Meeting

The Local Liquor Licensing Authority of the City of Golden, County of Jefferson, State of Colorado, met in the Council Chambers, City Hall, at 911 10th Street, Golden, Colorado at the hour of 1:30 p.m.

Hearing Officer Kendra L. Carberry, presiding, called the meeting to order. City Clerk Susan Brooks, Deputy City Clerk Andrea L. Banks, Detective Matt Cole and Associate City Attorney Mary Lynn Benham were also present.

Approval of Minutes of October 26, 2011

The Authority approved the minutes of October 29, 2011.

Request for Fine in Lieu of Suspension by Chris Chew, LLC d/b/a Valero One Stop, 17198 South Golden Road, Golden

The Authority accepted and granted the petition to pay a fine in lieu of suspension submitted by Chris Chew, LLC d/b/a Valero One Stop, 17198 South Golden Road, Golden, and ordered the petitioner to serve the 4 days suspension, if the petitioner fails to pay the imposed fine of $200.00 by 27 November 2011.

Show Cause Hearing - The Marcelos, Inc. d/b/a Marcelos Mexican Restaurant, 109 N. Rubey Drive, #1, Golden, CO 80401

City Prosecutor Benham stated that the City and the Licensee have reached a stipulation and that the licensee admits it did sell alcoholic beverages to a person under the age of twenty-one years. She noted that this is a first violation for this licensee. She reviewed the proposed conditions stated in the stipulation agreed to by the licensee and actions taken by the licensee to avoid future violations, stating that the stipulation would serve the interests of the City and the licensee. Grace Montoya, owner, was present to answer questions.

The Authority accepted the Joint Stipulation Agreement and its stated conditions as submitted by the City and The Marcelos, Inc. d/b/a Marcelos Mexican Restaurant, 109 N. Rubey Drive, #1, Golden, and ordered that the licensee receive 6 days suspension with 3 days being held in abeyance for 12 months, and 3 days to be served on 4, 5, and 6 December, 2011, with the condition that no other violations occur within the next 12 months.

Show Cause Hearing - Have Fun, Inc. d/b/a Pizza Hut Restaurant, 17540 S. Golden Road, Golden, CO 80401

City Prosecutor Benham stated that the City and the Licensee have reached a stipulation and that the licensee admits it did sell alcoholic beverages to a person under the age of twenty-one years. She noted that this is the fourth violation for this licensee, but it has been eight years since the last violation occurred. She reviewed the proposed conditions stated in the stipulation agreed to by the licensee and
actions taken by the licensee to avoid future violations, stating that the stipulation would serve the interests of the City and the licensee. Matt Niemann, owner, was present to answer questions.

The Authority accepted the Joint Stipulation Agreement and its stated conditions as submitted by the City and Have Fun, Inc. d/b/a Pizza Hut Restaurant, 17540 S. Golden Road, Golden, and ordered that the licensee receive 10 days suspension with 4 days being held in abeyance for 12 months, and 6 days to be served on 13 through 18 January, 2012, with the condition that no other violations occur within the next 12 months.

Renewal - Have Fun, Inc. d/b/a Pizza Hut Restaurant, 17540 S. Golden Road, Golden, CO 80401

The Authority approved the renewal for Have Fun, Inc. d/b/a Pizza Hut Restaurant, 17540 S. Golden Road, Golden, noting that the licensee would need to correct item #5 regarding having received a suspension.

The City Attorney requested a five minute recess.

The meeting resumed at 1:56 p.m.

Renewal Hearing - Maverick’s Oakpit Grill, LLC d/b/a Maverick’s Oakpit Grill, 1301 Washington Ave., Unit 120, Golden, CO 80401

City Prosecutor Benham appeared on behalf of the city.

David Worstell, attorney, appeared on behalf of the licensee.

City Prosecutor Benham stated the city would present evidence of aggravating circumstances and would be seeking a significant penalty, noting that the licensee previously stipulated to violations that occurred in August, and its request for renewal is being brought before the authority because of an additional alleged violation that occurred in October. In light of these circumstances, the city will demonstrate the licensee is not able to uphold the responsibility of a liquor license.

