

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, July 31, 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; 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 M.G.L. CHAPTER 138, SECTION 23 & 64, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC RESTAURANT LICENSE OF DANIEL'S TOWNLINE II, INC. D/B/A TOWNLINE II RESTAURANT & SPORTS BAR, 117 BRIDGE ST.

Mr. Daniel Hoyng, owner/manager, was present.

Solicitor Lane swore in all testifying parties. He also submitted the notice of the hearing into the record. He called Detective Robert Gervasi forward.

Det. Gervasi read his police report in to the record. "On Tuesday, May 22, 2007, while assigned to the Detective Bureau, Detective Perchard, Officer Fogarty, a 19 year old male operative and I conducted a compliance check on the liquor establishments in the town of Weymouth under the supervision of Lt. George Greenwood. On this date, at 1723 hours, Detective Perchard and I monitored the 19 year old male operative enter the Towline Restaurant and Sports Bar, located at 117 Bridge Street, via the front door. Detective Perchard followed the male operative into the bar a few seconds behind. The male operative ordered a Corona beer from the female bartender. The 19 year old male operative paid \$3.50 including a \$1 tip with department issued funds for the Corona beer. Upon completion of the transaction, the operative left the premises. He was not asked for an ID. Detective Perchard followed the operative into the bar and witnessed him being served without being asked for an ID. Approximately 15 minutes later, Lt. Greenwood, the operative and he returned to the Townline Restaurant and Sports Bar and spoke with the owner, Daniel Hoyng, outside the bar. Lt. Greenwood informed Mr. Hoyng that the operative was served alcohol without being ID by the female bartender. We went inside and confronted the female bartender, identified as Bridget Zawilinski, regarding serving the 19 year old. Ms. Zawilinski admitted, without hesitation, that she did in fact serve the operative. Lt. Greenwood informed Mr. Hoyng that the Licensing Board would be in contact."

Solicitor Lane submitted the police report into the record.

Mr. Hoyng admitted to the incident and stated it was accurate. He apologized and stated there was no excuse.

Mr. Richards made a MOTION of a finding that alcohol was sold to an underaged person on May 22, 2007 at the Townline Restaurant & Sports Bar. Chief Leary seconded. UNANIMOUSLY VOTED

Solicitor Lane stated this was their first offense and recommended a one-day suspension in accordance with the guidelines to commence on August 16, 2007.

Chief Thomas asked Mr. Hoyng for the status of the business as it had been closed the previous two weeks.

Mr. Hoyng stated he was married on July 12, 2007 and had been on his honeymoon. They plan to reopen this weekend or as soon as he rehires staff.

Chief Thomas questioned the status of the other location.

Mr. Hoyng replied it is being sold and will be scheduled for approval at the next meeting.

Mr. Richards made a MOTION for a one-day suspension of the All Alcoholic Restaurant license of Townline Restaurant & Sports Bar on August 16, 2007. Chief Leary seconded. UNANIMOUSLY VOTED

Chief Thomas stated as the location is currently closed, the decision should be held in abeyance until they reopen.

Solicitor Lane stated the owner will be called before the Board for another hearing if they do not reopen.

Mr. Marino and Mr. Richards agreed that a Certificate of Occupancy would be required for them to reopen.

Chief Thomas asked if they will have a new manager.

Mr. Hoyng replied he is the manager of record and will maintain full control of the alcohol portion of the business.

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 LICENSE OF F.D.N. INC. D/B/A YE OLDE BRICK GRILLE, 2 COMMERCIAL ST.

Mr. John McCarthy, Sr., was present.

Solicitor Lane swore in all testifying parties. He submitted the notice of the hearing into the record.

Det. Gervasi read his police report into the record. "On Tuesday, May 22, 2007....at approximately

1804 hours, Detective Perchard and I monitored Officer Fogarty and a 19 year old male operative enter the Ye Olde Brick Grille, located at 2 Commercial Street, via the rear door. At 1805 hours, Fogarty stated a female bartender in her 40's served them. Officer Fogarty stated they each ordered separately a Miller Light and Bud Light and were never asked for an ID. Approximately five minutes later, Lt. Greenwood, the operative and he returned to the Brick Grille and confronted the female bartender, identified as Maureen Simons. Lt. Greenwood asked the bartender if she sold alcohol to the 19 year old. Ms. Simons admitted that she did serve the male without requesting for his ID. Lt. Greenwood informed her that the Licensing Board would be in contact."

