

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, April 2, 2013, at the Weymouth Town Hall, Chambers, 75 Middle Street

Attendance (present): Chairperson Kathleen A. Deree; Jeffrey E. Richards, Director of Municipal Licenses & Inspections; Daniel McCormack, Health Director; Police Chief Richard Grimes; Fire Chief Joseph Davis; Fire Prevention Officer Justin Myers; Officer Brian King; George E. Lane, Jr., Town Solicitor; and Lisa VanWinkle, Recording Secretary

Chairperson Deree called the meeting to order at 1 PM.

APPROVALS

- Minutes: February 26, 2013

Mr. Richards made a MOTION to approve the minutes of February 26, 2013. Chief Davis seconded. UNANIMOUSLY VOTED.

- Carnival Permit: Weymouth Carnival (April 17-21)
- Sunday Entertainment Permit: Weymouth Carnival

Ms. Casey Savage appeared before the Licensing Board to present the application.

Mr. Richards made a MOTION of approval for the Carnival Permit April 17 to April 21, 2013. Chief Grimes seconded the motion and it was UNANIMOUSLY VOTED.

Mr. Richards made a MOTION of approval for the Sunday Entertainment Permit for April 21, 2013. Chief Grimes seconded and it was UNANIMOUSLY VOTED.

- Special Event Request: Thank you Terry Martinson Committee

Mr. Richards made a MOTION of approval for the one-day event to be held on Sunday, May 19, 2013 to be held at the Weymouth High School old softball field from 11:30 AM – 4:30 PM . Chief Davis seconded the motion and it was UNANIMOUSLY VOTED.

- One-Day Food Vendor Permit: Homebrew Emporium, 58 Randolph St.

Mr. Roger Savoy, Proprietor, was present.

Mr. Richards stated the application was for a One-Day Food Vendor Permit for the “Big Brew Day” similar to what was held last year. They are proposing to serve hot dogs and hamburgers from 9 AM – 6 PM on May 4, 2013 at the Homebrew Emporium, 58 Randolph Street. They will also be demonstrating how to brew beer.

Fire Prevention Officer Justin Myers noted the applicant will be required to apply for a one-day propane storage and use permit IAW 527 CMR 6 with the following restrictions: maintain the 18 foot fire lane from Randolph Street to the building; no more than 40 total 20 lb cylinders; no tents in

area where the open flame burners are in use; no open flame devices within 5 feet of the building; must maintain clear access to the rear of the building from Hollis Street. The applicant will be required to hire a Fire Department Details for the duration of the event.

Mr. Richards made a MOTION of approval for the One-Day Food Vendor License for the Big Brew Day to be held on May 4, 2013 at 58 Randolph Street, subject to Fire Department requirements. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

- One-Day Coin-Op Dev. Permit: Scott Moore—Matthew Freitas Benefit Fund Event

Mr. Richards made a MOTION to approve the request for the One-Day Coin-Operated Device Permit for the April 28, 2013 event to be held at the Weymouth High School from 8 AM – 3 PM. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

- One-Day Food Vendor Permit: Whitman's Pond Assoc., Middle St.

Mr. Richards made a MOTION to approve the request for a One-Day Food Vendor Permit for the Whitman's Pond Association's Annual Fishing Day to be held on May 19, 2013 from 9 AM – 3 PM at Whitman's Pond, Middle Street. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

- One-Day Wine & Malt Permit: Tio Juan Margaritas, 765 Bridge St.

Mr. Richards made a MOTION to approve the One-Day Wine & Malt Permit for Tio Juan Margarita's for May 5, 2013 for their outdoor patio from 11:30 AM – 11 PM. Chief Davis seconded the motion and it was UNANIMOUSLY VOTED.

- Extension of Hours Request: Tio Juan Margaritas, 765 Bridge St.

