

Minutes of the Board of License Commissioners for their meeting held on Tuesday, August 24, 2004, 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; Richard Marino, Director of Public Health; Police Chief James Thomas; Town Solicitor George E. Lane, Jr. and Lisa VanWinkle, Secretary

Chairman Fryer called the meeting to order at 2 PM.

**APPLICATION OF TWELVE BEN'S II, INC. D/B/A TWELVE BEN'S II FOR AN ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE TRANSFER AT 1166 WASHINGTON ST.**

Attorney Anthony Matera, Mr. Gabriel Mannion, President of Twelve Ben's II, Inc., and Mr. Michael Mannion, Manager, were present.

Mr. Richards read the departmental reports into the record. The Municipal Finance Department reported taxes as current. The Health Department reported no objections. The Police Department reported no public safety objection to the requested change of ownership from individual to corporation. Mr. Richards, Inspector of Buildings, reported no objection; tires in the parking lot need to be removed.

Attorney Matera stated the application is for a change of ownership as a result of an audit of the Alcoholic Beverages Control Commission (A.B.C.C.). They were concerned the previous license holder was still involved with the business. The ownership is currently under the sole proprietorship of Mr. Gabriel Mannion and will be transferred to the corporation of Twelve Ben's II Inc. of which Mr. Mannion is the President. They are also applying for a change of manager to Mr. Mannion's son Michael Mannion.

Mr. Richards made a motion to approve the application with the condition that the tires are removed from the property within thirty days. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF TWELVE BEN'S II, INC. D/B/A TWELVE BEN'S II FOR AN ANNUAL ENTERTAINMENT LICENSE AT 1166 WASHINGTON ST.**

Mr. Richards made a motion to approve the Annual Entertainment license. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF TWELVE BEN'S II, INC. D/B/A TWELVE BEN'S II FOR A POOL TABLE LICENSE, 1166 WASHINGTON ST.**

Mr. Richards made a motion to approve the Pool Table license. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF TWELVE BEN'S II, INC. D/B/A TWELVE BEN'S II FOR A JUKE BOX LICENSE, 1166 WASHINGTON ST.**

Mr. Richards made a motion to approve the Juke Box license. Chief Leary seconded.

UNANIMOUSLY VOTED

**APPLICATION OF TWELVE BEN'S II, INC. D/B/A TWELVE BEN'S II FOR A SUNDAY ENTERTAINMENT LICENSE, 1166 WASHINGTON ST.**

Mr. Richards made a motion to approve the Sunday Entertainment license. Chief Leary seconded.

UNANIMOUSLY VOTED

**REVIEW OF THE ISSUANCE OF THE ANNUAL ENTERTAINMENT LICENSE OF MAURA INC. D/B/A NEXT PAGE CAFÉ, 550 BROAD ST.**

Mr. Richards motioned to table the item until Chief Thomas arrived. Mr. Marino seconded.

UNANIMOUSLY VOTED

**APPLICATION OF ANASIA, LLC D/B/A GRILL ON THE POND FOR AN ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE TRANSFER AT 920 WASHINGTON ST.**

Attorney Joseph Phelan, Mr. Michael Munichello, President of Mumi, Inc. and Mr. David Conditto, President of Anasia, LLC were present.

Mr. Richards read the departmental referrals into the record. The Municipal Finance Department reported FY05 real estate taxes up to date and water and sewer are due. The Health Department reported an inspection was conducted on August 11, 2004. Several violations were recorded: defective tile kitchen flooring; kitchen standing water; fly problem. Original inspection report can be made available. Defective exterior stairs and railing, etc. Application/fees/credentials required. Reinspection scheduled for August 25, 2004. Licensing Officer King reported no public safety objection. Mr. Richards, Inspector of Buildings, reported the use of the premises as a restaurant is an existing non-conforming use in this location as the Zoning Bylaw currently requires a special permit for this use in the HT Zone. The forty-five car parking lot met the zoning requirements at the time it was established for a maximum capacity of 135 seats. However, it is now non-conforming. Therefore, any increase in seating capacity would require approval from the Board of Zoning Appeals. Accordingly, provided that there is no change in seating capacity or parking lot arrangement, the request conforms to the applicable requirements of the Town's Zoning and Building regulations and the license may be granted.

Chief Thomas arrived at 2:10 PM.

Attorney Phelan stated Mr. Conditto and his wife own the corporation 50/50. Mr. Conditto is the President of Anasia LLC and the proposed manager of the establishment. They do not propose any operational changes. Their son-in-law will be the chef and they intend to provide a family orientated establishment. All family members are TIPS trained and will be serve-safe certified as required by the Board of Health.

Chairman Fryer asked if Mr. Conditto had been in the restaurant business previously.

Attorney Phelan replied no, his son-in-law and wife have.

Chairman Fryer confirmed that they wish to keep the same D/B/A name.

