

**LIQUOR AND BEER MEETING
LOCAL LICENSING AUTHORITY
CITY OF GRAND JUNCTION, COLORADO
TWO RIVERS CONVENTION CENTER, 159 MAIN STREET**

MINUTES

WEDNESDAY, May 5, 1999, 8:00 A.M.

Alternate Hearing Officer Jim Majors

I. **CALL TO ORDER** – The meeting was convened at 8:08 a.m. Those present were Alternate Hearing Officer Jim Majors, Assistant City Attorney John Shaver and Acting City Clerk Christine English. Mr. Majors announced the application for Modification of Premises and Optional Premise by the Pinon Grill would be moved to the last item on the agenda.

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

1. Happy Valley Spirits Incorporated dba Earl's House of Spirits, 1560 North Avenue, Retail Liquor Store

The application was in order and approved.

2. The Denville Corporation dba Cottonwood Liquors, 2513 Highway 6 & 50, Retail Liquor Store

The application was in order and approved.

3. Feather Petroleum Company dba Stop N Save #4, 2700 Highway 50, 3.2% Beer

The application was in order and approved.

4. Texas Roadhouse of Grand Junction LLC, dba Texas Roadhouse, 2870 North Avenue, Hotel-Restaurant

The application was in order and approved.

III. **REPORTS OF CHANGE IN CORPORATE STRUCTURE**

1. Grand Junction London Pub Incorporated dba Chelsea London Pub & Grill, 2424 U.S. Highway 6 & 50, Hotel-Restaurant

Secretary: E.B. Hamilton replaces Bob McKelvey

The application was in order and approved.

2. Beye Lotz Post #1247 VFW, 1404 Ute Avenue, Tavern

Trustee: Donald Cole removed.

Mr. Shaver stated Mr. Cole failed to make full disclosure on his individual history. This is a consensual removal. The trustee position will remain vacant until June when the VFW will have a new election of officers. Mr. Shaver stated it is necessary for each trustee to submit an individual history form, as they are the directors of the licensee.

The application was in order and approved.

IV. APPLICATIONS FOR NEW LICENSES

1. Feather Petroleum Company dba Stop N Save #11, 621 24 Road, 3.2% Beer

President: Larry V. Feather, 631 Rushmore Drive, Grand Junction
Vice President: Andrew K. Smith, Sr., 30880 St. Andrews Lane, Evergreen, CO
Secretary/Treasurer: Stanley R. Medsker, 2061 E. Long Drive, Greenwood Village, CO
Director: Michael S. Medsker, 474 Kaibab Road, Eagle, CO
Director: Andrew K. Smith, Jr., 2151 Torrey Pine Drive, Evergreen, CO

Larry Feather was present. Ms. English read into the record the report to the Licensing Authority (see attached). Mr. Feather stated the people conducting the survey were not allowed to go into Mesa Mall as it is against the Mall's policy to allow any soliciting. The area of the survey is sparsely populated and it was difficult to obtain a large number of signatures. This is the 10th such license on the western slope. They have been doing business for approximately 20 years.

Mr. Shaver asked Mr. Feather if the results of the survey as read from the report are consistent with the survey documents produced and the results found. Mr. Feather stated yes.

There was no opposition present. The application was in order. The results of the survey indicate it is the desire of the adult inhabitants of the neighborhood that the license be issued. The requirements have been meet. The application was approved.

2. Mountaineer Hotels Incorporated dba Peachtree Inn & Restaurant, 1600 North Avenue, Hotel-Restaurant

President: Nick Stoika, 2035 North Surrey Court, Grand Junction
Vice President: Michelle Stoika, 2035 North Surrey Court, Grand Junction

Nick Stoika was present. Ms. English read into the record the report to the Licensing Authority (see attached). Ms. English noted the premises have been undergoing an extensive clean up. Due to this, final Health and Fire inspections have not been completed.

Mr. Stoika stated the business was purchased eight (8) months ago. Mr. Majors asked when the anticipated opening date would be. Mr. Stoika stated it would take approximately ten (10) days.

Mr. Shaver asked Mr. Stoika who conducted the survey and if the findings read into the record are consistent with the survey as conducted. Mr. Stoika stated yes. Mr. Shaver asked what time of day the survey was conducted. Mr. Stoika stated some were done in the evening and some in the morning. Mr. Shaver stated the neighborhood boundaries are residential and yet the survey results indicate a low number of responses. Mr. Stoika stated it was difficult to find people at home. There were no objections among those contacted.

