

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, May 15, 2007, at the Weymouth Town Hall, Chambers, 75 Middle Street

Attendance: Chairman Franklin Fryer, Town Clerk; Jeffrey Richards, Director of Municipal Licenses & Inspections; Fire Chief Robert Leary; Police Chief James Thomas (left at 2:30 PM); Richard Marino, Director of Public Health; Town Solicitor George E. Lane, Jr., Licensing Officer Brian King; and Lisa VanWinkle, Secretary

Chairman Fryer called the meeting to order at 2 PM.

**DISCUSSION WITH NBG, INC. D/B/A TaBasCo. BAR & GRILL, 1166 WASHINGTON ST.  
RE: CONTINUING INCIDENTS OF PUBLIC SAFETY CONCERN**

Mr. Domenic Silvestro, President/Manager, and Attorney Dale Malone were present.

Chief Thomas called attention to several incidents which have occurred since the Board's last discussion. He stated things have not improved. The eight incidents he cited involved drunk and disorderly arrests, patrons/employees leaving the premises after hours, and underaged drinking. He stated he felt that bartenders pouring shots from the bar was inappropriate; there is no way to measure the shot. He also cited the issue of patrons taking beer bottles into the parking lot and leaving them behind. The Alcoholic Beverages Control Commission conducted a compliance operation on April 10, 2007 and also found underaged drinking on the premises.

Mr. Silvestro stated he spoke with his TIPS trainer who verified there are no laws in regards to pouring shots. He also replied to the incident about the drunken male, stating the gentleman was having a 30<sup>th</sup> birthday party and was shut off, but kept on the premises to sober up with hot dogs and peanuts. He is trying to comply with all the rules. Most of his staff has been certified in TIPS training. The kitchen is open until 12 AM; weekends open until 1 AM. He does his best to pick up empties in the parking lot.

Mr. Richards read a letter from Father Borges of St. Albert's Parish, 1130 Washington Street, into the record. The letter referred to requests of the Parish Council involving the unauthorized use of the Church property by TaBasCo's patrons. They requested that Mr. Silvestro hire a detail officer from 9 PM – 1 AM on Fridays and Saturdays to police the parking lot. Also, on Saturday and Sunday mornings before 9 AM that Mr. Silvestro or a staff person inspects the parking lot area closest to the bar to ensure there is no debris. They requested such for the safety of the parishioners and the parish's liability.

Father Borges spoke stating the Parish does not have an objection provided the parking lot has not been violated. He stated he overheard three young intoxicated gentlemen in their parking lot fighting over not letting one of them drive. Nevertheless, they ended up driving off. Bottles, cans and debris are being left in the parking lot. He found a pack of leaves within a clear baggie. He could not identify them and gave them to the Police Department for verification.

Ms. Mary Akoury, Parishioner, stated they are concerned for the safety of the parishioners. She cited an example of one of the parishioners nearly being run down by a patron of TaBasCo's when

walking in the parking lot on a Friday evening to attend a parish function. They have not had any dialog with TaBasCo's.

Officer King stated he had a meeting with Father Borges. He agreed the church should not be responsible for any of the upkeep of the property due to issues caused from patrons of TaBasCo's.

Chairman Fryer asked for Mr. Silvestro to speak with his patrons and ask for them to comply as it is affecting his business.

Chief Thomas stated he felt the bottom line was that Mr. Silvestro was running a dump. He is disgusted with it and thought something should be done about it.

Mr. Robert Thomas, Washington Street, suggested TaBasCo's hire a police detail to stand out front of the establishment.

Mr. Silvestro stated having a detail is a huge expense. There is a gate within the parking lot. He replied to Chief Thomas stating he does not consider his place a dump and is offended by the comment.

Chairman Fryer said Mr. Silvestro needs to try to work something out to keep everyone happy. He needs to speak with his customers. He suggested having an employee police the parking lot on an hourly basis.

Ms. Akoury commented on Mr. Silvestro's remark about gating the parking lot, stating it is unacceptable and against the Parish's philosophy and mission. They asked for the parking lot to be policed on Friday and Saturday nights. She questioned if \$300 would put a financial burden on the owner as the establishment is doing well on the weekends.

Mr. Silvestro stated he has had an ongoing request for a police detail on Friday and Saturdays from 9 PM to closing; although, they aren't always filled.

Officer King spoke regarding the bartenders pouring shots from the bar, stating it lacked decorum. He felt it is not a place he would like to work at. They've also received complaints of the doorman/bartenders drinking or having been drunk. He stated the establishment is steps short of being another Foxy Lady, which the Town rallied against in the late 1980's.

