



Licensing Board
TOWN OF WATERTOWN
ADMINISTRATION BUILDING
149 Main Street
Watertown, Massachusetts 02472

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BOARD MEMBERS
DONNA B. DOUCETTE
GEORGE B. NEWMAN
ROBERT J. WHITNEY

ALTERNATE MEMBER
SANDRA KASABIAN HOFFMAN

MINUTES FOR JUNE 19, 2012

AGENDA

ACCEPTANCE OF MINUTES: MAY 8, 2012 AND MAY 17, 2012 Approved 3-0

1. Donohue Holdings, Inc. d/b/a
Donohue's
85-87 Bigelow Ave.
Change of Hours (Outdoor Area) Continued to July 19, 2012
2. La Casa de Pedro, Inc.
343 Arsenal Street
Pledge of License Continued to July 19, 2012
3. Talk of the Town I, Inc. d/b/a The Talk
116 Main Street
Alteration of Premise Withdrawn 3-0
4. Henley Enterprises, Inc. d/b/a
Valvoline Instant Oil Change
80 Galen Street
Change of Hours on Auto Repair License Continued to July 19, 2012
5. O'Reilly's Autobody, LLC d/b/a
O'Reilly's Autobody
32 Arsenal Street
Auto Repair License Approved 3-0
6. Armenian Cultural & Educational Center
47 Nichols Avenue
Entertainment Festival Approved 3-0
7. Miller's Ale House, Inc. d/b/a
Miller's Boston Ale House
617 Arsenal Street
1. Show Cause No Violation Occurred 3-0
2. Show Cause Yes Violation Occurred 3-0 6 day Suspension

8. MJLK, Inc. d/b/a 21 Nichels
21 Nichols Ave.
Show Cause

Continued to July 19, 2012

Donna B. Doucette, Chairman

7:20 PM to 10:50 PM

Present: Donna B. Doucette, Robert J. Whitney, Sandra Kasabian Hoffman

1. Donohue Holdings, Inc.
d/b/a Donohue's
85-87 Bigelow Avenue
Watertown, MA 02472

The Watertown Licensing Board continued its hearing on the application of Donohue Holdings, Inc. d/b/a Donohue's, which is located at 85-87 Bigelow Avenue, Watertown, MA, for a change of hours of operation to the outside/outdoor seating area of its all alcoholic common victualler's license. This matter comes before the Board pursuant to a remand order of the Alcoholic Beverages Control Commission, following an appeal from the Board's decision of February 16, 2012 regarding this license.

The continued hearing on this matter will be held on July 19, 2012 at 7:15 p.m. in the Philip Pane Hearing Room, Administration Building, 149 Main Street, Watertown, MA.

2. La Casa de Pedro, Inc.
d/b/a La Casa de Pedro
343 Arsenal Street
Watertown, MA 02472

The Watertown Licensing Board continued its hearing at the request of the applicant on the application of La Casa de Pedro, Inc. d/b/a La Casa de Pedro for approval of a pledge of its all alcohol common victualler license exercised at 343 Arsenal Street. The continued hearing on this application will be held on July 19, 2012 at 7:15 p.m. in the Philip Pane Hearing Room, Administration Building, 149 Main Street, Watertown, MA.

3. Talk of the Town I, Inc.
d/b/a the Talk
116 Main Street
Watertown, MA 02472

The Watertown Licensing Board met to consider the application of Talk of the Town I, Inc. d/b/a the Talk for approval of alteration of its premises at 116 Main Street licensed for all alcohol common victualler service. The Board acknowledged receipt of a letter from the applicant stating its intent to withdraw the application. The Licensing Board voted unanimously to grant leave to withdraw the application.

4. Henley Enterprises, Inc.
d/b/a Valvoline Instant Oil Change
78-80 Galen Street
Watertown, MA 02472

The Watertown Licensing Board continued its hearing at the request of the applicant on the application of Henley Enterprises, Inc. d/b/a Valvoline Instant Oil Change for approval of a change of hours for its motor vehicle repair license exercised at 32 Arsenal Street. The continued hearing on this application will be held on July 19, 2012 at 7:15 p.m. in the Philip Pane Hearing Room, Administration Building, 149 Main Street, Watertown, MA.

5. O'Reilly's Autobody, LLC
d/b/a O'Reilly's Autobody
32 Arsenal Street
Watertown, MA 02472

The Watertown Licensing Board met to consider the application of O'Reilly's Autobody, LLC d/b/a O'Reilly's Autobody for a motor vehicle repair license to be exercised at 32 Arsenal Street.

Attorney Sam Parker and Bernard O'Reilly appeared in support of the application. Attorney Parker explained that Mr. O'Reilly had changed the form of his business to a limited liability company. The premises in question have been the site of an ongoing repair business since 1993. The issue of correction of the business name arose at the time of the recent application for renewal of the license.

