

**Minutes of the Board of Licensing Commissioners
October 24, 2006 @ 2:00 p.m.
Weymouth Town Hall Chambers
75 Middle Street, Weymouth, MA 02189**

Attendance: Chairman Franklin Fryer, Town Clerk
Jeffrey E. Richards, CBO, 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
Doreen C. Teodorson, Secretary

Chairman Fryer called the meeting to order at 2:00 p.m.

HEARING: PURSUANT TO M.G.L. CHAPTER 138, SECTION 23 & 64, LIQUOR VIOLATION HEARING TO CONSIDER MODIFICATION, SUSPENSION, REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC CLUB LICENSE OF THE VFW-POST 1399, 601 BROAD STREET (EVENT PURPORTEDLY TOOK PLACE ON AUGUST 26, 2006)

Town Solicitor George E. Lane, Jr. introduced the statement of the police report for the record to the Board as written by Sergeant Richard Fuller dated 08/27/06. On 08/26/06, at approximately 1900 hours, he spoke with Station Officer P. Critch who advised him that she had received a call in regards to an illegal poker game being held at the VFW Hall at 601 Broad Street. Mr. Green told Detective Critch that he was aware of a poker game that started at 7:00 p.m. at the public level of the VFW. Sergeant Fuller also stated that it was \$125 buy-in to the game. He knew this because he had been there and observed an advertisement about the game "downstairs" (the member's area of the club). At approximately 1910 hours, he walked into the public level of the club through the open side door. He observed a group of people gathered around several round tables with green cloths on them. They were playing cards in the center of every table. Sergeant Fuller then turned around and left. Approximately 10 minutes later, accompanied by Detective Ahlstedt, they walked back into the VFW, through the same side door. They observed the players at tables with decks of cards on the tables. Sergeant Fuller approached a gentleman sitting by himself at a table who had a list in front of him and a large roll of cash in his hand. He asked him if he was in charge of the poker game. He stated he was. Sergeant Fuller then identified himself and asked him who he was. He stated he was the Quartermaster for the VFW ---Mr. William McGrail. Sergeant Fuller asked him if he understood that what they were doing was illegal. He stated, "But we do it for charity and we haven't actually started the game yet." Sergeant Fuller then took the list of names from in front of Mr. McGrail, and asked if this was the list of people who had bought into the game. He said it was. It was a handwritten list of approximately 40+ names that denoted who had paid. Sergeant Fuller took the list from Mr. McGrail. He then asked Mr. McGrail if the roll of money in his hand was the buy-in money he had collected already and he stated it was. Sergeant Fuller asked Mr. McGrail if the buy-in was in fact \$125 and he stated it was. Mr. McGrail went on to tell the officers that they held these games twice a year usually for charity. Sergeant Fuller then advised Mr. McGrail that he needed to speak to the Licensing Officer and get the proper permit to

conduct poker games. At that point Sergeant Fuller advised Mr. McGrail to return the buy- in money to the people who had paid and advise them that there would be no poker game this evening-- which he did. Sergeant Fuller then advised Mr. McGrail that he would be filing a report and forwarding it to Licensing Officer Brian King. Upon Sergeant Fuller's return to the station, he made a recording of the call taken by Detective Critch from Mr. Robert Green.

Mr. William Murphy, VFW Commander/President of the Board of Directors was present and was questioned by Town Solicitor, George Lane. Attorney Lane asked if the police report read was accurate.

Mr. Murphy stated it was accurate except the list was for two games. Only twenty players were for the first game previously held. He apologized to the Board. The games were held to raise \$400 for the Veterans' Christmas Party.

A MOTION was made by Jeffrey Richards and was seconded by Police Chief Thomas that a violation did take place in accordance with Chapter 138 at the VFW-Post 1399, 601 Broad Street on August 26, 2006 and was UNANIMOUSLY VOTED.

Police Chief Thomas stated the events were not illegal, but how they were conducted was illegal. They must contact Licensing Officer Brian King for the ground rules and they will be monitored.

Jeffrey Richards stated this was the VFW's first violation, and based on the guidelines provided by the Board, a one to three day license suspension for the penalty would be warranted for the offense.

A MOTION was made by Jeffrey Richards for a one day suspension of the all Alcohol license, was seconded by Richard Marino and was UNANIMOUSLY VOTED for approval.

Chairman Frank Fryer stated there was another situation in Town that was similar and it must be treated the same as others. They do recognize it is an admitted violation and all the monies have been returned. The first game was five months prior to the August event.

Town Solicitor, George Lane stated the penalty shall be served on Thursday, November 16, 2006. The alcohol license will be picked up by the Weymouth Police at the close of business on Wednesday, November 15, 2006, and can be retrieved from the Police Station on Friday, November 17, 2006.

