

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

**MINUTES**

**WEDNESDAY, OCTOBER 6, 1999, 8:00 A.M.**

**Alternate Hearing Officer Jim Majors**

- I. **CALL TO ORDER** – The meeting was convened at 8:00 a.m. Those present were Alternate Hearing Officer Jim Majors, Assistant City Attorney John Shaver and Senior Administrative Assistant Christine English.
  
- II. **APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES**
  1. Bold Petroleum Incorporated dba Acorn Food Store, 2222 Highway 6 & 50, 3.2% Beer Off Premise  
  
The application was in order and approved.
  
  2. Feather Petroleum Company dba Stop N Save No. 2, 2050 North Avenue, 3.2% Beer Off Premise  
  
The application was in order and approved.
  
  3. Stephen R. Robertson dba The Corral, 539 Colorado Avenue, Hotel-Restaurant  
  
The application was in order and approved.
  
  4. Silver Star Bowling Incorporated dba Freeway Bowl, 1900 Main Street, Tavern  
  
The Health Department reported 7 critical violations. A reinspection is scheduled for October 15, 1999. The application was in order and approved contingent upon a favorable reinspection by the Health Department. Mr. Majors requested a letter be sent to the applicant stating the license will not be issued until compliance has been met with the Health Department.
  
  5. Billie J. Foust dba Thunder Mountain Tavern, 2701 Highway 50, Tavern  
  
Billie Foust was present. The Fire Department reported 1 critical violation. A reinspection is scheduled for October 15, 1999. The application was in order and approved contingent upon a favorable reinspection report by the Fire Department.
  
  6. Elizabeth V. Talley dba Talley's Bar B Que & Biscuit Factory, 623 Main Street, Beer and Wine  
  
The Health Department reported 1 critical violation which will be allowed to continue until a remodel of the kitchen is completed. The application was in order and approved.
  
  7. Grand Steak Incorporated dba Bob & Jan's Prime Rib & Lobster House, 2500 North Avenue, Beer and Wine

The application was in order and approved.

8. College Liquors Incorporated dba College Liquors, 1133 Patterson Road #9, Retail Liquor Store

Joe Hambright, owner, was present. The application was in order. Mr. Shaver stated during the past licensing period there was a violation charged against the licensee by the Colorado Division of Liquor Enforcement. This resulted in a suspension against the licensee. Mr. Shaver asked Mr. Hambright if there has been compliance with the conditions of the suspension and no further violations. The State and Local Authorities have concurrent jurisdiction. This particular matter was enforced exclusively by the State and included a fine in lieu of suspension. Mr. Shaver presented Mr. Majors with a copy of the documents from the State Liquor Enforcement Division. Mr. Majors asked Mr. Shaver if it were possible to tell from the documents what type of monitoring of compliance was agreed to between Mr. Hambright and the State. Mr. Shaver stated he could not, which is why he is questioning the licensee. The stipulation and agreement provides for a twenty (20) day suspension, with five (5) days of active suspension and the balance to be paid as a fine in lieu of the suspension.

Mr. Hambright stated he received a letter from the City Staff Attorney, Stephanie Rubinstein, asking him to provide a compliance statement by October 15, 1999. Mr. Hambright was present today as a courtesy to the Authority. Mr. Shaver recommended that Mr. Hambright represent to the Authority the specifics of the compliance and file a written statement indicating the dates of suspension. This would be sufficient. Mr. Hambright stated he had complied with all the conditions imposed by the State and he would file a written statement with Ms. Rubinstein. Mr. Majors asked Mr. Hambright to also provide evidence of payment of the fine in lieu of suspension. The application was approved. Mr. Majors noted the enforcement action by the State Liquor Enforcement Division would become part of the record of the Local Licensing Authority and it may be considered at any future renewals.

