

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, October 27, 2015, at the Weymouth Town Hall, Chambers, 75 Middle Street

Attendance (present): Chairperson Kathleen A. Deree; Jeffrey E. Richards, Director of Municipal Licenses & Inspections; Police Captain John Concannon; Daniel McCormack, Director of Public Health; and Licensing Officer Edward Chase (absent): Police Chief Richard Grimes, Fire Chief Keith Stark and Fire Prevention Officer Justin Myers

Chairperson Deree called the meeting to order at 2 PM.

APPROVALS

- Minutes: June 16, 2015; July 28, 2015; August 25, 2015; September 22, 2015

Mr. Richards made a MOTION to approve the June 16, 2015 set of minutes. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

Mr. Richards made a MOTION to approve the July 28, 2015 set of minutes. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

Mr. Richards made a MOTION to approve the August 25, 2015 set of minutes. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

Mr. Richards made a MOTION to approve the September 22, 2015 set of minutes. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

- One-Day Liquor Permit: Sacred Heart School (11/7/15 & 4/9/16)

Mr. Richards made a MOTION to approve the One-Day Wine & Malt Permit application of Sacred Heart School for November 7, 2015 for an event to take place from 7 PM – 11 PM. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

Mr. Richards made a MOTION to approve the One-Day Wine & Malt Permit application of Sacred Heart School for April 9, 2016 for an event to take place from 7 PM – 11 PM. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

- One-Day Liquor Permit: Immaculate Conception Parish (11/7/15)

Mr. Richards made a MOTION to approve the One-Day Wine & Malt Permit application of Immaculate Conception Parish for November 7, 2015 for an event to take place from 7 PM – 11 PM. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

PURSUANT TO M.G.L. CHAPTER 138, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE WINE & MALT PACKAGE STORE LICENSE OF: LOAN KIM PHAM D/B/A MIDDLE STREET VARIETY, 174 MIDDLE ST.

Attorney Brian Riley, Kopleman & Page swore in all testifying parties.

Detective Edward Williams came forward and introduced himself as working for the Weymouth Police Department for the past 19 years. He confirmed that he was familiar with the ABCC Compliance Check Guidelines. He also confirmed that he was on the scene on the evening of Thursday, June 5, 2015 with Officer Jenkins.

Det. Williams read Officer Timothy Jenkins' report in to the record, as follows: "On June 5, 2015 I was assigned to conduct Alcohol Compliance Checks in the Town of Weymouth with a 19 year old undercover operative. The undercover operative was properly identified, photographed and will be referred to in this report as the UC. The UC was sanitized of all his property and given \$20.00 cash to attempt to purchase a 12 pack of Bud Light cans at each location. The compliance guidelines were reviewed with the UC. At 7:32 PM the UC walked into the Middle Street Variety Store located at 174 Middle Street to attempt to purchase beer. The UC came out of the store at 7:34 PM after purchasing the 12 pack of Bud Light cans. The UC stated the purchase price was \$12.95 and he provided the \$7.05 in change. The UC described the cashier as a heavy set Asian female approximately 25 years old wearing a black sweater."

Det. Williams stated "They entered the store and identified themselves to the cashier. The cashier identified herself as Ms. Loan Pham 2/26/91. Ms. Pham fit the UC's description and was wearing a black sweater. Ms. Pham did admit to selling the beer and stated she was distracted. Ms. Pham provided the owner's name as Mr. Brandon Q. Pham. An alcoholic beverages license #22556 was posted on the wall to the right of the cashier but appeared to have expired December of 2014. The license was issued to Middle Street Variety Inc. d/b/a Middle Street Variety; Brandon Q. Pham, 174 Middle Street Weymouth, MA. Ms. Pham did contact Mr. Pham who was made aware of the violation. These parties were also made aware of this violation and report would be forwarded to the Weymouth Police Department Licensing Officer Edward Chase for further investigation and follow up. The 12 pack of Bud Light beer was tagged and entered into evidence."

