

Minutes of the Board of License Commissioners for their meeting held on Tuesday, December 20, 2005, at Weymouth Town Hall in the Chambers

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; Charles White, Acting Fire Protection Officer and Lisa VanWinkle, Secretary

Chairman Fryer called the meeting to order at 2 PM.

**APPLICATION OF FRESH TOMATO ENTERPRISES, INC. D/B/A ACAPULCO'S MEXICAN FAMILY RESTAURANT FOR AN ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE TRANSFER, 1073-1077 MAIN ST.**

Attorney Nicholas Felici, Mr. David Brambila, President and Mr. Juan Sanchez, Manager, were present.

Mr. Richards read the departmental referrals into the record. The Health Department reported the new owner must contact them with plans. The Municipal Finance Department reported outstanding taxes. Firefighter White reported requirements for necessary sprinkler system and fire alarm equipment in accordance with the state building code. Officer King reported no public safety objection. Mr. Richards reported the use of the premises as a restaurant is currently only permitted in the HT Zone in which it is located by Special Permit. The restaurant use existed prior to the ordinance change and was extended by Special Permit #2239, dated June 28, 1993. Therefore, it does not require further Board action as the proposal does not change the total capacity. The proposal provides adequate parking for the existing 185 seats. The addition of the second bar area does not alter the total capacity; therefore, it does not change the existing zoning status of the subject premises. Accordingly, the proposal conforms to all applicable requirements of the Town's Zoning and Building regulations and the requested license may be granted.

Attorney Felici stated Fresh Tomato Enterprises has been in the Massachusetts area for the last three years. Mr. Sanchez has managed the Flagship Restaurant in Sudbury, MA for the last three years. He was T.I.P.s certified in 2002.

Mr. Richards stated the floor plan submitted was not accurate. They are not applying for entertainment but a dance floor is shown.

Attorney Felici replied that the floor plan was provided by the current owner; it is not a new floor plan. They do not anticipate having any entertainment as it will be a family restaurant.

Mr. Richards reiterated that the plans were not accurate and asked if there was a more up to date set of plans. The plans do not show the seating arrangement.

Attorney Felici stated the floor plan will remain the same as existing. They will be doing interior decorating only, changing it to a Mexican decor. They could submit a plan with the specific seating plan.

Mr. Marino informed the applicant that the town is planning on implementing a grease control ordinance. Therefore, new kitchen equipment changes will be anticipated. The applicant should schedule a meeting with the health inspector for details.

Chief Thomas asked if the employees are T.I.P.s certified as well.

Attorney Felici replied it is a job requirement.

Chief Leary asked that they coordinate the plans in compliance with building code regulations in regards to sprinkler systems and fire alarm equipment.

Mr. Richards stated his concern regarding the inaccurate plans (does not depict 185 seats), noting that the plans needed the approval of the Board and if they change, the applicant would be required to come back before the Board for approval.

Officer King confirmed such, stating any alteration or seating change would need the Board's approval. The Board could approve the application for the existing premises and they would be required to submit new plans for approval prior to building changes.

Mr. King, transferor, viewed the plans and confirmed they were not the most recent plans which were approved by the Board in 2000.

Attorney Felici stated their engineer would draw up new plans. He asked for a conditional approval.

Solicitor Lane asked if the 2000 plans were available on file. They were not to be found.

Chairman Fryer opened the public hearing for comment.

Mr. Daniel Follett, 41 Derby Street, stated he is an abutter and is looking for a buffer zone to be installed.

Mr. Richards stated he would review the Board of Appeals case for conditions. The property was a pre-existing non-conforming status and went before the Board of Appeals for a change on June 28, 1993 (Case #2239).

Attorney Felici reassured the Board they would comply with the Board of Appeal's requirements.

Mr. Richards made a motion to approve the application for an All Alcoholic Restaurant/Common Victualler license transfer subject to a reapplication of floor plan for the approval of changes, which will be subject to a secondary hearing. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF EURO INC. D/B/A WATERS EDGE FOR AN ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE TRANSFER, 910-920 WASHINGTON ST.**

Attorney Rocco DiFazio and Mr. Vasilis Axios, President, was present.