III. **APPLICATION FOR RENEWAL AND DECISION ON CAUSE FOR LATE FILING** – Continued from September 1 and September 15, 1999; License expired June 4, 1999, Filed August 10, 1999

1. Heather L. Shuman dba Racquet Club Pub, 535 25 ½ Road, Tavern

Heather Shuman was present. Mr. Majors noted this application has been continued twice and that more than ninety (90) days has elapsed since the expiration of the license. Ms. English noted the appropriate late filing fees had been paid at the time of filing.

Ms. Shuman submitted a letter of explanation to Mr. Majors which was read into the record (see attached). Mr. Majors stated if the application itself was in order, he would be inclined to approve the renewal. However, Mr. Majors admonished the applicant on the need for a timely renewal and that the State Department of Liquor Enforcement Division may have a problem with the application as it is past the allowable ninety (90) days for a late renewal.

Mr. Shaver stated on the 2 previous hearing dates, Ms. Shuman was not present and Mr. Shuman had appeared before the Authority and stated he was managing the Racquet Club Pub. There are specific manager registration requirements if the person holding the license is not the registered manager. If the manager is not registered or if in fact someone is actively managing the license, this may become a violation. Mr. Majors stated the person needs to qualify to hold or manage a liquor license. Mr. Majors stated

this would not be imposed as a penalty today, but if the situation ever occurs again, Ms. Shuman should have the person who is designated the manager file the proper manager's registration forms.

The application was in order. It was found that good cause as stated in 12-47-302 had been met. The late renewal application was approved.

#### **IV. APPLICATION FOR TRANSFER OF OWNERSHIP**

1. DA FA Incorporated dba Grand China Restaurant, 509 28 ½ Road, Beer and Wine

Transfer of Ownership from Sy & Lien Incorporated dba Grand China Restaurant to DA FA Incorporated dba Grand China Restaurant, located at 509 28 ½ Road

President: John Yeh, 102 Gerard Road, Goleta, CA

Secretary/

Treasurer: Susan S. Yeh, 102 Gerard Road, Goleta, CA

Susan and John Yeh were present. The applicant has been operating under a Temporary Permit which was issued on September 1, 1999. The application was in order and approved.

#### **V. DECISION – RESOLUTION OF FINDINGS AND DECISION RE: APPLICATION FOR NEW LICENSE**

1. N.N.C. Incorporated dba The Crab Shack, 525 North Avenue, Hotel-Restaurant

President/

Director: Larry R. Nunnery, 815 27 ¼ Road, Grand Junction

The application was in order. Ms. English read into the record the report to the Licensing Authority (see attached).

Larry Nunnery and John Williams, attorney, were present. Mr. Williams stated the report to the Licensing Authority was accurate and it overwhelmingly reflects the needs and desires of the neighborhood for this outlet. A survey was done to verify the distance from the location to the high school. A remodel of the interior will be taking place. Mr. Williams asked that the license be approved.

Mr. Shaver asked who had conducted the survey, the hours the survey was conducted and whether they had been hired. Mr. Nunnery stated an ex-employee had been hired from Colorado Springs to conduct the survey, and he had met with Mr. Williams to review the requirements. A log was kept of each signer on the survey in response to the survey questions. Mr. Williams stated the surveyor utilized the daylight hours to conduct the survey and that he was paid a flat fee.

There was no one present in opposition to the issuance of the license and no letters of opposition had been filed.

Mr. Williams stated the remodel has not taken place yet. If the applicant decides to change the premises from the diagram submitted, would the Licensing Authority need to approve that first or could a new diagram be submitted? Mr. Shaver stated a modification of premises is not required as the license was approved subject to the completion of the

remodel. Once the remodel is completed a new diagram will need to be filed in the City Clerk's office.

Mr. Majors approved the application and ordered a resolution be prepared.

Mr. Majors called for a brief recess at 8:34 a.m.  
The meeting resumed at 8:35 a.m.

