



City of Grand Island

Tuesday, March 10, 2015

Council Session

Item E-1

Public Hearing on Request from Hollywood's LLC dba The Filling Station, 217 East Stolley Park Road, Suite N for a Class "CK" Liquor License

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: March 10, 2015

Subject: Public Hearing on Request from Hollywoods LLC dba
The Filling Station, 217 East Stolley Park Road, Suite N
for a Class “CK” 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

Hollywoods LLC dba The Filling Station, 217 East Stolley Park Road, Suite N has submitted an application for a Class “CK” Liquor License. A Class “CK” Liquor License allows for the sale of alcohol on and off sale inside the corporate limits of the city along with a catering designation.

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 Tyson Juhl, 1314 Marshall Street, Wood River, NE for a Liquor Manager Designation.

After reviewing the Police Department report (see attached) it is recommended that the City Council deny this request based on not qualifying under Nebraska State Statute 53-132 (a), (b), and (c).

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 **deny** this application.

Sample Motion

Move to **deny** the application for Hollywoods LLC dba The Filling Station, 217 East Stolley Park Road for a Class "CK" Liquor License based on not qualifying under Nebraska State Statute 53-132 (a), (b), and (c).

01/07/15
10:14

Grand Island Police Department
LAW INCIDENT TABLE

450
Page: 1

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City : Grand Island
Occurred after : 08:00:00 12/09/2014
Occurred before : 08:00:00 12/09/2014
When reported : 08:00:00 12/09/2014
Date disposition declared : 12/23/2014
Incident number : L14122050
Primary incident number :
Incident nature : Liquor Lic Inv Liquor Lic Inv
Incident address : 217 Stolley Park Rd E; Suite N
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 : 13824
Long-term call ID :
Clearance Code : CL CL Case Closed
Judicial Status : NCI Non-criminal Incident
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INVOLVEMENTS:

| Px | Record # | Date | Description | Relationship |
|----|----------|----------|----------------------|--------------|
| NM | 102556 | 12/19/14 | Juhl, Tyson Edward | Owner |
| NM | 197637 | 12/19/14 | The Filling Station, | Business |

LAW INCIDENT CIRCUMSTANCES:

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Se Circu Circumstance code : Miscellaneous
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1 LT03 LT03 Bar/Night Club

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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 Lic Investigation

I Received a Copy of a Class CK (beer,wine, distilled spirits, on and off sale along with catering) Retail Liquor License Application from Tyson Juhl for The Filling Station.

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 | 10:43:43 12/19/2014 |

Grand Island Police Department
Supplemental Report

Date, Time: Fri Dec 19 10:52:11 CST 2014
Reporting Officer: Vitera
Unit- CID

I Received a Copy of a Class CK (beer, wine, distilled spirits, on and off sale along with catering) Retail Liquor License Application from Tyson Juhl for The Filling Station. In reviewing the application, I noticed that Tyson is the only person listed on the application. He included a report from the Nebraska State Patrol (NSP) to disclose his criminal convictions. He isn't borrowing any money to establish and/or operate the business, he has lived in Shelton and Wood River for at least the last ten years, and he has had three liquor licenses before. One license was for the Motor Inn Bar & Grill in Shelton between 2006 and 2007. Another license was held for the Wood River C Store between 2008 and 2013, and he recently had a license for The Filling Station in Wood River from 2013 until 12/6/14.

I looked Tyson up in Spillman and found that he has thirty-four documented contacts with the police department and the Hall County Sheriff's Office. The vast majority of those contacts involve him reporting a crime for the C Store or The Filling Station in Wood River. There are a few scattered traffic contacts, some animal complaints

against him, a code enforcement call against him, and he also pawned some property a little over two years ago.

The NSP information that Tyson included about his criminal convictions included a conviction for MIP and speeding in 2000 and DUI in 2013. A check of the Nebraska Criminal Justice Information System (NCJIS) shows that Tyson has been convicted of:

| | | | |
|------------------------|----------|---|---------------------|
| Buffalo Co court | 3-1-96 | No Valid Operator's License | Guilty plea in |
| Buffalo Co Juv. | 11-20-98 | Speeding over 21mph | Transferred to |
| Juv. | | DUI 1st Offense | Transferred to |
| Juv. | | Drive Left of Center | Transferred to |
| Juv. | | Drive on shoulder | Transferred to |
| | | Obstructing a Peace Officer | Transferred to Juv. |
| Buffalo Co Juvenile | 1-11-99 | Admission to all charges filed on 11-20-98 in | Court |
| Buffalo Co | 4-23-00 | MIP | Guilty by waiver |
| Hamilton Co | 9-7-00 | Speeding 6-10 over | Guilty |
| Buffalo Co | 10-23-00 | Acts declared unlawful license driving | Guilty by waiver |
| Hall Co | 08-08-01 | MIP | Guilty by waiver |
| Buffalo Co | 09-19-04 | No Proof of Insurance | Guilty by waiver |
| Hall Co | 06-05-05 | Unlawful Display of Plates | Guilty by waiver |
| Hall Co | 01-18-07 | No Proof of Insurance | Guilty by waiver |
| Dawson Co | 01-26-07 | Improper/Defective Lighting | Guilty by waiver |
| Hall Co | 08-28-10 | Speeding 6-10mph over | Guilty by waiver |
| Hall Co court | 05-17-13 | DUI 1st Offense | Guilty admit in |

NCJIS also shows that Tyson was involved in the following civil suits:

| | | | |
|----------------------|----------|--|-------------------|
| Phelps co Default | 05-23-05 | Tyson vs Brandon Schoenthal | Uncontested |
| Hall Co court | 02-24-06 | Tyson vs Janet Beck | Dismissed by |
| Hall Co | 06-20-07 | Tyson vs Brandon Proctor | Tried to court |
| Hall Co | 06-20-07 | Tyson vs Chris Ulrich | Tried to court |
| Hall Co | 03-14-08 | Tyson vs Keith Vogt | Settled |
| Phelps Co court | 04-16-07 | Robert Worman vs Tyson | Dismissed by |
| Hall Co by party | 06-24-11 | Amber Ottis vs Tyson | Settled/Dismissed |
| Hall Co by party | 09-27-12 | Credit Management vs Tyson | Settled/Dismissed |
| Hall Co | 09-08-14 | (Heartland Disposal) Capital One vs Tyson | Open as of 9-8-14 |

Investigator Dan Fiala with the Nebraska State Patrol (NSP), and I met with Tyson at the proposed location of The Filling Station on 12/16/14 at 1000 hours. Investigator Fiala took the lead on this investigation because he had dealt with Tyson before when Tyson had The Filling Station in Wood River. In fact, prior to meeting with Tyson, Investigator Fiala gave me some history on his encounters with Tyson.

Investigator Fiala said that on 1/31/14, he followed up on a complaint he received from an employee at Sam's Club who knew Tyson, knew that Tyson had a liquor license, and knew that he was not supposed to be buying alcohol for his business from Sam's Club. Investigator Fiala gathered receipts and video evidence from Sam's and was told that Tyson purchased large amounts of alcohol on 1/28 and 1/30/14. The reporting party also told Investigator Fiala that she had been in contact with Tyson several times over the past few years where he was purchasing alcohol in large quantities presumably for his business.

Later that day after talking with the reporting party from Sam's Club and gathering evidence, Investigator Fiala spoke to Tyson about the information he had received. Tyson admitted to buying alcohol at Sam's and other retail establishments for his business several times and admitted that he knew it was wrong. Investigator Fiala issued Tyson an administrative citation for the improper purchase of alcohol.

On 5/15/14, Investigator Fiala contacted Tyson at The Filling Station regarding a couple of complaints he had received through the Nebraska Liquor Control Commission (NLCC) about beer bottles being thrown in the alley behind the business and loud noises and fights. While Investigator Fiala was addressing those complaints, he did a premise inspection. Investigator Fiala located and seized several receipts for alcohol purchases from Hy-Vee, Sam's and Wal-mart. Tyson acknowledged that the receipts were for alcohol he purchased for his business but said they were from purchases made prior to Investigator Fiala citing him on 1/31/14.

Also, while doing the premise inspection on 5/15/14, Investigator Fiala discovered that Tyson had one keg of beer in the "freezer" and asked Tyson if he had a keg registration book to which Tyson replied that he did not. Tyson said the keg was for someone who was having a graduation party on Saturday (two days later). Investigator Fiala explained to Tyson that he needed to put a registration sticker on the keg if he sold it to anyone outside the licensed premise.

Investigator Fiala found time to review the receipts five days later on 5/20/14. He discovered that one of the purchases was made approximately three hours after Investigator Fiala had cited Tyson on 1/31/14 for improperly purchasing alcohol. The other receipts were also date and time stamped after 1/31/14. On 5/20/14, Investigator Fiala spoke to Tyson about the receipts he had seized and pointed out to Tyson that the receipts indicated that Tyson went out and purchased alcohol illegally within hours of being cited for that very same thing. Tyson looked down,

smiled, and told Investigator Fiala that the receipts were from before he was cited. Investigator Fiala knew Tyson was lying according to the receipts and by Tyson's physical mannerisms (indicating deception) when he made the denial. Investigator Fiala told Tyson that the date and time on the receipts compared to the date and time of the citation proved that Tyson was lying.

