

Minutes of the Board of Licensing Commissioners for their meeting held on Tuesday, October 20, 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; Police Chief Richard Grimes; Richard Marino, Director of Health; Town Solicitor George E. Lane, Jr., Lisa VanWinkle, Secretary; Licensing Officer Brian King and Fire Fighter Justin Myers

Chairman Fryer called the meeting to order at 2 PM. He introduced Richard Grimes as the newly appointed Chief of Police and wished him well.

APPLICATION OF **BAILEY'S PACKAGE STORE, INC.** FOR A CHANGE OF MANAGER ON THEIR ALL ALCOHOLIC PACKAGE STORE LICENSE, 74 PLEASANT ST.

Attorney Robert Looney, Geogan & Geogan, was present representing Bailey's. He stated the application was for the approval of the change of manager from Mr. Zanghi to Mr. William Kehlbeck.

Mr. Richards stated he had no building or zoning concerns. He continued to read the departmental referrals into the record. The Municipal Finance Department reported no delinquent taxes/utilities. Mr. David Kaplan, Health Inspector, reported no objections; routine inspection was satisfactory. Firefighter Myers reported no violations were found at an October 13th inspection. Officer King reported no public safety concerns.

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

APPLICATION OF **DONNA KING D/B/A DONNA'S BAKERY/COFFEE SHOP** FOR A COMMON VICTUALLER LICENSE, 119 MAIN ST.

Mr. Richards stated the use of the premises as a restaurant is permitted in the B-1 Zone in which it is located. The proposed 18 seat capacity is the same as the former occupant, and therefore, the parking is adequate per subsection 120-69 of the Town's Zoning ordinances. Accordingly, the license request conforms to all applicable requirements of the Town's Zoning and Building regulations and may be granted. He continued to read the departmental referrals into the record. The Municipal Finance Department reported delinquent Personal Property taxes for Grill Eighteen. Mrs. Mary Williamson, Health Inspector, reported she spoke with the applicant and they are aware of the licensing requirements; no objection. Firefighter Myers reported an inspection is required prior to issuance of the Certificate of Occupancy. Officer King reported no public safety objection.

Ms. Donna King introduced herself as the applicant. She stated she plans on opening a bakery café, selling coffee and fresh baked goods.

Mr. Richards stated the proposed hours of operation are: 5:30 AM – 10 PM with 10 seats.

Mr. Marino stated the prior licensee had issues with the air conditioning not properly working.

Ms. King replied that it had been fixed.

Chairman Fryer announced the public hearing for comment; none.

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

APPLICATION OF **DLT, LLC D/B/A STOP & SAVE** FOR A FOOD VENDOR LICENSE, 69 BROAD ST. (Continued from 9/22/09)

Ms. Hajuri Singh, owner, was present.

Mr. Richards reported no issues with the change of ownership on the Building Department standpoint. He continued to read the departmental referrals into the record. Mrs. Williamson, Health Inspector, reported an inspection conducted on September 18, 2009, revealed violations in both restrooms; must be repaired prior to new owner/management takeover. Application necessary and fees must be paid, etc. Officer King reported no public safety objection. The Municipal Finance Department reported outstanding Personal Property taxes assessed to Syed Kamal; as well as Real Estate taxes and utilities to Naeem Kalid.

Ms. Singh introduced herself, stating she was applying to become the new owner of the store. All operations will remain the same.

Chairman Fryer announced the public hearing for comment; none.

Mr. Richards made a MOTION of approval pending the payment of outstanding taxes and plumbing fixed with the issuance of the Certificate of Occupancy. Chief Grimes seconded. UNANIMOUSLY VOTED

PURSUANT TO M.G.L. CHAPTER 138, SECTION 64, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC RESTAURANT LICENSE OF **WAH LI FAI CORP. D/B/A GOURMET ORIENTAL RESTAURANT**, 625 WASHINGTON ST. (Incidents of 9/11/09)

Solicitor Lane swore in all testifying parties for the liquor violation hearing.

Attorney Tom Barron was present representing Mr. Aldy Chi Fai Lam and Wah Li Fai Corporation. Attorney Barron stated his client purchased the restaurant back in 2000 and understands what they are being charged for.

Solicitor Lane stated he and Attorney Barron had not met prior to the hearing; therefore, there was no agreed upon disposition. He called the first witness forward—Officer Marc Trudeau.

Officer Marc Trudeau introduced himself as a police officer who has been employed by the Town of Weymouth for 23 years. He was on the 12 AM – 8 AM shift during the night of the incident—

September 11, 2009. He gave testimony of the incident which involved an under aged person, Michael Durant. This occurred at the Gourmet Oriental Restaurant at which time Mr. Durant was allegedly over served alcohol as an under aged person.

Solicitor Lane submitted Officer Trudeau's police report into the record with Attorney Barron's consent.