There was no opposition present. The application was in order. The results of the survey indicate it is the desire of the adult inhabitants of the neighborhood that the license be issued. The requirements have been meet. The application was approved contingent upon final inspections by the Health and Fire departments.

8:30 a.m. Mr. Majors called for a five (5) minute recess.

The meeting reconvened at 8:37 a.m.

V. APPLICATION FOR MODIFICATION OF PREMISES AND OPTIONAL PREMISE

1. The Pinon Grill Incorporated dba The Pinon Grill at Tiara Rado, 2063 South Broadway, Hotel-Restaurant

Mr. Majors noted the City Council passed Ordinance 3112 authorizing an optional premise license to the Pinon Grill Incorporated on April 7, 1999 and will be effective on May 7, 1999. Mr. Majors stated he would not be treating either the application for the modification of existing premises or the application for the optional premise as a new license. State Statute is clear in stating that a survey of the needs and desires of the neighborhood is not required. The Licensing Authority will hear the comments of those present today prior to making a decision on the application.

The application was in order. The modification of premises is for expanding the existing hotel-restaurant license which was issued for the club house area, to include the contiguous area of the golf course, and the optional premise license for the rest of the golf course.

There have been no letters of opposition filed to date. The premises were posted with three (3) Notice of Hearing signs.

Pat Kennedy, president of Pinon Grill Incorporated and owner of the Pinon Grill Restaurant, was present. Mr. Kennedy stated the reason for the application was to simplify the operation of the business; operating with two (2) separate licenses causes confusion for the public. People order a cocktail at the restaurant and wish to take it on the golf course and cannot due to the 3.2% beer license on the golf course. Mr. Kennedy stated his intent is not to sell liquor on the golf course. Maintaining two (2) licenses doubles the fee structure. This application will minimize the operational fees involved. Mr. Kennedy stated Tiara Rado Golf Course is the only 18-hole golf course in the area that does not allow people to take cocktails on the golf course. This places them at a competitive disadvantage with other golf courses. Last summer, a large tournament came and wished to set up a station where they could serve margaritas to their guests. They were not allowed to do that. Consequently, they lost the tournament contract, approximately \$3,000 dollars in revenue, and over \$2,000 in green fees to the City. This type of conflict is what they wish to avoid. They will be selling 6% retail beer as opposed to the 3.2% beer presently. The beverage cart will continue to sell the same types of products: soft drinks, Gatorade, candy bars, bottled water and 6% beer. On special occasions, they are predicting less than five (5) a year, they wish to set up stations on the golf course for social tournaments where they wish to be able to offer cocktail service.

Mr. Majors asked where the Notices of Hearing were posted. Mr. Kennedy stated one (1) was in the foyer of the club house, one (1) was stapled to the sign on the #7 tee box, and one (1) was stapled to a trellis on the #6 rest station.

Mr. Kennedy stated when the new driving range is completed, he will be making another application for optional premise. There will eventually be another 9-holes in the same area that will be included in the next application.

Mr. Shaver asked Mr. Kennedy to identify, on the diagram submitted with the application, the area involved in this application. Mr. Shaver asked Mr. Kennedy if he was aware of

Ordinance 3112 and that one of the conditions was the lease agreement with the Pinon Grill needed to be rewritten to reflect the passage of the ordinance; the lease condition that 3.2% beer was to be served on the golf course was to be amended. Mr. Kennedy stated yes. Mr. Kennedy stated there was an agreement in spirit and the document had yet to be drafted, all parties are in agreement. Mr. Shaver asked Mr. Kennedy if he was aware that no license would issue until after the effective date of the ordinance, which is May 7, 1999. Mr. Kennedy stated yes. Mr. Shaver asked Mr. Kennedy if there have been any violations with the hotel-restaurant license or the 3.2% beer license that he currently holds. Mr. Kennedy stated no.

Mr. Majors stated Mr. Kennedy would be able to offer rebuttal to the comments of those in attendance. Mr. Majors asked if there was any one present who wished to speak either in favor of or opposition to the issuance of the license.

Mr. Craig Schneider, a resident who lives on the golf course but did not wish for his address to be on public record, spoke in opposition to the license. Mr. Schneider stated he had four (4) reasons against allowing hard liquor on the golf course. They are: 1). The players currently have a difficult time keeping the balls on the course; there are broken windows, roof tiles, damaged stucco happening now. By allowing hard liquor on the golf course, this will only increase. 2). Currently, the players are often loud, obnoxious and rowdy as they play. By adding hard liquor to the mix, it will only get worse. There are many families that live on the golf course, including small children. The golfers currently swear and throw their golf clubs. By adding more alcohol, this will only get worse with more rowdiness and foul language. No one who lives along the golf course wants more of this type of behavior. 3). It will slow the play. 4). The roads leading to the golf course are narrow and winding with little or no shoulder. There are tight 90-degree curves. There are many bikers and walkers on the road. By adding people who have been drinking before, during and after their play, and then trying to negotiate these roads, will cause a serious problem. Mr. Schneider stated people should be able to play a round of golf without a drink of hard liquor in their hand. He did not think the posters were adequate. He noticed one posted on the restroom and two (2) days later it had blown away. He felt that a lot more people from the subdivision would be present if they had seen the posters.

