

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, June 26, 2012, 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, Director of Health; Police Chief Richard Grimes; Acting Fire Chief Joseph Davis; George E. Lane, Jr., Town Solicitor, and Lisa VanWinkle, Recording Secretary; Officer Brian King and Justin Myers, Fire Prevention Officer

Chairperson Kathleen Deree called the meeting to order at 1 PM.

Mr. Jeffrey Richards took the “Approvals” out of order.

## **APPROVALS**

- Minutes: May 22, 2012

Mr. Richards made a MOTION to approve the minutes of May 22, 2012 meeting. Acting Chief Joseph Davis seconded and the motion was UNANIMOUSLY VOTED.

- Carnival Permit: 4<sup>th</sup> of July Celebration

Ms. Casey Savage, Assistant to the Mayor, presented the applications for the annual 4<sup>th</sup> of July Celebration to be held on July 3, 2012 at 5 PM through 9:30 PM. She stated the It’s 2 Cool has filed a Carnival Permit application to provide operators for inflatables and games. A Certificate of Insurance has been provided.

Mr. Richards made a MOTION of approval. Mr. Daniel McCormack seconded the motion and it was UNANIMOUSLY VOTED.

- One-Day Food Vendors: 4<sup>th</sup> of July Celebration

Mr. McCormack stated the Health Department has reviewed the list and has no issues.

Fire Prevention Officer Justin Myers stated the Fire Department inspects the operations on an annual basis.

Mr. Richards made a MOTION to approve the Food Vendors for the event, as submitted. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

- One-Day Wine & Malt Permit: Weymouth Elks, 1197 Washington St.

Mr. Richards stated the One-Day Wine & Malt Permit application was received for the Joanne Mullin Bike Run fundraiser to be held on July 14, 2012 from 12 PM – 6 PM at the Weymouth Elks—to extend the licensed premises to the outdoor patio.

Mr. Richards made a MOTION of approval. Chief Grimes seconded and the motion was UNANIMOUSLY VOTED.

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

Mr. Richards stated an application has been received from Margaritas for an extension of the licensed premises to the outdoor patio area on July 3, 2012 from 6 PM – 11 PM.

Mr. Richards made a MOTION of approval for the One-Day Wine & Malt Permit. Chief Grimes seconded and it was UNANIMOUSLY VOTED.

APPLICATION OF **ROMANO-STOKES, INC. D/B/A JACKSON SQUARE TAVERN** FOR A CHANGE OF OPERATIONAL HOURS, 198 BRIDGE ST.

Mr. Michael Stokes were present for the hearing.

Mr. Richards read the departmental referrals in to the record, stating the Health Department and Building Department had no objections. Officer Brian King reported no public safety objection.

Mr. Stokes stated they are applying for a change of operational hours (decreasing) to the following: Monday through Wednesday: 6 AM – 10 PM; Thursday: 6 AM – 11 PM; Friday and Saturday: 6 AM – 11:30 PM and Sunday: 10 AM – 10 PM.

Mr. Richards made a MOTION to approve reducing the hours as submitted. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF **W M REALTY, INC.** FOR A FUEL STORAGE PERMIT, 185 WASHINGTON ST.

Mr. Walid Metri, owner, was present for the application.

Mr. Richard had a license for under 30,000 gallons and is now applying for over 30,000 gallons.

Fire Prevention Officer Myers stated the Fire Department has reviewed the site and in the past they have done a great job of maintaining the tank at the facility. It is a standard procedure for renovation and looking to increase the size of tanks, taking advantage of the efficiencies for fuel deliveries and pricing. The applicant applied for a Fuel Storage Permit at 185 Washington Street, a standard procedure in accordance with 527 CMR 9.

Acting Chief Davis stated he would like to see an extinguishing system on the roof above the pumps, by chemical system. He would like to see it incorporated into the new system. This will be a requirement of the Fire Department. He questioned if they are going to have a propane storage?

