

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, April 26, 2011, at 1 PM in the Weymouth Town Hall, Chambers, 75 Middle Street

Attendance: Acting Chairman Jeffrey Richards, Director of Municipal Licenses & Inspections; Deputy Fire Chief Jon Tose; Officer Brian King, Police Representative; Daniel McCormack, Director of Health; and Town Solicitor George E. Lane, Jr.

Mr. Richards called the meeting to order at 1 PM.

APPROVALS

- Minutes: March 22, 2011

Mr. McCormack made a MOTION to approve the March 22, 2011 meeting minutes. Officer King seconded. SO VOTED (Deputy Chief Tose abstained)

- One-Day Food Vendor Permit – Whitman's Pond Association Fishing Festival

Mr. Thomas Daru, Treasurer of the Whitman's Pond Association stated the application was for a One-Day Food Vendor Permit for the Annual Whitman's Pond Fishing Festival. Hot dogs, chips and soda will be offered. This is a family event with kid's games, pie eating contest and fishing as well.

Mr. McCormack stated he thought it sounded like a great event and informed the applicant that they would be required to file for a permit through the Health Department as well.

Deputy Chief Tose asked how many grills would be used.

Mr. Daru replied two propane grills.

Mr. McCormack made a MOTION to approve the One-Day Food Vendor Permit for the Whitman's Pond Association for their Annual Fishing Festival to be held on May 22, 2011 from 10 AM – 2 PM. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

PURSUANT TO M.G.L. CHAPTER 138, SECTION 64, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC PACKAGE STORE LICENSE OF: A.E.A. FOOD INC. D/B/A MACY'S BEACHWAY LIQUORS, 701 BRIDGE ST.

Attorney Sameo and Himnashu Patel were present representing Macy's Beachway Liquors.

Solicitor Lane swore in all testifying parties. Notice of the hearing was submitted into the record without objection.

Officer Michael Best was called forward and testified, reading his report of the incident into the record. "On Saturday, February 26, 2011 I was assigned to uniformed patrol in marked Weymouth

Police cruiser on the 1600 shift. At approximately 2208 hours I was on patrol in the area of Macy's Beachway Liquors, 701 Bridge Street, when I observed a grey Subaru Legacy parked near the rear of the building occupied by two females and a male, all three of whom appeared to be teenagers. I approached the female operator and asked her what she was doing. She stated that she and her friends were "Out for a ride." I asked her if there was someone in the liquor store buying alcohol for them and they said no. As I was speaking with them another male came around the corner from the front of the store pushing a shopping cart containing three cases of beer towards us. When he saw me he turned around and began to walk away. He returned when asked. I identified the occupants of the Subaru. The party with beer was identified as eighteen year old Nicholas B. Wood. Officer Sean Murphy responded as back up. Nicholas admitted to buying the beer utilizing a fake ID which he turned over to me. The ID, a fake Rhode Island driver's license, was confiscated and turned into evidence. Nicholas stated he bought the ID from the web site www.idchief.com for \$100. I escorted Nicholas back into the liquor store and I spoke with the clerk, Slaweta Rajendra, regarding the fake ID. Slaweta was surprised the ID was fake stating that it scanned into a computer designed to identify fake ID's and returned a reading of a valid ID. She demonstrated this for me, the ID was scanned and returned a listing with ID number and name: Nicholas Wood, with a date of birth" the computer program also stated: "Tobacco sales: OK and alcohol sales: OK". The beer was disposed of and after confirming the sobriety of the operator, Kelly, all parties were sent on their way. I will refer this report to Licensing Officer Brian King for further review."

Solicitor Lane asked Officer Best if the id was checked and if the buyer was confirmed as an underaged person.

Officer Best replied yes.

Solicitor Lane stated there are four valid forms of identification in accordance with Massachusetts General Law: Valid Massachusetts's driver's license; valid Massachusetts's liquor card; valid passport; or active military id. Under M.G.L. Chapter 138 section 34b, if there is no dispute of the facts, the Board should make a finding.

Mr. McCormack made a MOTION for a first offense of Macy's Beachway Liquors.

Solicitor Lane asked that a finding be made first.

