



# City of Grand Island

Tuesday, January 26, 2016

Council Session

## Item E-1

**Public Hearing on Request from La Cabana LLC dba El Jalapenos, 2418 N. Webb Road, Suite A for a Class “I” Liquor License**

*Council action will take place under Resolution item I-1.*

Staff Contact: RaNae Edwards

# Council Agenda Memo

**From:** RaNae Edwards, City Clerk

**Meeting:** January 26, 2016

**Subject:** Public Hearing on Request from La Cabana, LLC dba El Jalapenos, 2418 No. Webb Road, Suite A for a Class “I” Liquor License

**Presenter(s):** RaNae Edwards, City Clerk

## Background

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

### **Declared Legislative Intent**

- It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:
- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
  - (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
  - (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

## Discussion

La Cabana, LLC dba El Jalapenos, 2418 No. Webb Road, Suite A has submitted an application for a Class “I” Liquor License. A Class “I” Liquor License allows for the sale of alcohol on sale only inside the corporate limits of the city.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments.

Also submitted with the application was a request from Alberto Baldovinos, 235 North Custer for a Liquor Manager Designation.

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

### **Recommendation**

Based on the Nebraska Liquor Control Commission's criteria for the approval of Liquor Licenses, City Administration recommends that the Council approve this application.

### **Sample Motion**

Move to approve the application for La Cabana, LLC dba El Jalapenos, 2418 No. Webb Road, Suite A for a Class "I" Liquor License contingent upon final inspections and Manager Designation for Alberto Baldovinos, 235 North Custer contingent upon completion of a state approved alcohol server/seller training program.

01/12/16  
12:30

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 1

City : Grand Island  
 Occurred after : 08:00:00 12/23/2015  
 Occurred before : 08:00:00 12/23/2015  
 When reported : 08:00:00 12/23/2015  
 Date disposition declared : 12/28/2015  
 Incident number : L15122392  
 Primary incident number :  
 Incident nature : Liquor Lic Inv Liquor Lic Inv  
 Incident address : 2418 Webb Rd N  
 State abbreviation : NE  
 ZIP Code : 68803  
 Contact or caller :  
 Complainant name number :  
 Area location code : PCID Police - CID  
 Received by : Vitera D  
 How received :  
 Agency code : GIPD GIPD Grand Island Police Dept  
 Responsible officer : Vitera D  
 Offense as Taken :  
 Offense as Observed :  
 Disposition : ACT Active  
 Misc. number : RaNae  
 Geobase address ID : 4481  
 Long-term call ID :  
 Clearance Code : CL CL Case Closed  
 Judicial Status :

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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
LW	L10063772	01/11/16	Liquor Lic Inv	Related
LW	L12012128	01/11/16	Liquor Lic Inv	Related
NM	93768	01/11/16	Baldovinos, Alberto	Owner/Manager
NM	125790	01/11/16	Paz Cuevas, Macrina	Alberto's
Spouse				
NM	206914	01/11/16	El Jalepenos,	Business
Involved				

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT21	LT21 Restaurant	

IMAGE CODES FOR INCIDENT:

Seq	Imag	Image code for a users description field
1	DOC	DOCUMENT mobile report

LAW INCIDENT NARRATIVE:

Liquor License Investigation

Alberto Baldovinos is applying for a Class I (beer, wine, distilled spirits, on sale only) LLC Retail Liquor license for a restaurant called El Jalapenos. He is also applying to be the liquor manager.

