



City of Grand Island

Tuesday, April 24, 2018

Council Session

Item E-1

Public Hearing on Request from La Mexicana, Inc. dba La Mexicana, 3333 Ramada Road, Suite B for a Class “I” Liquor License

Council action will take place under Consent Agenda item G-4.

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: April 24, 2018

Subject: Public Hearing on Request from La Mexican, Inc. dba La Mexicana, 3333 Ramada Road, Suite B 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 Mexicana, Inc. dba La Mexicana, 3333 Ramada Road, Suite B 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. See attached Police Department report.

Also submitted was a request for Liquor Manager Designation for Veronica Alvarez, 609 S. Stuhr Road. Ms. Alvarez has completed a state approved alcohol server/seller training program. Staff recommends approval contingent upon final inspections.

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 Mexicana, Inc. dba La Mexicana, 3333 Ramada Road, Suite B for a Class "T" Liquor License contingent upon final inspections and Liquor Manager Designation for Veronica Alvarez, 609 S. Stuhr Road.

Grand Island Police Department
Supplemental Report

Date, Time: Wed Apr 11 14:09:32 CDT 2018
Reporting Officer: Vitera
Unit- CID

La Mexicana is applying for a Class I (beer, wine, distilled spirits, on sale only) Corporate Retail Liquor License, and Veronica Alvarez is applying to become the liquor manager. Adolfo Flores is the sole owner of the corporation. While perusing the application, I noticed that Adolfo disclosed four potential criminal convictions, he stated that he had a previous liquor license at Rafa's Tacos, he has lived in Grand Island since at least 2004, and he did not list a spouse. Adolfo is being assisted in the process of obtaining a liquor license by Zachary Butz who is with the firm Shamburg, Wolf, McDermott, and Depue.

I am familiar with Adolfo as he has applied for liquor licenses before. Adolfo was granted a liquor license for Rafa's Taco's in 2011. The business sold to minors twice, and the license was allowed to lapse. Adolfo applied for a liquor license in 2016 for the La Mexicana Market. It was denied locally and by the Nebraska Liquor Control Commission (NLCC) due to Adolfo's history of his businesses selling to minors and his inability to properly fill out the applications by disclosing his past convictions and past liquor licenses. On this application, Adolfo did disclose some of his convictions (as mentioned above) but not all of them. He also listed a prior license at Rafa's Tacos.

I checked Adolfo through Spillman and NCJIS. Since the last investigation in 2016 where I found sixteen convictions, Adolfo has one additional traffic-related conviction. He has also had five code violation complaints which were all taken care of.

While looking at the liquor manager portion of the application, I noticed that Veronica Alvarez has lived in Grand Island since at least 2010, and she disclosed a conviction for speeding in California in 1995 or 1996. I checked Veronica through Spillman and NCJIS. She doesn't have any potential convictions listed in either Spillman or NCJIS.

Nebraska State Patrol Investigator Joe Hansen and I met with Adolfo, Veronica, and Zachary Butz on 4/11/18 at the new La Mexicana restaurant which is located where Denny's used to be. I chastised Adolfo for still not disclosing all of his convictions. Zachary said he ran Adolfo through Justice and disclosed everything that the report contained. I told Adolfo that his name is on this liquor license application, and it's his responsibility to make sure it's correct to the best of his knowledge. His attorney was just assisting him with that process. While I acknowledged that it would be difficult to remember dates, locations, and his exact number of convictions, he should have known that he had significantly more than four.

One of Adolfo's convictions is for personally selling to a minor. After Zachary and I discussed this issue, Zachary assured me that he would try to help Adolfo get this conviction set aside but didn't think he could get through the process prior to the local hearing. Zachary later informed me that he has a court date on 5/8/18 to get the selling to a minor conviction set aside.

Adolfo advised that he and Veronica have successfully completed Nebraska Alcohol Server/Seller Certification, and they will be using an electronic device to scan identification cards of their customers buying alcohol. Veronica will also be spending fifty or more hours a week at the restaurant.

Even though Adolfo was denied a license two years ago at his market, the Grand Island Police Department will not object to him getting a license at La Mexicana this time since: he attempted to disclose convictions, listed a past license, is trying to get his selling to a minor conviction set aside, has taken steps to prevent selling to minors by taking an alcohol serving class, is implementing an electronic scanner for ID's, and is having Veronica spend the majority of her time at the restaurant. Veronica has a clean record and appears to be a responsible person.