Mr. Richards made a MOTION to approve the request for an extension of hours on May 5, 2013 until 1 AM. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

- One-Day Wine & Malt Permit: Immaculate Conception Parish, 1199 Commercial St.

Mr. Richards made a MOTION to approve the One-Day Wine & Malt Permit for Immaculate Conception Parish for May 4, 2013 from 6 PM – 11 PM. Chief Davis seconded and the motion was UNANIMOUSLY VOTED.

PURSUANT TO M.G.L. CHAPTER 138, LIQUOR VIOLATION HEARINGS TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC PACKAGE STORE LICENSE OF: **H&H LIQUORS, INC. D/B/A B & K LIQUORS**, 1212 WASHINGTON ST.

Solicitor Lane requested Detective Timothy Browning's presence.

Mr. Richards made a MOTION to continue the item until later in the afternoon. Chief Grimes seconded. UNANIMOUSLY VOTED

Chairperson Deree stated Det. Browning is on his way.

APPLICATION OF **FRED MEANS D/B/A SOUTH SHORE PREOWNED** FOR A CLASS II AUTO DEALER LICENSE AT 1338 PLEASANT ST.

Mr. Fred Means, proprietor, and Mr. Glenn Gillis were present.

Mr. Richards read the departmental referrals into the record. Officer King reported a public safety objection due to ZBA requirement not being met. Applicant already has six vehicles on display at the site even though they have no markings on them. Applicant has also failed to show where his repair location, if any, is located. We also have an issue with the storage part of the ZBA hearing in direct relation to a Class II License.

Mr. Richards stated the item went through the Zoning Board of Appeals process. The approval plan was submitted to the Licensing Board. The license is granted for a total number of vehicles and it isn't broken down between storage and display.

Officer King said a certain number of vehicles are allowed on the lot. Two bays in the back—one being used by a detailer. There is no provision between employee and customer parking. The dumpster was moved since yesterday and is not screened properly. 6 vehicles were lined up like they were for sale. #9 ZBA requirement has not been met to repair/install fence; debris on site to be taken care of. 10 display vehicles and storage; no licenses currently issued have them broken down between display vehicles and storage vehicles.

Attorney Truax stated the dumpster issue has been remedied as well as the debris. At one time there were 52 cars when Clark and Tabor were at the site. Chain linked fence has been removed from the property.

Officer King ZBA is requiring certain requirements

Mr. Richards stated the ZBA is requiring the 5 foot wide planter, a fencing and the dumpster being closed—that is their minimum requirements.

Mr. Gillis stated he spoke with the Conservation Agent who said she would speak with Mr. Luongo to have that requirement removed.

Mr. Bob Montgomery Thomas stated he believed the reason for the landscaping requirement is to deter it from looking commercialized.

Mr. Richards questioned if NAR would be repairing the vehicles.

Mr. Gillis stated the empty repair shop in the back will be used.

Officer King confirmed that one bay would be used for details and the other for the used car sales.

Mr. Richards opened the public hearing for comment.

Mr. Bob Thomas, Washington Street resident spoke, stating the reason for the planter requirement is to deter the location from appearing as a commercial strip. They are required to follow the rules set out for them.

Mr. Gunville and Mr. Mary Sheehan, Riley Avenue residents, spoke stating they were concerned about the appearance of the place. They left the ZBA hearing quite pleased with the requirements made. Although, so far they haven't seen it done. The fence is required to be replaced to shield them and plantings done for aesthetics. They asked for the Licensing Board to consider that.

Mr. Richards stated the Planner and Conservation Agent would review to delineate the matter.

Mr. Richards made a motion to continue the hearing until the ZBA requirements are met.

Chief Davis stated the side of the building near the herring brook should be cleaned up as it looks pretty rough.

Mr. Glenn Gillis inquired whether the fence could be installed as a picket fence on the property line as installing a 12' fence on the slop will not really make a difference.

Mr. Richards stated the items are required to be directed to the ZBA for revision, as it is not a Licensing Board function.