Mr. Majors asked Mr. Schneider if he had attended the City Council meeting where this issue was discussed. Mr. Schneider stated he had not heard anything about the meeting.

Mr. Rex May, a resident of Grand Junction, spoke in opposition to the license. Mr. May stated he has been playing golf for over 55 years. He strongly believes alcohol has no place on an open golf course. It makes it unpleasant for the other players and accidents have happened on the course over the years. Mr. May stated the roads are very dangerous and there is no control on the golf course like there is in a bar or a restaurant. There is no one overseeing the amount someone is drinking, so they cannot take necessary steps to intervene. Mr. May stated he did not believe the people who will be selling this alcohol or beer are trained to detect fake ID's, or tell the age of the people, especially a mature minor. A minor could buy the beer, share it with others or maybe a legal adult will buy it and share it with someone who is underage. The liability involved if an accident happens would surely involve a lawyer who knows there are deep pockets involved--the state, the city, the people who run the golf course. Alcohol does not have any place in the world of golf. No other sport allows participants to drink alcohol and do things with the potential of becoming dangerous. On the golf course, there are people driving lethal weapons and carrying 14 other lethal weapons, hitting a ball and not knowing where it is going. Adding alcohol to this will only make it worse. Mr. May stated he would like to see all the 3.2% beer licenses revoked.

Mr. Majors asked Mr. May if he lived on or near the golf course. Mr. May stated he did not but he is a regular golfer.

Mr. Karl Fitzpatrick, 2497 Wellington Court, spoke in opposition to the license. Mr. Fitzpatrick stated he is a long time golfer. He does not believe alcohol should be permitted on the golf course. Mr. Fitzpatrick agreed with the points made by Mr. May and Mr. Schneider. Mr. Fitzpatrick wanted to discuss the enforcement issue. He asked if the City was going to have a police officer on the course to see that enforcement happens; to see that whoever is driving the cart is only selling beer? Mr. Kennedy has stated that is not his plan now, but what about a week from now, or a month from now. Involving liquor will slow up the play, take revenue away from the City of Grand Junction, drinkers frequent the restrooms which slows up play. Is this going to set a precedent? If this can happen on Tiara Rado, what about Lincoln Park, the JUCO Tournament, or any football games. What stops people from taking their own bottle onto the course? If alcohol is sold on the course, why should they spend \$1.50 or \$2 for a drink when they can buy a pint of whiskey for the same price and share it with others. There are also many minors on the course, such as the high school practice teams. How is identification going to be handled? Mr. Fitzpatrick stated he saw the sign on #6 hole and the one in the club house, but he did not see the other one. Mr. Fitzpatrick stated many people were not aware of this change happening. The system of notification is not adequate.

Mr. Rocky Shrable, resident of Grand Junction, spoke in opposition of the license. Mr. Shrable stated he has recently begun golfing with his 13 and 11-year old children. Mr. Shrable stated he is a minister and is opposed to any liquor being allowed on a public, city course. The narrow, curving streets present a problem. There are laws against drinking and driving. There is no license issued for driving a golf cart, and many accidents are currently happening without hard liquor. By adding hard liquor there will certainly be an increase in the accidents happening when people cross those streets. Liquor impairs people's judgment especially in driving.

There were no other comments.

Mr. Kennedy spoke in rebuttal. Mr. Kennedy stated he has consulted with his attorney. His attorney stated the law is very clear concerning liquor on the golf course. Opposition to liquor on the golf course just for the sake of liquor on the golf course is not a valid objection. There are safe guards currently in place for control of the alcohol. There are seasoned restaurant employees that are trained by Mr. Kennedy in the service of alcohol and checking ID's. The beverage cart driver is also a seasoned restaurant employee who has had years of experience on serving alcohol. The person driving the beverage cart knows who is drinking and the amount of alcohol they have had. They know when someone has been over-served. In regards to setting a precedent and Lincoln Park; Lincoln Park is too close to Lincoln Park Elementary School, therefore they will never have a liquor license unless the school is relocated. There is an agreement with the City's Parks and Recreation Department that no alcohol will be sold off the beverage cart, only beer. The concerns of Mr. Fitzpatrick's of how Tiara Rado plans to do things in the future will be governed by the Parks and Recreation board specifically by the director, Mr. Joe Stevens. People are allowed to purchase a cocktail and go skiing at Powderhorn. At a bowling alley, people are allowed to purchase a cocktail and go bowling. People assume certain risks in their activities, the same thing is true with the golf course as the ski area. If you choose to imbibe in alcohol, you take the risk involved. Mr. Kennedy stated he has a petition with over 200 names of people who are in favor of the issuance of the license. There was a notice posted in the clubhouse, if the weather destroyed one of the posters which had been posted outside, he was not aware of it.

