

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, May 24, 2011, at 1 PM in the Weymouth Town Hall, Chambers, 75 Middle Street

Attendance: Chairman Franklin Fryer, Town Clerk; Jeffrey Richards, Director of Municipal Licenses & Inspections; Deputy Fire Chief Joseph Davis; Police Chief Richard Grimes; Daniel McCormack, Director of Health; Officer Brian King and Town Solicitor George E. Lane, Jr.

Chairman Fryer called the meeting to order at 1 PM.

APPROVALS

- Minutes: April 26, 2011

Mr. Richards made a MOTION to approve the April 26, 2011 meeting minutes. Mr. McCormack seconded. UNANIMOUSLY VOTED

Mr. Richards made a MOTION to take Tucci Enterprises, Inc. d/b/a Weymouth Automotive Sales & Service's application out of order. Mr. McCormack seconded. UNANIMOUSLY VOTED

APPLICATION OF TUCCI ENTERPRISES, INC. D/B/A WEYMOUTH AUTOMOTIVE SALES & SERVICE FOR AN INCREASE OF VEHICLES ON THEIR CLASS II AUTO DEALER LICENSE, 469 WASHINGTON ST.

Mr. David Tucci, owner, was present. He stated that he arranged to have the legal advertisement run in the Patriot Ledger and it ran late. The abutters were notified. He requested that the hearing go forward.

Mr. Richards made a MOTION to continue based on error of Gate House Media to their June 21st meeting. Mr. McCormack seconded. UNANIMOUSLY VOTED

Mr. Richards made a MOTION to take #9 out of order. Mr. McCormack seconded. UNANIMOUSLY VOTED

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. Richards MOTIONED to set the next meeting date as: Tuesday, June 21, 2011 at 1 PM. Mr. McCormack seconded. 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.

Attorney Gregory Galvin asked that the hearing be tabled until 2 PM as his client is on his way.

Mr. Richards made a MOTION to table the hearing. Mr. McCormack seconded.
UNANIMOUSLY VOTED

PURSUANT TO M.G.L. CHAPTER 138, SECTION 64, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION REVOCATION OR CANCELLATION OF THE WINE & MALT PACKAGE LICENSE OF: **BRANDON Q. PHAM D/B/A MIDDLE STREET VARIETY**, 174 MIDDLE ST.

Mr. Brandon Pham, owner of Middle Street Variety, was present for the hearing.

Solicitor Lane swore in all testifying parties. He called Detective Kupsc forward who identified himself as Detective Steven Kupsc of the Special Services Unit of the Weymouth Police Department, and stated he was on duty the evening in question on November 24, 2010 at approximately 16:37 hours.

Det. Kupsc's report read as follows, "I was dispatched to the Quick Six liquor store on Washington Street in Quincy, a short distance over the Fore River Bridge. Upon my arrival, I met with Det. Lieu. Peter Turowski and Officer Yee for the City of Quincy and Officer Kent Yee of the Quincy Police. Lt. Turowski and Officer Yee had been surveilling this particular liquor store and in the process had observed and later detained an underaged person, Jeffrey Trudeau, who was in the company of three other Weymouth underaged individuals. Mr. Trudeau was observed by the Quincy Police entering the Quick Six liquor store and making a purchase of alcohol from that business. They were later approached by the Quincy Police in the parking lot. Further investigation revealed in the trunk of the motor vehicle a quantity of alcoholic beverages that had been purchased earlier this date by Mr. Trudeau at two liquor store in Weymouth which prompted the Quincy Police to notify the Weymouth Police. It was learned that Mr. Trudeau had in his possession the U.S. passport of his older brother, Stephen Charles Trudeau (age 21) and was presenting same to purchase alcohol in both Quincy and Weymouth. Mr. Trudeau told the officer that he had taken the passport of his brother from his parent's bedroom approximately three weeks ago and had been using it in the same manner since. Quincy Police had summoned the parents of all involved to the scene and had released the passengers to their parents upon arrival. The parents of Mr. Trudeau were present as well. All evidence, alcohol, passport, etc. was confiscated by the Quincy Police. Alcohol purchased in Weymouth by Mr. Trudeau was noted by this department."

