



City of Grand Island

Tuesday, June 14, 2011

Council Session

Item E2

**Public Hearing on Request from LaMexicana, Inc. dba Rafa's
Tacos, 811 West 2nd Street for a Class "T" Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: June 14, 2011

Subject: Public Hearing on Request from LaMexicana, Inc. dba Rafa's Tacos, 811 West 2nd Street for a Class "I" Liquor License

Item #'s: E-2 & I-2

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

LaMexicana, Inc. dba Rafa's Tacos, 811 West 2nd Street has submitted an application for a Class "I" Liquor License. A Class "I" Liquor License allows for the sale of alcohol on 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.

Also included in the application was a request for liquor manager designation for Maria Ocegueda, 504 North Elm Street.

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 LaMexicana, Inc. dba Rafa's Tacos, 811 West 2nd Street for a Class "I" Liquor License contingent upon final inspections and Liquor Manager designation for Maria Ocegueda, 504 North Elm Street contingent upon Ms. Ocegueda completing a state approved alcohol server/seller training program.

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LAW INCIDENT TABLE

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City : Grand Island
 Occurred after : 15:10:11 05/23/2011
 Occurred before : 15:10:11 05/23/2011
 When reported : 15:10:11 05/23/2011
 Date disposition declared : 05/23/2011
 Incident number : L11053069
 Primary incident number :
 Incident nature : Liquor Lic Inv Liquor License
 Investigation
 Incident address : 811 2nd 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 : 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 : 13162
 Long-term call ID :
 Clearance Code : CL Case Closed
 Judicial Status : NCI Non-criminal Incident

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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	87129	06/06/11	Rafa's Tacos,	Business
Involved				
NM	166733	06/06/11	Ocegueda, Maria	Liquor Manager
NM	62723	05/24/11	Flores, Adolfo	Owner

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT21	Restaurant	

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application from Adolfo Flores for Rafa's Tacos and a Copy of a Liquor Manager Application from Maria Ocegueda.

LAW INCIDENT RESPONDERS DETAIL:

Seq	Responding offi	Unit n	Unit number
1	Vitera D	318	Vitera D

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LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	09:55:13 05/24/2011

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Grand Island Police Department
Supplemental Report

Date, Time: Tue May 24 09:55:24 CDT 2011
Reporting Officer: Vitera
Unit- CID

I received a copy of a liquor license application from Adolfo Flores for Rafa's Tacos and a copy of a liquor manager application from Maria Ocegueda. Adolfo Flores is the owner of La Mexicana and is leasing the Rafa's Tacos building from Rafael Orozco. Adolfo is seeking a Class I License which is for beer, wine, and distilled spirits on sale only. The main nature of the business is a restaurant which will not have a bar separate from the dining area. The business plan states that it is the intent of the applicant to "serve alcoholic beverages at the request of patrons." "It is anticipated that all alcoholic beverages will be consumed within the dinning area."

Back on 2/7/11, I spoke to Adolfo at his La Mexicana Restaurant about his lease agreement with Rafael Orozco and Rafa's Taco's. He started operating Rafa's on 2/1/11. At that time, Adolfo advised that he knew he would have to file with the NLCC for a Temporary Operating Permit (TOP) to sell alcohol off of Orozco's license and then eventually get his own. Adolfo assured me that he wouldn't sell alcohol until he had the TOP or his own license. After speaking with Adolfo, I went to Rafa's and spoke to Adolfo's finance who was managing the restaurant. She gave the same explanation about alcohol sales. I looked around the restaurant and found no evidence of alcohol sales.

After looking through Adolfo's application, I had some questions. The first thing I noticed is that on the spot on the application where it asks if anyone who is a party to the application has ever been convicted or plead guilty to any charge, Adolfo checked the "No" box. I also saw that Adolfo listed his home address as 385 N. Pine which I believe is the La Mexicana Market and tortilla factory. The last thing that grabbed my attention is that Adolfo stated he has never had a liquor license before which made me wonder why he was now seeking one for Rafa's and not La Mexicana.

