

**LIQUOR AND BEER MEETING
LOCAL LICENSING AUTHORITY
CITY OF GRAND JUNCTION, COLORADO
CITY/COUNTY AUDITORIUM, 520 ROOD AVENUE**

M I N U T E S

WEDNESDAY, DECEMBER 21, 8:00 A.M.

- I. CALL TO ORDER - The meeting convened at 8:04 a.m. Those present were Hearing Officer, Philip Coebergh, Assistant City Attorney John Shaver, and City Clerk Stephanie Nye.

II. HEARINGS - LIQUOR AND BEER CODE VIOLATIONS

- A. Show Cause Hearing - Joe Velarde dba La Mariposa,
159 Colorado Avenue

Mr. Joe Velarde, owner of La Mariposa, was present. Assistant City Attorney Shaver stated that there are two separate matters to be considered: the first is the motion and order to "show cause" which was based on a stipulation that was entered into between the Local Licensing Authority and the licensee, Mr. Velarde, pertaining to a fine in lieu of a suspension for an offense that occurred in April, 1994, then the verified complaint is for a new offense. The verified complaint was not on the agenda. It was simply an oversight. The licensee did receive the notice to show cause and the verified complaint. Mr. Shaver and Mr. Velarde discussed both matters earlier this week. A recommended stipulation has been reached for purposes of suspension of the licensee's license. The 3 days is mandatory based upon the stipulation that was entered into in July of this year, allowing the licensee to pay a fine in lieu of suspension. That is on the motion in order and "show cause." That particular matter involved a disturbance at La Mariposa, and the licensee paid a fine in lieu of a stipulated 3-day suspension. A condition of that stipulation was that the licensee would have no further violations of the Colorado Liquor and Beer Codes for the following six months. That did not occur. Based upon the licensee's representation to Mr. Shaver that he will be admitting to the new verified complaint, the recommendation is that the 3 days be actively imposed as a suspension, and in addition to that on the new complaint, that an additional 5 days of active suspension be imposed.

Hearing Officer Phil Coebergh summarized his interpretation of Mr. Shaver's statements by stating to Mr. Velarde that Mr. Velarde is planning to admit the allegations in the motion in order to show cause which would be admitting a violation in regard to the

previous stipulation that was entered, where a fine was imposed instead of Mr. Velarde's license being suspended, Mr. Velarde is willing to admit a violation in that case, and agree to the 3-day suspension. Then based on the verified complaint which alleges the same information that was in the Motion in Order to Show Cause, Mr. Velarde is willing to admit that violation based on the allegations that have been brought based on Mr. Velarde's understanding and his agreement that there will be a 5-day actual suspension of his license. Mr. Velarde replied that was his understanding. He understood that there will be a total of 8 days divided by the 3 days on the Motion in Order to Show Cause, and the 5 days on the verified complaint, and that his license would be suspended and his operation would be closed.

Mr. Velarde admitted that the incident happened, he witnessed it, and has chosen not to have an attorney regarding this case.

Mr. Shaver continued that based on the circumstances alleged to have occurred on November 3, 1994, it does not appear to be a particularly aggravated offense. Mr. Velarde had hired an operator and manager of his establishment to whom he had entrusted the establishment, who engaged in service after hours, and a disturbance ensued. Mr. Velarde has discharged that particular individual from his employ. Mr. Shaver recited the report prepared by Officer Greg Assenmacher, the investigating officer on this incident, also witnessed by Sgt. Les Johnson of the Grand Junction Police Department (copy attached). Mr. Velarde accepted the report as offer of proof that the offense occurred.

Hearing Officer Coebergh stated that in essence Mr. Velarde is giving up his right to remain silent and the right to have an attorney in various matters. Mr. Velarde responded that he understood.

Mr. Shaver stated that he agreed to recommend having the suspension imposed in early January, 1995, at which time Mr. Velarde plans to do some remodeling on the establishment. Hearing Officer Coebergh did not feel it is appropriate for Mr. Velarde to be able to schedule his remodeling at the time when the suspension is occurring. That takes away the penalty aspects of the suspension. Mr. Shaver agreed with Mr. Coebergh, but also felt that the nature of the particular offense was not specifically aggravated. That is why he has no objection to the arrangement. Mr. Shaver had told Mr. Velarde that the final decision is at the discretion of the Hearing Officer. Mr. Coebergh did not wish to schedule the suspension to comply with Mr. Velarde's remodel schedule.