Mr. Metri replied, yes.

Fire Prevention Officer Myers stated they currently participate in the tank exchange program at the site.

Mr. McCormack reviewed the application and asked if they were all going to be new tanks on the site?

Mr. Metri confirmed.

Mr. McCormack stated if approved he would be required to work with Mr. Matthew Brennan of the Health Department to update your existing hazmat permit.

Mr. Richards made a MOTION to approve the Fuel Storage Permit per application. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

PURSUANT TO M.G.L. CHAPTER 140 AND THE CODE OF ORDINANCES OF THE TOWN OF WEYMOUTH TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION, CANCELLATION OR IMPOSITION OF THE CLASS II AUTO DEALER LICENSE OF: **TUCCI ENTERPRISES, INC. D/B/A WEYMOUTH AUTOMOTIVE SALES & SERVICE**, 469 WASHINGTON ST.

Mr. David Tucci, President of Tucci Enterprises, Inc., was present for the hearing.

Mr. Richards stated the address noted on the agenda is not accurate. The correct address is for the location is 469 Washington Street, Weymouth, MA. The hearing notice was issued to the correct address.

Solicitor George Lane swore in all testifying parties. He presented the hearing notice to Mr. Tucci and he did not have issue to it being submitted in to the record.

Officer Brian King was called to testify. Solicitor Lane asked him to identify himself for the record, at which time Officer King stated his name as Licensing Officer Brian King, Weymouth Police Department.

Solicitor Lane questioned the Licensing Officer if in his course of duties as Licensing Officer if he has licensing authority over Class II second hand cars.

Officer King replied that is correct.

Solicitor Lane stated this is a designation appointed by the Chief of Police.

Officer King replied yes.

Solicitor Lane stated to Officer King that he requested the hearing to be held today and asked for the reason of the hearing.

Officer King replied yes, the location has consistently displayed more than was allowed on the license. In addition, vehicles were displayed at other locations, in addition to vehicles at the licensed site.

Solicitor Lane asked Officer King what the location is permitted to have as a total number of vehicles.

Officer King stated six vehicles.

Solicitor Lane stated to Officer King that he is familiar with Chapter 140 of the Massachusetts General Laws.

Officer King replied yes.

Solicitor Lane said within Chapter 140 there is mention of a record book that is required to be maintained.

Officer King confirmed.

Solicitor Lane asked if the record book identified the vehicle information that is for sale and the number of vehicles at the site. He also asked if for the purposes of the hearing today, if he examined the information.

Officer King confirmed.

Solicitor Lane asked when requesting the hearing if Officer King sent correspondence to the Board.

Officer King replied he had and identified the report.

Solicitor Lane asked for a briefing of the report.

Officer King stated he found that Mr. Tucci was consistently displaying more than six vehicles, up to a dozen at a time and had displayed vehicles on the lot across from the location. He stopped to speak with Mr. Tucci a number of times. One time he had ten vehicles across the street and Mr. Tucci had told him he did not think that he worked on the weekends. He had observed during another drive by on Sunday, June 17, <sup>2012</sup> eleven (11) vehicles at the location, lined up with for sale information posted in the windshields.

Solicitor Lane presented copies of pictures to Officer King.

Officer King confirmed that he took the pictures of vehicles being displayed on the old Midas property visible from the road. He had asked Mr. Tucci if they were his vehicles and he stated that they were and that he had permission of the property owner to display them there.

Solicitor Lane asked Officer King if he had a conversation with Mr. Tucci in regards to the number of vehicles at the sites.

Officer King replied that he had, on four separate occasions.

Solicitor Lane presented a copy of the reports to Mr. Tucci for his review.

Solicitor Lane asked Officer King what Mr. Tucci told him in reply to the excess vehicles at the site.

Officer King replied Mr. Tucci's response was that he was trying to make a living. He was told to remove the vehicles and Mr. Tucci replied that he would take care it.