Mr. Richards made a MOTION for a finding of a violation by sale of alcohol to an underaged person. Chief Thomas seconded. UNANIMOUSLY VOTED

Solicitor Lane informed the Board that there is one prior violation on file by decision of the Alcoholic Beverages Control Commission for an incident which occurred on November 20, 2001. This resulted in the license suspension for a period of three days.

Chief Thomas stated the current incident should be treated as the second offense.

Mr. Richards asked Mr. McCarthy how long the employee was in his employ.

Mr. McCarthy replied five years. The bartender was not involved in the first incident. He tried to set an example by firing her, but brought her back. She is a good employee and won't do it again. He is confident she will card everyone from now on.

Mr. Marino felt the Board should take into consideration how they treated others in the past. Mr. Marino made a MOTION that the violation would result in a three day suspension. Mr. Richards seconded.

Chief Leary agreed with the motion and also agreed with Chief Thomas. He said in fairness to the operation with only two offenses in 15 years, this is not as bad as some.

Officer King reminded the Board the ABCC incident happened on a Tuesday night; it is not a busy night.

Mr. Marino made a MOTION for a three day suspension of the All Alcoholic Restaurant license to commence August 16, 2007. Chief Thomas seconded. 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 LICENSE OF FRESH TOMATO ENTERPRISES, INC. D/B/A ACAPULCO'S FAMILY MEXICAN RESTAURANT, 1073 MAIN ST.

Attorney Nicholas Felici, Mr. David Brambila, President, and Mr. Margarito Cervantes were present.

Solicitor Lane swore in all testifying parties. He submitted the notice of the hearing into the record. He called Det. Gervasi forward.

Det. Gervasi read his police report into the record.

“On this date, May 23, 2007, at approximately 1747 hours, Detective Perchard and I monitored Officer Fogarty and the 19 year old male operative enter the Acapulco Mexican Family Restaurant, located at 1073 Main street, via the front door. At 1852 hours, Officer Fogarty and the operative exited the same door. Officer Fogarty stated they were served by a tall, female bartender in her 20’s. Officer Fogarty stated they ordered a Bud Light and a Miller Light and were not asked for an ID. Approximately ten minutes later, Lt. Greenwood, the 19 year old male operative and I returned to Acapulco’s and spoke with the manager Margarito Cervantes and Katherline Romairo. Lt. Greenwood asked Mr. Romairo if she served the operative without requesting an ID. Mr. Romairo admitted she did in fact serve the 19 year old without asking for an ID. Lt. Greenwood informed Mr. Cervantes that the Licensing Board would be in contact.”

Solicitor Lane called Officer Fogarty forward.

Attorney Felici had no questions of Officer Fogarty.

Mr. Richards made a MOTION for a finding of a violation of the sale of alcohol to an underaged person. Chief Thomas seconded. UNANIMOUSLY VOTED

Solicitor Lane noted that it was their first offense.

Attorney Felici stated all servers have been recertified in TIPS. There is no question that she did miss this one on the night in question. They have an ID machine in place. He suggested a warning as this is their first offense.

Chief Thomas made a MOTION for the suspension of the All Alcoholic Restaurant license for one day on August 16, 2007. Chief Leary seconded. UNANIMOUSLY VOTED

Chief Leary stated for clarification there is no warning on the Liquor Violation Guidelines.

Officer King stated they may open to serve food only. If they do open they need to contact the Police Department and make sure the alcohol is covered or removed.

APPLICATION OF WEYMOUTH AUTOMOTIVE, INC. FOR A CLASS II AUTO DEALER LICENSE, 469 WASHINGTON ST.

Mr. Roger Succar, Manager, was present.

Mr. Richards stated the use of the premises for the retail sales of automobiles is permitted in the B-1 Zone in which it is located. The existing parking and repair facilities are adequate for the proposed three cars. Accordingly, the application conforms to the Town’s Building and Zoning Regulations,

and therefore, the requested Class II Auto Dealer's license may be granted. He read the departmental referrals into the record. The Health Department reported no objections. The Municipal Finance Department reported taxes as up-to-date. Officer King reported no public safety objection.

