

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

MINUTES

WEDNESDAY, JUNE 7, 2000, 8:00 A.M.

I. **CALL TO ORDER** – The meeting was convened at 8:07 a.m. Those present were Hearing Officer Phil Coebergh, Assistant City Attorney John Shaver and Senior Administrative Assistant Christine English.

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

1. McGovern Enterprises Incorporated dba Pizza Hut, **3 Locations**, 3.2% Beer On Premise
 1. Pizza Hut of Grand Junction No. 1, 1440 North Avenue
 2. Pizza Hut of Grand Junction No. 2, 704 Horizon Drive
 3. Pizza Hut of Grand Junction No. 3, 601 North Avenue

The applications were in order and approved.

2. Feather Petroleum Company dba Stop N Save No. 4, 2700 Highway 50, 3.2% Beer Off Premise

The application was in order and approved.

3. Outback/Denver I LP dba Outback Steakhouse of Grand Junction, 2432 Highway 6 & 50, Hotel and Restaurant

The application was in order and approved.

III. **APPLICATION FOR RENEWAL AND REPORT OF CHANGE IN CORPORATE STRUCTURE**

1. City Market Incorporated dba City Market Store No. 18, 2830 North Avenue, 3.2% Off Premise

Vice President: Phyllis Norris replaces John Turley

The application for renewal was in order. A copy of the Master File letter from Denver has not been received showing the addition of Phyllis Norris. The application was approved contingent upon review and approval by the State as evidenced by the receipt of a Master File letter showing the addition of Phyllis Norris.

IV. **REPORT OF CHANGE IN CORPORATE STRUCTURE**

1. Albertson's Incorporated dba Albertson's Food Center #886, 1830 North 12th Street, 3.2% Beer Off Premise

President: Peter L. Lynch appointed (position has been vacant since 6/99)

A copy of the Master File letter from Denver has not been received showing the addition of Mr. Peter Lynch. The application was approved contingent upon review and approval

by the State as evidenced by the receipt of the Master File letter showing the addition of Mr. Peter Lynch.

V. APPLICATION TO REGISTER MANAGER

1. FJ40 of Colorado Incorporated dba Cruisers Southwestern Grill, 748 North Avenue, Hotel and Restaurant

Manager: Kevin D. MacQuoid replaces Robert Thomas
Mr. MacQuoid's date of employment: 11/1/99

There was no one present representing the applicant. The application was in order. Mr. MacQuoid's date of employment as manager was November 1, 1999. A change in the registered manager should be filed within 30 days. Mr. Shaver stated there is a complaint pending on this license, which has been scheduled for hearing on June 21, 2000. Mr. Shaver recommended either approving the application today, or continuing this matter to the June 21, 2000 hearing date. The police report shows no local criminal history on Mr. MacQuoid. The registration of manager was continued to the June 21, 2000 hearing.

VI. APPLICATIONS FOR MODIFICATION OF PREMISES

1. Junct'N Ribs LLC dba Bennett's Bar-B-Que, 2440 Highway 6 & 50, Hotel and Restaurant

Addition of an outside deck with seating capacity of 48 seats.

Mr. Earl Stevenson, applicant, was present. The application was in order and approved.

2. Stoner Enterprises Limited dba Andy's Liquor Mart, 922 North 1st Street, Retail Liquor Store – **Concurrent Review**

Add 30' x 100' x 14' concrete block storage unit to existing building eliminating detached storage sheds.

Doug Theyson, Merritt Construction, was present. The application was in order and has been forwarded to the State for review. Mr. Theyson thanked the City Clerk's office for the expedition of the application. Mr. Shaver recommended approval. Mr. Coebergh concurred with Mr. Shaver's recommendation. The application was in order and approved.

VII. APPLICATION FOR NEW LIQUOR LICENSE

1. Wylie R. Miller dba Jester's Liquor, 1430 North Avenue, Retail Liquor Store

Applicant: Wylie R. Miller, 798 Jordanna Road, Grand Junction

Wylie Miller was present. The application was in order. Ms. English read into the record the results of the survey conducted by Mr. Miller (see attached). There has been 1 letter of opposition submitted to the City Clerk's office and it was read into the record (see attached).

Mr. Shaver asked Mr. Miller who conducted the survey, during what hours, if the surveyors were paid and if a script was followed for consistency purposes. Mr. Miller stated his sons, Jeff and Paul Miller, conducted the survey between the hours of 9 a.m. and 7 p.m. on a door to door basis. They were not paid and the survey itself was used to

explain the process to those being surveyed. Mr. Miller stated there was some confusion in regards to question #2 where the business addresses are not counted. The signatures with addresses outside of the survey area may have been visiting those being surveyed. Mr. Shaver asked if the results of the survey as read into the record were a true and accurate representation of the survey. Mr. Miller stated yes.