On 5/24/11, I called Adolfo. I asked him about ever being convicted of anything. He said that he thought the question was intended to address serious crimes and being in jail. I told Adolfo that the question was clearly stated, and he had an attorney helping him fill out the application who should have been able to explain it to him. Adolfo had no other response other than to say he answered based on his interpretation of the question. He admitted that he plead guilty to selling alcohol to a minor and has some traffic convictions. He said the sale to a minor happened during a "sting" when he was working the Paddock at Fonner during racing season. He just said that he was so busy, he didn't ask for identification.

I also asked Adolfo why he is seeking a liquor license for Rafa's and not for La Mexicana. Adolfo said that the Rafa's customers are used to having the option to have an alcoholic beverage with their meal, so he wants to continue to offer that same level of service. He also said the he plans on eventually applying for a liquor license for La Mexicana Restaurant and Market. Adolfo advised that he has been leasing the market to his sister, but the lease agreement is almost up, and he plans on resuming the operation of it. Even though Adolfo stated on his application that he has never had a liquor license before, he said

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that he had a liquor license for his La Mexicana restaurants in Lexington and Gibbon and the market in Grand Island. He had no explanation as to why he didn't answer the question on the application correctly other than to say it was a mistake. Adolfo also clarified his home address as being 504 N. Elm # 104. He receives mail at the 385 N. Pine address.

Adolfo said he owned the all of the restaurants at the same time, but he got a good offer from someone to buy the Lexington and Gibbon restaurant, so he sold them. He also acknowledged that one of the reasons he hasn't had a liquor license at La Mexicana Restaurant in Grand Island is because he used to have one at that Market and had some problems with selling to minors. I checked Spillman and found records for the restaurant and market. The records go back to 2002 on the market and 2009 on the restaurant. I found no indication of alcohol issues anywhere. I also checked the NLCC website to see if I could verify the extent of Adolfo's issues with selling to minors. I was able to pull up three separate entries for La Mexicana, but they were all in Omaha and Lincoln. On 5/24/11, I called the NLCC and asked for some history on La Mexicana Restaurant and Market.

I was told by the NLCC that it would be extremely difficult and time consuming for them to locate records for Adolfo and his history of having a liquor license approximately ten years ago for his La Mexicana Market. I was told that Adolfo is NOT on their "Hot List" which they keep indefinitely and would indicate that the NLCC had problems with him before.

I looked Adolfo and Maria up in Spillman and NCJIS. Adolfo has some traffic contacts along with a selling alcohol to a minor listed in Spillman. Maria is not listed in Spillman. However, she has only lived in Grand Island since 2010. The majority of her life was spent in California, according to the application. Adolfo has twelve separate traffic convictions listed in NCJIS and the selling to a minor conviction that was also listed in Spillman. The application states that Adolfo has lived in Grand Island since 2007. He lived in Lexington before that, and according to our phone conversation, he lived in California before that. On the application, Maria stated that she was born in Mexico. The application doesn't say where Adolfo was born. However, ICE advised me that Adolfo and Maria are each Naturalized U.S. Citizens.

While Adolfo didn't fill out the application correctly by disclosing his traffic and selling to a minor conviction or disclosing that he has had liquor licenses in the past, his "criminal" history (at least in Nebraska) doesn't automatically exclude him from getting a liquor license. In addition, even though the police department has had some issues with Rafael Orozco and his liquor license at El Diamante, we have not had any issues with Rafael's liquor license at Rafa's Tacos. From my meeting with Adolfo in February and speaking to him over the phone, I don't see any reason why we would start having liquor problems at Rafa's under his control. The GIPD has no objection to Adolfo Flores receiving a liquor license for Rafa's Tacos.