Mr. Marino made a motion to approve the transfer of the All Alcoholic Restaurant/Common Victualler license. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF ANASIA, LLC D/B/A GRILL ON THE POND TO PLEDGE THE ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE AND INVENTORY AT THE LOCATION OF 920 WASHINGTON ST.**

Mr. Richards made a motion to approve the pledge of the license and inventory. Mr. Marino seconded.

Mr. Marino questioned whether bonding on surety was required.

Counsel confirmed that it was not.

Chairman Fryer stated there was a motion on the table; all in favor. UNANIMOUSLY VOTED

**APPLICATION OF ANASIA, LLC D/B/A GRILL ON THE POND FOR AN ANNUAL ENTERTAINMENT LICENSE AT 920 WASHINGTON ST.**

Mr. Richards questioned what type of entertainment was proposed.

Attorney Phelan replied live musicians.

Mr. Richards made the applicant aware that there have been neighboring concerns about noise from the establishment projecting across the pond.

Chief Leary unreasonable noise will not be tolerated or loitering by the patrons within the parking lot.

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

**APPLICATION OF ANASIA, LLC D/B/A GRILL ON THE POND FOR A JUKE BOX LICENSE, 920 WASHINGTON ST.**

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

**APPLICATION OF ANASIA, LLC D/B/A GRILL ON THE POND FOR A SUNDAY ENTERTAINMENT LICENSE, 920 WASHINGTON ST.**

Mr. Richards asked for an explanation of their intent for the usage of the license.

Attorney Phelan replied it would be the same as the Annual Entertainment license; live musicians.

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

**APPLICATION OF WASHINGTON STREET LIQUOR MART, INC. D/B/A  
WASHINGTON STREET LIQUORS, 21 WASHINGTON STREET, TO INCREASE THEIR  
OPERATIONAL HOURS TO BE ABLE TO OPEN FOR BUSINESS ON SUNDAYS**

Mr. Richards stated the license holder wishes to be able to open for business on Sundays from 12 PM to 6 PM. The previous licensee did not do business on Sundays.

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

**REVIEW OF THE ISSUANCE OF THE ANNUAL ENTERTAINMENT LICENSE OF  
MAURA INC. D/B/A NEXT PAGE CAFÉ, 550 BROAD ST.**

Mr. Edward Page, President of Maura, Inc., Mrs. Maura Page and Attorney Robert Harnais were present.

Mr. Richards read the departmental reports into the record. The Municipal Finance Department reported FY02 real estate in collection with the Deputy Collector. FY05 personal property taxes due on August 1<sup>st</sup> for \$81.49. FY05 real estate taxes due on August 1<sup>st</sup> for \$1,378.23. The Health Department reported no objections. Licensing Officer King reported there have been a number of calls to the Police Department for noise; in one instance twice in one night. (He provided a copy of a list of calls made regarding the establishment from the past six months.) The efforts that the applicant has made to soundproof do not seem to be adequate. They did not replace the windows; unable to determine if the walls were soundproofed as promised.

Attorney Harnais stated they were before the Board on December 2, 2004 applying for an Annual Entertainment license at which time the Board granted the license for a trial period with certain conditions. They are under the understanding that numerous calls have been made to the Police Department. The majority of the complaints have not been substantiated; during two incidents they were told to turn down the volume by the police. The Pages are running a family restaurant and are asking that the Annual Entertainment license is granted on a full time basis.

Chairman Fryer stated when the application came before the Board they all sat down. The neighbors had some concerns which were addressed. Therefore, the Board granted the license for a trial period with certain conditions. They recently received a letter from the Crawfords with several concerns. He presented the letter for the record.

Attorney Harnais stated his clients are complying as best they can. The only way to satisfy the neighbors would be to close the business. There has been no excessive noise; only two incidents reported.

Chairman Fryer stated the neighbors have been dealing with this for a long time not just the current license holder but the previous owner as well.

Attorney Harnais stated at the last meeting the neighbors were encouraged to contact the Pages with any concern, but they instead contacted the Police.

Mr. Richards mentioned the report submitted from Licensing Officer King, documenting calls on the restaurant.

Attorney Harnais requested any documentation relating to those calls. Only two of those calls resulted in them asking for the volume to be minimized.

Chief Thomas stated once the police arrive in response to a call word gets out and things quiet down quick. The noise may have been alleviated.

Mr. Crawford, neighbor, stated they have no problem with the music as long as it is kept within reasonable limits. The music seems to get louder as the night goes on. By 11 PM – 12 AM it is at an unreasonable level. He also mentioned about the deck off the rear of the property, where patrons are able to smoke. At past meetings they were told to sound proof the building, keep the noise within reasonable limits and keep the dumpster closed. Other families are impacted by the license as well. No stationery windows were installed nor insulation. He mentioned that the Pages have stated that they have a personal relationship with Chief Thomas.

Attorney Harnais replied that plexiglass was installed. He stated at the previous meeting the neighbors were told there should be a line of communication between them. They were encouraged to call the Pages first and then if there was no improvement to call the Police.

Mr. Crawford stated he would call the Police if the noise was not within a reasonable limit. He did speak with the owner asking for them to keep the dumpster closed.

