

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, June 30, 2009, at the Weymouth Town Hall, Chambers, 75 Middle Street

Attendance: Chairman Franklin Fryer; Jeffrey Richards, Director of Municipal Licenses & Inspections; Fire Chief Robert Leary; Acting Police Chief Timothy Carr; Richard Marino, Director of Health; Town Solicitor George E. Lane, Jr., Lisa VanWinkle, Secretary and Justin Myers, Fire Prevention Officer

Chairman Fryer called the meeting to order at 2 PM.

Mr. Richards called Mrs. Lee Hultin, Assistant to the Mayor, forward for the Fourth of July Celebration permits.

Mrs. Hultin informed the Board that the Weymouth Fourth of July Celebration would be held on Friday, July 3rd at the George Lane Beach from 5 PM to 10 PM. The fireworks would commence at 9:30 PM.

APPROVALS

- One-Day Food Vendor Permits – Fourth of July Celebration

Mr. Richards made a MOTION for the approval of One-Day Food Vendor Permits for: Peter Costa, Costaco, Inc.; Yummy Cart; David Ericson; Papa John's Pizza; Weymouth Band Parent's Association and James Cadin. Chief Leary seconded. UNANIMOUSLY VOTED

- Carnival Permit: It's 2 Cool – Fourth of July Celebration

Mr. Richards made a MOTION to approve the Carnival Permit for It's 2 Cool for July 3, 2009 at the George Lane Beach. Chief Leary seconded. UNANIMOUSLY VOTED

APPLICATION OF 3A PIZZERIA, INC. D/B/A 3A PIZZERIA FOR A COMMON VICTUALLER LICENSE, 312 BRIDGE ST.

Mr. Richards read the departmental referrals into the record. The Health Department reported the need for the applicant to file appropriate paperwork with their office. Officer King reported no public safety objection.

Mr. Jose Claudio Alves, owner, stated their application was for a change of ownership and name change. The same operation would continue.

Mr. Richards stated the application called for the hours of 7 AM – 10 PM with 16 seats. Application and plans were distributed to the Board.

Mr. Marino stated the applicant would need to meet food handler and food safety requirements and file worker's compensation insurance documentation.

Mr. Richards stated a Certificate of Occupancy would also be required.

Mr. Richards made a MOTION of approval after the requirements of Health and Building Departments have been met. Mr. Marino seconded. UNANIMOUSLY VOTED

APPLICATION OF EZ MART HOLDING, INC. D/B/A EZ MART FOR A FOOD VENDOR LICENSE, 1235 WASHINGTON ST.

Mr. Richards reported no objection to the license request. Mrs. Mary Williamson, Health Inspector, reported she had no contact with the applicant. She also noted the need to meet and discuss the licenses with the prospective owner. Mrs. Paula MacLeod, Municipal Finance, reported FY09 Personal Property taxes assessed to EZ Mart in demand.

Mr. Marino stated that all Health requirements have been met.

Mr. Taha Kidwai, owner, presented his application to the Board, stating it was a change of ownership. He has previous convenience store operation experience. He stated the operation will remain the same, offering Keno lottery and fast food items.

Chairman Fryer announced the public hearing for comment; none.

Mr. Richards made a MOTION of approval once outstanding items have been satisfied. Chief Leary seconded. UNANIMOUSLY VOTED

APPLICATION OF WEYMOUTH RETAIL, INC. D/B/A PLEASANT MARKET FOR A FOOD VENDOR LICENSE, 1305 PLEASANT ST.

Mr. Richards stated he had no objection to the requested change. A Certificate of Occupancy is required for the change. He read the departmental referrals into the record. The Mrs. Williamson, Health Inspector, reported she had had no contact with prospective owner; need application, grease trap information, food manager certification, fees, etc. Mrs. Donna Muscillo, Health Secretary, reported an outstanding tobacco fine from Fahim Ullah from February 27, 2009. The Municipal Finance Department reported outstanding FY09 Personal Property taxes and FY09 Real Estate taxes. Officer King reported no public safety objection.

Mr. Marino noted that the tobacco fine had been paid.

Mr. Richards reported the proposed hours of operation as: 6 AM – 11 PM as a 7 day operation. Application and floor plans were submitted.