Det. Kupsc continued reading, "After being released by the Quincy Police-criminal complaint(s)-I requested the parents of Mr. Trudeau to escort him to the Middle Street Variety Store, 174 Middle Street, Weymouth where Mr. Trudeau stated he had purchased alcohol there earlier this date showing the same passport. I had Jeffrey wait outside the business with his parent while I went inside at approximately 17:20 hours. Once inside I identified myself as a Weymouth Police detective to the employee(s) there and made know the purpose of my visit. At this time I spoke with Mr. Bih Nguyen the clerk that earlier waited on Mr. Trudeau and they review the store surveillance video tape. The tape showed Mr. Trudeau enter the store at 15:25:51 with another young male and proceed to the register at 15:26:44 with a 18 pack of Budweiser Light (12 oz. cans) and what appeared to be a 6 pack or Mike's Hard Lemonade (12 oz. glass bottles) which is later returned to the cooler chest for lack of sufficient money. At 15:27:05 Mr. Trudeau presents to Mr.

Nguyen the passport of his older brother, is served, completes the purchase and exits the store. At approximately 15:34:03 Mr. Trudeau reenters the store alone and purchases a 6 pack of Budweiser Light (16 oz. cans) and exits the store. At 15:35:36 Mr. Trudeau reenters the store a third time and purchases a 6 pack of Mike's Hard Lemonade (12 oz. glass bottles) and exits again. On both his second and third visit/purchase Mr. Trudeau is not asked for identification. From the video it appears that Mr. Nguyen accepts the passport presented by Mr. Trudeau after only a cursory look and no request for further investigation. When asked by this officer regarding his serving/interaction with Mr. Trudeau, Mr. Nguyen stated that he "didn't look at it too good, referencing the passport." When queried by this officer about the multiple purchases made by Mr. Trudeau Mr. Nguyen replied "I thought he must be having a party". It should be noted that the photograph on the passport when viewed during presentation by Mr. Trudeau should raise some suspicion together with the distinct juvenile appearance of Mr. Trudeau. I advised Mr. Nguyen to contact and make the owner/license holder, Mr. Brandon Pham aware of the incident/investigation and to preserve the videotape involved. He noted investigation to continue pending review by Licensing Officer King and the Licensing Board."

Solicitor Lane asked if there was any identification that was valid at the time of the sale.

Det. Kupsc replied not of Mr. Trudeau's. He determined given the picture of the passport and the appearance of the youth involved that the individual was underaged.

Solicitor Lane asked the licensee if he wished to present testimony.

Mr. Brandon Pham apologized and stated he did not wish to present further evidence.

Mr. Richards questioned if the presenting of a passport should be addressed.

Solicitor Lane stated Massachusetts General Laws recognizes a valid passport as a valid form of identification. Although, it has to be the individual's own.

Mr. Pham stated he was aware of the passport and was convinced that it was the individual's own.

Officer King presented a copy of the youth's picture and a copy of the passport which was presented during the incident. He stated there's too much dissimilarity.

Solicitor Lane stated it is a false identification; therefore, it is violating the statute as such. He presented the pictures to Mr. Pham for his review.

Mr. Pham stated he wasn't there at the time the surveillance was being viewed.

Solicitor Lane said Det. Kupsc stated he viewed and determined that the individual wasn't the same.

Mr. Richards made a MOTION based on the photo on the passport and the photo presented of underaged person, a finding of a violation. Deputy Chief Davis seconded. UNANIMOUSLY VOTED

Mr. Richards reviewed the Liquor Violation Guidelines Sections: a-g and stated the licensee has not been in business for a long period of time.

Mr. Richards made a MOTION for a first offense with a three day suspension. Chief Grimes seconded. UNANIMOUSLY VOTED

PURSUANT TO M.G.L. CHAPTER 138, SECTION 64, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION REVOCATION OR CANCELLATION OF THE WINE & MALT PACKAGE LICENSE OF: **MINI MARKET CORPORATION, INC. D/B/A MINI MARKET**, 405 MIDDLE ST.

Ms. Denise Le, owner, and Mr. Kevin Le, Ms. Le's brother, were present for the hearing.

