

**LIQUOR AND BEER MEETING
LOCAL LICENSING AUTHORITY
CITY OF GRAND JUNCTION, COLORADO
MUNICIPAL HEARING ROOM, CITY HALL, 250 NORTH 5TH STREET**

MINUTES

WEDNESDAY, DECEMBER 5, 2012, 2:00 P.M.

HEARING OFFICER SAM STARRITT

I. CALL TO ORDER

The meeting convened at 2:00 p.m. Those present were Alternate Hearing Officer Sam Starritt, Hearing Officer Mike Grattan, City Attorney John Shaver, and Deputy City Clerk Debbie Kemp.

II. APPLICATION FOR NEW LICENSE – RESOLUTION AND FINDINGS AND DECISION

1. BLASTA, LLC dba Aztecas Family Mexican Restaurant, 2516 Broadway, Grand Junction, CO 81507, Hotel and Restaurant

Managing Member: Miguel A. Gutierrez, 200 Vista Hills Drive, Grand Junction CO 81503

Managing Member: Blanca E. Gutierrez, 200 Vista Hills Drive, Grand Junction, CO 81503

Miguel and Blanca Gutierrez, owners of Aztecas Family Mexican Restaurant, were present.

Ms. Kemp reported that a report from CBI/FBI is pending on the owners, the Health Department has received the plan review and will inspect and advise when the restaurant is approved to open, and the Fire Department and the Building Department will sign off and issue a Certificate of Occupancy when the restaurant is approved to open.

Ms. Kemp read the results of the survey that was conducted into the record (see attached).

Hearing Officer Starritt asked Ms. Gutierrez who conducted the survey and to describe how was it conducted.

Ms. Gutierrez said that it was her and her husband, Miguel Gutierrez, that conducted the survey; they surveyed in the mornings and the evenings by driving to houses.

Hearing Officer Starritt asked if they hold another liquor license in Orchard Mesa. Ms. Gutierrez confirmed that they do. Hearing Officer Starritt asked if it is the same type of license. Ms. Gutierrez said yes.

City Attorney Shaver asked Ms. Gutierrez if she went back to any of the disqualified signatures after the boundaries were extended. Ms. Gutierrez said no, they obtained most of those signatures outside of Albertsons, not realizing that they needed to go door to door. City Attorney Shaver asked if there were people that were opposed to the license but didn't wish to sign the survey. Ms. Gutierrez said that there were people who didn't want anything to do with the survey.

Hearing Officer Starritt asked Ms. Kemp if there had been a hotel and restaurant liquor license at that location when it was Las 2 Margaritas. Ms. Kemp said that there was and it had expired a very long time ago.

No one was present in opposition to the application.

City Attorney Shaver said that he believes the reasonable requirements of the neighborhood are not being met by existing outlets as indicated by the survey and he believes that the statutory requirements are being met and recommended approval.

The application for a new license for BLASTA, LLC dba Aztecas Family Mexican Restaurant was found to be in order and approved conditioned on the issuance of the Certificate of Occupancy and a satisfactory report from CBI/FBI. The City Clerk's office will prepare a resolution for Hearing Officer Starritt's signature.

MEETING CONTINUED WITH HEARING OFFICER MICHAEL GRATTAN

III. ADVISEMENT HEARING – Continued from October 3, 2012

1. Weside Delicatessen, Inc. dba The Winery, 642 Main Street, Grand Junction, CO 81501, Hotel and Restaurant

Stephan Schweissing, attorney retained to represent Weside Delicatessen, Inc., was present and Stephen Thoms, owner of The Winery, was present.

Mr. Schweissing advised that a stipulation has been agreed on and executed and provided the stipulation to Hearing Officer Grattan.

The Licensee agreed to a 7 day suspension for the violation. Five days of the suspension shall be held in abeyance for a period of one year from the date of the approval of this agreement. A fine in lieu of 2 days of active suspension was offered. That amount was \$250.19.