Mr. Marino questioned counsel if pouring of shots is admissible?

Solicitor Lane replied it would need to be analyzed as there are many factors; also would it be considered a form of entertainment?

Chief Thomas stated there is no measurement of the alcohol.

Solicitor Lane agreed it would need to be analyzed as well as the previous incidents to determine whether to prosecute.

Mr. Richards suggested private surveillance of the parish's parking.

Father Borges asked what authority a private security company would have.

Chief Thomas relied, none, it is ultimately under the Police Department.

Chief Thomas made a MOTION to review the eight cases with the Town Solicitor for validity and move forward to prosecute on a case by case basis. Chief Leary seconded the motion.  
UNANIMOUSLY VOTED

Chief Leary agreed that there seems to be an established pattern.

Mr. Marino informed Mr. Silvestro there are ways to protect himself from minors who present fake ids. He suggested purchasing an identification verification machine.

Chief Thomas left the meeting at 2:30 PM for a prescheduled appointment.

Chief Leary made a note in favor of Mr. Silvestro, stating he has complied with fire regulations. He also stated Mr. Silvestro needs to prevent drunk and disorderly customers. He said you can recognize a difference from when someone enters the establishment and after 5 drinks.

Mr. Silvestro stated all of his staff will be recertified within the next three weeks at his expense.

**APPLICATION OF NBG, INC. FOR A CHANGE OF D/B/A (DOING BUSINESS AS) NAME ON THEIR ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE TO BASTA BAR & GRILL, 1166 WASHINGTON ST.**

Mr. Richards read the departmental referrals into the record. Municipal Finance reported no outstanding taxes. Officer King reported no objection. The Health Department reported usual permits and inspections would be required.

Mr. Richards made a MOTION to approve the new D/B/A as Basta Bar & Grill. Mr. Marino seconded. UNANIMOUSLY VOTED

**APPLICATION OF AMINA KHAN D/B/A DOMINO'S PIZZA FOR A FOOD VENDOR LICENSE, 824 WASHINGTON ST. (continued from 4/3/07)**

Mr. Richards stated there has been a recommendation from Conservation and Building to continue the hearing until the conservation issues have been resolved.

Attorney Ron Marshall, representing Messina Enterprises, asked for a positive direction of the Board of Licensing Commissioners on the Domino's application.

Solicitor Lane stated pursuant to the Code it is under the discretion of the Board whether or not to issue the license.

Mr. Richards stated the Certificate of Compliance is not a minor item in his mind. In addition there are a number of issues pending to obtain an occupancy permit.

Attorney Marshall, once again, asked for a favorable action, stating the importance of the decision to get the ball rolling on the project. Construction needs to be done prior to the issuance of the Food Vendor license and Occupancy Permit.

Chairman Fryer opened the public hearing for comment.

Mr. Robert Thomas, Washington Street, spoke stating he is an abutter to the property. He stated the Order of Conditions has not been issued by Conservation and there are several issues of concern: dumpster restrictions, hours of operation and handicapped parking.

Mr. Richards made a MOTION to continue the hearing to June 12, 2007 at 2 PM. Mr. Marino seconded. UNANIMOUSLY VOTED

**APPLICATION OF QP ONE, INC. D/B/A MAXWELL'S MARKET & DELI FOR A COMMON VICTUALER LICENSE, 1255 MAIN ST.**

Mr. Richards made a MOTION to continue the hearing until June 12, 2007 as the applicant needs approval of the Zoning Board of Appeals first for a variance. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF TXK, INC. D/B/A WASHINGTON STREET LIQUOR MART FOR AN ALL ALCOHOLIC PACKAGE STORE LICENSE TRANSFER, 21 WASHINGTON ST.**

Attorney Jack Silverstein and Thao T. Huynh, President/Manager, were present.

Mr. Richards read the departmental referrals into the record. Lt. White found deficiencies during his inspection, which he reported as corrected. Municipal Finance reported taxes up-to-date. The Health Department reported no objections; will require inspection. Officer King reported no public safety objection. Mr. Richards reported no objection as there would be no change in the type of operation. A Certificate of Occupancy is required prior to the license issuance.

Attorney Silverstein asked for favorable action on the transfer. Mr. Huynh is experienced in the business. He owns another store in Belmont and would be an asset to the Town.

Chief Leary asked for the signage in the windows to be kept to a minimum for public safety view.

Attorney Silverstein asked for height requirements.

Officer King replied so the police are able to see in.

