

Minutes of the Board of License Commissioners for their meeting held on Tuesday, June 7, 2005, at Weymouth Town Hall in the Chambers

Attendance: Chairman Franklin Fryer, Town Clerk; Clerk Jeffrey Richards, Director of Municipal Licenses & Inspections; Fire Chief Robert Leary; Police Chief James Thomas; 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.

PURSUANT TO SECTION 9-601 OF THE CODE OF THE TOWN OF WEYMOUTH, VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE PRECIOUS METALS LICENSE OF HARBORLIGHT JEWELERS, 416 BRIDGE ST.

Ms. Rhoda Albert, Treasurer of RAAC, Inc. and Mr. Alman Coleman, President, were present.

Solicitor Lane swore in all testifying parties. He also introduced Licensing Officer Brian King into the record and presented a report to him to identify. Officer King acknowledged that the report was the incident report. Solicitor Lane also presented the notice of the hearing hand delivered to the license holder on June 9, 2005.

Solicitor Lane asked for Officer King to read the report into the record.

Officer King stated he submitted a request to the Board to hold a hearing on a possible violation of the Precious Metals license held by Harborlight Jewelers, 416 Bridge Street, Weymouth, MA 02191. This alleged violation was brought to light as a result of an investigation of the Detective Unit of the Weymouth Police. Detective John Perchard submitted a report which read as follows: "On Thursday, April 7, 2005, I was assigned to BCI con the 0800-1600 shift. At the time, I received a call from Det. Bob Curtis of the Quincy Police Department concerning stolen items that were pawned in Weymouth. Det. Curtis informed me that Christine Cooper confessed to selling stolen jewelry at Harborlight Jewelers on Friday, April 1, 2005. I subsequently checked the file and discovered that Harborlight Jewelers had not submitted a pawn slip. Weymouth Town bylaw requires that precious metal dealers send a pawn slip to the Weymouth Police within 24 hours of the purchase. The pawn slip must be legible and provide a description of all items purchased. After checking the department files, I went to Harborlight Jewelers and spoke with the store owner. He nervously informed me that he had not yet submitted the pawn sheet to the Police Station. The store owner stated that he received the property on April 1, 2005 but could provide no reason as to why he had yet to submit the proper paperwork. Harborlight Jewelers faxed a sheet to the Weymouth Police Department at 1337 hours on April 7, 2005. The pawn slip was illegible and the descriptions could not be read."

Solicitor Lane asked Ms. Albert if she had any questions of Officer King.

Ms. Albert replied that she didn't. She stated she wasn't working on the day of the incident. Her brother Mr. Coleman was there and did the report. She wasn't aware of the rules and regulations

requiring for them to file the information to the Police Department within twenty-four hours.

Chief Thomas asked Ms. Albert if she had done business at another location previously.

Ms. Albert replied that they used to do business out of the Harborlight Mall.

Chief Leary asked Officer King if the new form would help prevent any future discrepancies.

Officer King replied yes.

Ms. Albert asked if the form was available.

Chief Thomas informed her they were in the process of compiling a standard form which will require detailed information along with a picture of the person's license who is selling the goods and a picture of the items.

Solicitor Lane read the notice of the hearing into the record, "...The alleged violation, pursuant to Weymouth Code of Ordinances Section 9-601B(6), is the alleged failure of the licensee to make out and deliver the to Chief of Police, on or about April 2, 2005, a legible and correct list containing an accurate description of all precious metals, i.e.: jewelry purchased during the previous business day, April 1, 2005, setting forth the name and address from whom said jewelry was purchased, the price paid therefore, time when articles were purchased, and the respective numbers of such items of jewelry." He reminded the license holder that the ordinance has been on the books and in effect.

Ms. Albert apologized stating she wasn't aware of the requirement.

Solicitor Lane asked that they be mindful to report every day. He also suggested for them to get a copy of the ordinance to be aware of the requirements.

Ms. Albert stated they are mindful with business operations and informed the Board that her brother just brought someone to court who was selling stolen jewelry to support a drug habit.

Officer King reminded the license holder that they are required to hold the goods for fifteen days.

Ms. Albert replied their past practice was to hold the items for thirty days.