Hearing Officer Grattan asked Ms. DeLayne Merritt, City Staff Attorney, if she has reviewed the stipulation and is comfortable with it and did she want him to make it an order of the Authority. Ms. Merritt said yes.

Hearing Officer Grattan asked Mr. Schweissing the same question he asked Ms. Merritt. Mr. Schweissing said yes and stated that the payment due of approximately \$250 will be made by December 31st.

Hearing Officer Grattan signed the stipulation and asked Ms. Kemp to deliver it in accordance with the certificate of mailing.

IV. APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES

1. Maverik, Inc. dba Maverik, Inc. #418, 2948 F Road, Grand Junction, CO 81504, 3.2% (Off Premises) Beer License

No one was present representing the applicant.

The application for renewal for Maverik, Inc. dba Maverik, Inc. #418 was found to be in order and approved.

2. Stoner Enterprises, LTD dba Andy's Liquor Mart, 922 N. 1st Street, Grand Junction, CO 81501, Retail Liquor Store

No one was present representing the applicant.

The application for renewal for Stoner Enterprises, LTD dba Andy's Liquor Mart was found to be in order and approved.

3. The Palette dba The Palette, 205 Colorado Avenue, Grand Junction, CO 81501, Beer and Wine

No one was present representing the applicant.

Ms. Kemp reported that the Fire Department had not had a chance to conduct an inspection at that time and the Health Department does not require a food license because the establishment only sells non-perishable foods.

Hearing Officer Grattan referred to the State Statute for the requirements of food for beer and wine licensees which requires food such as sandwiches and light snacks available for consumption.

City Attorney Shaver suggested that the renewal be approved subject to a satisfactory inspection by the Fire Department and then get confirmation on the food service.

The application for renewal for The Palette, dba The Palette was found to be in order and approved pending a favorable inspection by the Fire Department.

4. GMRI, Inc. dba The Olive Garden Italian Restaurant, 2416 Hwy. 6 & 50, Grand Junction, CO 81505, Hotel and Restaurant

No one was present representing the applicant.

The application for renewal for GMRI, Inc. dba The Olive Garden Italian Restaurant was found to be in order and approved.

5. Wadsworth Old Chicago, Inc. dba Old Chicago, 120 North Avenue, Grand Junction, CO 81501, Hotel and Restaurant

No one was present representing the applicant.

Ms. Kemp advised that the Fire Department had not had a chance to conduct an inspection.

The application for renewal for Wadsworth Old Chicago, Inc. dba Old Chicago was found to be in order and approved pending a favorable inspection by the Fire Department.

V. APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES WITH TASTING PERMIT

1. JEMSKT, Inc. dba Country Club Liquors, 683 Horizon Drive, #105, Grand Junction, CO 81506, Retail Liquor Store

No one was present representing the applicant.

City Attorney Shaver asked Ms. Kemp if this business has historically had a tastings permit. Ms. Kemp replied that they have.

The application for renewal with tasting permit for JEMSKT, Inc. dba Country Club Liquors was found to be in order and approved.

VI. APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES WITH OUTDOOR DINING LEASE

1. Trust Trifecta Enterprises, LLC dba Naggy McGee's Irish Pub, 359 Colorado Avenue #103, Grand Junction, CO 81501, Hotel and Restaurant

Vanessa Funches, co-owner of Naggy McGee's Irish Pub, was present.

Ms. Kemp reported that a DWAI conviction was disclosed on owner Vanessa Funches and also disclosed was a liquor violation for serving alcohol beverages to an intoxicated person which occurred on February 4, 2012 which a suspension was served for, and another violation in August in which they just met with the City Attorney's Office today. The Health Department reported violations and will re-inspect the week of December 10th. The outdoor dining lease is in order and pending signatures from DDA and the City Manager's Office.

City Attorney Shaver asked Ms. Funches if the Fire Suppression System or the other related issues with the Fire Department had been taken care of. Ms. Funches said that they had and Ms. Edwards conducted an inspection this week and everything was ok.