Mr. Succar stated he is purchasing Mr. Yazbeck's operation. It will be similar with three automobiles for sale. He already cleaned up the property and everything is in place necessary to operate the business.

Chairman Fryer announced the public hearing; no comment.

Mr. Richards made a MOTION to the approval of the Class II Auto Dealer license. Mr. Marino seconded. UNANIMOUSLY VOTED

APPLICATION OF JSS CHU, INC. D/B/A CATHAY CENTER FOR AN ALL ALCOHOLIC RESTAURANT LICENSE TRANSFER, 203-217 BRIDGE ST.

APPLICATION OF JSS CHU, INC. D/B/A CATHAY CENTER FOR A COMMON VICTUALLER LICENSE, 203-217 BRIDGE ST.

APPLICATION OF JSS CHU, INC. D/B/A CATHAY CENTER FOR A VIDEO GAME LICENSE, 203-217 BRIDGE ST.

APPLICATION OF JSS CHU, INC. D/B/A CATHAY CENTER FOR A JUKE BOX LICENSE, 203-217 BRIDGE ST.

APPLICATION OF JSS CHU, INC. D/B/A CATHAY CENTER FOR ANNUAL & SUNDAY ENTERTAINMENT LICENSES, 203-217 BRIDGE ST.

Attorney Rocco DiFazio, Ms. Susie Chu and Mr. Sam Chu were present.

Mr. Richards stated the new restaurant has been approved by the Board of Zoning Appeals case #2928, dated December 6, 2007 and the license may be granted. He also read the departmental referrals into the record. The Municipal Finance Department reported taxes as current. Lt. White, Fire Prevention Coordinator, reported fire alarm and sprinkler plans have been submitted and reviewed; approvals are subject to final inspection. Mr. David Kaplan, Inspector-Health Department, reported he has not reviewed plans or application. Officer King, Police Department, reported no public safety objection.

Attorney DiFazio stated the Cathay Center has been in business for 40 years. Ms. Susie Chu and Mr. Sam Chu bought the business from Mr. Kin Ping Chu, their father. The business will be the same as previously, operating out of a new building.

Mr. Richards noted there will no longer be an entrance from Bridge Street. There will be an interior function facility provided as well.

Chairman Fryer announced the public hearing; no comment.

Mr. Richards made a MOTION to approve the All Alcoholic Restaurant license transfer. Chief Leary seconded. UNANIMOUSLY VOTED

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

Mr. Richards made a MOTION to approve a Video Game license. Mr. Marino seconded. UNANIMOUSLY VOTED

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

Mr. Richards made a MOTION to approve Annual and Sunday Entertainment licenses. Chief Thomas seconded. UNANIMOUSLY VOTED

APPLICATION OF JANKORD, INC. D/B/A BOB'S MUFFIN SHOP FOR A COMMON VICTUALLER LICENSE, 17 UNION ST.

Mr. Vincent Jankord, President, was present.

Mr. Richards reported no public safety objection to the change of ownership. He read the departmental referrals into the record. The Municipal Finance Department reported no outstanding taxes. The Health Department wrote they will need appropriate code updates; have not received plans or application. Lt. White, reported grill/cooking area must have adequate coverage by fixed fire suppression; system installed in accordance with NFPA 17A and 96. Officer King reported no public safety objection.

Mr. Richards stated Councilor Michael Smart, District 6, submitted a letter on behalf of Jankord, Inc. which read he felt the business would be an excellent addition for the patrons of Columbian Square.

Mr. Jankord noted that he is purchasing the existing business. He wishes to change the hours of operation to close at 11 PM. They will offer Brigham's Ice Cream. He will clean up the interior with minor cosmetic changes.

Chairman Fryer announced the public hearing; no comment.

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

APPLICATION OF BANJO'S II, LLC D/B/A BANJO'S II FOR A COMMON VICUTALLER LICENSE, 655 BRIDGE ST.

Mr. William Martin, President, was present.

