

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

M I N U T E S

WEDNESDAY, SEPTEMBER 17, 1997, 8:00 A.M.

I. **CALL TO ORDER** - The meeting was called to order at 8:10 a.m. Those present were Hearing Officer Phil Coebergh, Assistant City Attorney John Shaver and Acting City Clerk Christine English.

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

1. MX Inc., dba Dolce Vita, 336 Main Street, Hotel-Restaurant

Sharme Perucchini was present representing MX Incorporated.

The application was in order and approved.

2. Grand Steak Inc., dba Bob & Jan's Prime Rib & Lobster House, 2500 North Avenue #89, Beer and Wine

The application was in order and approved.

3. LS & L Restaurant Corporation dba Big Cheese Pizza, 810 North Avenue, Hotel-Restaurant

The application was in order and approved.

III. **HEARING FOR RENEWAL AND DECISION ON CAUSE FOR LATE FILING**

1. Melissa Sherman LLC., dba Melissa's Table, 319 Main Street, Hotel Restaurant

Melissa Sherman and John Williams, attorney, were present. Mr. Williams stated for the record that the application was filed on August 29, 1997, approximately 30 days later than required by the State Statutes. The Local Licensing Authority has the authority to waive the time requirements under C.R.S. 12-47-106(b) if good cause is found. Mr. Williams researched good cause and could find no case law. Mr. Williams stated the reasons for the late renewal are: 1. The Sherman's didn't remember receiving the renewal notice from the state. 2. The renewal application was filed based on a telephone call from Stephanie Nye, for which they were very appreciative. The renewal was filed within 24 hours after receiving the phone call. 3. They have been involved in purchasing a new house which was contingent on selling the old house which did not close. They decided to purchase the new house anyway, so they had been making two mortgage payments until July 31, 1997. There has been a fair amount of financial stress. They also adopted a baby

girl this year. There has been a continuing problem with the baby's biological father which continues to be a problem. They realize this has nothing to do with running a restaurant and having a liquor license but it has caused some confusion and anxiety in their life. The renewal was not intentionally forgotten. They ask that the Licensing Authority find good cause in waiving the time requirement.

In regards to the letter dated September 5, 1997 from Stephanie Nye, the sales tax has been paid. The occupational tax has also been paid and the certificate is prominently displayed as required.

The last issue has to do with possession of the premises. The lease for Melissa's Table expires on March 31, 1998 so there is no lease for the premises for the full term of the license. Ms. Sherman is close to finalizing a lease for a move to the Mercantile Building. It is anticipated that within the next 48 hours this should be completed. It is not timely or appropriate at this time to file a change of location. Once this is finalized, Ms. Sherman intends to file a change of location. Ms. Sherman realizes that if the license is approved today it would be contingent on having a premises that the license is attached to, and if Melissa's Table does not have possession of the location of 319 Main Street after April 1, 1998, the license will not be active. Mr. Williams asked that the license be issued in spite of the fact that possession will not go beyond April 1, 1998.

Mr. Williams stated that a large part of the confusion was due to a lack of consistent bookkeeping. Ms. Sherman has hired a bookkeeper who will pick up the receipts on a nightly basis, file sales tax returns on a timely basis and who will assist in the structure that every small business needs.

Mr. Williams asked Mr. Coebergh to find that good cause does exist, and to waive the time requirements. He stated Ms. Sherman is embarrassed by this situation and would like to apologize. He also stated the alcohol sales does not constitute a large percentage of the gross receipts of the restaurant, although it does enhance the gourmet style of the restaurant.

Ms. English stated the Health Department has inspected the premises three times and it is still not in compliance with the Health Codes. The Health Department has scheduled another reinspection today. Ms. Sherman stated the repair work was scheduled to be done today and the other issues have been dealt with.

Mr. Shaver said the notice of renewal would be mailed to the location of the license, so if there has been a change of address the licensee must provide the current information. In regards to Mr. Williams referring to a former statute, the new statute is 12-47-302 which was just recently enacted in 1997, by HB1076. It does not change anything referred to this morning. There is no law which would specifically define good cause in this context. There is law which defines it for a new license or other considerations, but the law does not define good cause pertaining to a late renewal application. In discussing this issue with Mr. Williams, it was stipulated there would be no objection to anything he stated this morning as to whether it rose to the level of good cause. Mr. Shaver represented to Mr. Williams that the question be submitted to the Local Licensing Authority for consideration with the understanding there would be an admonition from the Authority relative to the importance of prompt and timely filings. Since the license had not expired, it was Mr. Shaver's recommendation that good cause be

found. The net effect of finding no good cause would result in a new license application being filed. The new statute has a provision that may impose a financial penalty, but it is not clear whether it would apply in this situation or whether it result if the license expired, which is not applicable in this case. The sales tax has been paid. There is an open question as to the sales tax account with Shooting Star Deli being delinquent also.

In regards to the Health report, Mr. Shaver stated if good cause were found for renewal of the license, approval be contingent on final inspection and correction for compliance with the Health Department.

Hearing Officer Coebergh said it was unusual to have this many issues surround the renewal of a license. Ms. Sherman seemed to be responding to what had been stated this morning. Mr. Coebergh stated for a licensee to have these numerous tax problems, late application and health issues, it is not a good sign of how the business is being handled. The application was approved contingent on a favorable reinspection by the Health Department. Mr. Coebergh stated the licensee needs to keep the Authority informed as to the lease situation.

Mr. Shaver stated the statutory requirements are that the licensee needs to have possessory interest for the term of the license.

Mr. Williams stated within the next 10 days either a change of location or a new lease will be filed with the Local Authority.

Mr. Shaver recommended setting a formal review hearing status at this time to take place within 30 days.

Mr. Coebergh set a review hearing for October 15, 1997.

Mr. Williams asked if a change of location application or a new lease were filed, would the hearing be waived?

Mr. Coebergh and Mr. Shaver stated yes.

IV. APPLICATION TO REGISTER MANAGER

1. RCI Denver Inc., dba Applebee's Neighborhood Grill & Bar, 711 Horizon Drive, Hotel-Restaurant

James Patrick Connell replaces Patrick John Burns

Mr. Connell was present. Ms. English stated the application was first received in May, 1997. It has taken this long for the applicant to submit the fingerprints needed to complete the application. The law does state the applicant must report the changes within 30 days. Mr. Connell stated there was confusion between the Denver office and the Grand Junction location. There were also some time restraints as his business hours conflicted with the hours of the City Clerk's office and the sheriff's office.

The application was in order and approved.

V. APPLICATION TO MODIFY PREMISES

1. Wadsworth Old Chicago Inc., dba Old Chicago, 120 North Avenue, Hotel-Restaurant

Expand patio area to incorporate fenced area adjacent to patio.

Dean Stecher, general manager, was present representing Old Chicago.

Mr. Stecher asked when the patio would be licensed for use? Mr. Coebergh said upon approval from the state level.

Ms. English stated the check for the modification of premises needs to be submitted to process the application. Mr. Stecher submitted the check. The application was in order and approved.

VI. ADJOURNMENT - The meeting was adjourned at 8:40 a.m.

NEXT REGULAR MEETING - October 1, 1997