After questioning by Attorney Barron, Officer Stephen Murphy was called forward for his testimony of the incident. Officer Murphy introduced himself as a police officer of the Town of Weymouth who was dispatched to the scene at 12:48 AM night in question. He recalled the details of the occurrence. After a review of the Officer's testimony, Solicitor Lane submitted the arrest report into the record.

After questioning by Attorney Barron, Lieutenant Thomas Farrell, employed by the Town of Weymouth for 23 years, was called forward for his testimony on the incident. Solicitor Lane reviewed the testimony and submitted the pertinent police report into the record.

Attorney Barron had Mr. Aldy Chi Fai Lam, owner, testify, who acknowledged that he was the manager and has been TIPs trained. He stated they have a policy to id their customers, asking for a Massachusetts driver's license.

Attorney Barron stated the incident was a very distasteful matter. They are charged with two violations: service to a minor and service to an intoxicated person. He noted that there was no testimony as to whether the minor was asked for an id. The manager confirmed that their policy is to check for a Massachusetts driver's license. Attorney Barron also noted that the receipts show multiple drinks being purchased, but they may have been bought for multiple persons in the party (2 couples). He also noted there was a time lapse between the receipt and when the arrest was made.

Solicitor Lane stated the reports of the police officers were submitted into the record in regards to the incident; testimony and evidence was also presented. The officers interviewed witnesses who identified the under aged person as Michael Durant. The booking agent Lt. Farrell, an experienced and seasoned officer, determined Mr. Durant was heavily intoxicated at the time of booking. He asked for a finding of the Board for two separate counts: service to an under aged person and service to an intoxicated person.

Mr. Marino asked Mr. Aldy Chi Fai Lam for the difference between a Mai Tai and a Scorpion Bowl.

Mr. Aldy Chi Fai Lam replied they contain the same amount of alcohol 1 ½ oz of alcohol (65%-80% proof of rum).

Mr. Marino also questioned the time difference within the dispatch of police and the time printed on the receipt.

Chief Grimes replied the difference was the fact that the receipt was a reprint receipt from

when the police went back to the bar as a follow up. He stated a couple of things concerned him: the service to an under aged person and to an intoxicated person. The testimony of years of service between all of the police officers reflects the observation of Mr. Durant as being heavily intoxicated. The timeline that Attorney Barron is trying to portray is inaccurate. In regards to the policy of Gourmet Oriental asking patrons for Mass ids, the employee of the restaurant is not present to testify.

Attorney Barron stated the employee would have been present today if available.

Chief Leary made a MOTION based on the receipt of the credit card charged to Mr. Durant for a finding of alcohol being purchased by an under aged person at the Gourmet Oriental Restaurant on September 11, 2009. Mr. Marino seconded. UNANIMOUSLY VOTED

Chief Leary made a subsequent MOTION judging by the testimony of the Weymouth Police Officers that service to an intoxicated person did occur at the Gourmet Oriental Restaurant on September 11, 2009. Mr. Marino seconded. UNANIMOUSLY VOTED

Solicitor Lane stated a first offense occurred at the restaurant on May 1, 2006, at which time a one day suspension was assessed and served. In accordance with the Liquor Violation Guidelines of the Board a second offense allows for a 3 to 6 day license suspension.

Attorney Barron respectfully requested that the violation be considered as a first offense.

Chief Leary stated because the incident is the second offense and two violations occurred at the same time that it be treated as such. Chief Leary made a MOTION for a five day suspension as a second offense. Chief Grimes seconded. UNANIMOUSLY VOTED

Solicitor Lane stated the alcohol license suspension shall be for the following dates: Thursday, November 5, 2009 to Monday, November 9, 2009. They are permitted to serve food with their Common Victualler license during such time.

DISCUSSION TO CONSIDER THE SUSPENSION, REVOCATION OR CANCELLATION OF THE COMMON VICTUALLER LICENSE OF PATRICIA DOYLE D/B/A GRILL EIGHTEEN, 119 MAIN ST.

Mr. Richards stated a notice of eviction was received from the landlord. Everything was removed from the premises and it is vacant.

Mr. Richards made a MOTION to revoke the Common Victualler license of Patricia Doyle d/b/a Grille Eighteen at 119 Main Street. Chief Leary seconded. UNANIMOUSLY VOTED

APPROVALS

- Minutes: September 22, 2009

Mr. Richards made a MOTION to approve the September 22, 2009 meeting minutes as submitted. Chief Leary seconded. UNANIMOUSLY VOTED

- One-Day Wine & Malt Permits: Sacred Heart Parish, 55 Commercial St.

Mr. Richards made a MOTION to approve a One-Day Wine & Malt Permit for an event at Sacred Heart Parish on November 7, 2009 from 5 PM – 11 PM. Chief Grimes seconded. UNANIMOUSLY VOTED

Mr. Richards made a MOTION to approve a One-Day Wine & Malt Permit for a second event to be held on November 5, 2009 from 6 PM – 11 PM. Chief Leary seconded. UNANIMOUSLY VOTED

- One-Day Wine & Malt Permit: Immaculate Conception Parish, 1199 Commercial St.