The Board acknowledged receipt of a letter of support from a Mr. Joseph MacDonald.

Sergeant Grady stated that the Police Department had no objection to the granting of the requested license, provided that the existing license conditions remained in place.

The Health Department reported that the applicant must contact the department and comply with department provisions including, but not limited to, hazardous materials plan review application and permit requirements for change of ownership.

The Licensing Board voted unanimously to grant the requested license, subject to the following conditions:

1. All conditions of the existing license, held under a different name, shall remain in place.
6. Armenian Cultural & Educational Center, Inc.
47 Nichols Avenue
Watertown, MA 02472

The Watertown Licensing Board met to consider the application of the Armenian Cultural & Educational Center ("ACEC") for a licenses to conduct a public entertainment festival event on July 20 through July 22, 2012 at and adjacent to its premises at 47 Nichols Avenue. Daily event hours are to be 6:00 p.m. to 11:30 p.m. on Friday, July 20; 12:00 p.m. to 11:30 p.m. on Saturday, July 21; and 12:00 p.m. to 7:00 p.m. on Sunday, July 22.

Ara Nazarian, president, appeared in support of the application. Mr. Nazarian explained that the event, called the "Boston Kermesse," is an open air festival to showcase historical, cultural, artistic and culinary aspects of the Armenian community. The festival site will include a tent, as well as outdoor areas. The Center is proposing to close Nichols Avenue during the festival. Mr. Nazarian displayed an aerial photograph on which was superimposed a diagram of the site. He noted that the recessed entry area has been revised, per recommendations of the Police Department, in order to avoid lines of patrons along the street. In addition, an electronic ticketing service will be used, and there will be multiple lines for patrons at the point of entry. The booths designated on the site diagram will be for vendors and community organizations. A new space is a small stage in the booth area, which will be used for cooking demonstrations, a small band, and a children's chorus. Mr. Nazarian noted that there will be increased activities for children at the festival.

The Health Department reported that the applicant must comply with department requirements including, but not limited to, temporary food service application permit requirements.

The Building Department reported that all fire egress must be maintained, and that all electrical installations/connections will be inspected.

Sergeant Grady stated that the Police Department had no objection to the granting of the requested licenses.

The Licensing Board unanimously voted to grant licenses for a block party/street closing and public entertainment event, subject to the following conditions.

1. The applicant shall provide written agreements for all off-site parking arrangements.
 2. Required Police Department detail staffing may change prior to the date of the event, depending on determination of need by the Watertown Police Department.
 3. At least two portable toilets shall be provided so that patrons are not required to leave the area for sanitary facilities.
 3. The applicant shall provide to the Licensing Board and Police Department dimensions and other appropriate measurements for the children's amusements to be offered as part of the festival.
 4. The names of all alcohol servers shall be provided to the Police Department in advance.
 6. A revised photograph/plan diagram shall be submitted to accurately reflect the location and uses of the designated elements of the site arrangements.
- 7a. Miller's Ale House, Inc.
d/b/a Miller's Boston Ale House
617 Arsenal Street
Watertown, MA 02472

The Watertown Licensing Board held a show cause hearing, on the application of the Watertown Police Department, concerning alleged violations of G.L. c.138 (the Liquor Control Act) on February 4, 2012 at 617 Arsenal Street licensed for all alcohol common victualler service, to wit: service of an alcoholic beverage to an intoxicated person in violation of G.L. c.138, §69, and improper management, by allowing such sale, in violation of G.L. c.138, §23.

Attorney William York appeared on behalf of the licensee, together with representatives of the licensee, including Thomas Archer – vice president and general counsel, and Ray Holden – president.

Sgt. Grady reported the events of an incident call to the Police Department on February 4, 2012. Officers were dispatched to the premises in response to a panic alarm sent by restaurant staff at 12:37 a.m. When they arrived, the manager on duty pointed out a male patron who had become argumentative when he was told by waitstaff he would not be served any more alcohol. The patron then pushed an employee and exited the premises. He was followed by Sgt. Pugliese, who questioned him and found signs of alcohol intoxication. When asked how much he had had to drink, the patron responded "a [expletive] lot." A portable breath test was administered and the blood alcohol content reading was .176. The patron was placed in protective custody and taken to the Police Station.

Sgt. Pugliese, also questioned members of the staff, who reported that the patron arrived at the premises at 7:20 p.m. Sgt. Grady noted that on a follow-up visit to the premises on February 6, and was provided a receipt prepared by the restaurant. There were only two documented purchases by the patron, a single beer and a beer bucket, consisting of 5 bottles.