Mr. Marino made a motion of a finding that the license holder failed to notify the Weymouth Police Department on purchased goods on April 1, 2005. Chief Thomas seconded the motion.
UNANIMOUSLY VOTED

Mr. Richards made a subsequent motion to consider the incident as a warning as it was a first offense. Chief Thomas seconded the motion. UNANIMOUSLY VOTED

PURSUANT TO M.G.L. CHAPTER 138, SECTION 23 & 64, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE OF DAUGHTER'S INC. D/B/A PLAYOFF'S, 1073 MAIN ST.

Solicitor Lane asked that the matter be continued to the next meeting on Tuesday, June 21, 2005 at 2 PM. He needs additional time to notify and subpoena the persons who will be testifying on the matter.

APPLICATION OF QUAN'S KITCHEN OF WEYMOUTH, INC. D/B/A QUAN'S KITCHEN FOR A FOOD VENDOR LICENSE, 427 WASHINGTON ST.

Mr. Eric Quan, President of Quan's Kitchen of Weymouth, Inc. was present.

Mr. Richards read the departmental referrals into the record. The Municipal Finance Department reported no balances. Mrs. Mary Williamson, Health Inspector, reported Chopstix out of business. She needs to conduct an inspection of the establishment as well as review applicant's food service credentials and process a new food service permit application. Officer Charles White, Fire Prevention Officer, reported he is unable to contact applicant at number above must be properly equipped with at minimum: fire alarm, fixed wet chemical suppression system (subject to successful test by competent installer). Officer King, Licensing Officer, reported the restaurant as out of business; no objection to issuance of new Food Vendor license. Mr. Richards, Inspector of Buildings, reported the use of the premises as a retail store (food vendor) is permitted in the B-1 zone in which it is located and the existing parking is adequate for the proposed use. Accordingly, the application conforms to all applicable requirements of the Town's Zoning and Building Regulations and the requested license may be granted.

Mr. Quan stated he has operated a restaurant in Medfield since 1995 and in Attleboro since 2000. He will set a high standard for Chinese food in the Town of Weymouth.

Solicitor Lane informed the Board the Food Vendor license of Wallace Ho d/b/a Chopstix has been abandoned. He verified an Assets Agreement was submitted.

Mr. Richards informed the applicant he would have to apply for a new Occupancy Permit through the Building Department if the license was granted.

Mr. Marino made a motion to rescind the Food Vendor license formerly issued to Wallace Ho d/b/a Chopstix. Mr. Richards seconded. UNANIMOUSLY VOTED

Mr. Marino made a motion to grant a Food Vendor license to Quan's Kitchen of Weymouth, Inc. d/b/a Quan's Kitchen, 427 Washington Street. Mr. Richards seconded. UNANIMOUSLY VOTED

APPLICATION OF BERK'S PIZZA INC. D/B/A BERK'S PIZZA FOR A COMMON VICTUALLER LICENSE, 1690 MAIN ST.

Mr. Ozgur Berk, President/Manager, was present.

Mr. Richards read the departmental referrals into the record. The Municipal Finance Department reported no outstanding balances. Mr. David Kaplan, Health Inspector, reported no objections. Officer White reported fixed fire suppression system needs service; portable extinguishers need service; other fire protection including fixed system may require monitoring. Officer King reported no public safety objection to the requested 12 seat Common Victualler license. Mr. Richards reported the use of the premises as a restaurant is permitted in the B-1 Zone in which it is located. The allocated parking of 7.5 cars is adequate for a seating capacity of 12 persons. Accordingly, provided the seating capacity is limited to 12 persons, the application conforms to all applicable Town Zoning and Building Regulations and may be granted.

Mr. Berk stated he will reopen the business with a similar menu except he will offer pizza as well. He has experience in the business as he formerly ran a restaurant in Quincy.

Officer King informed the Board this is another situation where the restaurant closed down.

Mr. Richards made a motion to rescind the Common Victualler license of Fireside Rotisseries. Chief Leary seconded. UNANIMOUSLY VOTED

Mr. Richards informed Mr. Berk he will need to apply for a Certificate of Occupancy through the Building Department.

Mr. Richards made a motion to grant a Common Victualler license to Berk's Pizza Inc. d/b/a Berk's Pizza at the location of 1690 Main Street. Chief Leary seconded. UNANIMOUSLY VOTED

APPLICATION OF AHMET BEQO D/B/A SUNNY SIDE UP RESTAURANT FOR A COMMON VICTUALLER LICENSE, 400 BRIDGE ST.