Solicitor Lane asked Mr. Tucci if he wished to speak.

Mr. Tucci stated when Officer King approached him regarding the cars across the street at Midas, he asked him to get rid of them, so he did. He has another site and occasionally they get test driven. Officer King drives by frequently as he is located on a main street. He acknowledged that he has had on occasion more than six vehicles.

Solicitor Lane asked Mr. Tucci if he held more than one used car dealer license.

Mr. Tucci replied no, he has a lot to store vehicles at another site. He submitted an application to increase the number of vehicles.

Solicitor Lane stated the case has been presented and a finding is in order as to whether there is a violation of the MGL Chapter 140.

Mr. Richards made a MOTION of a finding of a violation of MGL Chapter 140 has in fact occurred four (4) separate times, based on testimony of the Licensing Officer Brian King, the testimony owner of the establishment and the documentation provided. Acting Chief Joseph Davis seconded the motion and it was UNANIMOUSLY VOTED.

Mr. Richards stated for a standpoint on zoning, the automotive sales at that location is an accessory to the auto repair and fuel dispensing. The Town of Weymouth has viewed this as an accessory without requiring going for approval of the Board of Zoning Appeals for larger numbers. Originally, the site was approved for three vehicles and then it was increased to six vehicles. This was a responsible number based on the size of the operation with two bays for repair and fuel dispensing operation. He asked Mr. Tucci if anything had changed at the location.

Mr. Tucci replied yes, the fuel supply company went out of business and they did not have gas for over 60 days. They are borderline ready to close the doors. More than 50 percent of the business is the cars he purchases at auction, which they repair for resale. The other less than 50 percent is customer need based.

Mr. Richards stated the zoning issue is that the business is operating more as an auto sales business than an auto repair and fuel dispensing business.

Mr. Richards asked why he did not address Officer King's inspections.

Mr. Tucci said the cars just ended up at the lot across the street during test drives and relocated from his other site.

Mr. Richards asked for a clarification on the cars at the location across the street. Mr. Richards asked if he was using the other site as a dealership; he said he was trying to clarify the matter.

Mr. Tucci stated they were left there and occasionally displayed for sale. He moved them when told to.

Acting Chief Davis stated the report of Officer King shows that there were excess vehicles at the sites on a number of occasions.

Officer King stated it was consistent and not just occasional.

Acting Chief Davis stated the license was issued for six vehicles. If there are more than six vehicles, there is a violation of the license. This has been reported of happening on

Mr. McCormack asked Mr. Richards if it was not less than a year ago that they increased the number of vehicles for sale from three to six vehicles. The concern at that time was he continued to have six vehicles and they determined it was an adequate number for that site.

Mr. Richards agreed.

Mr. Richards stated Officer King went out on four separate occasions looking for cooperation on the issue. He stated on a standpoint of zoning the auto repair and fuel dispensing is the main function of the site. The selling of the vehicles should clearly be an accessory.

Acting Chief Davis stated if the license is for six vehicles that is the number. If there is more than that, you will be in violation. This has been violated four times.

Chairperson Deree asked if anyone from the public wished to speak. No public comment.

Mr. Richards made a MOTION for a revocation of the Class II Auto Dealer License effective on July 31, 2012. This will give the licensee the chance to dispense of the inventory of vehicles at the location. Chief Grimes seconded the motion and it was UNANIMOUSLY VOTED.

DISCUSSION – QUARTERLY REVIEW – **COLONIAL BOWL**, 1055 MAIN ST.

Mr. Richards stated an arrangement was been reached with the town. Therefore, there is no need for

a discussion at this time.

**APPLICATION OF ARAL RESTAURANT GROUP OF WEYMOUTH, LLC D/B/A FRIENDLY'S ICE CREAM #520** FOR A CHANGE OF OPERATIONAL HOURS, 1015 MAIN ST.

Mr. Bobby Arruda, Operations Manager, owner, was present.