Solicitor Lane asked the applicants to make a special effort in beautifying the property. They should make a concerted effort as the neighbors have been very patient.

Ms. Claire Ploude, Riley Avenue, spoke questioning the use of the three bays out back. There are different arrangements for the use of these from the front bays. People lease two bays and operate until 9:30 PM. It was agreed that these people would not work past 7 PM. There is also digging around the back ledge.

Mr. Richards questioned the side of the dumpster area.

Mr. Gillis replied there is loam for landscaping and they are leveling out the property.

Mr. Richards requested that the applicant provide proposed hours in writing for the next meeting. They will have 3 – 4 weeks to bring into compliance with the ZBA case and review the request for the number of vehicles.

Mr. Richards made a MOTION to continue the hearing until the next meeting. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

PURSUANT TO M.G.L. CHAPTER 138, LIQUOR VIOLATION HEARINGS TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC PACKAGE STORE LICENSE OF: **H&H LIQUORS, INC. D/B/A B & K LIQUORS**, 1212 WASHINGTON ST.

Mr. Richards MOTIONED to reopen the hearing for H&H Liquors, Inc. d/b/a B&K Liquors. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

Solicitor Lane swore in all testifying parties. He presented a copy of the notice of the hearing to Mr. Huey Truong, President of H&H Liquors, Inc. and Mr. Truong had no objection for the notice to be submitted into the record.

Solicitor Lane called Detective Brown forward who introduced himself as Timothy Brown, Detective for the Weymouth Police Department for 12 years and became detective in May of 2012. He was on duty on January 25, 2013 under detective services and was assigned to B&K Liquors, 1212 Washington Street. His surveillance location was in the parking lot directly in front of B&K Liquors. The Police Department received information that the B&K Liquors was selling alcohol to minors.

Solicitor Lane asked what Det. Browning observed at that time.

Det. Browning stated he witnessed two young females park in the parking lot and walk into B&K Liquors. The same two exited the location with bags in their hand and it looked as if they made purchases at the liquor store.

Solicitor Lane questioned Det. Browning when he saw them walk into the liquor store if they were carrying anything at that time.

Det. Browning replied negative. He followed them out of the parking lot, traveling North on Washington Street and a few minutes later, conducted a motor vehicle stop on Washington Street. He spoke to the females about witnesses the recent purchase and they told me they just made a purchase of alcohol inside the store. He observed two bags on alcohol inside of the car. The contents were one six pack of unopened Bud Light and one six pack of Bud Light cans. Both of the females told him they made separate purchases of these items.

Det. Browning asked the females to produce a Massachusetts Driver's License of which he reviewed and determined that they were Dominique Ramponi, date of birth 3/3/94 and Marissa O'Connor date of birth 4/16/94 and they were underaged. At that point he confiscated the alcohol and advised the females of the situation and not to return back to the store to purchase alcohol.

Det. Browning said afterwards he drove back to the parking lot and conducted surveillance again. At about 10 PM he witnessed two males pull into the parking lot of the liquor store. They were driving a Nissan Maxima. The operator was later identified as Patrick McCarthy, date of birth 10/29/92. He witnessed Mr. McCarthy walk into the store and then walk out afterwards. In his

hand he had a 30 pack of beer. When he questioned him he said when he walked into the store he grabbed a 30 pack of beer and without showing an id, he purchased the alcohol.

Solicitor Lane asked if the two females who made the separate purchases earlier in the evening had admitted to purchasing the alcohol.

Det. Browning replied yes. They also told him that everyone from the high school knows B&K Liquors sell to minors.

Solicitor Lane asked if the third underaged purchaser admitted to purchasing the alcohol at the location.

Det. Browning replied yes. Mr. McCarthy also stated he had made five purchases at the location in the past.

Solicitor Lane asked for Det. Browning to summarize what happened later in the evening.