James I. Shamberg (1921-2010)
John A. Wolf
John B. McDermott
Ronald S. Depué
J.D. Sabott
Zachary J. Butz
Kathryn I. Vampola

**SHAMBERG, WOLF,
McDERMOTT & DEPUÉ**

Since 1885
ATTORNEYS AT LAW

OUR POST OFFICE BOX IS NOW CLOSED.

308 North Locust Street, Suite 501
P.O. Box 460
Grand Island, NE 68802-0460
308/384-1635
Fax 308/384-1759

April 17, 2018

RECEIVED

APR 19 2018

122455
NEBRASKA LIQUOR
CONTROL COMMISSION

Michelle Porter
Special Designated License Administrator
Licensing Division
Nebraska Liquor Control Commission
301 Centennial Mall South
P.O. Box 95046
Lincoln, NE 68509-5046

RE: Liquor License for La Mexicana Restaurant//Grand Island, Nebraska

Dear Michelle,

Per our conversation of Friday, April 13, please find the following information to supplement the liquor license application submitted by Adolfo Flores and LA MEXICANA, INC for the La Mexicana Restaurant in Grand Island, Nebraska.

Mr. Flores had a previous liquor license in Lexington, Nebraska in 2001. This was for a business called La Mexicana Restaurant, located at 731 ½ E. Pacific Street. The license ended when Mr. Flores sold the business. The city clerk's office in Lexington does not have any additional information on this business.

Please also be aware that at the suggestion of the Grand Island Police Department, Mr. Flores has begun legal proceedings to set aside the conviction in CR-05 483. Please also find attached a supplemental list of charges/convictions for Mr. Flores.

On behalf of Mr. Flores and myself, please accept our apologies for the omission of this information.

Sincerely yours,

SHAMBERG, WOLF, McDERMOTT & DEPUE


Zachary Butz

ZB/gh
Enclosure



Form 100 – Question 1 (4/17/18 Supplement)

Adolfo Flores – 03/2005; Grand Island, NE; Procure/sell alcohol to minor/incompetent; \$200.00 Fine

Adolfo Flores – 06/1998; Grand Island, NE; Speeding; \$200.00 Fine

Adolfo Flores – 04/1998; Lexington, NE; No proof of insurance; dismissed

Adolfo Flores – 04/1998; Lexington, NE; Obstructed review mirror; \$10.00 Fine

Adolfo Flores – 05/1998; Hall County, NE; Speeding; \$200.00 Fine

Adolfo Flores – 10/1998; Buffalo County, NE; Excess Windshield/Window Tenting; \$25.00 Fine

Adolfo Flores – 04/2002; Buffalo County, NE; No proof of ownership; \$25.00 Fine

Adolfo Flores – 06/2005; Grand Island, NE; Speeding; \$75.00 Fine

Adolfo Flores – 09/2007; Cass County, NE; Overweight Capacity Plates; \$175.00 Fine

Adolfo Flores – 09/2007; Cass County, NE; Violate Motor Carrier Safety Regulation; \$50.00 Fine

Adolfo Flores – 05/2008; Merrick Count, NE; Speeding; \$125.00 Fine

Adolfo Flores – 08/2009; Custer County, NE; Speeding; \$25.00 Fine

Adolfo Flores – 04/2009; Douglas Count, NE; Speeding; \$75.00 Fine

Adolfo Flores – 12/2009; Cass County, NE; Overweight Capacity Plates; \$50.00 Fine

Adolfo Flores – 06/2010; Hamilton County, NE; Speeding; \$75.00 Fine

Adolfo Flores – 12/2010; Hall County, NE; Speeding; \$75.00 Fine

Adolfo Flores – 10/2012; Grand Island, NE; Careless Driving; \$100.00 Fine

Adolfo Flores – 01/2013; Buffalo Count, NE; Acts Declared Unlawful License/Driving; \$150.00 Fine

Adolfo Flores – 09/2014; Merrick County, NE; Acts Declared Unlawful License/Driving; \$50.00 Fine

Adolfo Flores – 11/2016; Hall County, NE; CMV Break General/CMV Fuel General; \$50.00 Fine; \$25.00 Fine

The Grand Island Police Department's search also returned two civil cases, related to the dissolution of the marriage of Adolfo Flores and Maria Flores.

Please note as well that the business Rafa's Tacos in Grand Island Nebraska, for which LAMEXICANA, INC. was the owner, received two citations for permitting the selling, dispensing, or giving away of alcoholic liquor to or for an individual being less than 21 years of age. The incidents took place on or about September 28, 2012 an on or about February 1, 2013. The September 2013 incident also included a citation for permitting a minor les than 19 years of age to sell or dispense alcoholic liquor.

Class "I" Liquor License Application: La Mexicana