Mr. Huynh replied he would keep 3 feet upwards clear.

Mr. Marino stated the town conducts compliance operations. They need to be aware and abide by the Massachusetts Liquor Laws.

Officer King stated a language barrier is an issue. The clerks need to be able to communicate and read English. Ids need to be asked for and read for validity.

Chairman Fryer announced that it was a public hearing; no comments were made.

Mr. Richards made a MOTION to approve the transfer of the All Alcoholic Package Store License. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF ZI YUN ZHEN D/B/A YAN'S KITCHEN FOR A COMMON VICTUALLER LICENSE, 1025 MAIN ST.**

Attorney Peter Lim was present representing Zi Yun Zhen, owner.

Mr. Richards read the departmental referrals into the record. The Health Department reported no objections; will require food handling certification and other department requirements. The Municipal Finance Department reported outstanding personal property taxes. Officer King reported no public safety objection. Lt. White reported all fire protection systems have current inspection tags, hood recently cleaned; egress free from obstructions. Mr. Richards reported no objection as there would be no change in the existing type of operation.

Attorney Lim stated it was strictly for a change of ownership.

Mr. Richards made a MOTION to approve a Common Victualler license. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF LIL BRAZIL, INC. D/B/A LIL BRAZIL FOR A WINE & MALT RESTAURANT/COMMON VICTUALLER LICENSE, 4 UNION ST.**

Mr. Brian Coe, Manager, was present.

Mr. Richards read the departmental referrals into the record. Municipal Finance reported outstanding FY06 personal property taxes. The Health Department reported no objections. Officer King reported a public safety concern as to the parking and a public safety objection as to the suitability of the applicant to hold a Wine & Malt Restaurant License. Lt. White reported all fire protection systems have current inspection tags, emergency lighting okay; reminder to frequently clean cooking area and hood due to the nature of the type of cooking operations conducted on the premises. Mr. Richards reported no public safety objection.

Officer King asked to convene the meeting in Executive Session to discuss the character of the applicant.

Mr. Richards made a motion to continue the hearing to later in the meeting. Mr. Marino seconded.  
UNANIMOUSLY VOTED

**APPLICATION OF RIVERWAY RESTAURANT GROUP, INC. D/B/A TIO JUAN'S MARGARITAS MEXICAN RESTAURANT FOR AN ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE TRANSFER, 765 BRIDGE ST.**

**APPLICATION OF RIVERWAY RESTAURANT GROUP, INC. D/B/A TIO JUAN'S MARGARITAS MEXICAN RESTAURANT FOR JUKE BOX LICENSE, 765 BRIDGE ST.**

**APPLICATION OF RIVERWAY RESTAURANT GROUP, INC. D/B/A TIO JUAN'S MARGARITAS MEXICAN RESTAURANT FOR SUNDAY ENTERTAINMENT LICENSE, 765 BRIDGE ST.**

Attorney Rocco DiFazio, Mr. Shawn Joyce, President and Ms. Brisbane Vaillancourt, Manager, were present.

Mr. Richards read the departmental referrals into the record. The Health Department reported for application and plans to be submitted; subject to food handler certification and pre-opening inspection. Lt. White reported sprinkler system must be inspected and deficiencies corrected; add exits lights as discussed; provide access key for FD lock box. Mr. Richards stated the use of the premises as a restaurant is permitted in the B-1 Zone in which it is located. This proposal is part of the overall development approved by Special Permit per the Board of Zoning Appeals case #2490, dated November 1, 2000. Accordingly, the application conforms to all applicable Zoning and Building Regulations and the requested licenses may be approved pending completion of construction and issuance of a Certificate of Occupancy by the Building Inspection Department.

Attorney DiFazio stated Margarita's is looking to establish their restaurant at the location formerly occupied by Applebee's in the Riverway Plaza. They'd like to open in July with the Board's favorable vote. The corporate office is located in Portsmouth, NH and they have two other restaurants located within Massachusetts.

Officer King informed the applicant that there is a mandatory alcohol awareness training held in the month of November. Compliance checks are done by the Police Department on a regular basis.

Chief Leary asked for their nearest location.

Ms. Brisbane replied they have a restaurant in Waltham.

Chairman Fryer announced that it was a public hearing; no comments.