Solicitor Lane swore in all testifying parties. He called Detective Kupsc forward who identified himself as Detective Steven Kupsc of the Special Services Unit of the Weymouth Police Department, and stated he was on duty the evening in question on November 24, 2010 at approximately 16:37 hours.

Det. Kupsc stated the allegations are similar to the previous hearing. His report from November 24, 2010 read, "At this time I proceeded with Mr. Trudeau and his parents to the Mini Mart, 407 Middle Street where Mr. Trudeau stated he had made a purchase there earlier this date. Upon my arrival there I met with the owner/license holder Mr. Denise Le and the clerk/cashier involved, Mr. Kuong Thai. I identified myself and made known the purpose of my visit. At this time, Ms. Le brought me to an officer located to the rear of the store where together we reviewed the store's video surveillance. The video shows that at 1:13:58 Mr. Trudeau enters the store alone and at 1:14:40 brings to the register a 30 pack of Keystone Light beer (12 oz. cans) and an 18 pack of Michelob Ultra (12 oz. cans) at which time he shows Mr. Thai the same passport as he had shown at the Middle Street Variety. Mr. Thai appears reluctant to accept the passport and according to Mr. Trudeau he asked him for a driver's license to which he replied to Mr. Thai that his driver's license "was expired". At 1:16:16 (after almost 2 minutes at the register). Mr. Thai serves Mr. Trudeau. At 1:16:35 Mr. Trudeau exits the store with the alcohol. I outlined for Ms. Le the issues involved in the serving of Mr. Trudeau (a minor), under the circumstances, and requested that she preserve the videotape of the incident. He informed an investigation to continue pending review by Licensing Officer King and the Licensing Board for the Town of Weymouth."

Det. Kupsc stated he and Ms. Le reviewed the video tape witnessing the sale by the 16 year old using the brother's passport as identification. The cashier involved took a long look at the id, for approximately 2 minutes. He eventually asked for another id and Mr. Trudeau informed him that it had expired.

Solicitor Lane showed a picture of the Mr. Trudeau and the passport presented to Ms. Le.

Ms. Le stated they have always been careful and have the identification machine for that purpose. Somehow one went through. The individual did not have a driver's license with him. She apologized.

Mr. Kevin Le, brother-in-law, really looked it over and it was an honest mistake.

Solicitor Lane asked Det. Kupsc if the passport photo looked like the individual.

Det. Kupsc stated there were facial features to differentiate the two.

Ms. Le agreed that they made a mistake and stated they spent a lot of money on the id verification machine; they are always checking.

Mr. Richards made a MOTION that a violation did happen on the day per MGL Chapter 138, section 34, based on the underaged individual and the presentation of the passport. Chief Grimes seconded. UNANIMOUSLY VOTED

Chairman Fryer stated it has been established that there was a violation. He asked the Board what they wished to do for a penalty.

Mr. Richards stated they have had one prior offense five years ago. The passport is evidence and the appearance of the individual is different. The licensee has a very good reputation in Town.

Mr. Richards made a MOTION to suspend the Wine & Malt Package license for three days as this is a second offense occurring within five years. Deputy Chief Davis seconded. UNANIMOUSLY VOTED

Officer King stated the license will be picked up the evening before the suspension by the Police Department. No alcohol sales are to take place between June 9 and June 11. The license may be picked up at the Police Station after the sentence has been served.

APPLICATION FOR A PLEDGE OF THE ALL ALCOHOLIC PACKAGE STORE LICENSE OF: BAILEY'S PACKAGE STORE, INC., 74 PLEASANT ST. TO WEYMOUTH BANK

Attorney John Walker was present representing Bailey's Package Store, Inc. He stated he submitted an application to the Board as required from the bank. The simple transaction is required as the license is being pledged as collateral for a bank loan.

Mr. Richards made a MOTION to approve the pledge of the All Alcoholic Package Store license to Weymouth Bank. Deputy Chief Davis seconded. UNANIMOUSLY VOTED

APPLICATION OF JEWELRY FACTORY OUTLET, LLC FOR A CHANGE OF DIRECTORS ON THEIR PRECIOUS METALS LICENSE, 35 PLEASANT ST.

