

**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, JULY 15, 1998, 8:00 A.M.

I. **CALL TO ORDER** - The meeting was called to order at 8:06 a.m. Those present were Hearing Officer Philip Coebergh, Assistant City Attorney John Shaver and City Clerk Stephanie Nye.

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

1. Loco Incorporated dba Loco Food Store No. 16, 2249 Broadway, 3.2% beer
The application was in order, and approved.
2. Grand Junction North Avenue Liquors Incorporated dba North Avenue Liquors, 801 North Avenue, Retail Liquor
The application was in order, and approved.
3. Dos Incorporated dba Dos Hombres Restaurant, 421 Brach Drive, Hotel-Restaurant
The application was in order, and approved.
4. MX Incorporated dba Dolce Vita, 336 Main Street 101-104, Hotel-Restaurant
Charmane Herke, owner, was present. The application was in order, and approved.

III. **APPLICATION FOR RENEWAL WITH DECISION ON CAUSE FOR LATE FILING**

1. Deborah and Charles Campbell dba The Station at 7th and Main, 701 Main Street, Hotel-Restaurant-**License expired on June 4, 1998, renewal filed on June 29, 1998**

Charles and Deborah Campbell, owners, were present. City Clerk Nye explained that the applicant discovered the license had expired and did not find the renewal application from the State. They have filled out a new application, and have filed the late filing fees to the City and the State. They are in the process of renegotiating the lease as the current lease expires in April, 1999, and will not cover the renewal period. Code Enforcement inspected the premises and it was discovered some modifications have taken place in the licensed premises. The applicant has filed the application for modification of premises and filed the appropriate fees. The Health Department report noted the applicant was required to file a plan with the Health Department for the modifications in December, 1997. To date, that has not taken place.

Assistant City Attorney Shaver stated he had talked to the applicant regarding the outstanding Sales Tax due the City and State. The applicant needs to be in compliance with all other applicable ordinances and statutes. Payments have been made to the City and the problem has been substantially resolved.

Ms. Campbell requested a continuance because they need to renegotiate their lease. The reason for not completing some of the requirements is because they were waiting for their partner to get together with the attorneys. She said she did submit a plan to the Health Department in December, 1997. Mr. Shaver said the State Statute says there must be a lease in place for possession of premises. It is the City's construction of the statute that the lease needs to cover the period of the license to allow continuance of the license. In this case, the licensee is renegotiating, and it would be appropriate to allow the renewal to be continued. Mr. Shaver said Colorado Revised Statute 12-47-302(2)(a) provides that a licensee who files a late renewal application, and pays the requisite fees, may continue to operate until both State and local authorities have taken final action to approve or deny such licensee's late renewal application. He recommended the application be continued only until the next regularly scheduled meeting of the local licensing authority.

Hearing Officer Coebergh continued the hearing on this application until August 5, 1998.

2. Laurie Chavez dba la Bamba Mexican Dining, 2900 North Avenue, Hotel-Restaurant-**License expired on July 7, 1998, renewal filed on July 6, 1998**

City Clerk Nye stated the applicant filed the renewal application one day prior to the expiration date. The law states it should be filed 45 days prior to the expiration date. She read into the record a letter filed by Ms. Chavez regarding the reason for late filing (attached). They have also recently changed ownership to a LLC which should have been filed within 30 days of the change. Ms. Chavez has subsequently filed an application for transfer of ownership and an application for a temporary license pending the transfer of ownership.

Laurie Chavez was present, and explained that she had been out of town for approximately 30 days trying to find other locations in which she could open another restaurant, and failed to file the renewal in a timely manner. She did not see the renewal application until she returned from Green River, Utah. She also noted that in January, 1998, both her partners talked with Christine English of the City Clerk's Office, and were told that the time to file the change of ownership would be when the renewal application was filed.

Assistant City Attorney Shaver said the more problematic issues are relative to the transfer of ownership. Because of the inter-positioning of that particular problem with the application, it may rise to a level of good cause for the late filing, if, in fact, the applicant was in the process of transferring ownership. Based upon alleged discussions with the City Clerk's office, it may be a basis for a finding of cause relative to the late filing, instead of the licensee's absence from the City. Mr. Shaver recommended the renewal be approved subject to resolution of the other issues.

Hearing Officer Coebergh approved the application subject to the other problems regarding the change of ownership being resolved. He admonished the applicant to watch for subsequent renewal notices from the State, and to file well within the 45-days before expiration of the license.

IV. REPORT OF CHANGE IN CORPORATE STRUCTURE

1. Fraternal Order of Eagles #595, 1674 Highway 50, Club

President: Jerry Clark replaces Rick Arellano
V. President: Rich Ivey replaces Jerry Clark
Trustee: Rick Arellano replaces Randy Schmidt

City Clerk Nye reported the application was complete. Sydney Smith, Secretary, was present. He stated that Rich Ivey, Vice President, is stepping down from his position. Richard Ivey was present and stated that he officially resigned as Vice President of the organization approximately one hour ago. Mr. Smith said a meeting is scheduled for Thursday at which time a new vice president will be named and another application for change in corporate structure will be filed.

Mr. Shaver said he spoke with Ms. Nye and Mr. Smith prior to this meeting regarding State Statute 12-47-307 of the Colorado Revised Statutes pertaining to moral character of an applicant. Mr. Ivey has criminal convictions in his past. Under the Statute, specifically 307(3)(a), if the local licensing authority accesses and considers criminal history, the Statute further provides that there should be an opportunity for evidence of rehabilitation, character references, educational achievements and other positive influences from the period of time between the applicant's last criminal conviction and the consideration of the application for a license. The applicant has been given the option of proceeding with this filing, withdrawing Mr. Ivey's name, and therefore not conducting a hearing on the rehabilitation of Mr. Ivey, with the name of a different vice president being provided to the local licensing authority at a later date. The other option would be to schedule the matter for a hearing on Mr. Ivey's rehabilitation and/or past criminal convictions.

Hearing Officer Coebergh said the problem was resolved by Mr. Ivey's resignation; therefore the application was approved with the understanding that another application for change in corporate structure will be filed when a new vice president has been named.

Mr. Ivey asked what would happen if he tried to remain on the board. Mr. Shaver explained to Mr. Ivey that at the time the application for change in corporate structure, including Mr. Ivey, was filed, the application would be substantially similar to what has occurred at this meeting. It would be placed on the agenda as a hearing item and the Statute referred to above would be discussed. Details of Mr. Ivey's criminal history would be discussed openly. Mr. Ivey would have an opportunity to present evidence of rehabilitation. Mr. Shaver offered to provide copies to Mr. Ivey of State Statute 24-5-101 pertaining to "moral turpitude."

Hearing Officer Coebergh admonished Mr. Ivey that such hearing might place the organization in such a posture that the change in corporate structure might not be approved. It is simpler now since Mr. Ivey has withdrawn his position as vice president.

- V. ADJOURNMENT - The meeting was adjourned at 8:28 a.m.

NEXT REGULAR MEETING - August 5, 1998

ATTACHMENT

7-7-78

To Whom it May Concern:

I am writing this letter to let you know the reason for my renewal being late.

I have been out of town for over a month trying to get the other La Bamba in Green River, Utah, going. So when I got back my partner told me to run down and get our liquor license. I had not realized we had 45 days before the due date.

We are changing everything to a limited Corporation also.

I am so very sorry about all this.

Thank you,

Laurie Chavez