



City of Grand Island

Tuesday, August 26, 2014

Council Session - Updated

Item E-1

Public Hearing on Request from Jacqueline E. Bowen dba j. elizabeth and the Happy Brush, 305 West 3rd Street for a Class “I” Liquor License

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: August 26, 2014

Subject: Public Hearing on Request from Jacqueline E. Bowen dba j. elizabeth and the Happy Brush, 305 West 3rd Street for a Class “I” Liquor License

Item #'s: E-1 & I-1

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

Jacqueline E. Bowen dba j. Elizabeth and the Happy Brush, 305 West 3rd Street has submitted an application for a Class “I” Liquor License. A Class “I” Liquor License allows for the sale of alcohol on sale 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.

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 Jacqueline E. Bowen dba j. Elizabeth and the Happy Brush, 305 West 3rd Street for a Class "T" Liquor License contingent upon final inspections and completion of a state approved alcohol server/seller training program.

08/19/14
14:29

Grand Island Police Department
LAW INCIDENT TABLE

450
Page: 1

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City : Grand Island
Occurred after : 09:19:00 08/12/2014
Occurred before : 09:19:00 08/12/2014
When reported : 09:19:00 08/12/2014
Date disposition declared : **/**/****
Incident number : L14081294
Primary incident number :
Incident nature : Liquor Lic Inv Liquor Lic Inv
Incident address : 305 3rd St W
State abbreviation : NE
ZIP Code : 68801
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 : 11404
Long-term call ID :
Clearance Code : CL CL Case Closed
Judicial Status :

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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	40655	08/12/14	Bowen, Stephen T	Owner
NM	128294	08/12/14	Bowen, Jacqueline E	Owner

LAW INCIDENT CIRCUMSTANCES:

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Se Circu Circumstance code      Miscellaneous
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1  LT24  LT24 Specialty Store

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IMAGE CODES FOR INCIDENT:

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Seq Imag Image code for a users description field
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1  DOC  DOCUMENT      Mobile Report

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LAW INCIDENT NARRATIVE:

Liquor License Investigation

I received a copy of a Class I (beer, wine, distilled spirits, on sale only) Individual Liquor License application from Jacqueline Bowen for a business called j. elizabeth and the Happy Brush.

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	13:06:41 08/15/2014

318

Grand Island Police Department
Supplemental Report

Date, Time: Fri Aug 15 13:06:57 CDT 2014
Reporting Officer: Vitera
Unit- CID

I received a copy of a Class I (beer, wine, distilled spirits on sale only) Individual Liquor License application from Jacqueline "Jackie" Bowen for a business called "j. elizabeth and the Happy Brush." According to the application, Jackie is married to Stephen Bowen. I did not see where Stephen had signed a Non-Participation agreement.

Jackie included a detailed business plan which states in part "The mission of j. elizabeth is to create and recreate art from a variety of repurposed items, especially reclaimed window sashes." 'The Happy Brush' has a separate entrance and will be open for regular hours and for private parties. The idea behind it is that it combines a 'paint-your-own' studio where customers can come in during business hours and pick out a blank canvass or piece of ceramic pottery to paint." There will also be two rooms that can be rented for birthday, Christmas, and bachelorette parties. Whether a customer is painting during normal business hours, taking a painting class, or attending a party of some sort, alcoholic beverages will be available in all of those situations.

While examining the application, the only issue that jumped out at me is the fact that a church (Iglesia Evangelica Pentecostes) across the street is within 150' of the proposed business. There is a page in the application that says Jackie submitted assessor's documents which puts the corner of the church 137 feet from the corner of Jackie's building. I

did not measure it myself. The Wine Bar is also within 150 of the church. Nebraska State Statute 53-177 says:

(1) Except as otherwise provided in subsection (2) of this section, no license shall be issued for the sale at retail of any alcoholic liquor within one hundred fifty feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition does not apply (a) to any location within such distance of one hundred fifty feet for which a license to sell alcoholic liquor at retail has been granted by the commission for two years continuously prior to making of application for license, (b) to hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935, or (c) to a college or university in the state which is subject to section 53-177.01.