Investigator Fiala also discovered that the keg was gone, but there were no stickers missing from the registration book. When asked what happened to the keg, Tyson told Investigator Fiala that he took it to his house for personal use. When Investigator Fiala told Tyson he didn't believe him, Tyson exhibited the same physical mannerisms (looked down and smiled) as he did when he lied before about the receipts. Investigator Fiala issued Tyson another citation for the improper purchase of alcohol. According to Investigator Fiala, Tyson pled guilty to each citation.

When Investigator Fiala and I met with Tyson on 12/16/14, Investigator Fiala asked Tyson if he ever had any delinquent financial accounts or obligations. Tyson said that he hadn't had any. He was asked a second time, he again said that he hadn't. Investigator Fiala then confronted Tyson about three civil proceedings (mentioned above) against him in Hall County. One involved the State Bank of Hildreth in 2014. When Tyson bought the building for The Filling Station in Wood River, he took out a loan from the State Bank of Hildreth for over \$200,000. According to Tyson, he was current on his loan payments. However, Tyson failed to pay property taxes on the building for four or five years. Tyson said he owed the County over \$20,000.

A business called Vandelay Investments "bought" Tyson's tax liability and paid the taxes. Tyson said that a representative from the Hildreth State Bank named Matt Mundorf could explain the situation better. On 12/17/14, Investigator Fiala and I spoke to Matt over the phone. He confirmed that Tyson owed back taxes and Vandelay Investments bought the debt. He further explained that Vandelay is able to make money by getting the principal plus interest back on their investment. If Tyson or the bank doesn't pay them by a certain time, Vandelay can go after the building at an auction. Vandelay did just that.

Certified mail was sent to Tyson and the State Bank of Hildreth. Tyson had no interest in reimbursing Vandelay, and according to Matt, one of their employees who received the certified letter failed to pass it along; and it went unnoticed. Therefore, the bank wasn't aware of the auction and had no representation present. Vandelay bought the building. The bank lost the building and the money they lent Tyson. When asked why he didn't mention this situation when asked about delinquent accounts, Tyson said he didn't think this situation applied.

Investigator Fiala also asked Tyson about a civil suit against him in 2014 involving Capital One. Tyson said that he has worked out a payment plan with Capital One, and the account is no longer delinquent. When asked why he didn't mention this one, Tyson said he just forgot about it. Tyson was also asked about a civil action against him in 2012 by Credit Management regarding a bill with Heartland Disposal. Tyson said he couldn't remember anything about this.

Tyson was asked about all of the convictions that he failed to disclose. Tyson said he paid for a criminal history report through the state patrol and thought that covered it. Tyson was confronted with the fact that the liquor license application asks the applicant to disclose all convictions including traffic. The instructions are very clear. It's easy to understand when someone forgets to disclose a couple of speeding tickets from years ago, but when Tyson's undisclosed convictions are compared with the state patrol printout, Tyson should have definitely seen the discrepancy. It's hard to sort out, but it appears that Tyson has at least a dozen undisclosed convictions.

In Summary, the Grand Island Police Department recommends that the council NOT give local approval to this application. According to Nebraska State Statute 53-132, the NLCC has to consider if the applicant for a liquor license can conform to the NLCC's rules and regulations. It states in part:

(2) A retail license, craft brewery license, or microdistillery license may be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

Based upon Investigator Fiala's contacts with Tyson Juhl, it doesn't appear that Tyson qualifies under subsection a, b, or c listed above. By lying to Investigator Fiala and breaking the law in the exact same manner three hours after being cited by Investigator Fiala, his failure to abide by the keg regulations after being told how to do it by Investigator Fiala, and his inability to properly manage his finances and debt obligations, Tyson has demonstrated that he is not fit and willing to conform to the rules and regulations of the Nebraska Liquor Control Act. Tyson also technically supplied a false application by not disclosing all of his convictions.

318- 2nd Application

Grand Island Police Department
Supplemental Report

Date, Time: Thu Feb 19 15:38:42 CST 2015
Reporting Officer: Vitera
Unit- CID

The only major change I found between the first application and the second application is that Tyson Juhl disclosed all of his criminal convictions on the second application. Therefore, the only change I am making to this report is my statement at the end of the first supplemental report which says, "Tyson also technically supplied a false application by not disclosing all of his convictions." I would strike that sentence, but everything else in my report that doesn't deal with the disclosure of his criminal convictions remains the same. The Grand Island Police Department still recommends that the council not give local approval to this application for all of the other reasons stated in my original report.