Since Maria Ocegueda has only lived in Nebraska for a short time, it would be

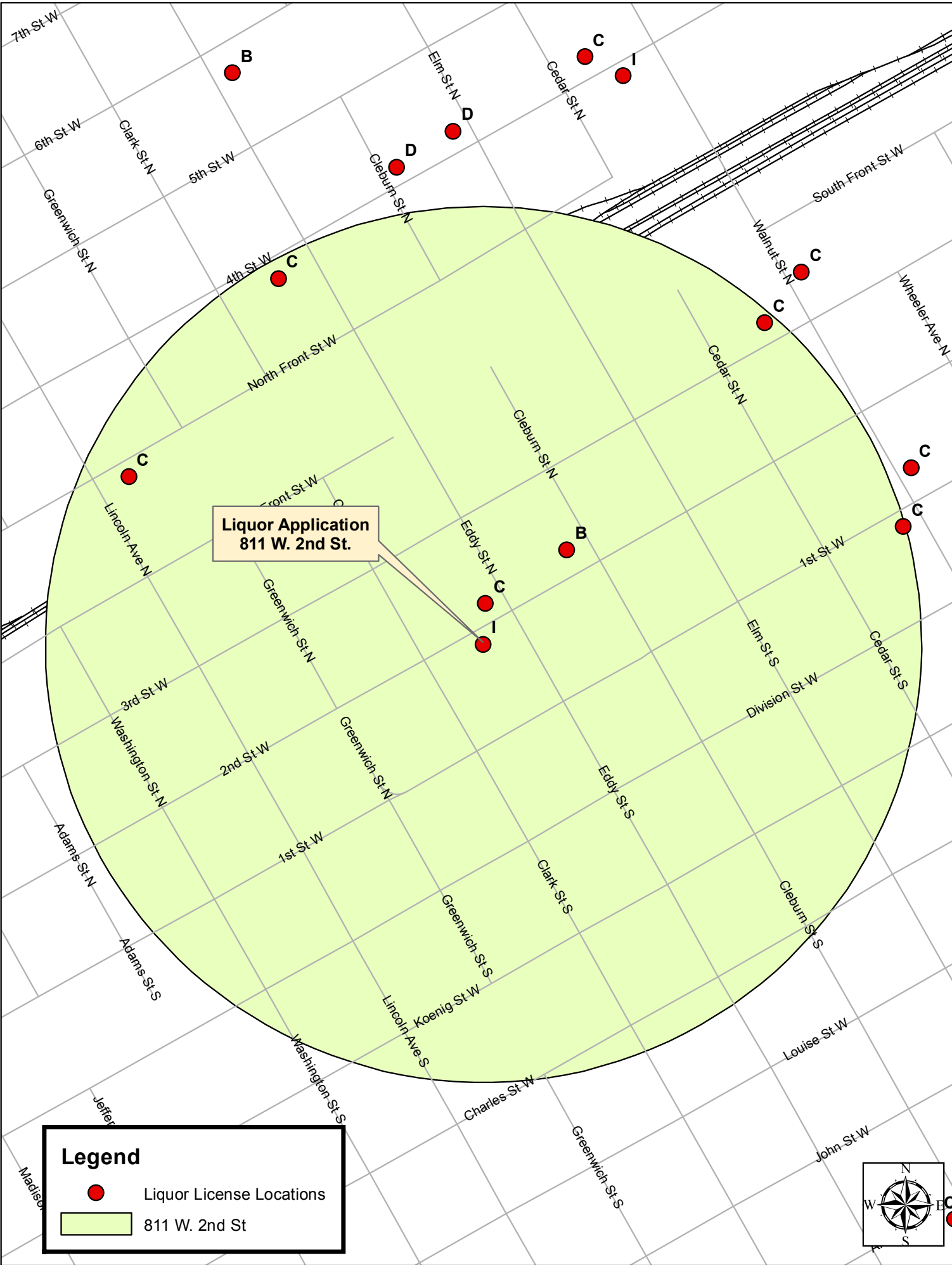
expected that she has little to no criminal history. From speaking with her back in February, she seems like she would be qualified to be a liquor manager. If the State doesn't uncover any problems with her criminal history through her fingerprint submission, the GIPD does not object to her becoming the liquor manager for Rafa's Tacos.

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Liquor Application
811 W. 2nd St.

Legend

- Liquor License Locations
- 811 W. 2nd St