Mr. Ahmet Beqo, Owner and Ms. Etleva Gjura, Manager, were present.

Mr. Richards read the departmental reports into the record. The Municipal Finance Department reported an outstanding amount of water and sewer due on June 7, 2005. Mr. David Kaplan, Health Inspector, reported they may require updates of equipment based on new code (105 CMR 590.000). Officer White reported he witnessed a test of fixed suppression system; needs to have portable extinguishers serviced or replaced and mounted properly. Officer King reported no public safety objection.

Mr. Beqo stated he plans on keeping everything the same as it currently is.

Mr. Marino stated the establishment needs to be upgraded in accordance with the Health Code. This needs to be completed prior to the change of ownership.

Mr. Richards informed the applicant he will need to apply for an Occupancy Permit from the Building Department.

Mr. Richards stated the updates to the premises will be approved under the Occupancy Permit phase.

Mr. Richards made a motion to approve the issuance of a Common Victualler license to Ahmet Beqo d/b/a Sunny Side Up Restaurant, 400 Bridge Street, Weymouth, MA. Chief Thomas seconded. UNANIMOUSLY VOTED

APPLICATION OF GREENBRIDGE DONUTS, LLC D/B/A DUNKIN DONUTS FOR A COMMON VICTUALLER LICENSE, 645 BRIDGE ST.

Attorney Edward Fleming and Mr. Octavio Carvalho were present.

Mr. Richards read the departmental referrals into the record. Mrs. Williamson, Health Inspector, reported no objection. Officer King reported no public safety issue. The Municipal Finance Department reported no outstanding balances. Officer White reported fire and life safety inspection was okay at this time; fixed system is due for testing in September and will need to upgrade and add a "K" class extinguisher. Mr. Richards reported a Certificate of Occupancy was issued on December 12, 2002 and is in compliance as of May 1, 2005. Therefore, there is no objection.

Attorney Fleming stated the application is for a change of ownership only. They also operate the store at 180 Bridge Street and others within the Commonwealth. They have been in business since 1979.

Mr. Lawrence Julian, Green Street, spoke stating he was an abutter and concerned about the condition of the fence behind the store.

Attorney Fleming replied that the condition of the fence would be addressed.

Mr. Richards stated if the license were granted a new Occupancy Permit would be required from the Building Department.

Mr. Marino questioned if the current license needed to be rescinded. He stated the transaction was sudden. Is the license transferable?

Solicitor Lane replied that the Common Victualler license is non-transferable. The Board may cancel the current license and issue a new one.

Mr. Marino made a motion to cancel the current license and issue a new Common Victualler license to Greenbridge Donuts, LLC d/b/a Dunkin Donuts, 645 Bridge Street. Mr. Richards seconded.

Mr. Julian, abutter, spoke reiterating that he wished for the fence and dumpster issue to be taken care of. The dumpster is higher than the fence and is unsightly.

Attorney Fleming stated they will be changing their trash company and the matter will be taken care of.

Chairman Fryer stated there was a motion before the body; all in favor. UNANIMOUSLY VOTED

CAMPBELL-DEE INC. D/B/A JC DEE'S RE: STATUS OF ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE, 312 BRIDGE ST.

Mr. James Dee, President of Campbell-Dee Inc. and Ms. Carol Campbell, previous President/Manager, were present.

Mr. Richards read correspondence dated May 25, 2005 from the Alcoholic Beverages Control Commission (A.B.C.C.) into the record. The change of manager application submitted to the ABCC in February had been sent back disapproved due to the following: Applicant did not provide a Board of Directors vote. The proposed Manager James M. Dee answered "No" on Form A question #13 which asks to identify criminal history record, if any. Mr. Dee had several appearances in criminal court before signing the application on February 15, 2005.

Mr. Dee stated he submitted the vote afterwards. Also, his lawyer advised him that he didn't have to answer "yes" on the criminal history question as the charges were dismissed.

Chief Thomas questioned who was currently running the business.

Mr. Dee replied he was.

Solicitor Lane stated Mr. Dee came before the Board as a result of a court ruling. In addition, Mr. Dee filed for a change of manager which was approved by this Board. The ABCC disapproved the application. As a result the restaurant operation is left in limbo. He asked for an explanation from Mr. Dee.