Det. Browning stated they drove back to the parking lot, parked and entered the store. They introduced themselves as Weymouth Police Officers and advised the two clerks that they were conducting an investigation. They asked to see a copy of their alcohol license. Both employees identified themselves by showing their Massachusetts Driver's licenses. He observed both mother and son Mr. & Mrs. Nguyen working at the store and they fit the description as provided by all three minors had given him. They advised them of the situation.

Solicitor Lane asked Det. Browning to identify the police report of the incident, of which he did. Det. Browning and Mr. Nguyen had no objection to the report being submitted into the record.

Solicitor Lane asked if Mr. Nguyen if he wished to say anything to the detective as to the night of the incidents.

Mr. Nguyen replied no, he agreed to what had been said. He knew there is no excuse to sell to a minor.

Solicitor Lane stated a finding may be made. The evidence has been presented. A finding may be made in accordance with the Liquor Violation Guidelines.

Mr. Richards made a MOTION of a finding that three underaged people were allowed to purchase alcohol on January 25, 2013 and that there were three separate incidents of violation. Mr. McCormack seconded.

Chief Grimes said there are three separate distinct violations. B&K Liquors had a violation in the past as well.

Mr. Nguyen stated he took over the shop last year and this is the first time that they have been before the Board for an incident.

Solicitor Lane agreed with Mr. Nguyen according to the record.

Mr. Richards said November 24, 2006 was the past violation which happened under a different owner.

Solicitor Lane advised the Board to review the Guidelines and make an assessment of a penalty. They include criteria to assess the penalty. He asked Mr. Nguyen if he wished to add anything to the record.

Mr. Nguyen stated the person he hired to work the front desk didn't do a very good job asking for id's, especially with the younger females. Although, this is no excuse. She is no longer working at the location.

Solicitor Lane asked if he had anyone who could help him with the identifying of the underaged.

Mr. Nguyen replied he purchased a identification verification machine after the incident to deter future incidents. He had no further comment for the Board.

Mr. McCormack asked Mr. Nguyen if he and his employees are T.I.P.'s trained.

Officer King stated the new owners had been trained in December of 2012.

Mr. Nguyen replied yes, he and his wife attended the training, but the person who worked during the incidents did not and should have been, that was his mistake. She should have been trained before tending the counter.

Mr. McCormack stated his office works very hard to deter the sale of alcohol to minors. He takes the matter very seriously and believes they should be assessed as a third offense with a total of a twelve day suspension.

Chief Grimes stated on the one to three that would be the first offense; second offense: three to six and third offense: six to twelve day suspension. They are assessing three separate offenses. The following criteria should be used: number of prior offenses; degree of inspection; severity and type of offense; efforts to identify purchaser; appearance of purchaser in cases of illegal sales; quality of evidence; general reputation of licensee. Information lead the police to the location in the first place. All incidents occurred within hours apart in one evening and the one purchaser had admitted to purchasing at the location several times before. There was no asking for identification of the purchasers at any time. The detective was able to identify the individuals as being underaged because they appeared young enough to question. The underaged persons entered without anything and exited with the alcohol, which was later bagged as evidence. This is all troubling to find. There were three separate incidents. He asked counsel if the 1st, 2nd and 3rd offense accumulation of suspensions should be voted individually or treated as one.

Solicitor Lane said they are guidelines depending upon criteria. Interpretation is these are the offenses and penalties have been accumulated by the Board in the past, but have not gone higher than the twelve days. If it is a third offense it would be assessed a six to twelve day suspension.

Mr. Richards stated since the licensee realized this had happened he has purchased id scanner; employees are to-date TIP's trained; he has taken the matters to correct the situation.

Mr. Richards made a MOTION for a finding that three underaged people were allowed to purchase alcohol on January 25, 2013. The motion is based on a third offense, as three separate incidents. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

Chief Grimes mentioned a prior offense of B&K Liquors in the past.

Mr. Nguyen replied that was a different owner. He took over the location last year and this is the first time this has happened to them.