Mr. Page noted that when the dumpster company empties the dumpster they push the dumpster too close to the fence and the door does not stay closed as a result.

Mr. Marino informed Mr. Page it is within his right to insist on closing doors if the dumpster company does not comply, pursue services through another company.

Attorney Harnais stated the dumpster doors could be kept locked.

Chief Thomas questioned if there was a remedy to the situation through a town bylaw in relation to the decibel level of the noise. He also stated that he is on the Board as a public official and during the times he has dealt with the Pages it has been strictly professional.

Chief Leary stated the dumpster issue needs to be rectified.

Solicitor Lane questioned if the soundproofing conditions had been met.

Mr. Page stated that plexiglass had been installed over the windows, insulation was installed and curtains were hung. He also mentioned carpeting was installed on the walls as a sound barrier.

Chief Leary replied rugs are not meant to be hung vertically and stated that it is a fire hazard. He asked if the entire building had been insulated.

Mr. Page replied that the new addition had been.

Mr. Crawford requested that the entertainment is limited until 12 AM.

Mr. Page replied that it would create a financial hardship.

Attorney Harnais added that the cost associated with bringing in a better clientele has created a financial hardship for the Pages. If they limit the hours they will lose patrons and will be in a more difficult situation financially.

Chairman Fryer stated they need to find a happy medium and asked for the Board's decision on the matter.

Chief Thomas made a motion to continue the trial period of the entertainment license for another three months to investigate the entire situation. Mr. Richards seconded.

Chief Thomas stated he would like to hear from the other neighbors as well about the situation.

Officer King suggested that the trial period be continued for two months, since three would coincide with license renewal time.

Mr. Marino mentioned that Radio Shack sells decibel meters. He informed Mr. Crawford that they may contact the Board of Health with concerns in regards to the dumpster; everything should be documented.

Mr. Marino made an amended motion to continue the trial permit for two months. Mr. Richards seconded. UNANIMOUSLY VOTED

**APPLICATION OF GRANITE PACKAGE STORE OF WEYMOUTH, INC. D/B/A  
GRANITE PACKAGE STORE FOR A CHANGE OF LOCATION FROM 616 MIDDLE  
STREET TO 622 MIDDLE STREET**

Mr. Michael Pipp, President of Granite Package Store of Weymouth, Inc. was present.

Mr. Richards read the departmental referrals into the record. The Health Department reported no

objection. The Municipal Finance Department reported taxes current. Officer King, Police Department, reported no public safety objection to the change of location.

Mr. Pipp stated he filed an application for the change of location of their package store. Deluca Associates is renovating the plaza they are located in and they are moving one door down from 616 Middle Street to 622 Middle Street. They also applied for building and occupancy permits; Health Department permits have been applied for as well.

Mr. Richards made a motion of approval. Chief Leary seconded.

Chief Leary stated the changes should be in accordance with new fire sprinkler system regulations.

Chairman Fryer stated a motion is before the body; all in favor? UNANIMOUSLY VOTED

## **APPROVALS**

- Minutes: 7/20/04

Solicitor Lane noted a few cosmetic changes.

Mr. Marino motioned to approve the minutes as amended. Mr. Richards seconded.  
UNANIMOUSLY VOTED

- One-Day Liquor Permit: Weymouth High School Strength & Conditioning, Inc.

Mr. Richards noted the event was scheduled for January 1, 2005 to be held at the Wessagussett Beach for a fundraiser.

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

- One-Day Entertainment Permit: Weymouth High School Strength & Conditioning Inc.

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

- One-Day Food Vendor Permit: Weymouth High School Strength & Conditioning, Inc.

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

Mr. Richards stated the applicant will be responsible to consult with the Health Department regarding applicable food regulations.

Chief Leary stated if propane heating is going to be used, they would need to apply for a permit through the Fire Department as well.

## **CHAIRMAN'S REPORT**

- Meeting schedule

Mr. Richards motioned to schedule the next meeting for Tuesday, September 28, 2004 at 2 PM. Chief Thomas seconded. UNANIMOUSLY VOTED

### **CORRESPONDENCE**

- Withdrawal of Appeals by J.L.2 Nguyen Inc. d/b/a John's Liquors 2

Officer King stated that they were serving the sentence of the suspension of their All Alcoholic Package Store license for forty-four days.

### **OLD BUSINESS**

Solicitor Lane stated the administrative appeal by Applebee's Neighborhood Grill & Bar of a decision of the Board to suspend their license has been at the Superior Court level and was finally argued on August 17, 2004. They await a decision.

Chief Leary stated Governor Romney signed a new bill on August 17, 2004 toughening regulations pertaining to fire sprinkler systems. There will be a three year phase in period.

### **ADJOURNMENT**

Mr. Richards motioned to adjourn the meeting at 3:20 PM. Chief Leary seconded. UNANIMOUSLY VOTED

Respectfully submitted,

Lisa VanWinkle, Recording Secretary