It was clarified to Mr. Murphy that he could go in on Thursday, November 16, 2006 and serve food and other drinks that do not contain alcohol.

HEARING: APPLICATION OF BROTHER'S ROAST BEEF AND PIZZA, LLC,
FOR A COMMON VICTUALLER LICENSE AT THE LOCATION OF 148
WASHINGTON STREET (FORMER PIZZA BY DESIGN SITE)

Mr. Richards stated the Police Department report states they see no public safety objection to the above requested Common Victualler license. However, they feel that a condition of the license should be the erection of signs which indicate that customers should use the parking out back. The Building Department stated the use of the premises as a restaurant is permitted in the B-2 Zone in which it is located, and that parking is adequate for the 16 seat 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. The Health Department stated the owner has submitted a plan to their department and it has been approved. They are waiting for further information, as well as the food manager certification credentials, application and fee. They need to discuss the grease trap ordinance with the Town. Municipal Finance has a personal property outstanding tax of \$34.71. Mr. Richards asked if that could be paid, and the applicant, Melsi Xhengo, stated it would be paid. Mr. Xhengo then stated that they have a location in Malden and Quincy and have been voted the number one roast beef in the city. They have been in business for six years. They purchased the property at 148 Washington Street in July 2006 to install a restaurant on that site.

The Chairman asked for comments and questions from the Board. Mr. Richards had a comment. He stated the former Pizza by Design was a small area, and with the new plan, it appears expanded. Mr. Xhengo stated he took over the acupuncture business next door and expanded the business. Mr. Richards stated the proposed layout is better than it was and the business should do fine in that area. Mr. Xhengo stated the previous business was only in business for four hours each day and does not believe any business can make it in that amount of time. He plans on opening from 10:00 a.m. until 10:00 p.m. The Fire Chief stated previously there was no seating. Now there is seating for 16 people. He stated with the redesign of the interior, the booths seem to fit very well and he agrees with the design.

A MOTION was made by Jeffrey Richards and was seconded by Fire Chief Leary to approve the application of Brother's Roast Beef and Pizza, LLC for a common Victualler license at 148 Washington Street and was UNANIMOUSLY APPROVED.

HEARING: APPLICATION OF WESSAGUSSETT YACHT CLUB, INC. FOR A CHANGE OF MANAGER ON THEIR ALL ALCOHOL LICENSE AT THE LOCATION OF 212 WESSAGUSSETT ROAD

Jeffrey Richards stated Tracy Kelleher is the proposed manager. Michael F. Butts is the current manager. The Police Department reported they see no public safety objection to the requested change of manager. The Health Department stated during this past summer, management was supposed to forward a copy of the food manager's certification. To date, it has not been received. It is believed the galley is closed for the fall and winter. It will not be able to be reopened until credentials are received by the Health Department. The Building Department has no objection to the change in manager. The Municipal Finance Department stated the taxes are up to date.

Police Chief Thomas asked if the proposed manager was TIPS trained. She stated that she plans on attending and that there is other training she will be taking as well. He suggested someone contact Lt. Greenwood in the Police Department and set up an appointment for the alcohol awareness program. They should be conducting one next month.

A MOTION was made by Fire Chief Leary and was seconded by Jeffrey Richards to approve Tracy Kelleher as the new manger of the Wessagussett Yacht Club and was UNANIMOUSLY VOTED.

HEARING: APPLICATION OF APPLEBEE'S NORTHEAST, INC. D/B/A APPLEBEE'S NEIGHBORHOOD GRILL AND BAR FOR A CHANGE OF MANAGER ON THEIR ALL ALCOHOL LICENSE AT THE LOCATION OF 765 BRIDGE STREET

Jeffrey Richards stated Mark Burns Matheson is the proposed manager. Bryan James Young is the current manager. The Police Department reported they see no public safety objection to the requested change of manager. The Health Department has no objection to the requested change of manager. The Building Department has no objection to the change in manager. The Municipal Finance Department stated there is a fire alarm invoice #9764 in the amount of \$200.00 and a balance on an invoice #447941 in the amount of \$647.25. One issued in September 2006 and the other was issued in May 2006. Mr. Barry Gerstein, representing Applebee's, stated the bills would be paid right away. The applicant is certified and TIPS trained.

A MOTION was made by Jeffrey Richards and was seconded by Fire Chief Leary to approve Mark Burns Matheson as the new manger of the Applebee's Neighborhood Grill and Bar at 765 Bridge Street subject to the payment of the outstanding debts to the Town and was UNANIMOUSLY VOTED .