Hearing Officer expressed concern about the three somewhat related issues regarding violations and the appearance of a trend happening. Ms. Funches advised that they do strive to do everything properly, that they definitely care. They strive to educate their staff on over service issues, etc.

The application for renewal with outdoor dining lease for Trust Trifecta Enterprises, LLC dba Naggy McGee's Irish Pub was found to be in order and approved conditioned upon ultimate approval of the outdoor dining lease and a favorable Health Department report.

VII. APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES WITH LATE FILING

Ms. Kemp advised that State Liquor Enforcement recently changed computer systems and it appears that some renewal notices were lost in the transition. The next two items appear to be a result of lost renewal notices, and there may be a couple more at the next meeting.

Hearing Officer Grattan advised Ms. Kemp that if there are other late renewals due to this situation, it is not necessary to have a representative present.

1. Byzantium Holdings, LLC dba Ristorante Pantuso's, 755 Horizon Drive, Grand Junction, CO 81506, Hotel and Restaurant – **Filed in the City Clerk's Office 13 days late**

Christopher Blackburn, owner of Ristorante Pantuso's, was present.

Hearing Officer Grattan found that good cause was shown for the late filing and the application for renewal for Byzantium Holdings, LLC dba Ristorante Pantuso's was found to be in order and approved.

2. Bookcliff Country Club dba Bookcliff Country Club, 2730 G Road, Grand Junction, CO 81506, Hotel and Restaurant – **Filed in the City Clerk's Office 4 days late**

Michael Fleig, manager of Bookcliff Country Club, was present.

Hearing Officer Grattan found that good cause was shown for the late filing and the application for renewal for Bookcliff Country Club dba Bookcliff Country Club was found to be in order and approved.

VIII. REVIEW AND AUTHORIZE STIPULATION, AGREEMENT AND ORDER

1. Last Chance Liquors, LLC dba Last Chance Liquors, 1203 Pitkin Avenue, Grand Junction, CO 81501, Retail Liquor Store

Pursuant to Colorado Revised Statutes §12-47-901(1)(a), it is unlawful to sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to a visibly intoxicated person.

Roger Ward, owner of Last Chance Liquors, was present.

Ms. Merritt stated that a stipulation had been agreed to. The agreement listed two prior liquor violations on the history of the license. Both violations occurred in separate years. Both agreements were complied with and the one year held in abatement for both violations was met with no further violations. The Licensee agreed to a 36 day suspension of its license as penalty for the violation. Thirty days of the suspension shall be held in abeyance for a period of one year from the date of the approval of this agreement. Six days of suspension will actively be served in incremental dates.

Mr. Ward said that the person that alcohol beverages were sold to that resulted in the violation seems to be a very famous person in the area. He has been into his establishment many times. He does not believe he was guilty of committing the violation, but it is what it is and he does not want to have another violation in the future.

Hearing Officer Grattan asked Mr. Ward if he has had a chance to review the stipulation and asked him if he should enter it into the record as an order of the Authority. Mr. Ward said yes.

Hearing Officer Grattan signed the stipulation and asked Ms. Kemp to deliver it in accordance with the certificate of mailing.

2. GJ North Avenue Liquors, Inc. dba North Avenue Liquors, 801 North Avenue, Grand Junction, CO 81501, Retail Liquor Store

Pursuant to Colorado Revised Statutes §12-47-901(1)(a.5)(I), it is unlawful for any person, including a licensee, manager, or agent of any licensed establishment to sell, serve, exchange, or permit the sale and procurement of any alcohol beverage to or for any person under the age of twenty-one years.

Meng Truong, owner of North Avenue Liquors, was present.

Ms. Merritt stated that a stipulation had been agreed to. The Licensee has had no other violation since they have owned the store. The Licensee worked with his accountant, Mr. Burkholder, and agreed to a 7 day suspension of its license as penalty for the violation. Five days of the suspension shall be held in abeyance for a period of one year from the date of the approval of this agreement. A fine in lieu of 2 days of active suspension has been offered. That amount was \$1,543.74.

