should only be \$200.00 instead of \$212.56. The Licensee agreed that the City could issue a refund of \$12.56 for the overpayment.

City Attorney Shaver recommended approval of the agreement.

Hearing Officer Grattan signed the agreement and asked that the City Clerk's office mail out the signed agreement in accordance with the certificate of mailing.

4. Zen Garden, Inc. dba Zen Garden, 2886 North Avenue, Grand Junction, CO 81501, Hotel and Restaurant

Pursuant to Colorado Revised Statutes §12-47-901(1)(a.5)(I), it is unlawful for any person, including a licensee, manager, or agent of any licensed establishment to sell, serve, exchange, or permit the sale and procurement of any alcohol beverage to or for any person under the age of twenty-one years

Chiew Chiou, owner of Zen Garden, Inc., was present.

DeLayne Merritt, Staff Attorney, advised the Authority that the City has reached a plea agreement with Mr. Chiou. He agreed to a 7 day suspension of the license with 2 days of active suspension and 5 days would be held in abeyance for a period of one year from the date of the approval pending no further violations of the Colorado Liquor Code or local ordinances or regulations during that period. The Licensee and the City have agreed that the Licensee can pay a fine in lieu of active suspension. The fine calculates out to be \$200.00.

Hearing Officer Grattan asked Mr. Chiou if he has reviewed the stipulation and understands it and finds it acceptable. Mr. Chiou said he has reviewed it and he does understand it. Hearing Officer Grattan asked if he entered into the agreement willingly and voluntarily without being coerced. Mr. Chiou said yes.

Hearing Officer Grattan noted that there is a check attached to the agreement for \$200.00.

City Attorney Shaver recommended approval of the agreement.

Hearing Officer Grattan signed the agreement and asked that the City Clerk's office mail out the signed agreement in accordance with the certificate of mailing.

VII. OTHER BUSINESS

Staff Attorney DeLayne Merritt advised the Authority that Erich and Barb, LLC dba The Snowflake received a new violation on November 3, 2009 for serving while license was actively suspended. She met with Member Mr. Frei to discuss the violation. They discussed prior violations. She noted that this is the 5th violation in just a few months. Mr. Frei was not requested to be present for this meeting. This agreement reinstates prior days held in abeyance from the previous 2 violations which is a total of 20 days suspension from January 5, 2010 to January 24, 2010, which would be concurrent with the original 5 days of active suspension currently scheduled.

City Attorney Shaver stated that this agreement was done to accommodate Mr. Frei since he was already serving his active suspension.

PST Lisa Maestas, Liquor Enforcement/Investigations, advised that Mr. Frei is always very cooperative and wants to do what is right. She believes that part of the problem is that he is not present at the establishment often enough.

Ms. Merritt advised that she spoke with Mr. Frei and advised him of possible consequences if any future violations occur.

City Attorney Shaver recommended approval of the agreement.

Hearing Officer Grattan signed the agreement and asked that the City Clerk's office mail out the signed agreement in accordance with the certificate of mailing.

VIII. **ADJOURNMENT** – The meeting was adjourned at 3:12 p.m.

NEXT REGULAR MEETING – January 20, 2010

MEMO: Local Licensing Authority
FROM: Debbie Kemp, Deputy City Clerk
DATE: December 21, 2009
SUBJECT: Application for a new Hotel and Restaurant liquor license by Areios Western Slope Colorado, LLC, dba Smashburger, 1840 N. 12th Street

Areios Western Slope Colorado, LLC filed an application with the Local Licensing Authority on November 23, 2009 for a new hotel and restaurant liquor license permitting sales of malt, vinous and spirituous liquors by the drink for consumption on the premises at 1840 N. 12th Street, under the trade name of Smashburger. The application and supplementary documents were reviewed, found to be in order and accepted. A copy was sent to the State Liquor Enforcement Division for a Concurrent Review. The hearing date was set for January 6, 2010. The Notice of Hearing was given by posting a sign on the property on December 27, 2009 and by publishing a display ad in the Daily Sentinel on December 18, 2009.

In order to address the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood, the applicant conducted a survey. The neighborhood was defined as the area bounded on the North by Patterson Road, North Avenue on the South, 20th Street on the East, and on the West by 7th Street and includes both sides of the streets as the outer boundaries. The results of that survey are as follows:

- As an owner of property in the neighborhood, an employee or a business lessee of property in the neighborhood, and/or an inhabitant residing in the neighborhood for more than six months each year, I believe the reasonable requirements of the neighborhood are already being met by other existing outlets.

| | |
|-----|-----|
| Yes | 38 |
| No | 114 |

2. As an inhabitant who resides in the neighborhood for more than six months each year, it is my desire that the license be issued.

| | |
|-----|----|
| Yes | 71 |
| No | 9 |

There was 1 signature disqualified because the signer lived out of the designated neighborhood boundary.