Chairman Fryer announced the public hearing for comment; none.

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

APPLICATION OF HOGAN'S OF NEWBURYPORT, LLC. D/B/A MCDONALD'S FOR A COMMON VICTUALLER LICENSE, 715 BRIDGE ST.

Mr. Richards stated a Certificate of Occupancy is required by the Building Department. He read the departmental referrals into the record. Officer King reported no public safety objection to the request.

Mr. Robert Hogan, President, introduced himself, stating physically there will be landscaping changes and internal operations. The hours of operation and capacity will remain the same.

Chairman Fryer announced the public hearing for comment; none.

Mr. Richards made a MOTION of approval. Mr. Marino seconded. UNANIMOUSLY VOTED

DISCUSSION TO CONSIDER THE SUSPENSION, REVOCATION OR CANCELLATION OF THE PRECIOUS METALS LICENSE OF C.D. JEWELRY, INC., 318 WASHINGTON ST.

Mr. Richards stated the Board is in receipt of a letter from Mr. Capobianco, owner, stating he was surrendering the license as he is closing the business for retirement.

Mr. Richards made a MOTION to cancel the Precious Metals license. Mr. Marino seconded. UNANIMOUSLY VOTED

DISCUSSION TO CONSIDER THE SUSPENSION, REVOCATION OR CANCELLATION OF THE FOOD VENDOR LICENSE OF DOMINO'S PIZZA, 824 WASHINGTON ST.

Mr. Richards stating a notice of hearing was mailed by Certified Mail to the license holder, with no response. The business has closed.

Solicitor Lane replied where there has been no response it is in order for a revocation of the license.

Mr. Richards made a MOTION to revoke the Food Vendor license. Mr. Marino seconded. UNANIMOUSLY VOTED

DISCUSSION TO CONSIDER THE SUSPENSION, REVOCATION OR CANCELLATION OF THE COMMON VICTUALLER LICENSE OF NOODLE PLANET, 1025 MAIN ST.

Solicitor Lane stated a notice of hearing was mailed by Certified Mail; no response has been given. Noodle Planet has closed and has been vacated for a period of time.

Mr. Richards made a MOTION to revoke the Common Victualler license. Mr. Marino seconded. UNANIMOUSLY VOTED

APPLICATION OF WEYMOUTH COMMONS CONVENIENCE, INC. D/B/A WEYMOUTH COMMONS CONVENIENCE FOR A WINE & MALT PACKAGE STORE LICENSE, 754 MAIN ST.

Mr. Richards read the departmental referrals into the record. Mr. David Kaplan, Health Inspector, reported outstanding application/fees. Ms. Paula MacLeod, Municipal Finance, reported no outstanding taxes/utilities. Officer King reported a public safety concern with the requested license. There are four Wine & Malt and three All Alcoholic Package Store licenses in about a one mile radius of the location. One Wine & Malt license is about 100 yards up the street. The public need is being met in this area of town. Also the plans show what appear to be public restrooms in the corner by the alcohol area. A better location would be by the sub shop area which would keep minors away from the area where the alcohol would be.

Attorney Jon Aieta, representing Mr. Mitesh Patel, stated his client is applying for a 14 seat Common Victualler license with the hours as: Saturday – Friday: 5 AM – 11 PM and Sunday: 6 AM – 10 PM. The food court would offer sandwiches and pizza and the other portion of the store would display the Wine & Malt Package Store offering fine wines and beer. Mr. Patel is the owner (50%) of other locations in Pembroke and Quincy. He is also the franchisee of the Subway in Walmart. The public need would be met with this location as the other licenses are spread out over the surrounding area. This location would specialize in fine wines and beer; not your usual package store. He also submitted a map of the Town of Weymouth noting the existing package stores in a one-mile radius to the proposed location. Historically, the Town has had this many licenses on Main Street within the same distance. Generally, it would be the ideal location for such a business. Mr. Patel plans to invest \$125,000 into the building.

Chief Leary asked about the configuration of the store, stating it was proposed as half beer and wine and half pizza store.

Attorney Aieta replied yes, and they are willing to work with the Town as to the exact configuration. He added that Mr. Patel is TIPs certified.

Chairman Fryer announced the public hearing for comment.