Deputy Chief Tose made a subsequent MOTION for a finding of a sale of alcohol to an underaged person. Officer King seconded. UNANIMOUSLY VOTED

Attorney Sameo stated her client and his employee met regarding the evening in question. Mr. Patel has taken the violation very seriously. The license file will indicate the licensee has attended trainings as well no violations in the past three years. The trainer at the TIPS training indicated that out of state licenses are permitted. They have an identification machine and will program to not accept out of state licenses, as they have been informed that the Town of Weymouth does not accept them. The blind spot has been corrected to be able to see in and out of the windows. They

understand the Board's position and respectfully requested that the matter be kept on record as a warning.

Mr. Richards stated per the Liquor Violation Guidelines, the criteria is based on the following: a. number of prior offenses b. degree of inspection, etc. exhibited by licensee; c. severity and type of offense d. efforts to identify purchaser, if any e. appearance of purchaser in cases of illegal sales; f. quality of evidence, i.e., clear cut violation verses somewhat questionable one; g. general reputation of license. He asked for the Licensing Board to review and he entertained a motion.

Officer King made a MOTION for a one day suspension to be held for a period of six months.

Solicitor Lane agreed with the motion as it was an unusual circumstance.

Attorney Sameo stated she is comfortable in waiving the appeal process, should be one day suspension be held in abeyance.

Solicitor Lane informed the Board he did not see any thing that would prohibit such a motion, with the waiver of the appeal.

Mr. Richards asked for a decision on the MOTION before the body. Mr. McCormack seconded the MOTION. UNANIMOUSLY VOTED

PURSUANT TO M.G.L. CHAPTER 140, SECTION 183A, VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ANNUAL ENTERTAINMENT LICENSE OF: **MAURA, INC. D/B/A NEXT PAGE CAFÉ**, 550 BROAD ST.

Mr. Richards stated a letter was received from Attorney Gregory Galvin on behalf of Next Page Café, requesting a continuance.

Deputy Chief Tose made a MOTION to continue the hearing until May 24, 2011. Mr. McCormack seconded. UNANIMOUSLY VOTED

APPLICATION OF **D.E. FOODS LLC D/B/A KENTUCKY FRIED CHICKEN** FOR A COMMON VICTUALLER LICENSE, 298 WASHINGTON ST.

Mr. Dan Whitney, Area Manager, was present representing Kentucky Fried Chicken.

Mr. Richards stated the business has been in operation and the application is for a change of franchisee only. He read the departmental referrals into the record. Mr. McCormack reported the new franchisee has already been in to complete all necessary applications; the business is turnkey—no objection.

Mr. Whitney stated they are headquartered in Massachusetts. He has been in the business for the past twenty years and currently runs six restaurants. They seek a license at the existing location in

Weymouth and will be searching for a new/larger location in the future within the community.

Mr. Richards stated the fence abutting the property is required to be kept up as it obstructs the headlights from obtruding into the neighbor's home.

Mr. McCormack stated food permits are required through the Health Department.

Deputy Chief Tose questioned how old the building is.

Mr. Whitney replied more than ten years. They will be looking for a new location in the next few years. A typical site is 30,000 square feet; this building is half the size.

Officer King made a MOTION to approve the Common Victualler license. Mr. McCormack seconded. UNANIMOUSLY VOTED

APPLICATION OF MTM PARTNERS, INC. D/B/A FORE RIVER GRILLE FOR AN ALL ALCOHOLIC RESTAURANT LICENSE, 117 BRIDGE ST.

Mr. Steven McAuley, President of MTM Partners, Inc. and Attorney Thomas Orlandi were present.

Mr. Richards stated the use of the premises as a restaurant is permitted in the B-2 Zone in which it is located. The proposed sixty-six (66) seat capacity is adequate per Subsection 120-69 of the Town's Zoning Bylaws. Accordingly, the license request conforms to all applicable requirements of the Town's Zoning and Building Regulations and may be granted. He read the departmental referrals into the record. Mr. McCormack reported if the license is issued, a permit to operate a food establishment must also be obtained at the Health Department; inspection is required prior to opening. Officer King reported no public safety objection.