Mr. Coebergh asked if there was anyone present who would like to speak in support of or opposition to the application.

Mr. Dave Trimm, 1444 North 22nd Street, presented a letter to the Licensing Authority in opposition to the issuance of the license (on file in the City Clerk's office). Mr. Miller had no questions for Mr. Trimm.

Mr. Larry Beckner, 1241 Gunnison. Mr. Beckner stated there are a number of retail liquor establishments in the area, approximately 4 within 10 blocks. There is no need for another liquor establishment in the neighborhood. Mr. Shaver asked Mr. Beckner if he was in the surveyed area. Mr. Beckner stated he had not been surveyed. He is located directly across Lincoln Park from where this application is proposed. Mr. Shaver asked if Mr. Beckner was using the term "neighborhood" as a general statement but is not reflective of the content of the survey. Mr. Beckner stated that was correct. Mr. Miller had no questions for Mr. Beckner.

Mr. Bill Brassette, owner of the Seibu Kan Karate school. Mr. Brassette stated he would be right next door to the proposed liquor establishment. Mr. Brassette submitted a petition signed by his students and their parents (on file at the City Clerk's office). Mr. Brassette expressed concern with the problem he has with transients in the area already and that this establishment would not be a positive influence on his students. Trash is also a problem as well as the amount of traffic on North Avenue making it difficult to gain access to and exiting from his parking lot. There is all ready a liquor store a block and a half away. Many parents have expressed they will quit or leave his school if this establishment does go in next door. Mr. Shaver asked Mr. Brassette if he has ever had to call law enforcement with the problems he has had already. Mr. Brassette stated yes. Mr. Coebergh stated the problems Mr. Brassette is relating to is not what Mr. Miller is proposing today, as it is not built yet. Mr. Brassette stated the problems would just be compounded. Mr. Shaver asked Mr. Brassette about the survey, if it was on a counter or if it had been circulated. Mr. Brassette stated he told the students and their parents at each one of his classes there was a petition on the counter they could sign, either positive or negative, about the liquor store being built. His secretary would explain the survey to them.

Attorney Tom Volkmann, 422 White Avenue, representing Larry and Bridgit Evenson of Earl's House of Spirits, 1560 North Avenue. Mr. Volkmann stated Mr. and Mrs. Evenson have a supplemental survey and some letters they will submit today to supplement the survey that was submitted to the City Clerk's office previously. They also have a summary of the submitted survey to present. This survey was conducted in the same area as the applicant's survey. There are dramatically different results between the 2 surveys that should require the denial of the application. The applicant's survey results of 650 to 1 on question #1 and 574 to 1 on question #2 are incredible when compared to the survey the Evenson's will be submitting. Mr. Coebergh questioned if the survey and letters Mr. Volkmann was referring to have been submitted. Ms. English stated the survey was submitted on June 5th but no letters were submitted at that time. Mr. Shaver asked if the Evenson's had conducted these surveys. Mr. Volkmann stated yes. Mr. Volkmann stated that the surveys evidence that the neighborhood needs are already being met along with the comments that have been submitted so far. Mr. Volkmann had a map

showing the locations of various retail liquor stores (on file in the City Clerk's office). Not all of them are within the survey area or within 1 mile of the proposed location but all are within the recognizable area of Grand Junction. The concept of undue concentration as stated in C.R.S. 12-47-301(2)(b) and Regulation 12-47-301, effectively says that the existence of the current liquor stores in the area make it, at least, an adequate concentration, if not an undue concentration, in the area all ready. The physical proximity also makes it clear that there are enough retail liquor establishments in this area. Mr. Volkmann requested that the Local Licensing Authority deny this application. Mr. Miller had no questions of Mr. Volkmann.