Attorney Worstell requested a continuance, noting it is difficult to prepare a defense with incomplete police report information. He stated he did not have a complete list of witnesses with phone numbers.

City Prosecutor Benham stated that the names and phone numbers of witnesses were redacted because of a pending alleged sexual assault charge, which is a separate criminal matter. The alleged violation related to the renewal was for a sale of an alcoholic beverage to an individual under age 21 by an employee under the age of 21 not supervised by another employee who had attained the age of 21.

Hearing Officer Carberry granted a recess to allow Attorney Wortsell to talk to witnesses present.

The meeting resumed at 2:30 p.m.
Attorney Worstell stated that the owners were naïve about the most recent violation occurring, but upon learning of the violation, immediately fired the employee involved. He noted the owners recently hired Jerry Steven Jeffrey as manager.

John Curiel, Maverick’s employee, was sworn in. He was advised by Hearing Officer Carberry that his testimony could be used against him in other pending matters.

In response to questions from City Prosecutor Benham, Mr. Curiel testified that he was an employee at Maverick’s on October 13, 2011. His duties included opening and closing, cleaning, food preparation, serving drinks, and tending bar. He had not received prior alcohol service training. He was promoted to manager around the 18th of October, 2011, because Manual Mora had to leave due to medical problems. He stated that he stopped working at Maverick’s two days ago because of questions related to his age and other concerns.

In response to questions from Attorney Worstell, Mr. Curiel stated he knew Manual Mora and was introduced to Steven Jeffrey, who told him about TIPS training and emphasized obeying the liquor laws.

Samantha Walter, witness for the city, was sworn in. In response to questions from City Prosecutor Benham, Ms. Walter testified that she began working as a server at Maverick’s at the end of September and was working on the night of October 13, 2011. John Curiel was on duty that night also. She clocked out after her shift and was joined by her roommate Danielle, who was 20 years old. They were both served alcoholic beverages by John Curiel. They watched him make the drinks and then they drank them.

In response to questions from Attorney Worstell, Ms. Walter stated she did not know the owners.

Detective Matt Cole, witness for the city, was sworn in. In response to questions from City Prosecutor Benham he gave the following testimony. As part of the investigation of the October 13 incident, Detective Cole contacted Jose Manual Serrano Mora, who told Det. Cole he was not aware of what had happened because Mr. Mora was on medical leave. In the investigation, John Curiel admitted to knowingly serving minors and to drinking with them also.

In response to questions from Attorney Worstell, Detective Cole testified that he had advised the owners of Maverick’s after the October 26 Local Licensing Authority meeting that employee John Curiel was under 21 years of age, and encouraged the owners to obtain the police report. Further investigation revealed that John Curiel was only terminated from employment at Maverick’s a couple of days ago.

Andrea Banks, Deputy City Clerk, witness for the city, was sworn in and gave the following testimony in response to questions from City Prosecutor Benham. The city clerk’s office had received a renewal application for Maverick’s Oakpit Grill LLC, as well as an application for change of registered manager and a report of corporate changes application accompanying the renewal application. Ms. Banks stated that the applications were repeatedly found incomplete, either missing requested documentation or reflecting inaccurate information. The documents stated Jose Manual Serrano Mora as the current registered manager, when records reflected Francis Apicella as the current registered manager. In addition, motor vehicle records were not submitted as requested for the individuals being added to ownership of the LLC.
The renewal application was submitted as City Exhibit No. 1.

The letter from Attorney David Worstell describing ownership interests, the Report of Corporate Changes and attachments were submitted as City Exhibit No. 2.

In addition, Ms. Banks stated that the application for change of registered manager for Jerry Steven Jeffrey had only been received yesterday afternoon, has not yet been processed and needs to undergo background investigation before being submitted to the authority.