HEARING: APPLICATION STELLENNY LIQUORS, INC. D/B/A MICHAEL'S WINE AND SPIRITS AT THE LOCATION OF 461 WASHINGTON STREET FOR A PLEDGE OF THEIR ALL ALCOHOLIC PACKAGE STORE LICENSE TO THE ROCKLAND TRUST COMPANY

Jeffrey Richards stated the Health Department has no objection.

Martin Block, owner of Michael's Wine and Spirits was present.

A MOTION was made by Jeffrey Richards and was seconded by Fire Chief Leary to approve the pledge for the 461 Washington Street site to the Rockland Trust Company and was UNANIMOUSLY APPROVED.

HEARING: APPLICATION STELLENNY LIQUORS, INC. D/B/A BROAD AND VINE LIQUORS AT THE LOCATION OF 141 BROAD STREET FOR A PLEDGE OF THEIR ALL ALCOHOLIC PACKAGE STORE LICENSE TO THE ROCKLAND TRUST COMPANY

Martin Block, owner of Michael's Wine and Spirits was present.

A MOTION was made by Jeffrey Richards and was seconded by Richard Marino to approve the pledge for the 461 Washington Street site to the Rockland Trust Company and was UNANIMOUSLY APPROVED

A MOTION was made by Jeffrey Richards and was seconded by Fire Chief Leary to approve the minutes of September 26, 2006 and was UNANIMOUSLY VOTED.

A MOTION was made by Jeffrey Richards and seconded by Richard Marino to schedule the next meeting for November 14, 2006 at 2:00 p.m. in the Town Council Chambers and was UNANIMOUSLY APPROVED.

Jeffrey Richards asked who would attend the Alcoholic Beverages Control Commission Regional Local Boards Training which is scheduled for October 30, 2006. The Police Chief, Diane Hachey, Officer King, and Frank Fryer will be in attendance.

Jeffrey Richards stated the Alcoholic Beverages Control Commission – Alcohol Law Training Seminar is scheduled for November 6, 2006. It is a training seminar for the license holders. There will be a mailing of letters/invitations to the sixty-three license holders within the town.

Jeffrey Richards stated that Applebee's Northeast Inc., D/B/A Applebee's Neighborhood Grill and Bar has submitted correspondence for 35 Pleasant Street to surrender the common victualler, all alcohol, and annual entertainment licenses.

A MOTION was made by Jeffrey Richards and seconded by Police Chief Thomas to accept Applebee's Northeast Inc., D/B/A Applebee's Neighborhood Grill and Bar of 35 Pleasant Street surrender of the common victualler, all alcohol, and annual entertainment licenses and was UNANIMOUSLY VOTED.

Jeffrey Richards stated that Officer Brian King has submitted a letter dated October 17, 2006 regarding the closing of the Churrascaria Brazilian Plaza of 532 Pond Street within the past couple of weeks. They were the holders of a common victualler license issued by the Board. They failed to notify the Board of their closing or to surrender the license as required. Attorney George Lane stated the matter should be placed on the November 14, 2006 agenda for a hearing. They will be sent a notice at their address.

A MOTION was made by Jeffrey Richards and was seconded by Police Chief Thomas the Churrascaria Brazilian Plaza of 532 Pond Street be scheduled for a hearing on November 14, 2006 in the matter of surrendering their common victualler license as required upon closing of a business and was UNANIMOUSLY VOTED.

SABOR TROPICAL – 1235 WASHINGTON STREET – SUITE 2 – APPLIED FOR A FOOD VENDOR LICENSE, PAID APPLICABLE FEE, NO LONGER PLANS ON FOOD HANDLING

Mr. Richards stated the applicant did not attend the food certification class and does not currently have food on the site. The Board went through a hearing process. The Board issued her a food vendor license and she does not have a need for it. The fee paid was

\$75.00. Attorney Lane asked if we have a way to refund it. Mr. Richards stated there is not a mechanism for that. Attorney Lane suggested the Board table this matter.

A MOTION was made by Jeffrey Richards and was seconded by Fire Chief Leary to table the matter on the food handling license for Sabor Tropical of 1235 Washington Street – Suite 2 and was UNANIMOUSLY VOTED.

MINI MARKET CORPORATION, INC. (405-407C MIDDLE STREET)
APPLICATION FOR A WINE AND MALT PACKAGE STORE LICENSE
PENDING WITH THE ABCC – ON TAX HOLD

Mr. Richards stated that as of today the tax hold has been released and the Mini Market is currently approved by the ABCC. The Board will be going forward to issue them their license.

Mr. Richards asked if there was any reason to go to Executive Session, to which there no reply.

A MOTION was made by Jeffrey Richards and seconded by Fire Chief Leary to adjourn and was UNANIMOUSLY VOTED.

Respectfully Submitted:

Doreen C. Teodorson, Recording Secretary

Approved:

Franklin Fryer, Town Clerk, Chairman