Ms. Lisa Cori, 785 Main Street, came forward as the direct abutter. She stated Weymouth's alcohol needs have been met. The problem that she sees is the traffic pattern. It is a huge traffic issue for the view from pulling out of her driveway—view is obstructed from the Blockbuster's parking lot. She also cited the traffic caused from Dunkin Donuts during rush hour is a preexisting issue. She feels they don't need another store as the need is being met by Park Avenue Market and Johnnie's Foodmaster.

Mr. Larry Cori, 785 Main Street, also stated there is a public safety issue with the traffic and accidents at the intersection, particularly during rush hour. This is a bad location for alcohol sales. Children wait for school buses at the location as well.

Ms. Hawkes, Park Avenue Market, stated they adjusted their hours to accommodate the need and for public safety measures to make it safe for the neighborhood.

Mr. Bob Thomas, 848 Washington Street, stated he had been before the Board on another issue of which the neighbors put together a petition with conditions. The neighborhood should come first...the Town agreed to the certain conditions.

Ms. Eleanor Edwards, Main Street, stated she agreed with the Cori's comments. Public safety is of the utmost importance. They will also be subject to additional trash and a potential for a great many other problems. With the road widening more people are traveling down Route 18. They don't need to add to the already dangerous intersection of people who have had too many drinks.

Mr. Ted Hawkes, Park Avenue Market, stated they close at 9 PM to help deter children loitering and avert public safety issues.

Attorney Aieta stated his client is familiar with the laws and has operated many businesses in the past. He has not had issues at his other stores.

Acting Chief Carr stated he is concerned with alcohol within a pizza and sub shop which will attract young kids—this is not a good mix.

Ms. Edwards stated there would be more turnover in traffic for a convenience store at an already busy intersection.

Chief Leary stated a Wine & Malt Package Store license application came before the Board recently for a location in Jackson Square. This is a similar application. He does not believe a convenience store and wine and malt go together. The area is already saturated.

Mr. Marino agreed the area was already being served.

Chairman Fryer stated he was not for it. You can walk in any direction to buy it. They are there. He voted against one in the nearby area. Other sections of Town would be more suitable. He is going to vote it down.

Mr. Richards made a MOTION to deny the Wine & Malt Package Store license. Mr. Marino seconded. UNANIMOUSLY VOTED

APPLICATION OF WEYMOUTH COMMONS CONVENIENCE, INC. D/B/A WEYMOUTH COMMONS CONVENIENCE FOR A COMMON VICTUALLER LICENSE, 754 MAIN ST.

Mr. Richards stated the application is for a Common Victualler license to serve pizza, ice cream and convenience items. The application and plans are on file.

Attorney Aieta stated the location is proposed as a 50/50 split (pizza restaurant/convenience store).

Chairman Fryer opened the public hearing for comment.

An abutter came forward stating it would change of the demographics age wise. This is a highly trafficked area, with kids going/coming to/from school. She doesn't feel it is the best place for the business. There will be litter from the location as well as kids hanging around. Park Avenue Market and Pleasant Street General Store are available for convenience items.

Mr. Cori stated they would need to be responsible for cleaning and policing litter. He would be in favor of the business if they would be willing to open later and close earlier for the betterment of the neighborhood.

Mr. Bob Thomas stated the neighbors should be given the opportunity to meet and put together a list of conditions.

An employee of Park Avenue Market stated their hours are 7 AM – 9 PM in consideration of the neighbors. Deliveries need to be made during the day. Their Sunday hours are: 8 AM – 6 PM.

Mr. Marino stated they should make a list of things of requirement for the business and the neighborhood to make it a good fit for the Town. The matter should be brought back at the next meeting with such a list for agreement regarding times, noise and deliveries.

An abutter stated they were not in favor of a convenience store/sub store or package store. It should be a non-convenience type of business.

Solicitor Lane stated there are zoning requirements for suitability to determine what type of business may operate out of the location.

Mr. Richards made a MOTION to deny the Common Victualler license. Mr. Marino seconded.
UNANIMOUSLY VOTED

APPLICATION OF ANTONIO CARLOS GERVASIO D/B/A THE GRILL & EYE FOR A COMMON VICTUALLER LICENSE, 186 WASHINGTON ST.