## **VI. HEARING – LIQUOR AND BEER CODE VIOLATIONS**

1. IN THE MATTER OF Wigout Productions Incorporated dba Mesa Theatre and Club, 538 Main Street Regarding Violation of 12-47-901(a) C.R.S. UNLAWFUL ACTS: Regarding Violation of 12-47-901(a)(l) C.R.S. UNLAWFUL ACTS and Colorado Liquor Regulation 47-900; and, Regarding Violation of Colorado Liquor Regulation 47-900

A Hearing Relative to Aggravation or Mitigation of the Offenses

Mr. Majors stated this was a continuation of the hearing from August 18, 1999. The parties will present statements of evidence. This is an enforcement action and the findings and decision of the Hearing Officer has been issued. Those present were Stephanie Rubinstein representing the City of Grand Junction and Tom Volkmann representing the respondent and licensee, Wigout Productions Incorporated dba The Mesa Theatre and Club. Mr. Majors requested Ms. Rubinstein to proceed.

Ms. Rubinstein stated Detective Bob Culver could not be present this morning to answer any further questions of the Hearing Authority. The two charges of violation took place on the "Over and Under Night" which seems to be the biggest problem with the establishment. It was stated at the previous hearing that this was the most popular night and when the most people were in attendance. The bar has a large capacity and is different from the other bars in the area. This necessitates different requirements for them to follow. Ms. Rubinstein acknowledged that this was a learning process, but the licensee has the responsibility to try and run the premises in an orderly fashion. Ms. Rubinstein reviewed the two charges that were found to be in violation.

Concerning the first charge of service to a person under the age of 21. There was much testimony as the mechanisms in place for checking identification, but on that evening there was testimony that not many people were present, however Mr. Williams was still able to gain entrance. It could be speculated that at busy times, more people under the age of 21 are able to get in. When the establishment is allowing those under 21 to go into the facility which is licensed to serve alcohol, the mechanisms need to be that much more stringent.

Concerning the second charge of not conducting the premises in an orderly fashion. The majority of the testimony regarded two incidents which occurred on January 8, 1999 involving two fights which the Grand Junction Police Department were required to get involved in. There were approximately 300 to 400 people present. There were approximately two bartenders per bar in two different bar areas and 8 to 10 security personnel present. Testimony showed there were a number of visibly intoxicated persons present and the officers were concerned for their own safety. When the bar first opened in November, 1998, there were quite a few calls to the Police Department for assistance. Mesa Theatre testified they were told they could do this if they had any questions. They did make efforts to decrease the number of calls, however due to problems, officers had been directed to go to Mesa Theatre to try and control the large crowd. Around the end of October or early November College Night was stopped and the number of calls to the

police were decreased. When College Night was started back up in January 1999, despite the efforts of Mesa Theatre to decrease the number of calls, the number of calls again increased; there were double the number of calls for Mesa Theatre as for other bars in the area.

The aggravating circumstances regarding these charges, it was acknowledged by Mesa Theatre that the procedures for checking ID's has changed based upon the incidents of January 8, 1999. Eighteen to twenty year olds are being allowed to enter the bar where alcohol is being served. There was not much testimony as to the amount of training the staff has received. There was testimony that the wait staff had attended the City Liquor Awareness Training, but the security staff, who hold other jobs during the day, had not. On the night of these incidents, it took half of the security staff, 4 of the 8, to contain one particular patron. At that time, the 300 to 400 people were being controlled by 4 people. With 300 to 500 people attending on these nights, they have 8 to 10 security people and 4 bartenders. This is not sufficient to control a large crowd. With the Over and Under nights, there will always be those who are allowed to drink and those who are not, causing friction between the two groups. Instead of stopping this activity with its obvious problems, they have continued it.

At this time, Ms. Rubinstein requested, with all of the aggravating circumstances being taken into consideration, that any sentence would require more staff training, particularly for the security, and that more staff be maintained at the Mesa Theatre in order to control the large crowds which attend.