Mr. Richards read the department referrals into the record. The Municipal Finance Department reported no outstanding taxes. The Health Department reported no objections. Officer King reported no public safety objection. Firefighter White reported deficiencies during his inspection: Fire alarm panel indicating trouble, pull station in kitchen. A fire alarm contractor must be retained to address this condition and test the system to ensure efficiency. Several fire extinguishers require service, relocation and/or replacement; a service contractor must be retained to provide this service. All means of egress must be made and kept free from obstructions at all times. Second means of egress from function room does not have an exit sign. He recommended the transfer is granted contingent upon the correction of the deficiencies. Mr. Richards reported the use of the premises as a restaurant is an existing non-conforming use in the location as the Zoning Ordinance 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 not also non-conforming. Therefore, any increase in seating capacity would require approval from the Board of Zoning Appeals. Accordingly, provided that no change in seating capacity or parking lot arrangement, the change conforms to the applicable requirements of the Town's Zoning and Building regulations and the licenses may be granted.

Attorney DiFazio stated Mr. Axios currently runs a family run business at the Euro Café, 824 Washington Street. They are aware of liquors laws and existing town regulations. They are seeking the same licenses as current. Abutters were notified and a public notice was advertised.

Chairman Fryer stated Euro Trattoria has an excellent reputation as well as food. He hopes the restaurant will be a success at the location.

Attorney DiFazio clarified that they will continue to operate Euro Trattoria down the street until the lease runs out.

Chairman Fryer opened the public hearing for comment. No one spoke.

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

**APPLICATION OF EURO INC. D/B/A WATERS EDGE FOR AN ANNUAL ENTERTAINMENT LICENSE, 910-920 WASHINGTON ST.**

Attorney DiFazio stated they are applying for an entertainment license mainly for functions. They would like to be approved for a full five-piece band, amplified, as well as karaoke.

Chairman Fryer informed the applicant of previous complaints in the past concerning noise being emitted from the establishment and ricocheting across the water. He asked that the windows be kept closed in the summer.

Chief Thomas made a motion of approval. Chief Leary seconded. UNANIMOUSLY VOTED

**APPLICATION OF EURO INC. D/B/A WATERS EDGE FOR A JUKE BOX LICENSE, 910-920 WASHINGTON ST.**

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

**APPLICATION OF EURO INC. D/B/A WATERS EDGE FOR A SUNDAY ENTERTAINMENT LICENSE, 910-920 WASHINGTON ST.**

Attorney DiFazio asked for the approval of a Sunday Entertainment license as some functions will be held on Sundays.

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

Attorney DiFazio asked for the approval of a Pool Table license as well. No application was received. Therefore, they will be required to apply for a future approval.

**HEARING TO CONSIDER REVOCATION OR CANCELLATION OF THE ALL ALCOHOLIC RESTAURANT/COMMON VICTUALLER LICENSE OF CAMPBELL-DEE INC. D/B/A J.C. DEE'S, 312 BRIDGE ST.**

Attorney Robert Fleming was present on behalf of Tagbac Inc. He stated at the time of the approval the license of Campbell-Dee, Inc. was pledged to Tagbac Inc. J.C. Dee's has been evicted from the premises. He asked the Tagbac Inc. be given time to perfect the pledge of the license.

Solicitor Lane stated the license was granted by the Board in January 2003. The licensee was given the fair opportunity to be heard at today's hearing; notice was served/posted. Officer King had originally reported the business closed and the Board further heard they were evicted by the landlord. If the license was revoked the pledgor would lose its collateral. He asked that the license is indefinitely suspended so that they may redeem their pledge.

Mr. Richards asked if this condition would be only particular to the alcohol and common victualler licenses.

Solicitor Lane replied, yes, it is an item of value.

Attorney Fleming asked for a responsible amount of time for his clients to get their business in order.