Mr. Richards read the departmental referrals into the record. The Municipal Finance Department reported taxes/utilities current. Mr. David Kaplan, Health Department, reported application and fee needed to be filed; would also require an inspection. This is an old building and may require extensive renovations to update building, fire, plumbing, electrical and health codes. Officer King reported no public safety objection to the request as there is no change from the existing license.

Mr. Richards stated the applicant is applying for a change of ownership. The proposed hours of operation are: Monday - Saturday: 5 AM - 2 PM and Sunday: 5 AM – 2:30 PM. They are asking for 28 seats and will be serving breakfast, lunch and dinner.

Mr. Marino stated the inspectors would be willing to go forward; need to work with for future plans.

Mr. Gervasio stated he has been the chef at the Broad Street diner and also worked at the previous Braintree location. He would like to continue the business and offer families good food with a nice, clean atmosphere.

Mr. Richards noted the exhaust fan blows out onto the street and is loud. He asked that the conditions of the kitchen be upgraded for safety and the fan be replaced as well as the carpet.

Mr. Marino stated the inspectors should make a joint inspection for requirements.

Chairman Fryer announced the public hearing for comment; none.

Mr. Richards made a MOTION to approve the issuance of the Common Victualler license with the following conditions: kitchen update and carpets replaced and meeting satisfaction of the Building and Health Departments. Mr. Marino seconded. UNANIMOUSLY VOTED

APPLICATION OF WEYMOUTH GULF, LLC. FOR A CLASS II AUTO DEALER LICENSE, 237 MAIN ST.

Mr. Richards stated the applicant has applied for six vehicles for display on the right hand side of the location. He read the departmental referrals into the record: The Health Department, Daniel McCormack, reported no objection as the facility is in good standing with their department. The Municipal Finance Department, Paula MacLeod, reported taxes/utilities current. Officer King, Police Department, reported no public safety objection to the request for a six vehicle license.

Chairman Fryer announced the public hearing for comment; none.

Mr. Ezzat Habboub and Mr. George Kairouz, applicant, were present. Mr. Habboub stated he's been in the business for the past six years. Chevron has been owned for 12 years by Steve. They try to do their best to please the Town. He promised that it would not turn into a junk yard and it will be kept up.

Mr. Richards made a MOTION to approve a six vehicle Class II Auto Dealer License. Mr. Marino seconded. UNANIMOUSLY VOTED

APPROVALS CONTINUED

- Minutes: May 19, 2009

Mr. Richards made a MOTION of approval. Chief Leary seconded. SO VOTED (Mr. Marino abstained).

- Antique Dealer License: Annemarie Kelley d/b/a Bridge Antiques

Mrs. Annemarie Kelley was present before the Board for the approval.

Mr. Richards read the departmental referrals into the record.

Mr. Richards made a MOTION of approval. Mr. Marino seconded. UNANIMOUSLY VOTED

- Precious Metals License: Annemarie Kelley d/b/a Bridge Antiques

Mr. Richards made a MOTION of approval. Mr. Marino seconded. UNANIMOUSLY VOTED

LICENSE RENEWALS (EXPIRING JUNE 30TH)

- **Antique Dealers**

Officer King reported all license holders were found to be in compliance during a recent inspection.

Mr. Richards made a MOTION to approve all Antique Dealer license renewals. Chief Leary seconded. UNANIMOUSLY VOTED

- **Fortune Tellers**

Officer King reported all license holders were found to be in compliance at his inspection. Ms. Deanne McDonnell, 440 Washington Street, has decided not to renew.

Mr. Richards made a MOTION to approve all Fortune Teller license renewals. Chief Leary seconded. UNANIMOUSLY VOTED

- **Junk Dealers**

Officer King reported the license holders were found to be in compliance at the inspections.

Mr. Richards made a MOTION to approve the Junk Dealer license renewals. Chief Leary seconded. UNANIMOUSLY VOTED

- **Precious Metals**

Officer King reported all license holders were found to be in compliance at an inspection. C.D. Jewelry, 318 Washington Street, submitted a letter stating their business has closed.

Mr. Richards made a MOTION to approve the Precious Metals license renewals. Chief Leary seconded. UNANIMOUSLY VOTED

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. Richards made a MOTION to schedule a July meeting for July 28, 2009 at 2 PM. Chief Leary seconded. UNANIMOUSLY VOTED

Mr. Richards stated this was due to an application deadline.