Mr. Richards stated confirmed it is their first time before the Board.

Mr. Richards made a MOTION for a twelve day suspension of the alcohol license. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

Solicitor Lane said in accordance with the Liquor Violation Guidelines, the suspension shall commence on the third Thursday following the assessment. This would be April 18 through April 29, reopening on April 30, 2013.

Officer King stated the license will be picked up by the Weymouth Police and the licensee may pick it back up to reopen on April 30, 2013.

APPLICATION OF **CLASSIC AMBITION, INC.** FOR A CHANGE OF D/B/A NAME ON THEIR FOOD VENDOR LICENSE FROM RUSSO'S FOOD MART TO CLASSIC CONVENIENCE, 7 UNION ST.

Mr. Saeed Rahman, President, of Classic Ambition, Inc. was present.

Mr. Richards read the departmental referrals in to the record. Officer King reported no public safety objection to the requested change of name. Mr. McCormack reported no objection to the change of name from the Health Department.

Firefighter Myers stated there was an issue during a recent inspection with the rear egress door, needing to be corrected.

Mr. Richards stated a Certificate of Occupancy would be required subject to satisfactory inspections.

Mr. Richards made a MOTION of approval, subject to the issuance of a Certificate of Occupancy.

Mr. McCormack seconded the motion was UNANIMOUSLY VOTED.

APPLICATION OF **MNC ENTERPRISE, INC. D/B/A WEYMOUTH FOOD MART** FOR A WINE & MALT PACKAGE STORE LICENSE TRANSFER FROM P.M. GENERAL, INC. AT THE LOCATION OF 1690 MAIN ST.

Mr. Richards read the departmental referrals into the record. Officer King reported no public safety objection to the transfer of the package store license and request for a Food Vendor License. Mr. McCormack reported if the license is issued, a permit to operate must also be obtained at the Health Department. A Completed food permit application, Worker's Comp affidavit and applicable fee will be required as well as an inspection.

Mr. Richards stated the abutters were notified and the legal advertisement ran in the newspaper.

Attorney Truax stated Mr. Nazmul Chowdhury is present with him as the President and sole shareholder of MNC Enterprise, Inc. He is seeking the approval of the transfer of the Wine & Malt Package Store License from P.M. General, Inc. The business will be purchased for \$120,000. A promissory note of \$70,000 has been included and \$50,000 is cash funded. Mr. Chowdhury has operated a wine and malt beverage license for the past 10 years and therefore has experience in the industry. He is currently certified TIP's trained in New Hampshire. He is currently a resident of New Hampshire but once the license is approved he intends to be moving to the Weymouth area. He also applied for a Food Vendor License at the location. Attorney Truax respectfully requested the approval by the Board and they would be happy to answer any questions the Board may have.

Mr. Richards stated the food vendor will require Health Department permits and a Worker's Compensation affidavit is also required to be filed.

Officer King stated the applicant was TIP's trained in 2008. Therefore, he recommends that they are retrained. In December the Town also requires mandatory training.

Mr. Richards announced the public hearing for comment. There were none.

Mr. Richards made a MOTION to approve the transfer of the Wine & Malt Package Store license from P.M. General, Inc. at 1690 Main Street. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

APPLICATION OF **MNC ENTERPRISE, INC. D/B/A WEYMOUTH FOOD MART** FOR A FOOD VENDOR LICENSE, 1690 MAIN ST.

Mr. Richards made a MOTION to approve the Food Vendor license. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

APPLICATION OF **WEYMOUTH PIZZA CO, LLC D/B/A PACINI'S** FOR A WINE & MALT RESTAURANT LICENSE TRANSFER FROM SAR, INC. AT THE LOCATION OF 836 WASHINGTON ST.

APPLICATION OF WEYMOUTH PIZZA CO, LLC D/B/A PACINI'S FOR A COMMON VICTUALLER LICENSE, 836 WASHINGTON ST.