Mr. Richards made a motion to indefinitely suspend the All Alcoholic Restaurant/Common Victualler license of Campbell-Dee Inc. Chief Leary seconded. UNANIMOUSLY VOTED

Officer King questioned if the renewal was submitted.

Mr. Richards confirmed that Tagbac, Inc. renewed the licenses.

Mr. Richards made an additional motion to revoke the Common Victualler, Video Game, Pool Table, Juke Box, Annual Entertainment and Sunday Entertainment licenses. Chief Leary seconded. UNANIMOUSLY VOTED

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

Mr. Richards read into the record a letter from the applicant requesting for the hearing to be continued until the next meeting on January 17, 2006.

Mr. Richards made a motion to continue the application. Chief Thomas seconded. UNANIMOUSLY VOTED

**NEW/OLD BUSINESS**

- Replacement Amusement Center

Mr. Eric Wirtz, Reply Amusement Center, read a letter into the record regarding the 2005 license fee increase. He stated the increase affected his business considerably as the total amount due is \$3,354 more. He also previously submitted correspondence including the statute in relation to automatic amusements. He asked that the Board reconsider the increase.

Solicitor Lane suggested that the Board review the statute and survey other towns on their fees.

Chairman Fryer stated he had suggested that Mr. Wirtz come forward to the Board today to address his concerns.

- Community Pride

Chief Thomas commented on businesses exterior appearances. He stated he is becoming concerned with the cleanliness of the exteriors and parking lots of package stores and convenience stores. He asked that businesses police their exteriors and dispose of litter. He also asked that windows be kept unobstructed for public safety reasons. He is looking towards ordinance and zoning help to clarify this issue. He would like to tie these suggestions in to the renewals.

Mr. Richards stated he would review the bylaw on restrictions for signage. This is also regulated through sign permits issued by the Building Department. He would like to put together a letter of according regulations and a reminder of the importance of cleanliness. They should provide an outdoor receptacle and police the exterior area for litter.

Chief Leary appreciated Chief Thomas' idea as this is a fire issue as well. He believes there is a regulation which regulates the percentage of walls that can be decorated and certain distance from the door. There is a similar regulation for walls within schools for safety purposes.

Mr. Richards stated he would draft a letter and provide a copy to Board members for their review to

send out with the 2006 licenses.

- **Kennel Licenses**

Solicitor Lane stated Kennel licenses will be reviewed to determine whether they should be under the jurisdiction of the license board. Statute chapter 147A is being reviewed. If this is in the favor of the Board an ordinance will be drafted as well as regulations. The recommendation would be presented to the Mayor for the approval of the Town Council.

Chairman Fryer stated Kennel licenses are currently under the Town Clerk.

Solicitor Lane replied there are no enforcement measures in place; only permitting and fees. They need to have regulations in place to be able to solve future problems.

Mr. Marino stated currently complaints are funneled through the Health and Police Departments, permitting through the Town Clerk and he suggested that there be an abutter notification process.

## **ANNUAL LICENSE RENEWALS**

- **All Alcoholic Restaurant**

Mr. Richards read the inspectional report from Officer King regarding All Alcoholic Restaurant licenses which stated all were found to be in compliance, except for Twelve Ben's II Bar & Lounge, 1166 Washington Street, which was not serving food. Kitchen has been closed since Thanksgiving.

Mr. Richards made a motion to approve the All Alcoholic Restaurant license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. **UNANIMOUSLY VOTED.**

- **All Alcoholic Club**

Mr. Richards read Officer King's report stating all All Alcoholic Club licenses were in compliance.

Mr. Richards made a motion to approve the All Alcoholic Club license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. **UNANIMOUSLY VOTED**

- **All Alcoholic Package Store**

Mr. Richards read Officer King's report stating All Alcoholic Package Store licenses were in compliance.

Mr. Richards made a motion to approve the All Alcoholic Package Store license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. **UNANIMOUSLY VOTED**

- **Wine & Malt Restaurant**

Mr. Richards read Officer King's report stating Wine & Malt Restaurant licenses were found to be in compliance. He noted that Nick's Restaurant, 33 Washington Street, is not renewing their Wine & Malt Restaurant license.