Attorney Orlandi stated Mr. McAuley is a resident of Weymouth and has extensive experience in the restaurant industry. He is the President, Ms. Mary Teresa Mulshine is the Treasurer and Mr. Christopher DiMambro is the Secretary of the new corporation: MTM Partners, Inc. The total proposed occupancy is 60 and they are seeking to operate seven days per week: Monday through Saturday 8:30 AM – 1AM and Sunday: 10 AM – 1 AM. The proposal is being funded through Ms. Mulshine's personal account in the amount of \$125,000. They are seeking entertainment of recorded music with no dancing. They are aware of local and state regulations.

Mr. Richards announced the public hearing and welcomed Councilor Pap forward for comment.

District 1 Councilor Victor Pap stated he had no objections and was happy to see a vacancy will be filled. He encouraged and welcomed the business owners to contact the neighborhood association to have a community meeting to meet the neighbors.

Mr. Richards stated the past owner had inquired an outdoor seating area, but it was never used.

Officer King questioned what type of entertainment they were proposing.

Mr. McCauley stated the issuance of the license is not pressing at this time. They would like to have for future use with entertainer playing a guitar.

Mr. Richards entertained a MOTION.

Officer King MOTIONED to approve the All Alcoholic Restaurant license. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

APPLICATION OF MTM PARTNERS, INC. D/B/A FORE RIVER GRILLE FOR A COMMON VICTUALLER LICENSE, 117 BRIDGE ST.

Officer King made a MOTION of approval. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

APPLICATION OF MTM PARTNERS, INC. D/B/A FORE RIVER GRILLE FOR AN ANNUAL ENTERTAINMENT LICENSE, 117 BRIDGE ST.

Officer King made a MOTION of approval. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

APPLICATION OF MTM PARTNERS, INC. D/B/A FORE RIVER GRILLE FOR A SUNDAY ENTERTAINMENT LICENSE, 117 BRIDGE ST.

Officer King made a MOTION of approval. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

APPLICATION OF MTM PARTNERS, INC. D/B/A FORE RIVER GRILLE FOR A VIDEO GAME LICENSE, 117 BRIDGE ST.

Mr. McCauley stated they do not have machines currently, but would like to in the future and they have applied for 2 machines: trivia and golf.

Officer King made a MOTION of approval for a trivia machine and golf machine. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

APPLICATION OF MTM PARTNERS, INC. D/B/A FORE RIVER GRILLE FOR A JUKE BOX LICENSE, 117 BRIDGE ST.

Officer King made a MOTION of approval. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

APPLICATION OF JOHN GUILFOY D/B/A COOKOUT EXPRESS FOR A FOOD VENDOR LICENSE, 95-99 BRIDGE ST.

Mr. John Guilfooy was present for the application.

Mr. Richards read a letter from the property manager, Paul Kaner, in to the record, stating John Guilfooy of Cookout Express has permission to park his concession trailer on his property at 95-99 Bridge Street. He understands Mr. Guilfooy's intentions are to vend food products out of his trailer, which will be positioned in a manner that will maintain the safe and regular flow of traffic. They negotiated rental terms. Mr. Richards stated the abutters were notified by the applicant. The area to be located within the parking lot used to be used for Christmas tree sales. The license would be exhausted if the 2nd floor addition should go forward.

Mr. Richards stated the proposed use of the parking lot as a food vendor (hot dog mobile stand) is permitted in the B-2 zone in which it is located. The property is adequate to support the existing uses at the premises, including the proposed business. Accordingly, the proposal complies with the Town's Zoning Bylaw. He read the departmental referrals in to the record. Mr. McCormack reported additional information is needed regarding what types of food will be sold, what hand wash and toilet facilities will be used, what are the dates and times of sales. How will bridge demolition and construction activities impact outdoor vending? If the license is issued a permit to operate must also be obtained at the Health Department. The following must be completed: a food permit application; workers compensation affidavit; food manager certification; allergen certifications and applicable fee. The establishment must be inspected prior to opening. Officer King reported no public safety objection.

Deputy Chief Tose questioned how old the trailer is.

Mr. Guilfooy replied 1-2 years; it is very clean.

Deputy Chief Tose asked where it will be stored when closed and what type of fuel will be used to prepare the foods.

Mr. Guilfooy replied he will transport it back and forth from Hull, MA. The 20-40 lb propane tank will be used for fuel as well as an electric generator.

Mr. McCormack asked if he has hand washing facilities.