Mr. Richards read the departmental referrals in to the record. The current operational hours are: Sunday through Thursday: 7 AM – 10 PM and Friday & Saturday: 7 AM – 11 PM. Proposed hours: Sunday-Thursday 7 AM – 11 PM; Friday and Saturday: 7 AM – 12 AM.

Mr. Richards read the departmental referrals in to the record. Mr. McCormack, Health Director, reported no objections to the change in operational hours. Officer Brian King, Police Department, reported no public safety objection.

Chairperson Deree announced the public hearing for comment.

Mr. Kevin Trainor, 56 Alden Road, came forward and submitted a petition opposing the application for an extension of hours. He stated when the original application of February came before the Board, specifically the renovations; they were disruptive during the early morning hours. This resulted in calls to the Police. There was also a break-in resulting in an arrest. He gave kudos to the Police. In regards to lighting, especially Federal Street residents, object to the overnight lighting of the parking lot. He suggested it being lit on a timer or motion sensor. The neighborhood is extremely concerned if the extension is granted all of the surrounding restaurants would request the same. The strip does not exceed the hour of 10:30 PM, which is only for the drive-through businesses of Kentucky Fried Chicken and Burger King. Mr. Trainor said the neighbors respectfully requested a denial of the application.

Mr. Richards stated Ms. Estelle Vento, 50 Vento Road, submitted a letter of objection, as she was not able to be present.

Mr. Bobby Arruda, Operations Manager, stated the contractors were hired through the Corporate Office. Unfortunately, the burglary occurred during their first week and on the same day, they gave away 1,500 ice cream cones. They will fix the lighting; he was not aware it was an issue. They are trying to operate the right way.

Mr. Richards stated the Building Permit was issued to the location and the contractors were dealt with.

Officer King stated it is a seasonal business and hot summer nights are busy at both locations. McDonald's drive-through is open 24 hours. He does not recall any noise complaints from those locations.

Acting Chief Davis requested that Mr. Arruda work with the neighbors regarding rectifying the lighting issue.

Mr. Arruda agreed.

Officer King asked if the dining rooms would be open until 12 AM.

Mr. Arruda replied by the window only at Washington Street and the dining room at Main Street.

Mr. Richards made a MOTION to keep the operational hours as is at this time for 415 Washington Street, and the application is denied. Chief Grimes seconded the motion and it was UNANIMOUSLY VOTED.

**APPLICATION OF ARAL RESTAURANT GROUP OF SOUTH WEYMOUTH, LLC D/B/A FRIENDLY'S ICE CREAM #206** FOR A CHANGE OF OPERATIONAL HOURS, 415 WASHINGTON ST.

Mr. Bobby Arruda was present for the application.

Mr. Richards stated this restaurant is located near the South Shore Hospital. They have applied for the extension of hours. Current hours are Sunday through Thursday: 7 AM – 10 PM and Friday & Saturday: 7 AM – 11 PM. Proposed hours: Sunday-Thursday 7 AM – 11 PM; Friday and Saturday: 7 AM – 12 AM.

Chairperson Deree announced the public hearing for comment.

Officer King stated the area tends to be busy at night. He has had no noise complaints for the business. He did not see that there would be an issue like the other location.

Mr. Richards made a MOTION to approve the extension of hours request at the location of 1015 Main Street. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

**DISCUSSION RE: ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE OF: MTM PARTNERS, INC. D/B/A FORE RIVER GRILLE, 117 BRIDGE ST.**

Mr. Christopher DiMambro, Mr. James Taggart and Ms. Mary Teresa Mulshine were present on behalf of the establishment.

Mr. DiMambro stated the Division of Unemployment had issued a hold on their application that was approved in February. Now the matter has been cleared to go forward. New applications have been submitted for a change of manager, change of stockholders/officers/directors and transfer of stock.

Mr. McCormack asked that Mr. Taggart contact the Health Department to file required paperwork.