Mr. Richards stated the use of the premises as a restaurant is permitted in the B-1 Zone in which it is located. Parking provided is adequate for the 72 seat capacity set on the most recent Certificate of Inspection which expired 12/31/06. Therefore, the proposal conforms to the requirements of the Town's Zoning Ordinance for a 72 seat restaurant and may be granted. He read the departmental referrals into the record. Lt. White reported all emergency lighting and exit lighting must be operational; all extinguishers and fixed fire suppression system must provide adequate coverage for the cooking area. The Municipal Finance Department reported taxes are up to date. Officer King reported no public safety objection to the request. However, application should be made aware that the volume on the drive-thru speaker must be kept down so as not to disturb the residents who are to the rear of the business. Mr. Marino, Director of Health, reported preliminary inspection needed prior to issuance. Food service permit application has been completed. Health Department needs food safety certification for all shift managers.

Mr. Richards read into the record and letter from Julie McCallum, 20 Fuller Road, which was in protest to the license, as she will be able to hear noise from the establishment until 12 AM. She asked that the fence is fixed as it is dilapidated.

Chairman Fryer announced the public hearing for comment.

Mr. Powers stated he had no objection as long as they are not open after 11 PM and keep the parking lot quiet.

Mr. Bill Martin, owner, stated this is his second location, the first being in Brockton. They will be serving home cooked food. The property is being cleaned up and the fence will be addressed.

Ms. Lorraine McCallum, 20 Fuller Road, asked that the speaker volume remain at a reasonable level.

Mr. Martin replied he understands the term "quiet enjoyment".

Officer King stated in the past the speaker was angled to deflect some of the noise.

Mr. Marino asked that the neighbors address the business if there is a problem. They may also contact his office regarding outstanding issues.

Mr. Martin noted the hours of operation would be from 6 AM – 12 AM for the restaurant and 6 AM – 11 PM for the drive-thru. They have a family-style menu.

Chief Leary stated all fire protection issues reported by Lt. White need to be addressed. He asked if there was any potential for entertainment as the establishment's name is "Banjos".

Mr. Martin replied no. They are serving American food and he thought it was the ultimate American name.

Mrs. Sandy Gildea, North Weymouth Civic Association, spoke inquiring if there would be a future request for alcohol.

Mr. Martin replied no.

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

APPLICATION OF CURTIS LIQUOR STORES, INC. D/B/A CURTIS LIQUORS FOR ALTERATIONS TO THE LICENSED PREMISES (ALL ALCOHOLIC PACKAGE STORE), 474-484 COLUMBIAN ST.

Mr. Rick Curtis, President, was present.

Mr. Richards reported no objection to the change. He also read the departmental referrals into the record. The Municipal Finance Department reported taxes up-to-date. The Health Department reported no objections. Lt. White reported alarm system must have scheduled testing. New space alarm and sprinkler; system plans must be submitted for approval; all means of egress must be kept free and clear of all storage. Officer King reported no public safety objection to the proposed alterations.

Mr. Curtis stated the owners of Dusty Corners will be closing their business, as they are retiring after sixteen years. He is taking over the space for storage. 800 square feet will be leased to a computer business and the remaining separated space will be used for storage.

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

APPLICATION OF KWAN SANG NG D/B/A YAN'S KITCHEN RESTAURANT FOR A COMMON VICTUALLER LICENSE, 1025 MAIN ST.

Ms. Andrea Kor was present representing Mr. Kwan Sang Ng.

Mr. Richards reported no public safety objection to the request. He also read the departmental referrals into the record. Lt. White reported they must have current inspection tags on all fire suppression equipment and extinguishers; exhaust hood must be cleaned frequently. The Municipal Finance Department reported personal property taxes outstanding. The Health Department reported no contact with the applicant. Officer King reported no public safety objection.

Ms. Kor stated her clients are applying for a change of ownership. The business will remain as the same operation.

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

APPLICATION OF HIGH COUNTRY INVESTOR, INC. D/B/A HILLTOP BUTCHER SHOP & MARKETPLACE FOR A FOOD VENDOR LICENSE, 106-116 MAIN ST.

Mr. Denis January, President, and Mr. Greg Hay, Manager, were present.

Mr. Richards reported no objection to the license. The Municipal Finance Department reported taxes as up-to-date; outstanding water bill. The Health Department reported they need application, plans, certifications and fee. Officer King reported no public safety objection.