Mr. Volkmann stated to his knowledge the purpose for the hearing today was to take additional evidence relative to aggravating circumstances regarding the charges that have been determined are supported from the first hearing. All that has been presented is a summary of the discussions from the first hearing and it does not constitute any kind of aggravating circumstance. There was testimony from the arresting officer that a fake ID was involved, though a fake ID was never found, everyone referenced this fake ID. There are fake ID's being generated today good enough to fool anyone. The reference to the two fights as part of the unruly premises claim, is essentially a gentlemen who attacked somebody on the dance floor and was immediately handled by the staff of the Mesa Theatre. The police were involved because they happened to be there. The other gentleman was having an interaction with an officer. The policeman testified that he tried to ask this gentlemen diplomatically to leave, but the gentlemen became uncontrollable and the police had to take him from the building. On College Nights there are four to five hundred people, so for Detective Culver to testify that there are twice the number of calls requesting assistance is, of course, directly related to the number of people attending on College Night. Mesa Theatre does have a process in place to handle this size crowd. There was ample testimony given as to the enhancement of the ID checking processes. It has been acknowledged that this is a learning process. The physical size of the bar needs to be taken under consideration also. The officers testified that they only felt they might have been in some possible physical danger only after these engagements with the two gentlemen. It wasn't that they felt they were in danger upon entering the premises. To say that those under 21 who do not drink and those over 21 who do drink naturally cause some type of friction, is a fallacy. There is no evidence of this.

Mr. David Prather, owner, the security manager and the bar and restaurant manager were present to answer any further questions or to testify as to further changes which have been made.

Mr. Majors stated this process is new to everyone. He did not want to limit Mr. Volkmann as he had not limited Ms. Rubinstein, but he was interested in hearing what evidence Mr. Volkmann might have on behalf of his client to be considered in mitigation of the offenses.

Mr. Volkmann asked Mr. Prather to come forward to discuss what has changed at the club in connection with these matters and staff training.

Mr. Prather stated the ID procedures have been stepped up. The manager of Clifton Liquors was hired in June, 1999, to specifically ID people as this is what he does for a living. The patron is given a black light stamp and a wristband in order to get to the area of the bar where alcohol is served. This happens at all 'Over and Under' events. These procedures were initiated at the beginning of March, 1999. In July or August, additional security staff was hired. They now have up to 15 security staff members. Twelve to thirteen are employed on the 'Over and Under' nights. In the upstairs bar area, the cocktail waitresses have been eliminated. One of the new security members is assigned to this same area where he stands and just watches the crowd for the entire evening.

Mr. Shaver asked if everyone is carded. Mr. Prather responded yes. Everyone must have a picture ID in order to enter the building. On any given night, 5 to 10 people are turned away who do not have a picture ID, even those who are over 20. The Mesa State students are allowed to show their college ID's as this is a college night event. It would be difficult to have more bartenders at the upstairs bar as the size of the area they have to move around in is very limited. The downstairs bar only sells water and soda on these nights. Mr. Majors asked Mr. Prather if any of these procedures have been put in a handbook or notebook form for reference by the employees. Mr. Prather stated there is a security handbook but he was not aware if it had been updated.

Mr. Ty Bassette came forward to speak. Mr. Bassette stated he has started a security training manual that details their responsibilities. Since the three managers are always present on Thursday night, he did not feel it was necessary to have a detailed handbook. They were all aware of what needs to be done. Mr. Bassette stated he felt the Mesa Theatre was providing a community service by having a place where the kids could go. The security staff does practice detainment methods. They will use however many are required to restrain an individual without putting anyone at risk. As far as training to identify intoxicated persons, they do not have formal training but more from everyday life experiences, it is not difficult to identify an intoxicated person walking down the street. With experience comes knowledge. They are now having discussion groups with the security staff before and after the large events. A review of what took place that evening and methods of improvement are discussed. This also involves the bartenders when they are able to attend. There has been a constant improvement of methods and procedures. The amount of calls to the Police Department has decreased but when the police do need to be called, Mr. Bassette did not want to feel hindered from doing this. The Mesa Theatre's relationship with the Police Department is open and good. Mr. Bassette stated he would not have a problem attending a training class in identifying intoxicated persons.