Larry and Bridgit Evenson, 657 Greenfield Circle East, owners of Earl's House of Spirits, 1560 North Avenue, were present. Mr. Evenson stated they had canvassed the neighborhood for the past 2 to 2 ½ weeks and acquired over 900 signatures. A supplemental survey and summary were submitted to the Authority (on file at the City Clerk's office). Mrs. Evenson gave some background information. They began their survey on May 19, 2000. Mr. Evenson stated several methods were used to gather the signatures such as door to door and Mr. Dan Burkey assisted them in the process. He was paid an hourly wage for this service. There was also a survey on the counter of their store. There may have been some confusion as to the boundaries on the survey with some people thinking Patterson was the boundary instead of Orchard. This may be why there is a number of signatures outside the designated area. Mr. Shaver asked if they had compared their survey to the applicant's survey to see if there was any duplication of signatures. Mrs. Evenson stated they went to the City Clerk's office and looked at the applicant's survey. Mr. Evenson noted they did find some duplicate signatures where people had signed for the application on one and against on the other. 153 signatures are out of the neighborhood. Mr. Shaver asked if during their survey they had used a script as a means of conveying the information in a consistent manner. Mr. Evenson stated the survey was read to each party. If people stated they had all ready signed one survey, they were not asked to sign again. Mr. Coebergh stated according to their results, their survey shows 757 signatures indicating the needs of the neighborhood are all ready being met, 23 signatures indicate the needs are not being met, 36 signatures want the license to issue and 624 do not want the license to issue. Mr. Shaver asked if the Evenson's had an explanation as to the large discrepancy between the applicant's survey and their survey. Mr. Evenson stated 1 person who signed both surveys stated there was a female, who came to the door, and a gentleman in a wheelchair at the sidewalk. They presented to her that the new store would have a large wine selection. She signed their survey. She then came into the Evenson's store and signed their survey. She later stated she did not understand the first survey and she did not feel there was need for another liquor store in the area. Mrs. Evenson submitted a letter from Dave McCarty, owner of North Avenue Liquor Store.

Mr. Coebergh asked Mr. Miller if he had any questions of the Evensons. Mr. Miller stated he has not had the opportunity to look at any of the surveys or letters that were being submitted. Mr. Miller asked the Evensons how many signatures were obtained by going door to door and how many were obtained at their liquor store. Mr. Evenson stated less than 10% were obtained at the liquor store. Mr. Miller asked how long the survey was conducted at their store. Mrs. Evenson stated they began surveying their customers on May 19 and continued through June 6, 2000.

Dave McCarty, owner of North Avenue Liquor Store, 801 North Avenue, was present. Mr. McCarty submitted a letter to the Local Authority. Mr. Miller had no questions of Mr. McCarty but asked to see the letter he was submitting.

Don Comte, owner of Crown Liquor. Mr. Comte stated he was in opposition to the issuance of this license due to both professional and economic reasons. Mr. Miller had no questions of Mr. Comte.

Beau Bryant, 1732 North 20th Street, was present. Mr. Bryant stated he is a college student at Mesa College and he is in opposition to the issuance of the license. There are many liquor stores in the area surrounding the college. There is no need for another liquor store. Mr. Shaver asked Mr. Bryant if his address was within the surveyed area. Mr. Bryant replied yes and that both the applicant and the Evensons surveyed him. He signed yes for the issuance on the applicant's survey and no on the Evenson's survey. He was here today in opposition to the issuance of the license. Mr. Miller had no question of Mr. Bryant.

Mr. Joe Hambright, owner of College Liquors, was present. Mr. Hambright stated he was here today in opposition to the issuance of the license. There is already a large concentration of liquor stores in the area. This is not a growing area of the city, and a 4000 square foot liquor store would only be doing business at the expense of already existing stores, causing the other stores to fail. Mr. Miller asked Mr. Hambright when he had opened College Liquors. Mr. Hambright stated approximately 2 ½ years ago. Mr. Miller asked what the concentration of the liquor stores was at that time. Mr. Hambright stated Centennial Liquors had been located in that area previously but had lost their lease. Historically, there has always been a liquor store in that area and College Liquors only replaced Centennial Liquors after they had closed their doors. Mr. Miller asked Mr. Hambright when he opened his store, if that did not hurt some of the other liquor storeowners in the area. Mr. Hambright stated no. College Liquor just regained the business Centennial Liquor had.

There was no further opposition present.

Mr. Coebergh asked Mr. Miller if he would like to address any of the statements that had been made. Mr. Miller stated it was his understanding that this is not an issue of competition but of whether the business is welcomed by the neighborhood. The results of his survey demonstrate this sufficiently. The need has been shown and Mr. Miller requested the issuance of the license.

Mr. Shaver stated Regulation 47-301 specifically addresses undue concentration of licenses. It talks about different ratios, distances and the use of additional law enforcement resources. None of those particulars have been entered into the record this morning. Mr. Shaver recommended the Local Licensing Authority take this matter under advisement and supplement the record with some of the more specific details [as listed above], and to continue this hearing to the next regularly scheduled meeting of June 21, 2000. What has been discussed this morning is more economic based and not statutory.