Mrs. Polyxeny and Mr. Stavros Papantoniadis were present for the approval as the owners and managers of Weymouth Pizza Co, LLC.

Mr. Richards stated the applicant has requested a continuance to the next meeting as the legal advertisement requirement was not met.

There was a conversation as to whether the application for the Common Victualler license could be approved.

Mr. McCormack voiced his concern with the sale of alcohol and it being kept separate. He wasn't so sure it would be a smooth transition.

Mr. and Mrs. Papantoniadis agreed to keep with the current arrangement between themselves and the licensee until the official approval had been made.

Mr. Richards suggested that the applicants be continued until the April 23, 2013 meeting.

Mr. Papantoniadis stated they have been attending trainings for the health requirements.

Mr. Bob Montgomery Thomas, Washington Street, stated he was instrumental in getting the strip mall approved in 1990. There is a 11 PM restriction on closing hours. This is based on the ZBA case which imposed a 7 AM – 11 PM restriction of the hours of operation.

Mr. Richards made a MOTION to continue the hearing to April 23, 2013. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. Richards made a MOTION to schedule their next meeting for Tuesday, April 23, 2013 at 1 PM.

Solicitor Lane requested a 2 PM meeting time.

Mr. Richards made a MOTION to meet next on Tuesday, April 23, 2013 at 2 PM. Chief Davis seconded the motion and it was UNANIMOUSLY VOTED.

CORRESPONDENCE

- Papa John's Commissary Truck correspondence by Bob Thomas

Mr. Thomas stated his correspondence included pictures and they clearly show trespass onto the property.

Solicitor Lane stated he thought rather than holding a hearing, the licensee should be called in for discuss purposes. Opinions may be voiced at that time.

Mr. Richards made a MOTION to have discussion item on April 23, 2013 agenda.

Mr. Thomas stated he suggested a letter go to the commissary board for review and let them know that type of behavior will not be accepted.

Officer King stated he would be happy to draft a letter in regards to sidewalk travel.

Mr. Richards stated he or Officer King would draft the letter to the commissary advising the vehicles operators that there is to be no sidewalk travel. Chief Davis seconded and the motion was UNANIMOUSLY VOTED.

Mr. Richards stated there is no reason to schedule a discussion at this time.

- Red Hot Fitness – Zumba correspondence from Mr. Bob Thomas

Mr. Richards stated the business at the plaza would not fall under the purview of the Board.

Mr. Ziegler reviewed the location as a Certificate of Occupancy and Business Certificate were applied for.

Mr. Bob Thomas questioned if a school had different standards under the code. A fitness center is required to comply with certification standards. Where it is a kid related business it should be regulated.

Mr. Richards stated the type of business is not under the Licensing Board's jurisdiction.

Mr. Thomas replied he felt there should be regulations and he would be happy to help create an ordinance through the Town Council.

Chief Grimes left the meeting at 2:26 PM.

- Ice Cream Truck Regulations

Mr. McCormack thought that the Licensing Board should review rather than Police Department. Although, the Licensing Board only meets on a monthly basis. It could be subject to Licensing Officer and Board of Health review and issuance. It is a sensitive issue, requiring CORI and SORI checks and finger printing of operator and truck driver in accordance with 520 CMR 515. The State puts the onus on the Chief of Police. Town needs to establish an application process.

Solicitor Lane stated the matter would need to be reviewed.

Mr. Bob Thomas questioned if an ordinance change was required. The matter needed to be assessed so that there is a definitive go to person.

ADJOURNMENT

Mr. Richards made a MOTION to adjourn at 2:35 PM. Chief Grimes seconded the motion and it was UNANIMOUSLY VOTED.

Respectfully submitted,

Lisa VanWinkle,
Recording Secretary

Approved:

Date:

Jeffrey E. Richards, C.B.O., Clerk, Director of Municipal Licenses & Inspections