Mr. Majors asked Mr. Kennedy if there was any provision for control of the mix of adult golfers with juvenile golfers, or juvenile golfers who would be golfing with drinking adults. Mr. Kennedy stated those controls are already in place. A group of adolescents would not be served. In a situation where an adult is playing with a child, the adult is entitled to purchase a cocktail for himself. The adult can only buy one can of beer for himself, he will not be allowed to purchase more than that. If he chooses to give that to the underage person, he would be removed from the course. It may not appear that they have much control over what is happening on the golf course, but they really do. The people who drive the beverage cart have a close awareness of what is happening on the golf course. This has not been a problem in the past and it is not anticipated to be a problem in the future. At large tournaments, they are strictly sponsored events that are adult driven.

Mr. Shaver asked Mr. Kennedy to explain the issue of liability based upon the lease of the premises. Mr. Kennedy stated they are required to carry liability insurance. The City of Grand Junction is not held liable per contractual agreement.

Mr. Fitzpatrick asked how the signatures were obtained on the petition. If homes in the area of the golf course were approached or if the petition was in the bar area. Mr. Kennedy stated the survey was of their customers. It was done at the bar, so that people who came through the clubhouse were asked to sign the petition. Mr. Fitzpatrick did not think this petition was valid, as it was the people who want to drink who were asked to sign it and he was not afforded the same opportunity to petition people. Mr. Kennedy stated this is a survey of the users of Tiara Rado Golf Course. It reflects people who showed an interest in having a certain service offered to them. It is an indication of the type of response they had from people.

Mr. Shaver asked Mr. Kennedy if he intended to submit the petition or if he was just making reference to it. Mr. Kennedy stated he was just making reference to it. Mr. Kennedy stated the petition was used to show the Parks Board that there was a definite interest in this service being provided.

Mr. Shrable asked if a survey was done of a one (1) mile radius as part this application. Mr. Majors stated no. Mr. Shrable asked that a final decision be postponed until a survey could be conducted of the area. Mr. Majors thanked Mr. Shrable for his comments and stated he would be addressing that issue in his findings.

Mr. Majors presented his findings regarding The Pinon Grill Incorporated dba The Pinon Grill at Tiara Rado Golf Course. The application is two-fold: 1). To modify the premises of the existing hotel-restaurant liquor license. The 3.2% beer license that currently exists for the golf course will not be renewed and will no longer be in effect once the modification to the license is granted; and 2). An optional premise license for the area as set forth in the application. A survey of the neighborhood is not required for either the modification of premises or for the optional premise license. C.R.S. 12-47-301 states, "With respect to a second or additional hotel and restaurant license for the same licensee, all licensing authorities shall consider the effect on competition of the granting or disapproving of additional licenses to such licensee..." Mr. Majors stated he is not completely obligated to consider the desires of the neighborhood or the adult inhabitants of the neighborhood. Mr. Majors stated if he did do this, he would be acting outside of his authority, and he therefore declined to do so. Mr. Majors stated the authority is not here to regulate the conduct of golfers, with or without drinking. His duty is to consider whether or not the license can be modified and the optional premise license can be issued pursuant to the regulations and the statutes. The applicant knows that any violation of the provisions of the liquor code in terms of underage service, or service to visibly intoxicated persons, or service of liquor outside the limits of the premises, or service in contravention of the

agreement the applicant has with the Parks and Recreation Department of the City of Grand Junction, could result in an action to suspend or terminate or hold in abeyance the liquor license. Mr. Majors stated he was satisfied that Mr. Kennedy would undertake all reasonable efforts to be sure the servers comply and that all provisions and requirements of this license are complied with.

Mr. Shaver stated all operational questions need to be addressed to Mr. Kennedy.

