



City of Grand Island

Tuesday, January 13, 2009

Council Session

Item E1

**Public Hearing on Request from Timothy Stueben dba Stueby's
Alibi, 908 North Broadwell Avenue for a Class "C" Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: January 13, 2009

Subject: Public Hearing on Request from Timothy Stueben dba Stueby's Alibi, 908 North Broadwell Avenue for a Class "C" 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

Timothy Stueben dba Stueby's Alibi, 908 North Broadwell Avenue has submitted an application for a Class "C" Liquor License. A Class "C" Liquor License allows for the sale of beer on and off 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.

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 the application.

Sample Motion

Move to approve the application of Timothy Stueben dba Stueby's Alibi, 908 North Broadwell Avenue for a Class "C" Liquor License contingent upon final inspections and upon Mr. Stueben completing a state approved alcohol server/seller training program.

INTEROFFICE
MEMORANDUM
Police Department



*Working Together for a
Better Tomorrow. Today.*

DATE: December 30, 2008

TO: RaNae Edwards, City Clerk

FROM: Dave Vitera, Sergeant, Police Department

RE: Application – Class “C” Liquor License – Timothy Stueben
dba Stueby’s Alibi, 908 North Broadwell, Grand Island, NE.

The Grand Island Police Department has received an application for Class “C” Liquor License for Timothy Stueben dba Stueby’s Alibi, 908 North Broadwell, Grand Island, Nebraska. Timothy and Susan Stueben are listed on the application as the owners of the business. On the part of the application that asks if anyone who is a party to the application has ever been convicted of or plead guilty to any charge, an attempted assault and disturbing the peace are listed. It doesn’t say who the convictions belong to. I searched Spillman and NCJIS on each subject.

Susan didn’t have any convictions listed in either database. Besides the attempted assault and disturbing the peace disclosed on the application, Timothy had eleven other undisclosed convictions. I found the following convictions listed in NCJIS:

1. overweight axle, 11-18-98
2. overweight axle, 6-30-99,
3. no passing zone & passing a school bus violation, 7-10-00
4. stop sign violation, 10-17-00
5. speeding, 2-21-02
6. disturbing the peace, 3-27-02
7. overweight axle, 7-22-02
8. violate special permit regulations, 9-9-02
9. traffic signal violation, 10-9-02
10. unlawful entry without a park permit, 7-18-06
11. speeding, 5-21-07

Timothy’s failure to disclose his eleven other convictions technically makes the application false according to the Nebraska Liquor Control Act (Part II Chapter 2, Section 010.01). The application clearly asks, “Has anyone who is a party to this application, or their spouse, ever been convicted of or plead guilty to any charge.” It further states that a charge includes “federal, state, local law, ordinance, or resolution.” Nine of Timothy’s undisclosed convictions would fall under local ordinances. The other two undisclosed convictions would fall under state law. However, non of his undisclosed convictions rise to the level of a Class I Misdemeanor in a

specified crime under Nebraska State Statute Chapter 28 that would automatically exclude him from receiving a liquor license.

I spoke to Timothy over the phone for about twenty minutes. I asked him about his undisclosed convictions. He advised that he apparently didn't understand or read the question carefully enough. I also asked him to explain some of his convictions. I advised him that I was a little concerned with some of the assault and disturbing the peace charges. He said the domestic assault that was pled down to an attempted assault happened when he and his wife were having a hard time with their relationship after their children left home. Shortly after the assault, Timothy and his wife (Susan) participated in a four day seminar through their church that helped them mend their relationship.

While looking at Timothy's criminal record, I didn't like the fact that I saw three overweight axle citations. On the surface, it seemed like a possible blatant disregard for the law. Timothy explained that he was hauling grain during that time period. Some of the places where his truck was loaded didn't have scales. When he was cited, Timothy said the weight was usually pretty close to being legal.

I stressed to Timothy that operating a bar means dealing with the public and patrons who might be under the influence of alcohol. Considering some of the entries in Timothy's criminal record, I wanted some assurances from him that he would be able to effectively deal with situations without escalating them into assaultive actions. I also made it clear to Timothy that cooperation with law enforcement is essential to his business. Timothy said he was going to do his best to maintain a respectable clientele and work well with law enforcement when necessary.

All in all, Timothy's response to my questions seemed reasonable. Barring any issues with the State, the Grand Island Police Department has no objection to the issuance of a liquor license for Stueby's Alibi.