Mr. Richards made a MOTION of approval for a One-Day Wine & Malt Permit for an event to be held at Immaculate Conception Parish on November 14, 2009 from 5 PM – 9 PM. Chief Leary seconded. UNANIMOUSLY VOTED

CHAIRMAN'S REPORT

- Meeting Schedule

Mr. Richards stated the next meeting date has been set for November 24, 2009.

- Set December Meeting Date

Mr. Richards made a MOTION to set the December meeting date for Tuesday, December 22, 2009 to be held at 2 PM. Chief Leary seconded. UNANIMOUSLY VOTED

- License Renewals to be sent out 1st week of November
- Annual Alcohol Awareness Training – dates to be determined for servers/sellers

CORRESPONDENCE

None

NEW/OLD BUSINESS

- Officer King – Recap of ABCC Regional Seminar

Officer King informed the Board that the seminar was mainly about Worker's Compensation compliance and One-Day Liquor Permits. He stated the holder of a One-Day Liquor Permit is required to purchase alcohol from a licensed distributor per Massachusetts General Law. He also

noted when the event is over the alcohol needs to be properly disposed of.

- Basta Bar & Grill – Concerns of Residents

Mr. Richards stated a document was distributed to the Board listing police incidents relating to Basta Bar & Grill, 1166 Washington Street. The neighbors have continuing concerns regarding the noise emanating from the business while entertainment is in session. He suggested for the document to be reviewed and for the licensee to be brought in for a hearing at the beginning of the new year.

Mr. Marino stated he felt a hearing should be held as the report (1/8" thick) documents incidents which should be addressed. Action should be taken regarding the Annual Entertainment license.

Solicitor Lane reminded that there was a past hearing under MGL Chapter 140 on the Annual Entertainment license. The provision speaks to the endangering of the welfare of the community. The Building Inspector brought up there was some effort to sound proof the building. There is a new situation where the entertainment is causing noise. He suggested that the neighbors reduce their comments to affidavits to be submitted at the hearing.

Mr. Richards said if they had the owner in they could discuss ways that it could be remedied. An Engineer made recommendations in the past that were completed.

Mr. Marino said this is beyond the point of reasonableness. They should consider an action that deals with the entertainment license. The Police Department has demonstrated sufficient evidence to bring them in.

Officer King stated they have had them in before; there is a simple solution to just turn down the volume. During the past weekend there was an event which included a cheerleader standing outside the door to drum up business—she was scantily dressed to a point where it could cause an accident of driver-bys. They also had a temporary sign posted outside on the antique automobile, listing the draft beers offered, which was subsequently taken down.

Mr. Louis Molinari, Mutton Lane resident, came forward and stated on Friday, October 9th at 11:10 PM he could hear every word from his bed from the live music at Basta with no windows/doors open in his house. He wasn't satisfied with the sound proofing that was done previously; the engineer who performed the survey is a friend of Mr. Silvestro. The work included boarding up two windows and a door.

Solicitor Lane recommended that the licensee be brought in for a hearing and given due notice.

Mr. Marino made a MOTION to schedule a hearing to consider the suspension or revocation of the Annual Entertainment license at the next meeting, November 24, 2009.

Mr. Richards stated he would second the motion with the amendment that it be scheduled for their January meeting date.

Mr. Richard Godin, Mutton Lane resident, came forward and stated the matter is not based on a single complaint. He doesn't care about the different entertainments that are offered, but it is the bass sound that is a nuisance. All they are asking for is for the volume and bass to be turned down.

Chief Grimes stated this has become a quality of life issue. He seconded Mr. Marino's MOTION to schedule a hearing for November 24, 2009. The MOTION was UNANIMOUSLY VOTED

- Surrender of Common Victualler License – Stokesky's Egg House

Mr. Richards stated Mr. Michael Stokes mailed in his Common Victualler license for Stokesky's Egg House, Broad Street, wishing for it to be surrendered as they have closed the business location.

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

- Package Store License of Quick Pix, 1690 Main Street

Officer King informed the Board that the business of Quick Pix had closed their doors. It was reported that the alcohol from the location was sold for a sum of \$30,000. He requested that the license holder be brought in for a hearing on the business closure at the next meeting.

Mr. Marino made a MOTION to send a notice to the license holder for a hearing on November 24, 2009. Mr. Richards seconded. UNANIMOUSLY VOTED

ADJOURNMENT

Mr. Richards made a MOTION to adjourn at 4:10 PM. Chief Leary seconded. UNANIMOUSLY VOTED

Respectfully submitted,

Lisa VanWinkle,
Recording Secretary