Mr. Coebergh asked Mr. Miller if he was in the process of actually building yet, and if continuing this matter to the next meeting would cause a hardship for him. Mr. Miller stated he was in the process of designing the building at this time and to postpone the decision would create a hardship for him. Mr. Miller stated he is in the process of purchasing the property which has been geared around today's meeting. Consequently, to postpone the decision would cause him to renegotiate the purchase option which will terminate the end of June. Mr. Shaver stated if the Local Licensing Authority is inclined to make a decision today, it would be his recommendation that the evidence presented today does not sustain a finding that the license should issue due to the conflicting information in the surveys and the comments made today about the undue concentration of licenses in the area.

Mr. Coebergh stated the decision will be continued to the June 21, 2000 meeting. Mr. Coebergh stated the people who appeared today are welcome to appear at the next meeting as well and submit additional information. The record will remain open until that time. Mr. Coebergh instructed Mr. Shaver to prepare a written recommendation to the Local Licensing Authority regarding this application by June 16, 2000. Mr. Coebergh expressed his appreciation to everyone present for handling a potentially emotional situation so well.

Mr. Shaver stated he would contact Mr. Miller and Mr. Volkmann, as the contact person for the opposition. Mr. Coebergh recommended both Mr. Miller and Mr. Volkmann stay in contact with Mr. Shaver.

ADJOURNMENT – The meeting was adjourned at 9:17 a.m.

NEXT REGULAR MEETING – June 21, 2000

AMENDED May 31, 2000

Memo to: Local Licensing Authority

From: Christine English, Sr. Administrative Assistant

Date: May 30, 2000

Subject: Application by Wylie R. Miller for a Retail Liquor Store liquor license at 1430 North Avenue under the name of Jester's Liquor

Wylie R. Miller filed an application with the Local Licensing Authority on May 4, 2000, for a retail liquor store liquor license, for the sales of malt, vinous and spirituous liquors in sealed containers for consumption off the premises at 1430 North Avenue under the trade name of Jester's Liquor. The application and supplementary documents were reviewed, found to be in order and accepted. The hearing date was set for June 7, 2000. The Notice of Hearing was posted on the proposed premises on May 26, 2000. A display ad was published in The Daily Sentinel on May 26, 2000.

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. The defined the neighborhood was the area bounded by Orchard Avenue on the north, White Avenue on the south, 7 Street on the west and 21st Street on the east 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 existing outlets.

YES: 1
NO: 647

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

YES: 573
NO: 1
NOT APPLICABLE: 0

Seventeen (17) signatures could not be counted as the addresses given were outside of the survey area, seventy-six (76) signatures could not be counted as they answered question #2 as a business instead of a resident, two (2) people signed twice using both a business address and a resident address, the first signature was counted and one (1) address was unreadable.

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

The applicant is a sole proprietor. The fingerprints have been processed locally and no criminal history was found. They have been forwarded to the Colorado Bureau of Investigation for further processing. The Code Enforcement Department reported the Notice of Hearing was posted in a timely manner. The premises will be under construction and the Mesa County Building Department will need to file a Certificate of Occupancy in this office prior to the issue of a license.

The Community Development Department has determined that no Conditional Use Permit is required and the proposed use is allowed in this zone district.

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

Retail Liquor – 2 (Earl's House of Spirits and North Avenue Liquors)

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

Retail Liquor – 5 (Andy's Liquor Mart, The Bottle Shop, College Liquors, Last Chance Liquors and Teller Arms Liquor)

That concludes this report.

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



JUN 0 4 2000

Senate Chamber
State of Colorado
Denver

RONALD J. TECK
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COMMITTEES:
Chairman of:
Finance
Member of:
Business Affairs and
Labor
Education

May 27, 2000

Honorable Gene Kinsey, Mayor
City of Grand Junction
250 N 5th St.
Grand Junction, CO 81501-2668

Dear Mayor Kinsey:

I was recently made aware of a proposed liquor store to be located on North Avenue between the Seibu Kan Karate dojo and the Pizza Hut restaurant. Both of my sons and I have studied karate with Mr. Bill Brassette and I have watched Bill teach many students, from five to sixty-five; a high percentage of these are young people. With the number of children that attend classes there in the evenings, in my mind, allowing the opening of a liquor store at that location would be much the same as opening one next door to a school. I'm not against an enterprising business person, however, in this case I think the neighborhood is well served by the store down the street and the location of this proposed store would be ill advised in light of the neighboring businesses.

It is because of these reasons that I would like to see the request for the liquor store at this location denied.

Sincerely,

Ron Teck

c: Bill Brassette