Hearing Officer Grattan advised that a check that was attached to the stipulation was actually for \$1,534.74 and he is willing to let it go and amend the agreement to the fine being \$9 less if Ms. Merritt and Mr. Truong are in agreement to that. Hearing Officer Grattan amended the fine amount on the stipulation to \$1,534.74.

Hearing Officer Grattan asked Mr. Truong if he and Mr. Burkholder has had a chance to review and agree to the stipulation and asked him if he should enter it into the record as an order of the Authority. Mr. Truong said yes.

Hearing Officer Grattan signed the amended stipulation and asked Ms. Kemp to deliver it in accordance with the certificate of mailing.

IX. OTHER BUSINESS

There was none.

X. ADJOURNMENT

The meeting was adjourned at 2:52 p.m.

NEXT REGULAR MEETING – December 19, 2012

MEMO: Local Licensing Authority

FROM: Debbie Kemp, Deputy City Clerk

DATE: November 29, 2012

SUBJECT: Application for a hotel and restaurant liquor license by BLASTA, LLC dba Aztecas Family Mexican Restaurant, 2516 Broadway, Grand Junction, CO

BLASTA, LLC filed an application with the Local Licensing Authority on October 31, 2012 for a new hotel and restaurant liquor license permitting sales of malt, vinous, and spirituous liquors by the drink for consumption at place where sold at 2516 Broadway, Grand Junction, CO under the trade name of Aztecas Family Mexican Restaurant. The application and supplementary documents were reviewed, found to be in order and accepted. A copy was sent to the State Liquor Enforcement Division for a Concurrent Review. The hearing date was set for December 5, 2012. The Notice of Hearing was given by posting a sign on the property on or before November 25, 2012 and by publishing a display ad in the Daily Sentinel on November 23, 2012.

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 original neighborhood was defined as the area bounded on the North by Lake Road, Kenneth Court on the South, West Avenue on the East and W. Mayfield Drive on the West and included both sides of the streets as the outer boundaries. The results of that survey are as follows:

Check the yes/no column if you support/oppose this type of license being issued because the existing outlets do/do not adequately serve the reasonable requirements of the designated area.

Business Results:	FAVOR:	14
	OPPOSE:	0
Residential Results:	FAVOR:	22
	OPPOSE:	0

There were 113 responses that were disqualified: 1 listed an address that did not exist, 1 checked residence when the address was an obvious business, 2 listed that they were a worker instead of a business owner or manager, 1 did not indicate whether they were a business owner or a manager, 19 did not list an address, 89 were outside of the designated boundary.

There were no "exhibits to survey petition" submitted.

Because of the low qualifying responses, the neighborhood boundary was extended and was defined as the area bounded on the North by D ¾ Road, C ¼ Road on the South, Riverside Parkway on the East and Dressel Road on the West and included both sides of the streets as the outer boundaries.

Two additional residential signatures in Favor of the issuance of the license qualified from the original petitions.

New petitions were circulated using the extended boundaries and the results of those petitions are as follows:

Business Results:	FAVOR:	0
	OPPOSE:	0
Residential Results:	FAVOR:	45
	OPPOSE:	0

There was 1 response that was disqualified for not checking whether they were in favor of or opposed to the issuance of the license.

There were no exhibits to survey petition submitted.

The combined and total results of the survey are as follows:

Business Results:	FAVOR:	14
	OPPOSE:	0
Residential Results:	FAVOR:	67
	OPPOSE:	0

The Grand Junction Police Department has investigated the owners for local criminal history. They inspected the property to ensure the Notice of Hearing has been posted in a timely manner and will be verifying that the diagram matches the establishment. The fingerprints have been forwarded to CBI for further processing. Reports have been requested by the Grand Junction Fire Department, Mesa County Health Department, and City of Grand Junction Sales Tax Department.

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

Hotel and Restaurant – 1 (Dos Hombres Restaurant)

That concludes this report.

cc: Applicant
John Shaver, City Attorney
Joe Patrick, Grand Junction Police Department
File