Mr. Shaver questioned Mr. Bassette if there was room for further improvement in their methods. Mr. Bassette stated yes, they are continually in contact with other bars in the area and seeing what works best for them. It is a learning process for everybody.

Mr. Majors stated this is the first enforcement action against this licensee, and that the license has just recently been renewed for the second year. Mr. Majors stated he would issue a written order today.

VII. **ADJOURNMENT** – The meeting was adjourned at 9:05 a.m.

**NEXT REGULAR MEETING - October 20, 1999**

Submitted 10/6/99 at Liquor and Beer Meeting

Dear Sirs:

This letter is to serve as an explanation as to why we were late renewing our liquor license. I was pregnant with our third child, and gave birth to her at the end of february, during this time and the next few months my husband was taking care of the Raquet Club Pub, as there were complications with my daughters birth. In march the city called my husband and said he needed to pay for the liquor license, he then went down and paid what he thought was the liquor license fee, when in fact it was the occupational tax for the liquor license. Subsequently, he did not know the renewal was due in june until july when the city contacted him to say that we were in violation for not renewing in june. I am sorry for this miscommunication, and any inconvenience this may have caused you, and I can assure it will not happen in the future.

Sincerely,

/s/ Heather L. Shuman  
Heather L. Shuman

Memo to: Local Licensing Authority  
From: Christine English, Acting City Clerk  
Date: September 27, 1999  
Subject: Application by N.N.C. Incorporated for a Hotel and Restaurant Liquor License at 525 North Avenue under the trade name of The Crab Shack

N.N.C. Incorporated filed an application with the Local Licensing Authority on August 26, 1999, for a new Hotel and Restaurant liquor license, for the sales of malt, vinous and spirituous liquors by the drink for consumption on the premises at 525 North Avenue under the trade name of The Crab Shack. The application and supplementary documents were reviewed, found to be in order and accepted. The hearing date was set for October 6, 1999. The Notice of Hearing was given by posting a sign on the property on September 24, 1999 and by publishing a display ad in The Daily Sentinel on September 24, 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, 10<sup>th</sup> Street on the east and Business Loop 70 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: 4  
NO: 149

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: 121  
NO: 9  
NOT APPLICABLE: 1

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

The Grand Junction Police Department has investigated the officers and board members for local criminal history and none was found. The fingerprints have been forwarded onto C.B.I. for further processing. The premises are under Development Review at this time and will be undergoing a remodel. Once this is completed the Grand Junction Fire Department will inspect the premises for compliance with Life and Safety codes. The Code Enforcement Division inspected the premises and it was found that the diagram submitted matches the physical layout except for an area which is designated a covered patio which will be completed during the remodel, and the Notice of Hearing was posted in a timely manner. A report has been requested from the Mesa County Health Department to insure compliance with health codes. A Certificate of Occupancy will need to be filed in the City Clerk's office prior to the issuance of the license.

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

Hotel and Restaurant - 5 (Old Chicago, Big Cheese Pizza, CHEF'S, Cruisers  
Southwestern Café and Pancho Villa's)

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

Hotel and Restaurant – 17 (Blue Moon, Colorado Catfish, The Corral, Crystal Café & Bake Shop, Dolce Vita, Eagle Cafe, Far East, Fiesta Guadalajara, il Bistro Italiano, Junct’N Square, La Mexicana, Peachtree Inn, Sports Page, Suehiro’s Japanese Restaurant, Two Rivers Convention Center, The Winery and Wrigley Field)

That concludes this report.

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