Members of the restaurant staff testified that the patron was known to them, and frequently visited the premises with his co-workers, who were identifiable by their brown UPS uniforms. They stated that the patron ordered a single beer when he first arrived, by himself; and later ordered a beer bucket when his co-workers joined him. The staff reported that the patron handed beers from the bucket to his co-workers when the bucket was served. According to the staff, by approximately 10:30 – 10:45 p.m. there was no one at the area where the patron had met earlier in the evening with his co-workers, although there was a UPS coat left on a chair. According to restaurant records, the patron's account was closed at 8:52 p.m. A bartender staff person explained that the patron later approached her bar, at approximately 12:15 a.m., appearing visibly intoxicated. She told him she could not serve him, and the patron became upset and swore at her. When she informed her manager of the situation, the manager contacted the police. A supervisor testified that he interviewed all staff on duty on the night in question regarding any service to a person in a UPS uniform after 10:30 p.m. and was told there was no such service.

Board chairman Doucette stated that there was clear evidence the patron's intoxicated state later in the evening, when restaurant staff denied service.

The Licensing Board unanimously determined that it did not find sufficient evidence to establish that the violations alleged had occurred.

7b. Miller's Ale House, Inc.
d/b/a Miller's Boston Ale House
617 Arsenal Street
Watertown, MA 02472

The Watertown Licensing Board held a show cause hearing, on the application of the Watertown Police Department, concerning alleged violations of G.L. c.138 (the Liquor Control Act) on March 11, 2012 at the premises 617 Arsenal Street, which is licensed for all alcohol common victualer service, to wit: service of an alcoholic beverage to an intoxicated person in violation of G.L. c.138, §69 (two counts), and improper management, by allowing such sale, in violation of G.L. c.138, §23 (two counts).

Attorney William York appeared on behalf of the licensee, together with representatives of the licensee, including Thomas Archer – vice president and general counsel, and Ray Holden – president.

Sgt. Grady reported the events of an incident on March 11, 2012. A witness informed the Police Department of a driver who struck a pole in the garage adjoining the licensed premises, damaging his vehicle, including a broken taillight. Following a police dispatch broadcast, Officer Gay stopped the vehicle in question in the vicinity of Arsenal Street and Taylor Street. There were two men in the vehicle. The operator stated they had been at Miller's Ale House and had just left. Field sobriety tests were administered and the operator failed all of them. At the Police Station, a breathalyzer test for the operator resulted in a blood alcohol content reading of 0.3. The passenger declined to take any field sobriety tests, and was placed in protective custody for his safety. A follow up investigation revealed that both men had been served at Miller's Ale House between 5:30 p.m. and 9:25 p.m. A receipt provided by the licensee indicated service of 17 alcoholic beverages to the men and others in their party at the restaurant. The vehicle stop took place at 9:43 p.m.

Officer Gay testified that when she stopped the vehicle the operator was confused. When she asked him to exit the vehicle he had difficulty doing so. He had a strong odor of alcohol about him, and a portable breath test yielded a blood alcohol content result of 0.287.

Jeff Brooks, the assistant and acting general manager, produced a report detailing the guest tab for the two men in question. Restaurant staff testified that they had been joined by four other persons during the course of their time in the restaurant, three of whom were served alcohol. These were the apparent daughter of one of the men and a friend, who left after eating, and two women who arrived after that. Mr. Brooks explained that he had spent several hours viewing a restaurant video recording of the table in question to determine which persons drank what. The report he produced stated that the driver was served four glasses of red wine and two pints of beer. The first three glasses were served within a period of approximately 45 minutes, starting at 5:28 p.m. According to the report, the last recorded service to the driver was at 9:01 p.m. For the passenger, the report stated service of 4 pints of beer and one martini. The first three beers were also served within a period of approximately 45 minutes, and the last recorded service was at 9:01 p.m. Appetizers and entrees were also served to the men.

The staff person who waited on the men in question, Amanda Allen, testified that she served all rounds of alcohol but the last, which was served by a fellow bartender. When she had previously been questioned by Sgt. Grady after the incident, she reported that she and the bartender had agreed that service of alcohol should be stopped. On cross examination by Sgt. Grady, she stated that she came to this conclusion after the last drinks were served.

Dave Reid, vice president of Miller's, stated that a new, supervisory only, position had been added at the restaurant. This staff person will be responsible solely for walking the floor of the premises. Mr. Reid also noted that Miller's personnel have met with the Police Chief to discuss additional efforts that can be taken at the restaurant to prevent over-service of alcohol.

The Licensing Board unanimously found that the violations as alleged had occurred, and voted, 2-1, to impose a 6-day suspension (Board member Whitney favoring a 2-day suspension). The Board offered the licensee the opportunity to choose the dates the suspension would be served if it chose to waive its right of appeal. Attorney York stated that he would need time to confer with the licensee regarding the question of an appeal. The Board granted the licensee until June 28, 2012 to designate the dates the suspension would be served.