Mr. Richards made a MOTION to approve the transfer of the All Alcoholic Restaurant license.  
Mr. Marino. UNANIMOUSLY VOTED

Mr. Richards made a MOTION to approve a Juke Box license. Chief Leary seconded.  
UNANIMOUSLY VOTED

Mr. Richards made a MOTION to approve a Sunday Entertainment license for the use of the juke box. Mr. Marino seconded. UNANIMOUSLY VOTED

**CONTINUED - APPLICATION OF LIL BRAZIL, INC. D/B/A LIL BRAZIL FOR A WINE & MALT RESTAURANT/COMMON VICTUALLER LICENSE, 4 UNION ST.**

Solicitor Lane stated the Board would like to convene in Executive Session to discuss disciplinary matters of Brian Coe. He spoke with Mr. Coe and he agreed to the meeting dismissing the notice requirements.

Mr. Richard made a ROLL CALL MOTION to convene in Executive Session: Chief Leary, AYE; Mr. Richards, AYE; Chairman Fryer, AYE; Mr. Marino, AYE; Officer King, AYE.  
UNANIMOUSLY VOTED

The Board reconvened in regular session for a decision on the hearing.

Chairman Fryer announced the public hearing for comment.

Mr. Robert Luongo, Economic Development Planner, stated the restaurant is doing well. He encourages business in the area as they are amidst the revitalization of Columbian Square.

Ms. Jean Magnaro, 129 Pleasant Street, asked that the business remain considerate and voiced her concern that the restaurant not turn into a bar. She asked that they police the area better for litter and wished them well.

Chairman Fryer stated he was opposed to any more alcoholic beverage licenses in the area. He cited the public was already being served by the various establishments in the area.

Mr. Richards noted he agrees the public need has been met. He made a MOTION to deny the Wine & Malt Restaurant license. Chief Leary seconded. UNANIMOUSLY VOTED

**APPROVALS**

- Minutes: April 3, 2007

Mr. Richards made a MOTION of approval. Chief Leary seconded. UNANIMOUSLY VOTED

- One-Day Wine & Malt Permits: Immaculate Conception Parish (June 3&4)

Mr. Richards made a motion to approve a One-Day Wine & Malt Permit for the Immaculate Conception Parish event to be held on June 3, 2007. Chief Leary seconded. UNANIMOUSLY VOTED

Mr. Richards made a motion to approve a One-Day Wine & Malt Permit for the Immaculate Conception Parish event to be held on June 4, 2007. Mr. Marino seconded. UNANIMOUSLY VOTED

- One-Day Liquor Permit: Immaculate Conception Parish (June 1)

Mr. Richards made a motion to approve a One-Day Liquor Permit for the Immaculate Conception Parish for an event to be held on June 1, 2007. Chief Leary seconded. UNANIMOUSLY VOTED

### **CHAIRMAN'S REPORT**

- Meeting Schedule

The next meeting was scheduled for Tuesday, June 12, 2007 at 2 PM.

- License Renewals

Officer King stated the renewals will be scheduled for approval for the following licenses: Auctioneers, Antique Dealers, Junk Dealers, Fortune Tellers, and Precious Metals.

Mr. Richards announced that the licenses due to expire on June 30<sup>th</sup> will be scheduled for approval on June 12<sup>th</sup>.

### **CORRESPONDENCE**

- Unclaimed Certified Mail: Midway Automotive Corp., 1076 Main St.

Solicitor Lane suggested that a notice is sent to the licensee announcing a hearing date to consider the modification, suspension, revocation of the license.

- Results of Police Compliance Operation – 4/24/07

Officer King stated the Police Department performed a compliance operation of all package stores on April 24, 2007, in which time Mini Market, 405 Middle Street, was the only licensee who allegedly sold alcohol to the underaged operative.

Mr. Richards made a motion to schedule a violation hearing to be held on June 12<sup>th</sup>. Chief Leary seconded. UNANIMOUSLY VOTED

- Closing of Lee's Beer & Wine, 1614 Main St.

Mr. Richards asked for a letter to be mailed to the licensee asking for their intention.



## **NEW/OLD BUSINESS**

- Municipal Licensing Group Meeting Summary

Officer King stated the meeting was held at which time they discussed liquor law updates and various license applications. They gave accolades to the Town for the Board's Liquor Violation Guidelines.

Solicitor Lane stated the police compliance operation guidelines should be formally drafted and approved as well.

- Outdoor Business License – Draft Application/Rules & Regulations

Mr. Richards asked for the materials to be reviewed for future discussion.

## **ADJOURNMENT**

Mr. Richards made a MOTION to adjourn the meeting at 4 PM. Mr. Marino seconded.  
UNANIMOUSLY VOTED

Respectfully submitted by Lisa VanWinkle, Recording Secretary