Mr. January informed the Board they sold their Braintree, MA location to Toyota – Mr. Tufankjian. He stated Mr. Hay was the General Manager of the Braintree location for 15 years. They are looking to open a marketplace with meat, produce, bakery and deli. The meat will be 65% of the business.

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

APPROVALS

- Minutes: June 12, 2007

Solicitor Lane asked for the minutes to be tabled for further review.

Mr. Richards made a MOTION to table the minutes of June 12, 2007. Mr. Marino seconded. SO VOTED (4-1 Chief Leary abstained)

- Keno Application: Townline II Restaurant & Sports Bar, 117 Bridge St.

Chief Thomas noted his concern as the business has been closed.

Solicitor Lane asked that the Lottery Commission is notified of the Board's decision to hold a hearing at their next meeting to discuss the Keno Application.

- One-Day Auctioneer License: D.F. Mahaney

Mr. Richards made a MOTION to approve a One-Day Auctioneer License for D.F. Mahaney for a real estate auction to be held on August 25, 2007 at 118 Ralston Road, Weymouth, MA.

Mr. Marino seconded. UNANIMOUSLY VOTED

CORRESPONDENCE

- Notice of Appeal: Foodmaster Super Markets, Inc., 35 Pleasant St.

Solicitor Lane noted the appeal has been scheduled for a hearing before the Alcoholic Beverages Control Commission (ABCC) on August 29, 2007 at 9:30 AM. This will be a de novo hearing.

- Rescinded License Suspension in Lieu of Fine: Tabasco Bar & Grill, 1166 Washington St.

Mr. Richards stated the information will be placed on file.

- Surrender of Video Game License: Qwerty, 532 Pond St.

Solicitor Lane asked that the license holder is sent correspondence notifying them the license should be mailed to the office. It would be scheduled on a future agenda for an official vote of the Board to be surrendered.

- Status of Wine & Malt Package Store License: Lee's Beer & Wine, 1614 Main St.

Mr. Richards stated the licensee submitted a letter notifying the Board they are in the process of selling the business due to financial constraints.

- Officer King: Change of Hours – Liquor Establishments

Officer King stated there are a list of license holders who are not remaining open for business during the hours of operation of which were approved by the Board. This is a modification of the license and any change of hours need approval of the Board during a public hearing.

Mr. Richards made a MOTION for letters to be mailed to all alcohol license holders asking for them to comply with their hours of operation. It should also inform them that any changes would need approval of the Board.

- Officer King: Closing – Cannolis, 920 Washington St.

Mr. Richards stated the letter will be placed on file as the establishment has reopened.

- Officer King: Closing – Townline II Restaurant & Sports Bar, 117 Bridge St.

Mr. Richards read the correspondence stating the business had been closed for three weeks. The correspondence will be placed on file.

- Officer King: Closing – Townline Pizza & Subs, 1690 Main St.

Mr. Richards read the correspondence stating the business had been closed. The business is in the process of being sold. It will be scheduled on a future agenda for approval.

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. Richards made a MOTION to schedule the next meeting as Tuesday, August 28, 2007 at 2 PM. Chief Leary seconded. UNANIMOUSLY VOTED

Mr. Richards made a MOTION to schedule the September meeting as Tuesday, September 25, 2007 at 2 PM. Chief Leary seconded. UNANIMOUSLY VOTED

NEW/OLD BUSINESS

- Alleged Violations of Basta Bar & Grill, 1166 Washington St.

Chief Thomas stated there are several incidents to be scheduled for hearings before the Board.

Mr. Richards made a MOTION to schedule the hearings for the agenda of September 25, 2007 at 2 PM.

- Results of Liquor Compliance Operation (eating establishments) – Weymouth Police

Chief Thomas stated Tio Juan's Margaritas Mexican Restaurant, 765 Bridge Street, sold alcohol to the underaged operative during the recent police compliance operation.

ADJOURNMENT

Mr. Richards made a MOTION to adjourn the meeting at 3:55 PM. Mr. Marino seconded. UNANIMOUSLY VOTED

Respectfully submitted by Lisa VanWinkle, Recording Secretary