Mr. Guilfooy replied there are 2 hand washing sinks with hot/cold water. He will bring a 3rd sink as backup. Cooking equipment: flat grill burner; electric warmer will be used to cook sausages/hot dogs /hamburgers.

Mr. McCormack stated he would discuss release options with Mr. Guilfooy. He questioned during the operational hours of 8 AM – 8 PM what bathroom facilities would be available.

Mr. Guilfooy replied he is hoping to reach an agreement with the landlord to have access to property facilities. He would like to operate as long as possible.

Mr. Richards stated the lighting should not affect the neighboring properties.

Mr. William Peterson, abutter, stated he had nothing against this situation.

Mr. Richards stated a Hawkers and Peddlers license is issued through the town and state. The Food Vendor license is for a specific location; non-transient.

District 1 Councilor Victor Pap spoke stating he is generally favorable of the applicant, which will provide food to workers at the bridge restoration project. He encouraged the applicant to attend a North Weymouth Civic Association meeting.

Officer King asked that Mr. Guilfooy made sure that the sidewalk cuts were not obstructed.

Mr. Richards entertained a motion.

Mr. McCormack made a MOTION to approve the Food Vendor license. Officer King seconded.
UNANIMOUSLY VOTED

APPLICATION OF M & H AUTOMOTIVE, INC. FOR AN INCREASE OF VEHICLES ON THEIR CLASS II AUTO DEALER LICENSE, 367 WASHINGTON ST.

Mr. Antonine Youssef Matta, President of M&H Automotive Inc. stated he wishes to increase the number of vehicles on the site, more than the 3, as current. They currently take in more than three vehicles to repair and hold in reserve until one of the 3 they are licensed for sells. This is 80% of their income. They repair vehicles for other dealerships in the area.

Mr. Richards read the departmental referrals in to the record. Mr. McCormack reported he is currently opposed to allowing an increase of vehicles. The owners never registered their hazardous materials as required during their initial request for license. Officer King reported a public safety objection to an increase of vehicles at the location.

Mr. Richards said because of the uniqueness of the lot they can only allow 2-3 vehicles. The primary display area is facing Washington Street. A 3 car license is adequate for the lot size. The Registry of Motor Vehicles regulates this type of business, stipulating that the display area is segregated and flagged.

Officer King stated the lot has been full of vehicles on both instances when he had visited the location. There were 11 vehicles on the lot when they are only licensed for 3. He understands what they are saying about repairs. The lot is jammed with unregistered vehicles, looking more like a storage facility, which they are not licensed for. The ownership of the vehicles being repaired should be displayed on the driver's seat of the vehicle so it may be differentiated.

Mr. McCormack stated they are applying for increase for a 5 car license.

Mr. Richards MOTIONED that the Washington Street side cannot support more than 3 vehicles. License should remain the same as it is an accessory to the business. Officer King seconded the motion. UNANIMOUSLY VOTED

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. McCormack MOTIONED to set the next meeting date as: Tuesday, May 24, 2011 at 1 PM.
Officer King seconded. UNANIMOUSLY VOTED

- License Renewals to be mailed for licenses expiring June 30th: Antique Dealers, Auctioneers, Fortune Tellers, Junk Dealers and Precious Metals

CORRESPONDENCE

- Officer King – Request for Hearing: Alleged sale of alcohol to underaged person by Washington Street Liquors, 21 Washington St.

After a brief discussion, the Board noted that liquor violation hearings for Mini Mart and Middle Street Variety would be held on May 24, 2011. Officer King requested to schedule a liquor violation hearing for Washington Street Liquors in June.

- Massachusetts State Lottery Commission – Application for Keno License: Franco's Pizza, 130 Main St.

Mr. McCormack MOTIONED for no objection. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

- Massachusetts State Lottery Commission – Application for Keno License: Red Rose Café, 800 Broad St.

Mr. McCormack MOTIONED for no objection. Deputy Chief Tose seconded. UNANIMOUSLY VOTED

ADJOURNMENT

Mr. McCormack made a MOTION to adjourn at 2:25 PM. Officer King seconded.
UNANIMOUSLY VOTED

Respectfully submitted by,

Lisa VanWinkle,
Recording Secretary

Approved:

Date:

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