



City of Grand Island

Tuesday, March 22, 2011

Council Session

Item E1

**Public Hearing on Request from Friesen Management, Inc. dba
Sam and Louie's NYP, 928 Concord Avenue for a Class "C"
Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: March 22, 2011

Subject: Public Hearing on Request from Friesen Management, Inc. dba Sam and Louie's NYP, 928 Concord 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

Friesen Management, Inc. dba Sam and Louie's NYP, 928 Concord Avenue has submitted an application for a Class 'C' Liquor License. A Class 'C' Liquor License allows for the sale of alcohol on and off 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.

Also submitted with this application was a Liquor Manger Designation request from Donald Friesen, 4030 W. Husker Highway.

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 Friesen Management, Inc. dba Sam and Louie's NYP, 928 Concord Avenue for a Class "C" Liquor License contingent upon final inspections and Liquor Manager Designation for Donald Friesen, 4030 West Husker Highway contingent upon the completion of a state approved alcohol server/seller training program.

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15:11

Grand Island Police Department
LAW INCIDENT TABLE

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City : Grand Island
 Occurred after : 16:31:16 03/07/2011
 Occurred before : 16:31:16 03/07/2011
 When reported : 16:31:16 03/07/2011
 Date disposition declared : 03/07/2011
 Incident number : L11030838
 Primary incident number :
 Incident nature : Liquor Lic Inv Liquor License Investigation
 Incident address : 928 Concord Ave
 State abbreviation : NE
 ZIP Code : 68803
 Contact or caller :
 Complainant name number :
 Area location code : PCID Police - CID
 Received by : Vitera D
 How received : T Telephone
 Agency code : GIPD Grand Island Police Department
 Responsible officer : Vitera D
 Offense as Taken :
 Offense as Observed :
 Disposition : ACT Active
 Misc. number :
 Geobase address ID : 34984
 Long-term call ID :
 Clearance Code : 0 Open Case
 Judicial Status : NCI Non-criminal Incident

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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	29757	03/09/11	Friesen, Donald L	Owner
NM	112438	03/09/11	Friesen, Lanette M	Owner
NM	161877	03/09/11	Sam & Louie's NYP,	Business

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT21	Restaurant	

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application for Sam & Louies NYP and a Copy of a Liquor Manager Application from Donald Friesen.

LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi Unit n Unit number

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Grand Island Police Department
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Grand Island Police Department
Supplemental Report

Date, Time: Wed Mar 09 10:01:22 CST 2011
Reporting Officer: Vitera
Unit- CID

Donald and Lanette Friesen applied for a liquor license for Sam & Louie's NYP back in November of 2010. They withdrew the application because Donald had an assault conviction that would have automatically excluded them from getting a license. On this application, there is a court order attached that sets aside and nullifies Donald's assault conviction.

In the section of the application where it asks for criminal convictions, Lanette Friesen disclosed "4-5" speeding tickets. Donald Disclosed "8 speeding or traffic violations and 1 not having a dog tied up." He also disclosed two separate "contributing to the delinquency of a child [non-alcohol]" charges.

I checked NCJIS and found that neither Lanette or Donald have any undisclosed convictions. In fact, Donald only had two charges listed in NCJIS. One was the assault conviction that was set aside, and the other was a contributing to the delinquency of a minor charge that was dismissed by the prosecution. The numerous traffic "convictions" he disclosed must not have been citations and convictions, or they were too long ago to register.

While continuing to look at the application, I noticed that the Friesen's are applying for a Class C License which includes "off sale." I thought it was strange that a restaurant would apply for that type of license. I also noticed that the Friesen's aren't borrowing any money to establish and/or operate the business, yet Lanette signed up for unemployment benefits with an eligibility period from 12/26/2010 through 12/24/2011. The last thing that stuck out to me on the application was the question that asks whether anyone beside the applicant will be entitled to share in the profits of the business. The yes and no box were each checked.

On 3/16/11, I stopped by Sam & Louie's NYP in an attempt to talk to the Friesen's. I was met by a restaurant manager who said that the Friesen's were each working their other job. The manager was able to reach Donald by telephone. He was in Kansas and was going to be there overnight. Donald advised that he is a manager for Taco Bell, and "corporate" was doing an inspection at one of the restaurants he oversees in Kansas. He said he had time to speak with me over the phone about his liquor license application.

The first thing I asked him was why he was applying for a Class C License. He advised that he later discovered that he doesn't need a Class C License and actually meant to apply for a Class I License. He basically wants to sell beer

and wine "on sale" only. I then asked Donald if he and his wife had borrowed any money to establish/run the business. He said that they had not. He said they were able to make some money "flipping" some houses and also used their credit cards.

Since they didn't have to borrow any money for the business, I asked Donald why Lanette would apply for unemployment benefits. He said that she works at New Holland, and they have mandatory shutdowns. He also said that initial profits they make on their business will have to go back into the business and not as a

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salary for either of them. He said he would check to see if owning the business (and possibly not getting paid from it for an unknown amount of time) is a conflict with Lanette potentially receiving unemployment benefits. I also want to note that according to NCJIS, Lanette has not received any benefits for the current benefit period.

The last area of concern about profit sharing was addressed. Donald said the wording of the question confused him because it said "applicant" instead of "applicants." Donald advised that he and his wife are the only people sharing the profits.

In summary, Donald was able to clarify questions I had about his application. From a law enforcement perspective, there doesn't appear to be any reason that the Friesen's shouldn't have a liquor license. The GIPD has no objection to Sam & Louie's receiving a Class I Liquor License or to Donald Friesen becoming the liquor manager for the business.