Mr. Richards made a motion to approve the Wine & Malt Restaurant license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Wine & Malt Package Store**

Mr. Richards read Officer King's report stating Wine & Malt Package Store licenses were found to be in compliance.

Mr. Richards made a motion to approve the Wine & Malt Package Store license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Common Victualler**

Mr. Richards read Officer King's report which stated as a result of his inspection all license holders were found to be in compliance and noted the following: Roma Pizza, 407 Middle Street, had gone out of business.

Mr. Richards made a motion to approve the Common Victualler license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Food Vendor**

Mr. Richards read Officer King's reported stating that all Food Vendor licenses were found to be in compliance and Domino's Pizza, 4 Union Street, was not renewing their license; Aroma Bakery, 19 Union Street, had not opened for business as they are still remodeling.

Mr. Richards made a motion to approve all Food Vendor license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Bowling Alley**

Mr. Richards read Officer King's report stating that all Bowling Alley licenses were found to be in compliance.

Mr. Richards made a motion to approve all Bowling Alley license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Annual Entertainment**

Mr. Richards read Officer King's report stating that all Annual Entertainment licenses were found to be in compliance.

Mr. Richards made a motion to approve all Annual Entertainment license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Sunday Entertainment**

Mr. Richards read Officer King's report stating that all Sunday Entertainment licenses were found to be in compliance.

Mr. Richards made a motion to approve all Sunday Entertainment license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Video Game**

Mr. Richards read Officer King's report stating that all Video Game licenses were found to be in compliance. Kelly's Landing, 159 Bridge Street, chose not to renew their license as well as Ye Olde Brick Grille, 2 Commercial St.

Mr. Richards made a motion to approve all Video Game license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Coin-Operated Device**

Mr. Richards read Officer King's report stating all Coin-Operated Device licenses were found to be in compliance.

Mr. Richards made a motion to approve all Coin-Operated Device license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Pool Table**

Mr. Richards read Officer King's report stating all Pool Table licenses were found to be in compliance.

Mr. Richards made a motion to approve all Pool Table license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Juke Box**

Mr. Richards read Officer King's report stating all Juke Box licenses were found to be in compliance.



Mr. Richards made a motion to approve all Juke Box license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Class I Auto Dealer**

Mr. Richards read Officer King's report stating all Class I Auto Dealer licenses were found to be in compliance.

Mr. Richards made a motion to approve all Class I Auto Dealer license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Class II Auto Dealer**

Mr. Richards read Officer King's report stating all Class II Auto Dealer licenses were found to be in compliance.

Mr. Richards made a motion to approve all Class II Auto Dealer license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Class III Auto Dealer**

Mr. Richards read Officer King's report stating all Class III Auto Dealer licenses were found to be in compliance.

Mr. Richards made a motion to approve all Class III Auto Dealer license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

- **Lodging House**

Mr. Richards read Officer King's report stating all Lodging House licenses were found to be in compliance.

Mr. Richards made a motion to approve all Lodging House license renewals contingent upon the payment of outstanding taxes. Chief Leary seconded. UNANIMOUSLY VOTED

## **APPROVALS**

- Minutes: 12/6/05

Chief Thomas made a motion to approve the meeting minutes of December 6, 2005. Mr. Richards seconded. UNANIMOUSLY VOTED

## **CHAIRMAN'S REPORT**

- Next Meeting: January 17, 2006

## **CORRESPONDENCE**

- Quick Pix RE: future intentions

Mr. Richards read correspondence into the record, stating Quick Pix had closed their location and intends to move in the future.

Mrs. VanWinkle stated they had picked up the necessary applications for approval.

## **ADJOURNMENT**

Mr. Richards made a motion to adjourn the meeting at 3:55 PM. Chief Leary seconded.  
UNANIMOUSLY VOTED

Respectfully submitted by Lisa VanWinkle, Recording Secretary