



City of Grand Island

Tuesday, February 22, 2011

Council Session

Item I2

#2011-46 - Consideration of Requesting the Nebraska Liquor Control Commission to Require Rafa's Tacos, 911 West 2nd Street to Complete a Long Renewal Form

Staff Contact: Mary Lou Brown

Council Agenda Memo

From: Mary Lou Brown, Finance Director
Meeting: February 22, 2011
Subject: Rafa's Tacos Liquor License Renewal
Item #'s: I-2
Presenter(s): Mary Lou Brown, Finance Director

Background

Liquor licenses are generally automatically renewed each year for licensees within the State of Nebraska. However, local governing bodies may request the Nebraska Liquor Commission to have a licensee submit a full application (commonly referred to as a long form). The Police and Finance departments are asking Council to make this request to the Nebraska Liquor Commission.

Rafa's Tacos, 811 West 2nd Street owner, Rafael Orozco, has been licensed as a Class I since September 16, 2004. According to the Nebraska Liquor Control Commission public web site, Rafael Orozco is the registered agent for a liquor license issued to Rafa's Tacos, 811 West 2nd, Grand Island. This business has been suspended for 56 days in 2005 for supplying alcohol to minors. As of February 15th 2011 Rafa's has failed to pay certain City taxes. This business has failed to pay over \$6,400.46 to the City of Grand Island for food and beverage occupation taxes.

There are limited exemptions to the occupation tax. Rafa's does not fall within any of the exceptions. Liquor licenses may not be revoked once issued, because of unpaid occupation taxes.

While discussing the upcoming renewal process, Mr. Orozco informed Sergeant Dave Vitera that the El Diamante is contemplating a change to become primarily a restaurant. Also, an attorney representing Mr. Orozco informed the City's Legal Department that Mr. Orozco intends to move the restaurant portion of Rafa's to the El Diamante, which would change the characteristic of Rafa's for purposes of a liquor license.

Discussion

The Finance Department supports a request to the Nebraska Liquor Commission requiring a new application from Rafa's Tacos. The violations of the City Code requiring Rafa's to pay the occupation tax are not sufficient to cause the revocation of any license after a license is issued, but the pattern of violations and characteristics shown by Mr. Orozco are sufficient to request a long form application for renewal

Alternatives

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council pass a resolution that a written request be sent to the Nebraska Liquor Control Commission that the owner of Rafa's Tacos, 811 West 2nd Street make application for a new license.

Sample Motion

Move to approve a resolution whereby the City of Grand Island makes a written request to the Nebraska Liquor Control Commission that requires the owner of Rafa's Tacos, 811 West 2nd Street to make application for a new license.

RESOLUTION 2011-46

WHEREAS, Rafa's Tacos is located at 811 West 2nd Street and has obtained a Class I Liquor License No. 64352 on September 16, 2004 which will expire on April 30, 2011; and

WHEREAS, the Nebraska Liquor Control Act **53-135. Retail licenses; automatic renewal; conditions; licensed premises within annexed area; effect.** States in part: "The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the local governing body"; and

WHEREAS, the Nebraska Liquor Act **53-117.08. License; suspend, cancel, or revoke; hearing; conviction; court; duty.** States in part: "If any licensee violates the regulations adopted and promulgated by the commission or any lawful ordinance of the local governing body, the commissions may, after a proper hearing, suspend, cancel, or revoke the license" and

WHEREAS, the City of Grand Island Code 23-64 and 23-79 are lawful ordinances governing eating and drinking establishments; and

WHEREAS, Rafa's Tacos is not in compliance with payment of occupation taxes pursuant to the above City Code; and

WHEREAS: the owner, Rafael Orozco, has not demonstrated the type of management and control sufficient to insure the licensed business conforms to the provisions of the license.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that a written request be sent to the Nebraska Liquor Control Commission requiring the owner of Rafa's Tacos, 811 West 2nd Street liquor license to make application for a new license.

Adopted by the City Council of the City of Grand Island, Nebraska, February 22, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

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| Approved as to Form | ☐ _____ |
| February 18, 2011 | ☐ City Attorney |