CW

~~~~~ (lwmain10444212242015)~~

LAW INCIDENT OFFENSES DETAIL:

| Se | Offe | Offense code         | Arson Dama |
|----|------|----------------------|------------|
| 1  | AOFF | AOFF Alcohol Offense | 0.00       |

LAW INCIDENT RESPONDERS DETAIL:

| Se | Responding offi | Unit n | Unit number |
|----|-----------------|--------|-------------|
| 1  | Vitera D        | 318    | Vitera D    |

LAW SUPPLEMENTAL NARRATIVE:

| Seq | Name     | Date                |
|-----|----------|---------------------|
| 1   | Vitera D | 10:12:01 01/11/2016 |

Grand Island Police Department  
Supplemental Report

Date, Time: Mon Jan 11 10:12:13 CST 2016  
Reporting Officer: Vitera  
Unit- CID

I received a copy of a liquor license application for El Jalapenos from Alberto Baldovinos. Alberto is also applying to be the liquor manager. Alberto currently has a liquor license at La Cabana and had a second liquor license for a bar and grill called El Farayon which has since closed. El Jalapenos will be located at 2418 N. Webb which is the current location of La Cocina. Prior to that, it was San Pedro, and prior to that, it was El Mariachi. All of those establishments tried to get a liquor license, but none of them did.

Since Alberto has owned and operated La Cabana for the past 5.5 years, I don't see any liquor license violations listed on the NLCC's web site, nor do I see any problems with that restaurant listed in Spillman. I was unable to find El Farayon on the NLCC's web site since it's been closed for awhile. In reviewing my initial investigation into that application

and related reports, it appears that El Farayon was open for about two years. Spillman does show multiple calls there for assaults, trespassing, disturbing the peace (Alberto was cited and plead guilty for having loud music), and criminal mischief.

In looking at the El Jalapenos application, I found that Alberto disclosed convictions from ten different contacts with law enforcement over the years. Two of those convictions (carrying a concealed weapon & 3rd degree assault) would have precluded him from receiving a liquor license, but the convictions were set aside prior to him obtaining a license for La Cabana. Alberto also said that he's not borrowing any money to establish/operate the business, no one else will share in the business profits, and none of the furniture, fixtures, or equipment will be owned by someone else. Alberto has leased the property for El Jalapenos until 11/30/18. He also stated that the primary business of El Jalapenos will be a restaurant which will be open until 10:00 PM Sunday through Thursday and 10:30 PM on Friday and Saturday.

According to his application, Alberto has lived in Grand Island since 2001, and his spouse (Macrina Baldovinos) lived in Mexico from 1987 through 2008 and in Grand Island since 2008. Macrina signed a Spousal Affidavit of Non- Participation form. Alberto said in his business plan that he intends to operate El Jalapenos in a similar fashion as La Cabana. As I mentioned above, Alberto stated on his application that none of the furniture, fixtures, or equipment for his business will be owned by someone else. However, the application has an "Exhibit A" attached to it which lists furniture and equipment totaling \$34,704. I'm guessing those items belong to someone else since Alberto is leasing the property. I will clear that up with him when I speak to him.

I checked Alberto through Spillman and NCJIS. Alberto has several contacts in Spillman, but all of them with Alberto being an "offender" occurred prior to the issuance of his liquor license for La Cabana with the exception of the disturbing the peace at El Farayon mentioned above. I did not find any undisclosed convictions listed in NCJIS. Alberto is listed as a "Multi-State Offender" in NCJIS, but I am unable to run out of state criminal history checks on liquor license investigations. It could be as simple as his DUI out of Missouri that he disclosed on his application. Any additional information will have to be obtained from fingerprint records. I also checked Alberto through a paid law enforcement-only database and found that he had a civil judgment filed against him in 2009 by Credit Management for \$1,265. I called Credit Management and was told that the judgment has been satisfied. I did a general Internet search and found a couple of facebook pages for Alberto. One has a photograph of a margarita glass with no other information. The other has a photograph of a male who appears to have a couple of guns strapped to his hips along with four photographs which all include a young girl presumed to be a relative.

I called Alberto on 1/11/16 and set up a time to meet with him on 1//12/16 at 0930 at the new restaurant. Nebraska State Patrol Investigator Dan Fiala and I met with Alberto at the scheduled time and place. Alberto informed us that he does not know the people who owned El Mariachi or San Pedro. Alberto did not know the owner of La Cocina either

until he expressed interest in putting in El Jalapenos. Alberto is leasing the building (not from the owner of La Cocina) and buying some of the equipment in the building. Alberto agreed to pay the owner of La Cocina \$1,000 per month for thirty months to pay for the equipment. Alberto also said that "Exhibit A" in his application is not accurate. Alberto looked at a copy of it and believes the list is from La Cabana and should not have been included in this application.

Alberto was asked about convictions in other states to address the "Multi-State Offender" issue. Other than his DUI that he disclosed out of Missouri, Alberto said he can only recall a speeding ticket he received in Texas five or six years ago. I asked Alberto about his experience with El Farayon and the related police contacts. Alberto said El Farayon was a bar, not a restaurant. He said that was a stressful endeavor that he's not interested in doing again anytime soon.

I showed Alberto a copy of the facebook page with a photograph of a male standing on showing off two black objects on his belt. Alberto confirmed that was a photograph of him wearing a 9mm and .380 handgun on his belt. I asked why he would put the photograph on his facebook page, and he said the he was happy at the time with his purchase of the handguns. He said the other photographs of the little girl are his daughter. Alberto has an active concealed carry permit, so there's nothing illegal about him posing with a couple of handguns. Alberto also acknowledged that the other facebook page with the margarita on it was his as well. He said it was for La Cabana, but there's nothing on it because he doesn't keep it up.

All in all, other than the mistake with "Exhibit A," I didn't find any problems with Alberto's application. He had a few issues with El Farayon, but he closed it. He seems to run a good business at La Cabana and has had no issues with the Grand Island Police Department or the Nebraska Liquor Control Commission. With his plans to operate El Jalapenos like he operates La Cabana, the Grand Island Police Department has no objection to El Jalapenos receiving a liquor license or to Alberto Baldovinos becoming the liquor manager.