(2) If a proposed location for the sale at retail of any alcoholic liquor is within one hundred fifty feet of any church, a license may be issued if the commission gives notice to the affected church and holds a hearing as prescribed in section 53-133 which states:

(1) The commission shall set for hearing before it any application for a retail license, craft brewery license, or microdistillery license relative to which it has received:

(a) Within forty-five days after the date of receipt of such application by the city, village, or county clerk, a recommendation of denial from the city, village, or county;

(b) Within ten days after the receipt of a recommendation from the city, village, or county, or, if no recommendation is received, within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections in writing by not less than three persons residing within such city, village, or county, protesting the issuance of the license. Withdrawal of the protest does not prohibit the commission from conducting a hearing based upon the protest as originally filed and making an independent finding as to whether the license should or should not be issued;

(c) Within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections by the commission or any duly appointed employee of the commission, protesting the issuance of the license; or

(d) An indication on the application that the location of a proposed retail establishment is within one hundred fifty feet of a church as described in subsection (2) of section 53-177.

(2) Hearings upon such applications shall be in the following manner: Notice indicating the time and place of such hearing shall be mailed or electronically delivered to the applicant, the local governing body, each individual protesting a license pursuant to subdivision (1)(b) of this section, and any church affected as described in subdivision (1)(d) of

this section, at least fifteen days prior to such hearing. The notice shall state that the commission will receive evidence for the purpose of determining whether to approve or deny the application. Mailing or electronic delivery to the attorney of record of a party shall be deemed to fulfill the purposes of this section. The commission may receive evidence, including testimony and documentary evidence, and may hear and question witnesses concerning the application. The commission shall not use electronic delivery with respect to an applicant, a protestor, or a church under this section without the consent of the recipient to electronic delivery.

After noticing that the business will be within 150' of a church, I continued to peruse the application. I observed that Jackie and Stephen didn't disclose any criminal convictions, the building where their proposed business will be located has not had a liquor license within the last two years, and they have never had a liquor license before. The Bowen's have lived in Grand Island since at least 1997.

I checked on the Bowen's through Spillman and NCJIS. Neither one of them had any potential convictions listed in Spillman. Jackie had a speeding conviction from 2011 in Wyoming listed in NCJIS. Stephen had a conviction for having a dog or cat at large in 2006 in NCJIS. I also checked the Bowen's through a paid law enforcement-only database but didn't find anything damaging to the application. I did a general Internet search and couldn't pinpoint anything of interest.

I attempted to call Jackie on 8/18/14 to set up an interview. One phone number on the application (395-8120) was not a good number. I left a voicemail after calling the business number. I also e-mailed Jackie at both addresses she provided. I corresponded with NSP Investigator Fiala who was able to contact Jackie and set up a meeting for 8/19/14 at 0900 at her business.

Investigator Fiala and I met Jackie at the agreed upon time and place. Investigator Fiala went over his checklist of questions, and then I asked Jackie a few questions. Even though Jackie is applying for a license which allows her to sell distilled spirits, she is not planning on selling hard liquor at this time. She feels most of her customers will want wine, and some of them will want a "craft" beer. Jackie will be the sole employee working at the business. Jackie also emphasized that alcohol sales will not be the primary source of her income from the business. In fact, when she first wanted to put her business at 305 W. 3rd, she never considered getting a liquor license. Some of her potential customers told her it would be nice to have some wine available while they are painting.

I told Jackie about some of the typical problems (noise, minors, over-serving, fights, etc...) that the police department encounters with establishments that sell alcohol. Her business doesn't seem conducive to those problems.

All in all, Jackie's application looks good. I believe the issue with her business being within 150' of a church can be resolved by the NLCC. The two minor undisclosed infractions are insignificant. A person obviously

can't predict the future, but it appears to me that alcohol sales and consumption at j. elizabeth and the Happy Brush shouldn't be a problem from a law enforcement perspective. The Grand Island Police Department has no objection to the license and recommends that the Council give its approval.