Attorney Riley reviewed the report with Det. Williams and asked for an explanation of the term sanitized.

Det. Williams replied the undercover operative removed all his personal property, i.e., cash, identification. He was given \$20.00 to make the purchase with.

Attorney Riley called Mr. Brandon Pham forward and swore him in to the record for testimony. It was stated that there were two different incidents. Back in 2011 a finding that there was a violation. Therefore, this is a second violation.

Mr. Richards made a MOTION for a finding that a violation did occur. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

Mr. Richards stated the first offense was given a three day suspension in September of 2011. This would be the second offense at a 3 to 6 day suspension.

Mr. Richards asked the licensee what he would do to insure that this will not happen again.

Mr. Pham replied they would card the purchaser and attend the alcohol training.

Mr. Richards reviewed the criteria on the Liquor Violation Guidelines to determine the severity of the suspension.

Mr. Richards made a MOTION for a second offense with a three day suspension.

Mr. McCormack requested a discussion stating that he felt it wasn't enough. His office has been trying to reduce substance abuse and underaged drinking.

Mr. McCormack made a subsequent MOTION for a five day suspension as a second offense.

Mr. Richards withdrew his MOTION and seconded Mr. McCormack's MOTION. The motion was UNANIMOUSLY VOTED.

Officer Chase stated the liquor license would be picked up at the store on the evening of November 11th and could be retrieved to resume regular business after the suspension has been served. Convenience store may remain open for non-alcoholic purchases.

The five days of suspension would be Thursday, November 12, 2015 through Monday, November 16, 2015.

PURSUANT TO M.G.L. CHAPTER 138, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC PACKAGE STORE LICENSE OF: E & N LIQUORS, INC. D/B/A WASHINGTON STREET LIQUOR MART, 21 WASHINGTON ST.

Officer Brian Morse identified himself in to the record, stating he was a Police Officer for the Town of Weymouth Police Department for the past six years. He read report into the record, as follows: "On 6/5/15, Detective Robert Sullivan and I worked an alcohol compliance grant. The purpose of the grant was to check local liquor and package stores to make sure they were in compliance with state and local laws. They worked with an undercover 19 year old civilian female, who shall be named UC1 for the remainder of the report. Prior to the undercover operation, UC1 was read by verbatim the ABCC Check Guidelines form. UC1 stated that she understood the form and signed the form acknowledging the same. UC1 was photographed prior to the operation. She had no money or identification on her at the outside of the operation. He and the detective were in plain clothes and were in an unmarked cruiser. They were responsible for checking 12 liquor package stores for alcohol compliance. The alcohol compliance checks were to ensure that the liquor package stores were asking for identification at the time of purchase. UC1 was advised not to misrepresent her age when she attempted to make a purchase. UC1 had the appearance of a 19 year of female. Two of the stores sold alcohol to UC1 without asking for identification."

Officer Morse stated "UC1 purchased a 12 pack of Budweiser Light at the Washington Street

Liquor Mart License #04409 which is located at 21 Washington Street. After the transaction UC1 carried out the beer to the police cruiser. UC1 provided Officer Morse and I with a description of the employees that waited on her. UC1 stated that two Asian males waited on her when she made the purchase. UC1 stated that the Asian Male with a gray sweatshirt rang up the sale on the register. The male was later identified as Viet Nguyen DOB 5/13/66. UC1 stated that she was never asked for any identification when she made the purchase. UC1 stated that a second Asian male with a blue sweatshirt was also behind the counter and observed the transaction. This male was later identified as the owner of the business, Vinh Nguyen, d/o/b 12/31/80. UC1 stated that after the purchase she was thanked for her business. UC1 stated that she was not provided a receipt for the transaction. UC1 gave us the change from the transaction. UC1 paid \$12.99 for the 12 pack of Budweiser Light which included the deposit. After UC1 provided us with a description of the employees we went inside the store to identify the employees. Vin Nguyen stated "we usually check identifications on the weekends because there is a lot of kids around." I advised Vin Nguyen that I would forward the violation to the Licensing Officer Edward Chase."