An Exhibit was provided for a record of attempts at the survey due to various reasons. This is attached as Exhibit 1.

The Grand Junction Police Department has investigated the owners for local criminal history. Reports have been requested by the Grand Junction Fire Department, Code Enforcement, Mesa County Health Department, and the City of Grand Junction Sales Tax Department.

The number of similar-type outlets in the survey area is as follows:

Hotel and Restaurant – 5 (Breckenridge Ale House, El Tapatio, Fiesta Guadalajara, Wrigley Field, and Xian Wei)

There are no similar-type outlets in a one mile area in addition to the above.

There has not been any remonstrance's or petitions received in the City Clerk's office as of the date of this letter.

That concludes this report.

cc: Applicant
John Shaver, City Attorney
Lisa Maestas, Grand Junction Police Department
Brian Leonhardt, Survey circulator
File

Exhibit 1

Pita Pt. / would not sign - 12-16-09
Makeny M. Pinos told me to call corporate - 12-16-09
Domines would not sign 12-16-09
American mattress - go to other store 12-16-09
1240 Orchard not Home 12-26-09
1414 Orchard not Home 12-20-09
1425 Hall ave not Home 12-30-09
1364 mesa Not six month 05 12/20
1611 16th st not Home 12-20
1710 n 17th not Home 12-20
1705 n 18th not Home
946 Dadeir not Home 12-20
2311 n. 17th st circle Don't care about it 12-20

MEMO: Local Licensing Authority

FROM: Debbie Kemp, Deputy City Clerk

DATE: December 18, 2009

SUBJECT: Application for a new Hotel and Restaurant liquor license by Trust Trifecta Enterprises, LLC, dba Naggy McGee's Irish Pub, 359 Colorado Avenue, #102, 103, & 104

Trust Trifecta Enterprises, LLC filed an application with the Local Licensing Authority on November 30, 2009 for a new Hotel and Restaurant liquor license permitting sales of malt, vinous and spirituous liquors by the drink for consumption on the premises at 359 Colorado Avenue, #102, 103, & 104, under the trade name of Naggy McGee's Irish Pub. The application and supplementary documents were reviewed, found to be in order and accepted. A copy was sent to the State Liquor Enforcement Division for a Concurrent Review. The hearing date was set for January 6, 2010. The Notice of Hearing was given by posting a sign on the property on December 27, 2009 and by publishing a display ad in the Daily Sentinel on December 18, 2009.

In order to address the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood, the applicant conducted a survey. The neighborhood was defined as the area bounded on the North by Teller Avenue, 4th Avenue on the South, 9th Street on the East, and on the West by West Avenue and includes both sides of the streets as the outer boundaries. The results of that survey are as follows:

2. As an owner of property in the neighborhood, an employee or a business lessee of property in the neighborhood, and/or an inhabitant residing in the neighborhood for more than six months each year, I believe the reasonable requirements of the neighborhood are already being met by other existing outlets.

| | |
|-----|----|
| Yes | 3 |
| No | 87 |

There were 44 signatures from Residences that failed to answer #1.

2. As an inhabitant who resides in the neighborhood for more than six months each year, it is my desire that the license be issued.

| | |
|------------|----|
| Yes | 42 |
| No | 1 |
| N/A | 1 |
| No Comment | 1 |

There were 3 signatures disqualified because the signer lived out of the designated neighborhood boundary.

There were 11 disqualified signatures on #2 because businesses answered the question which does not apply to businesses.

The Grand Junction Police Department has investigated the owners for local criminal history. Reports have been requested by the Grand Junction Fire Department, Code Enforcement, Mesa County Health Department, and the City of Grand Junction Sales Tax Department.

The number of similar-type outlets in the survey area is as follows:

Hotel and Restaurant – 14 (626 On Road-Modern American Cuisine & Wine Bar, Blue Moon Bar & Grille, Dolce Vita II, Fly'n Roosters, Il Bistro Italiano, Junct'n Square Pizza, La Bamba, Le Rouge, Los Reyes Restaurant, Nepal Restaurant, Suehiro Japanese Restaurant, Two Rivers Convention Center, Weaver's Tavern, and The Winery)

The number of similar-type outlets in a one mile area in addition to the above is as follows:

Hotel and Restaurant – 3 (Fiesta Guadalajara, No Coast Sushi, and Old Chicago)

There has not been any remonstrance's or petitions received in the City Clerk's office as of the date of this letter.

That concludes this report.

cc: Applicant
John Shaver, City Attorney
Lisa Maestas, Grand Junction Police Department
File