Mr. Richards made a MOTION to continue the hearing until their next meeting at the applicant's request. Mr. McCormack seconded. UNANIMOUSLY VOTED

APPLICATION OF CHRICHRI, INC. FOR A CHANGE OF D/B/A NAME ON THE COMMON VICTUALLER LICENSE AT 1598 MAIN ST. TO EXPRESS PIZZA SOUTH

Mr. Anthony Ziotis, owner, was present for the approval.

Mr. Richards stated any changes need to be presented to the Board for approval.

Mr. Ziotis apologized stating he bought out his partner and decided to change the business name to Express Pizza South—as his business is well known in the North Weymouth section of town. He is present today for the approval.

Officer King said he was supposed to notify the Board prior to the closing. The doors have been closed for over a week now.

Mr. Richards made a MOTION to approve a change of d/b/a name to “Express Pizza South”. Chief Grimes seconded. 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.

Attorney Gregory Galvin and Mr. Edward Page, owner, were present for the hearing.

Solicitor Lane swore in all testifying parties.

Mr. David Crawford, 546 Broad Street, stated he has been before the Licensing Board since March and continued complaints occur every weekend. He stated as the night goes on the noise from the entertainment increases—the hours between 11 AM and 1 AM are the worst. The noise and vibrations are affecting his sleep. The music creates noise, vibration, noisy patrons with motorcycles. It does not stop until the clean up crew leaves afterwards, too. He and his Mother have rearranged their lifestyle as a result; taking a nap has become a routine. The grandkids do not come over on the weekends as a result.

Attorney Galvin asked that Mrs. Crawford speak for herself.

Mrs. Crawford stated she has a serious heart condition. The matter has been ongoing and her grandchildren are not able to visit over the weekends as a result of the situation.

Attorney Galvin stated the licensee is going to make a proposal.

Solicitor Lane stated the proposal would be welcomed.

Attorney Kellem, representing abutters, asked Mr. Crawford if there was any other effect from the noise of the entertainment.

Mr. Crawford replied it is not only the noise but also the level of vibration that is non-stop when laying in bed it can be felt. The license was granted in 2003 and there have been issues since.

Attorney Kellem asked if there has been a change of traffic.

Mr. Crawford replied yes, there is a hazard pulling out of the driveway.

Attorney Galvin voiced an objection as they were present on a noise complaint.

Chairman Fryer stated the record is complete; they have heard numerous times on the noise complaints.

Solicitor Lane stated the notice given was for the noise level of the entertainment held.

Mr. Crawford stated as the warm weather brings out more people; noise will increase, too. Question as to whether noise generated from a blues band is different than a DJ—there is no comparison.

Mrs. Crawford stated their TV room is on the other side of the house and she can still hear the music. She plays music of her own so she doesn't hear it. Granddaughters do not stay overnight on the weekends because of the noise. She doesn't get the sleep one should. They bought the house in 1965—they purchased the property as it is in a B-1 Zone and they used to run a part-time glass business.

Mr. Piazza owns the abutting business and lives above in an apartment. He spoke with Mr. Page regarding the noise from the back deck and the vulgarities of the patrons. He feels vibrations from the band music while sleeping. The top section of the fence is broken and needs to be repaired. He has lived within the apartment on and off for the past years and the noise coming from the establishment is the worst that it has been.

Attorney Kellem replied since they have offered blues bands?

Mr. Piazza replied yes.

Solicitor Lane presented the latest log report from the Weymouth Police Department and asked for Officer King to review.

Officer King stated he has been employed by the Weymouth Police for 22 years. The log shows the history of calls from March to the present. At one point, Chief Grimes asked for the dispatched officer to make notations in the comments section when reporting to the location.

Solicitor Lane noted that a few incidents show everything was okay when the officer arrived.

Officer King replied it could have been during a break or between songs when the officer arrived. There is a certain amount of human element involved. The log showed the time the call came in and the time the officer reported to the scene.

Attorney Galvin asked Officer King when the officer responded to the scene if they got out of the

cruiser to make a determination from different points to the property.

Officer King reported yes.

Attorney Galvin noted that the report shows incidents where Officers reported they didn't find the music to be excessively loud.

Attorney Kellem asked the Board to take notice of administrative complaints within the record. He asked Officer King if the licensee took immediate action to appease the police if there was an issue.