Mr. Vinh Nguyen, owner, testified, stating he reviewed the tape and saw the sale. The undercover operative looked well over 30 years old. He acknowledged that the sale did happen and that they made a bad judgment not asking for an id and making the sale.

Attorney Riley asked Mr. Nguyen what they plan to do to prevent a similar situation from happening in the future.

Mr. Nguyen replied they have scanning equipment in place. Clerk will be required to card the purchaser if they look younger.

Mr. Richards made a MOTION that an offense did occur and that this would be considered their first offense. Previously violations happened in 2011, prior to their ownership. The guidelines show a 1 to 3 day suspension based on a first offense. Mr. Richards reviewed the criteria to determine the assessment.

Mr. McCormack made a MOTION that the first offense be a two day suspension, commencing on November 12, 2015. Mr. Richards seconded the motion and it was UNANIMOUSLY VOTED.

Office Chase reviewed procedure with the licensee.

PURSUANT TO M.G.L. CHAPTER 138, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC PACKAGE STORE LICENSE OF: A.E.A. FOODS, INC. D/B/A MACY'S BEACHWAY LIQUORS, 701 BRIDGE ST.

Officer Brian Morse read the police report of Detective Sullivan in to the record, stating "UC1 purchased an 18 pack of Budweiser light at Macy's Beachway Liquors (#4408) which is located at 701 Bridge St. After the transaction UC1 carried out the beer to the police cruiser. UC1 provided a description of the person that waited on her. UC1 stated that a heavy set white female, with blonde hair tied up in a ponytail and who was wearing a white shirt waited on her. This female was later

identified as Kelly Townsend. UC1 stated that Townsend never asked her for any identification when she made the purchase. UC1 gave us the change from the transaction. UC1 paid \$15.89 for the 18 pack of Budweiser Light which included the deposit. After UC1 provided us with a description of the employee we went inside the store to formally identify the employee. Townsend admitted that she sold UC1 the 18 pack of Budweiser Light. Townsend stated "I thought she was older than twenty-one." Townsend stated "I am going to be fired so I am leaving now." She gathered her belongings and walked out of the store. I also spoke with the on duty manager Indravadan Patel. He advised Patel that he would forward the violation to the Licensing Officer Edward Chase. The beer and ABCC Compliance Check Guideline were entered into evidence. UC1 was debriefed and the operation was concluded."

Attorney Riley asked if the ABCC compliance guidelines were reviewed prior to performing the checks.

Officer Morse replied yes.

Attorney Karen Simao and licensee Mr. Himanshu Patel were present.

Attorney Simao asked if the alcohol compliance checks were performed once or twice a year.

Officer Morse replied he did not have an answer.

Attorney Simao stated Macy's previous violation was on April 26, 2011. She said although they do not dispute that the sale did occur, she wanted the Board to be aware that they have been through multiple checks without a violation occurring. The violation in 2011 was not from a compliance check as they sold to someone with an out of state id. The personnel has been to the alcohol awareness training and they have a policy to card anyone who looks under the age of forty. The clerk was let go because she did not follow the policy. They will monitor the cashiers to make sure they are doing their job. This is a family run business with six employees including inventory personnel. The guidelines are guidelines. They should reward good operators and they are one. They have been in operation since 2007. Where this is a different type of offense that the one of the past, that the Board consider assessing suspension that be held in abeyance.

Mr. Richards made a MOTION that a violation did occur on June 5, 2015. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

Mr. Richards reviewed the criteria on the Liquor Violation Guidelines for determining the assessment.