Hearing Officer Coebergh explained to Mr. Velarde that this is supposed to be penalty, and not to be a time when he would be closed anyway. Mr. Coebergh felt that Assistant City Attorney Shaver needed to put the stipulation in writing. Hearing Officer

Coebergh stated that the suspension will begin Friday, January 13, 1995, with the 8 days starting on that date. After the end of the

8 days, Mr. Velarde will be able to operate once again. The premises will be posted with the suspension notice. The notice will be prepared by the City Clerk. Mr. Coebergh stated that it is Mr. Velarde's responsibility to see that the establishment remains closed during the suspension period, that no liquor is served.

Hearing Officer Phil Coebergh stated that if another violation takes place in the near future, there will be no more suspensions, his license will probably be revoked.

Mr. Velarde asked if the restaurant could remain open to serve food only.

Assistant City Attorney Shaver stated that no alcohol is to be served during the suspension period.

Hearing Officer Coebergh ordered that the establishment not be closed, but that Mr. Velarde not, in any way, serve alcohol. Mr. Shaver stated that there is case law that states that the alcohol must be removed from the licensed premises. Mr. Coebergh again requested that these stipulations be put in writing.

B. Show Cause Hearing - Janice Lee Stephens dba La Fonda Dos Rios, 209 Colorado Avenue

Hearing Officer Coebergh stated that this is based on a complaint filed by the City on November 17, 1994, with Notice of Hearing being given, and a copy of a Summons and Complaint has been presented to him.

Assistant City Attorney John Shaver stated that he received a telephone call from Mr. Steven Laiche, Foster, Larson, Laiche & Griff, on December 20. Mr. Laiche indicated that he will be entering his appearance on behalf of the licensee and stated that he would, in fact, have a motion to Mr. Shaver requesting a continuance by 8:00 a.m. on December 21, 1994. Mr. Shaver had not received that motion prior to commencement of this morning's hearing. It was the City's position that this item could be set on the next agenda for the regularly scheduled Local Licensing Authority meeting on January 4, 1995. Mr. Shaver also required of Mr. Laiche, in his motion and entry, that he waive, on behalf of his client, any formal advisement. Mr. Laiche indicated that he would fully advise his client, and would waive any right to an advisement.

Mr. Coebergh brought up a potential conflict of interest, and made it clear that he has worked on some cases with Mr. Laiche. To his knowledge, there is nothing that they are working on jointly at the present time. He does not feel it would be a conflict of interest, but felt it needed to be on the record both for the City

and for the licensee, Ms. Stephens, to be sure there is either a waiver of a conflict, or if there is not waiver, then Mr. Coebergh would have to look at any motion that might be raised as to his being involved as the hearing officer in this matter.

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Assistant City Attorney Shaver did not see a conflict of interest and appreciated Mr. Coebergh mentioning it.

The matter was continued to January 4, 1995.

III. APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES

- A. Panda Inn, 1037 North Avenue (Hotel-Restaurant)
The application was in order, and approved.
- B. Go-Fer Foods-First Street, 102 North Avenue (3.2% Beer)
The application was in order, and approved.
- C. City Market Store No. 2, 200 Rood Avenue (3.2% Beer)
The application was in order, and approved.
- D. Pancho Villa's, 801 N. 1st Street (Hotel-Restaurant)
The application was in order, and approved.
- E. Loco Food Store No. 14, 2902 F Road (3.2% Beer)
The application was in order. City Clerk Stephanie Nye stated that this is a new license to the City because they have recently been annexed with an effective date of October 23, 1994. The license was issued by Mesa County. The renewal goes through the City for consideration. This license was approved.
- F. Golden City Restaurant, 2430 North Avenue (Beer-Wine)
The application was in order, and approved.
- G. Ricci Investment Co., 2526 Broadway (3.2% Beer)
The application was in order, and approved.
- H. Inland Oil Products, Inc., 2494 Highway 6 & 50 West (3.2% Beer)
The application was in order, and approved.

IV. ADJOURNMENT - The meeting adjourned at 8:29 a.m.

NEXT REGULAR MEETING - January 4, 1995