Mr. Richards made a MOTION to approve the proposed manager James Taggart, subject to CORI approval by the Licensing Officer Brian King and the Alcoholic Beverages Control Commission. Chief Grimes seconded the motion and it was UNANIMOUSLY VOTED.

APPLICATION OF **BJ'S WHOLESALE CLUB, INC. D/B/A BJ's WHOLESALE CLUB #18**  
FOR A COMMON VICTUALLER LICENSE, 622 WASHINGTON ST.

Mr. David Freedman, Store Manager was present.

Mr. Richards stated the Subway Common Victualler license was surrendered. The proposed menu, plan and site layout was included with the application. He read the departmental referrals in to the record. Mr. McCormack, Health Director, reported the new kitchen area must be inspected prior to its use; must receive a menu of items that will be prepared and offered. Officer King reported no public safety objection for a 22 seat operation. The approval would be in accordance with the Zoning Board of Appeals decision of November 20, 1997, Case #2393 and may be granted. Certificate of Occupancy is required prior to license issuance.

Mr. Freedman stated the operational hours would be the same as the club.

Mr. Richards made a MOTION of approval. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

#### **LICENSE RENEWALS FOR LICENSES EXPIRING JUNE 30, 2012:**

##### **ANTIQUE DEALER'S LICENSES**

- Bridge Antiques, 398 Bridge St.
- That Little Basket, 1610 Main St.

Officer King reported all licensees were found to be in compliance at a routine inspection.

Mr. Richards made a MOTION to approve all Antique Dealer license renewals. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

##### **FORTUNE TELLERS LICENSES**

- Irene Mitchell, 1099 Main St.
- Terry Porter, 8 Union St.

Officer King reported all licensees were found to be in compliance at a routine inspection.

Mr. Richards made a MOTION to approve all Fortune Tellers license renewals. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

##### **JUNK DEALERS LICENSES**

- Weymouth Salvage Co. 307 Middle St.
- Ernie's Salvage, LLC, 86 Finnell Dr.

Officer King reported all licensees were found to be in compliance at a routine inspection.

Mr. Richards made a MOTION to approve all Junk Dealers license renewals. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

### **PRECIOUS METALS LICENSES**

- Adrian's Jewelry, 140 Pleasant St.
- Bridge Antiques, 398 Bridge St.
- Del Greco Coins Inc., 399 Washington St.
- Harborlight Jewelers, 416 Bridge St.
- Harts Inc., 1356 Washington St.
- Snyder Jewelers, 89 Pleasant St.
- Jewelry Outlet, 35 Pleasant St.
- CTC Gold Refineries, 1170 Washington St.

Officer King reported all licensees were found to be in compliance at a routine inspection.

Mr. Richards made a MOTION to approve all Precious Metals license renewals. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

### **CORRESPONDENCE**

- Mass State Lottery Commission – Keno License Application: Cannoli's Restaurant, 920 Washington St.

Mr. Richards stated the application for a Keno License has been applied for through the State Lottery Commission and has been copied to the local board.

Mr. Richards made a MOTION of non-objection. The motion was seconded by Mr. McCormack and was UNANIMOUSLY VOTED.

- Next Page Café, Annual Entertainment License Increase of Hours

Mr. Richards stated correspondence has been received from the Next Page Café, as well as an application for an increase of hours on their Annual Entertainment license. He stated the Board would receive comments on such. The application will be scheduled for a future hearing.

### **CHAIRMAN'S REPORT**

- Meeting Schedule

Mr. Richards made a MOTION to schedule a Special Meeting for Tuesday, July 31, 2012. Acting Chief Davis seconded the motion and it was UNANIMOUSLY VOTED.

**ADJOURNMENT**

Mr. Richards made a MOTION to adjourn at 2:20 PM. Acting Chief Davis seconded the motion and it was UNANIMOUSLY VOTED.

Respectfully submitted,

Lisa VanWinkle,  
Recording Secretary

Approved:

Date:

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