Officer King replied yes.

Attorney Galvin asked for the Board's indulgence. Mr. Page made some improvements to damper the sound. He has spoken with Mr. Crawford with regards to erecting an 8 ½ ft. fence in attempt to block noise and insulation was blown into the walls of the building. He presented four different photographs showing what was completed. Complaints were received prior to the sound mitigation attempts being in place. He proposed to continue the hearing for a month and review at that time. He offered to have a sound check consultant, chosen by the Licensing Board, perform a check at Mr. Page's expense. State law prohibits employees/patrons from smoking inside; therefore, the area to the rear of the property was created.

Attorney Kellem stated sounds travels Dbase in an Omni direction. Sounds is the biggest issue; way too little is being done about it; way too late. License needs to be revoked or suspended. This is a live music issue, noting the base beat. He opposed continuing the hearing and asked that the Board make a decision now. He is preparing a memorandum reflecting the law, to be submitted to the Licensing Board.

Solicitor Lane asked for a form of a motion stating that the public has been adversely affected, public safety and law and order in accordance with MGL Chapter 140, Section 183A, stating whether the license is to be modified, suspended, revoked or condition placed upon.

Mr. Piazza requested that a police detail is required to be hired for those three evening and the entertainment to cease at 11 PM.

Chairman Fryer recommended the hours be cut down for the three nights. Remedies have not worked. The Weymouth Police Department works for the whole town.

Mr. Richards based on MGL Chapter 140, Section 183A made a MOTION that a violation of the Annual Entertainment License has happened. Chief Grimes seconded the MOTION.
UNANIMOUSLY VOTED

Chief Grimes stated they have documented 200 police responses in the past two years. Mr. Page is before the Licensing Board and as of last week he made further remedies. The Board has decided that there is a violation of the entertainment license. He is open to suggestion; it is at a point where it needs to be modified. It is the Board's duty to resolve the problem. He the elimination of live

music will eliminate the problem. If live music is the nature of the complaint; live music should be taken out of the mix.

Mr. McCormack stated Mr. Page has attempted throughout the years. He does not feel fans and insulation will eliminate base noise. They are entitled to quiet enjoyment. He wants to be fair to the business and the neighbors are entitled to their quiet enjoyment too. There are several possibilities to eliminate this noise; although, he doesn't have an answer at this time.

Deputy Chief Davis stated the timeframe of the live music should be addressed, without putting the restaurant out of business.

Mr. Richards stated they have been looking at for quite a while now; 200 calls. The removal of the loud live music solved the complaints and eliminates the police having to go to that site. They can put it to a rest.

Chairman Fryer said recommended a 12 AM end to the music and if that doesn't work they'll go back to 11 PM.

Attorney Galvin stated the entertainment doesn't begin until 9:30 PM. He was surprised to hear about Mr. Crawford's comments about the noise coming from the cleaning crew.

Mr. Page stated last call is at 12:15-12:30 PM and people generally leave by 1 AM. The help is still around afterwards.

Mr. Richards made a MOTION based on the fact that there is a violation; the Board should consider music entertainment to cease at 12 AM. Mr. McCormack seconded for the purposes of discussion.

Chief Grimes stated he didn't feel a 12 AM cease would make an impact. He noted that the 12 AM shift change at the Police Department. This is a quality of life issue and personally he felt he would like for it to be earlier. There are two years of documented responses from the Weymouth Police Department. It is the Board's responsibility to end this problem. He recommended a change of format, which would bring in a different crowd or adjust the hours or modify to eliminate the loud music.

Deputy Davis agreed the loud music needed to be adjusted.

Mr. Richards made a MOTION to amend the hours of the Annual Entertainment license for all entertainment to cease at 12 AM. Deputy Chief Davis seconded. SO VOTED (4-1 vote: Chief Grimes opposed).

ADJOURNMENT

Mr. Richards made a MOTION to adjourn at 3 PM. Mr. McCormack seconded. UNANIMOUSLY VOTED

BOARD OF LICENSING COMMISSIONERS

Tuesday, May 24, 2011

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Respectfully submitted by,

Lisa VanWinkle,
Recording Secretary

Approved:

Date:

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