Mr. McCormack thanked Attorney Simao for discussing what the licensee has done to prevent underaged drinking in the future. It would be determined as a second offense on record. Based on the testimony and discussions, Mr. McCormack stated he would make a MOTION for a three day suspension of the All Alcoholic Package Store License. Mr. Richards seconded the motion and it was UNANIMOUSLY VOTED.

The suspension would commence November 12, 2015. Officer Chase discussed the procedure.

APPLICATION OF WOK-N-GRILL, INC. D/B/A GOLDEN DRAGON FOR A CHANGE OF MANAGER, TRANSFER OF CORPORATE STOCK AND CHANGE OF OFFICERS/DIRECTORS ON THE ALL ALCOHOLIC RESTAURANT LICENSE AT 35 PLEASANT ST. #3113

Mr. Min Jie Li was present for the applications.

Mr. Richards announced the public hearing for comment; none.

Mr. Richards made a MOTION to approve the change of manager. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

Mr. Richards made a MOTION to approve the transfer of Corporate Stock. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

Mr. Richards made a MOTION to approve the change of corporate officers/directors. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

APPLICATION OF AJIT ENTERPRISES, INC. D/B/A TAJ MODERN INDIAN CUISINE FOR A WINE & MALT RESTAURANT LICENSE AT 312 BRIDGE ST.

Mr. Richards stated a request was received from Attorney Zuroff, requesting a continuation of the hearing as the newspaper advertisement did not run. Although, the abutters were notified.

Mr. Richards made a MOTION to continue the application until November 17, 2015. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

APPLICATION OF MJ RESTAURANT GROUP LLC D/B/A THE MOORING BAR & GRILL FOR A CHANGE OF MANAGER ON THEIR ALL ALCOHOLIC RESTAURANT & COMMON VICTUALLER LICENSE LICENSES, 117 BRIDGE ST.

Mr. Michael Glynne, owner, was present, stating Mr. Robert Whyte wasn't able to attend, as he was on a long planned vacation.

Mr. Richards asked if Mr. Whyte was TIP's trained.

Mr. Glynne replied yes.

Mr. McCormack stated he had no objection.

Mr. Richards announced for public comment; none.

Mr. Richards made a MOTION to approve the change of manager. Mr. McCormack seconded and

the motion was approved.

APPLICATION OF FATHER BILL'S & MAINSPRING, INC. FOR A LODGING HOUSE LICENSE AT 257 NORTH ST.

Mr. Richards stated this is the only Lodging House within the Town of Weymouth. The application will be considered a new license for the transfer of the current operation.

Mrs. Nicole Fitzgerald, Vice President of Asset Management for Father Bill's & Mainspring Inc., presented the application, stating the application would be considered a transfer of the current license, due to a private sale. The current tenants will remain and will have a new landlord.

Mr. McCormack stated this is an existing location for a lodging house and the old license will be turned in.

Mr. Richards stated that's correct.

Mr. Richards made a MOTION to approve the issuance of the lodging house license to Father Bill's & Mainspring Inc. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. Richards made a MOTION to schedule the next meeting for November 17, 2015 at 2 PM. Mr. McCormack seconded and the motion was UNANIMOUSLY VOTED.

- Amend Liquor Violation Guidelines – Annual Alcohol Awareness Training

Mr. Richards stated the licensees will be notified that they will not be doing Alcohol Awareness Training in house any longer.

- Calendar Year License Renewals are to be distributed first week of November

Mr. Richards stated license renewals will be distributed and are due prior to December 1st.

- Mass State Lottery Commission - KENO To Go - METRO CONVENIENCE, 230 Bridge Street

Mr. Richards announce the notification of the KENO-To-Go application by Metro Convenience at 230 Bridge Street.

There was no objection to such.

ADJOURNMENT

Mr. Richards made a MOTION to adjourn the meeting at 2:58 PM. Mr. McCormack seconded the motion and it was UNANIMOUSLY VOTED.

Respectfully submitted,

Lisa VanWinkle
Recording Secretary

Approved:

Date:

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