Mr. Majors stated the application was in order and approved the modification of premises and the optional premise license. Mr. Majors conditioned the issuance of the license until after May 7, 1999, and a fully executed lease is tendered to Mr. Shaver. Mr. Majors reminded Mr. Kennedy the optional premise license does have some specific notification requirements that will need to be complied with.

VI. ADJOURNMENT – The meeting was adjourned at 9:25 a.m.

NEXT REGULAR MEETING – May 19, 1999

Memo to: Local Licensing Authority
From: Christine English
Date: April 22, 1999

Subject: Application by Feather Petroleum Incorporated for a 3.2% Beer License at 621 24 Road under the trade name of Stop N Save #11

Feather Petroleum Incorporated, a corporation, filed an application with the Local Licensing Authority on April 1, 1999, for a 3.2% Beer license, for the sales of 3.2% beer in sealed containers for consumption off the premises at 621 24 Road under the trade name of Stop N Save #11. The application and supplementary documents were reviewed, found to be in order and accepted. The hearing date was set for May 5, 1999. The Notice of Hearing was given by posting a sign on the property on April 23, 1999 and by publishing a display ad in The Daily Sentinel on April 23, 1999.

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 and defined the neighborhood as the area bounded by F 1/2 Road on the north, River Road on the south, 24 1/2 Road on the east and 23 1/2 Road on the west and included both sides of the streets as the outer boundaries. The results of that survey are as follows:

1. As an owner of property in the neighborhood, an employee or business lessee of property in the neighborhood and/or an inhabitant who resides 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: 4
NO: 34

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: 10
NO: 0
Not applicable: 1

No letters of opposition or counterpetitions have been filed to date.

The applicant, Feather Petroleum Incorporated, is a corporation. No local criminal history was found on any of the corporate officers. The fingerprints have been forwarded to C.B.I. for further processing. The City Code Enforcement Department will inspect the premises to ensure compliance with the diagram submitted. As the building has not yet been constructed, the Mesa County Building Department will need to submit a certificate of occupancy prior to the issuance of the license.

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

3.2% Beer - None

The number of similar type outlets in a one mile area in addition to the above are:

3.2% Beer - 3 (Super Mart Convenience Store (Highway 6 & 50), Super Mart Convenience Store (Patterson Road) and C & F Food Store.

That concludes this report.

cc: John Shaver, Assistant City Attorney
Julia Marston, Police Department
File

Memo to: Local Licensing Authority
From: Christine English, Sr. Administrative Assistant
Date: April 26, 1999
Subject: Application by Mountaineer Hotels Incorporated for a New Hotel-Restaurant Liquor License at 1600 North Avenue under the name of the Peachtree Inn & Restaurant

Mountaineer Hotels Incorporated filed an application with the Local Licensing Authority on March 29, 1999, for a new hotel-restaurant liquor license, for the sales of malt, vinous and spirituous liquors by the drink for consumption on the premises at 1600 North Avenue under the trade name of Peachtree Inn & Restaurant. The application and supplementary documents were reviewed, found to be in order and accepted. The applicant requested a concurrent review, and the application has been forwarded to the State. The hearing date was set for May 5, 1999. The Notice of Hearing was given by posting a sign on the property on April 23, 1999 and by publishing a display ad in The Daily Sentinel on April 23, 1999.

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 and defined the neighborhood as the area bounded by Orchard Avenue on the north, Grand Avenue on the south, 25th Street on the east and 10th Street on the west and included both sides of the streets as the outer boundaries. The results of that survey are as follows:

1. As an owner of property in the neighborhood, an employee of or 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: 0
NO: 17

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

YES: 17
NO: 0
NOT APPLICABLE: 8

No letters of opposition or counterpetitions have been filed to date.

The Grand Junction Police Department investigated the corporate officers for local criminal history and none was found. The fingerprints have been forwarded onto C.B.I. for further processing. The Grand Junction Fire Department will be inspecting the premises for compliance with Life and Safety codes. The Mesa County Health Department will be inspecting the premises for compliance with Health codes. The Code Enforcement Division will be inspecting the premises to insure the diagram submitted with the application matches the physical layout of the establishment.

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

Hotel-Restaurant – 2 (Far East Restaurant and Wrigley Field)

The number of similar type outlets in a one mile area in addition to the above are:

Hotel-Restaurant – 11 (Big Cheese Pizza, Blue Moon Bar & Grille, CHEF'S, Cruiser's Southwestern Café, The Corral, Eagle Café, Fiesta Guadalajara, Junct'N Square, La Mexicana, Suehiro's Japanese Restaurant, The Winery)

That concludes this report.

cc: Applicant
John Shaver, Assistant City Attorney
Julia Marston, Grand Junction Police Department
File