Mr. Dee replied he is running the business and is responsible for the note. He has paid the back taxes owed. Monday, he resubmitted his application for a change of manager. Form A is complete.

Chairman Fryer questioned if the corporate board change had gone before the Board as well.

Mr. Dee replied yes. He is the Treasurer, President and Clerk of Campbell-Dee Inc. He filed for the change with the State.

Solicitor Lane stated Ms. Carol Campbell, former President/Manager, is present. He called her forward.

Ms. Campbell stated her concern that her name was still on the licenses. She is liable and she hasn't been involved with the business for over four months now. She believes the business should not be able to operate under her name.

Chief Thomas asked Mr. Dee if Ms. Campbell was no longer involved with the business.

Mr. Dee affirmed such.

Solicitor Lane stated the change of manager application has not been approved by the ABCC. The application was forwarded to them in February and there was a lapse of time for the decision. He stated Mr. Dee approached the Board with a court order which did not explain the whole situation. The Board was provided with such and Mr. Dee's testimony. Now the Board is in a difficult situation with Mr. Dee's assurance that everything is in good order. The Board is very concerned about this.

Mr. Dee stated he has been in touch with the ABCC to rectify it.

Ms. Campbell stated she thought the hold up was due to the annual report not being submitted by the corporation.

Chairman Fryer stated he felt the establishment should be closed down until the matter is cleared up.

Chief Thomas stated there are two outstanding issues: Ms. Campbell's request to be removed from any responsibilities of the business and who is going to manage the restaurant in the time being.

Solicitor Lane noted if the original application was successful Ms. Campbell's name would have been removed from the license. A new application needs to be filed and approved.

Chief Thomas made a motion to remove Carol Campbell's name from the licenses. Mr. Richards seconded. UNANIMOUSLY VOTED

Solicitor Lane stated the ABCC recommends disapproval. The application is back before the Board. The restaurant may remain open to serve food until the change of manager application is approved.

Chief Thomas made a motion that the All Alcoholic Restaurant license is suspended until such time as Mr. Dee reapplies for a change of manager and gets approval. Chief Leary seconded. SO VOTED (4-1 Chairman Fryer)

APPROVALS

- Minutes: May 10, 2005

Mr. Marino made a motion of approval. Chief Thomas seconded. UNANIMOUSLY VOTED

- Carnival Permit: Dean & Flynn d/b/a Fiesta Shows for Town of Weymouth Family Fun Festival to be held on July 13 – 17

Chief Thomas made a motion of approval. Chief Leary seconded. UNANIMOUSLY VOTED

CHAIRMAN'S REPORT

- Next meeting: June 21, 2005

CORRESPONDENCE

- Macy's Beachway Liquors, Inc.

Mr. Richards read a letter into the record from Macy's Beachway Liquors, Inc. stating their recent purchase offer fell through; therefore, the business is off the market.

- Meeting of Municipal Licensing Group

Mr. Richards announced the Municipal Licensing Group will be meeting on Monday, June 27, 2005 at the Brockton Raddison Hotel at 11:45 AM. If anyone is interested in attending, they may contact Mrs. VanWinkle to make reservations.

NEW/OLD BUSINESS

- Status of applications

Solicitor Lane stated the record shows a firm record of the Board. A lot of applications have gone before the Board this year for action.

- Ordinance review: Precious Metals License form

Officer King presented a new Precious Metals form to the Board for review and recommendation to be forwarded to the Mayor along with the recommended amendments to the ordinance.

Solicitor Lane suggested that the "description" column be more specific so that if a set of multiple items would be listed as such with a specific number of items; i.e. a seven piece sterling silver tea set. He also questioned the wording "pledge" and suggested that it be "a sale".

Officer King replied that there is a fifteen day holding period by the licensee once the item(s) is brought in.

Mr. Marino suggested that there be a date and time stamp with the picture of the pawn.

Chief Thomas stated they would take that into consideration.

- Status of appeal: Applebee's Neighborhood Bar & Grille, 35 Pleasant St.

Solicitor Lane stated the matter is still at court; they are awaiting an administrative appeal decision.

ADJOURNMENT

Mr. Richards made a motion to adjourn the meeting at 3:23 PM. Chief Leary seconded.

UNANIMOUSLY VOTED

Respectfully submitted by Lisa VanWinkle, Recording Secretary