Mike Pietrafeso, one of the owners of Mavericks, was sworn in. In response to questions from Attorney Worstell, he stated how much each owner has invested in the business. He said that Mr. Jeffrey was hired to implement rules and procedures that will prevent these kinds of events from happening again and because he knows the business. Policies being implemented would include no service after hours, no drinking of alcohol during working hours, and no service of alcohol by employees under 21 years of age. Mr. Pietrafeso stated he had TIPS training, as well as Francis Apicella. He testified that he didn’t see the police report until Friday and didn’t know John Curiel was 20 years old.

Jerry Steven Jeffrey, witness for the licensee, was sworn in. He testified he has experience in the liquor industry and is a TIPS trainer, as well as an insurance agent. He stated that policies have been instituted including no one under 21 will be hired, there will be no drinking by employees, and no drinking by employees after close at 9 pm, and there will be a class in TIPS training, with training to be ongoing.

In response to questions from City Prosecutor Benham, Mr. Jeffrey stated that he became the operations manager as of Tuesday night. Duties include supervising and training employees, busing tables, overseeing paperwork, and interviewing new employees. He testified that he will be at the establishment everyday from 10:00 a.m. to 9:30 p.m. on the weekdays, and 4:00 p.m. to 9:00 p.m. every Saturday and Sunday.

The Hearing Officer granted a recess to allow the city prosecutor and attorney for the licensee to meet. The meeting resumed at 3:52 p.m.

The stipulation from October 26th was admitted as City Exhibit No. 3.

City Prosecutor Benham stated that city is seeking non renewal of the license, although other penalties were discussed with Attorney Worstell in the event it is renewed.

In closing, City Prosecutor Benham reviewed the violations that occurred on August 23 and October 13, 2011, as well as the testimony of witnesses employed at Maverick’s. She also noted the information still outstanding out submitted application paperwork which has been an ongoing problem since June of 2011. She stated that the license was granted in June of 2010, and noted that there have been two serious violations within only a two month period. This record brings into serious question whether the licensee can uphold the responsibilities of holding a liquor license and whether renewing the license would be in the best interest of the citizens of Golden.
In closing, Attorney Worstell stated that the owners were initially ignorant of the violations that occurred, and deceived by staff. He stated the owners have no experience in the liquor business, but have invested an enormous amount of money. When they finally obtained the police report, they found a new manager. Mr. Jeffrey seems to be their best hope, and they have tried to turn things around. Attorney Worstell argued that he did not think two instances suggests a pattern, and noted the licensee is now trying to get operations under control.

Hearing Officer Carberry stated that there was good cause for non-renewal with the two unrefuted violations. Attempts by the licensee to make changes were too little too late, though she applauded their recent efforts. Additionally, she had made it clear the licensee needed to submit a complete renewal application, which is still not complete. She also noted that the manager who committed the most recent violation was only fired two days ago. She stated that the licensee has the responsibility to be familiar with the Colorado Liquor Code.

The Authority ordered that the application for renewal of the Hotel and Restaurant Liquor submitted by Maverick’s Oakpit Grill, LLC d/b/a Maverick’s Oakpit Grill, 1301 Washington Ave., Unit 120, Golden, be denied.

The Authority further stayed the order for non-renewal through February 17, 2012, suspending the license through that date, to allow an application for transfer of the license to be submitted to the city clerk’s office by January 16, 2012. If not received by that date, the order of non-renewal will immediately take effect.

**Request for Fine in Lieu of Suspension by Maverick’s Oakpit Grill, LLC d/b/a Maverick’s Oakpit Grill, 1301 Washington Ave., Unit 120, Golden, CO 80401**

The request for fine in lieu of suspension submitted by Maverick’s Oakpit Grill, LLC d/b/a Maverick’s Oakpit Grill, 1301 Washington Ave., Unit 120, Golden, was found to be moot.

**Other Matters**

There were no other matters.

**Adjournment**

There being no further business to come before the Authority, the meeting adjourned at 4:10 p.m.