Mr. Richards also made a MOTION to schedule a meeting for August 25, 2009 at 2 PM. Chief Leary seconded. UNANIMOUSLY VOTED

CORRESPONDENCE

- State Lottery Commission – Keno To Go License: The Wine Cellar, 791 Broad St.
- State Lottery Commission – Keno To Go License: Sand Trap, 327 Bridge St.

Mr. Richards made a MOTION to accept the request. Mr. Marino seconded. UNANIMOUSLY VOTED

NEW/OLD BUSINESS

- Bob Thomas RE: Papa John's Pizza, 850 Washington Street

Mr. Thomas requested to be scheduled on the next agenda to discuss his neighbor: Papa John's. This would be to ensure that the Order of Conditions is followed. He requested that the original neighborhood petition be attached to the license so that there are no future problems.

Mr. Richards stated complaints have been addressed by his department as well as the Police.

Mr. Thomas stated they have the right to quiet enjoyment. He sent an e-mail to the corporate office to get action.

Solicitor Lane stated the license is non-transferrable. A new application would require to be filed for each business. A written complaint may be submitted to be addressed with notice to licensee. If the matter has not been rectified a subsequent hearing would be in order.

Mr. Thomas replied he would appreciate the opportunity to discuss the matters in a relayed way and readdress the Order of Conditions. He noted that they weren't listed on the license.

Mr. Marino questioned if the requirements could be listed on the license (backside).

Solicitor Lane replied it would be in order for the Licensing Board to attach an addendum with conditions.

- Video Game Regulations Amendment

Mr. Richards made a MOTION to approve the amendment of the Video Game Regulations to add #12. "A video game may be swapped or changed for a different game than that listed on a license upon a written request to and the approval of the Licensing Board. Such approval will be made at a public meeting prior to modification; no public hearing is required. The number of machines shall remain the same as listed on the license and the game must meet limitations of section 9 of the Video Game Regulations." Chief Leary seconded. UNANIMOUSLY VOTED

Solicitor Lane recommended that the amendment is published in the newspaper.

Mr. Marino suggested the regulations be sent to all license holders.

Mr. Richards replied that they would be included with the license renewals in the fall.

- Liquor Violation Guidelines Amendment – Alcohol Awareness Program

Mr. Richards made a MOTION to amend the Liquor Violation Guidelines. Specifically, the last paragraph: "All liquor license holders are required to attend an alcohol awareness training seminar, which is conducted by the Town of Weymouth. The owner and manager of each licensed establishment will be required to attend the training seminar on a three year basis for certification. On the off years each establishment must send at least two employees, managers and/or servers to the training for certification. Failure to attend the required training could result in the non-renewal of the annual alcohol license." Chief Leary seconded. UNANIMOUSLY VOTED

Solicitor Lane once again recommended the public advertisement in a newspaper.

- Update – Colonial Bowl, 1055 Main St.

Solicitor Lane noted Mrs. Rose Driscoll, Assistant Treasurer/Collector, had notified the Board that Mrs. Lynne Burbine, Colonial Bowl, had entered into a payment agreement with the Town. Monthly payments are required and she is currently meeting payment obligations. He recommended that she be brought in for an update in August.

- Determination of Penalty Dates – Basta Bar & Grill, 1166 Washington St.

Mr. Richards stated Mr. Silvestro wasn't able to attend today. He referenced the Liquor Violation Guidelines in regards to the determination of suspension dates.

Solicitor Lane recommended that the decision be continued to the next meeting so that the license holder may be present.

Solicitor Lane stated the alleged incident of May 13, 2009 is pending for a hearing before the Board also.

Mr. Richards made a MOTION to schedule a hearing for their August 25, 2009 meeting. Acting Chief Carr seconded. UNANIMOUSLY VOTED

EXECUTIVE SESSION

Solicitor Lane stated there was no reason to convene in Executive Session.

ADJOURNMENT

Mr. Richards made a MOTION to adjourn at 3:35 PM. Chief Leary seconded. UNANIMOUSLY VOTED

Respectfully submitted,

Lisa VanWinkle,
Recording Secretary