

SELECTMENS MEETING MINUTES
August 31, 2010

Members Present: Lynda Walsh, Chairman
Larry Harrington, Vice Chairman
Jim DeVellis, Clerk
Lorraine Brue
Paul Mortenson

Others Present: Andrew Gala, Town Manager
Police Chief O'Leary
Attorney Joseph Devlin, Bar Louie Tavern & Grill
J. D. Mathews, Corp. Representative for Bar Louie
Robert Hovis, Manager of Record
William Corcoran, General Manager
Attorney Paul DeRensis, Town Counsel
Sergeants Richard Noonan and David Foscaldo,
Foxborough Police Dept.
Cynthia E Lyons, Red Robin Gourmet Burgers

The meeting was brought to order at 7:00 p.m. by Lynda Walsh, Chairman.

7:00 – Citizens Input – David Brown, 17 Merigan Way, Foxborough, spoke regarding the new parking lot on County Road. He was interested to know when it would be in use, and if the BOS had given any thought to the operation of the lot, would parking fees be charged and whether the GATRA bus would be available as a shuttle to the trains. Lynda Walsh said she would put this on the agenda for the next scheduled Board meeting.

Peter Dowd of Skipjack's restaurant came before the Board to apologize for appearing to be disrespectful to the Board. He said he certainly did not mean to have things appear that way by being late in submitting an application for the extension of hours to open on Sundays at 11:00 a.m.

Motion by Paul Mortenson to approve the application for the extension of liquor license hours to 11:00 a.m. opening on Sundays, including food service, as submitted by Skipjack's restaurant. Seconded by Lorraine Brue. **Vote: 5-0-0**

7:05 – Public Hearing – Bar Louie Tavern & Grill – Jim DeVellis, Clerk, read the Public Notice. The purpose of this Public Hearing is to review and discuss information concerning alleged violations of Chapter 138 that occurred at the Bar Louie Tavern & Grill, 232 Patriot Place, Foxborfough.

Police Chief Edward O'Leary said that his staff reported that customers at Bar Louie had used false identifications including a fake out of State License and a fake Rhode Island license. The police reports and written statements are available for review. At the request of Town Counsel, Paul DeRensis, Sgt. Richard Noonan and Officer David Foscaldo were sworn in as were J. D. Matthews, Robert Hovis and Bill Corcoran, representatives from Bar Louie Tavern & Grill.

Sgt. Noonan explained that he and Sgt. Foscaldo had gone around to all the liquor servers in Foxborough, that included Bar Louie. They approached four females who appeared youthful and in possession of alcohol. They asked for identification and found all were under the age of 21. One of the young women produced a false RI license and the others produced fake out of state licenses. They were asked to explain. Attorney DeRensis explained that the officers did prepare a report of the events and asked the officers to identify those reports. Attorney DeRensis asked those reports be identified as Exhibits 1 & 2. Sgt. Noonan proceeded to explain the actions he took to establish that these IDs were fake and the women should not have been served alcohol. The Florida License was a valid license but did not belong to the two young women using it. This License was marked Exhibit 3. The fourth young woman had no ID but was escorted by an unknown male to the second floor. Sgt. Noonan noted that at 9:55 p.m. there was no one at the door to check identifications. When he and Officer Foscaldo returned they were asked to produce their civilian IDs. Officer Foscaldo testified there were four young women standing around a table with alcoholic beverages on the table. They approached the table and identified themselves with their badges. He reported that Miss Molly Hoffman produced a fake license from Rhode Island. They took the ladies aside to discuss the problem further. They were polite, cooperative and respectful.

A lengthy discussion ensued. Attorney Jim Devlin said that they were not going to argue about the Police report. Ultimately four underage persons were served alcohol. The policy of the management is to card people after 10:00 p.m.; this will change with security at the door to start carding patrons. There have been no allegations of over service. He pointed out that of the four, three were ID'd but some bad decisions were made. The R.I. license should never have been accepted. The fourth person explained that she got a drink from some random guy.

The General Manager spoke with Chief O'Leary the day after the incident regarding further steps to take to make sure this does not happen again. It was suggested that on high traffic nights a Police detail be hired. A change in the policy for TIPS training; staff will have to be certified within 60 days after they are first hired. Servers will go through a 5 or 6 day training program with J.B.S. Professional Services, LLC to focus on preventing underage sales and review on how to detect false documents as well as other recommendations.

Motion by Paul Mortenson that as a matter of fact the Board finds that the four women named in the Police report were served alcohol at Bar Louie Tavern & Grill and that each was under age at the time of service. Seconded by Larry Harrington. **Vote: 5-0-0**

Further discussion focused on steps taken by Bar Louie management to prevent a recurrence of this type of incident and sanctions to be imposed by the Board as a result of this violation of the liquor license. Chief O'Leary pointed out that the Board should remain consistent as to what decision they make. He said in the past the first offense has been a letter reprimanding the license holder and that any further violation would result in a much stronger penalty. The Chief also pointed out that Management had shown a willingness to make changes and had taken steps to prevent this type of incident from happening again. Paul Mortenson said that given the gravity of the incident he would recommend a three day suspension of the license. Lorraine Brue voiced concern that the IDs were checked at multiple places in the restaurant and yet these girls were able to buy alcohol without a proper ID. The Board had handled prior situations with a letter of reprimand with the understanding that sanctions would be taken to the fullest extent if there is another violation. Jim DeVellis said given the circumstances he could not support just sending a letter of reprimand. Attorney Jim Devlin suggested that any suspension given be held in abeyance for six to 12 months. Larry Harrington pointed out all the corrective steps that have been taken by Bar Louie and that the Board is ready to go for a 3-day suspension. He would support a letter of reprimand and a 3-day suspension of the license to be held for one year.

Deborah Stewart, 44 Neponset Heights Ave., expressed her concerns regarding underage drinking. She agreed that a letter of reprimand and a 3-day suspension held for six months is an appropriate decision. She hoped that anyone observing an underage person drinking that they would notify the police and they could respond appropriately.

Motion by Paul Mortenson to close the Public Hearing. Seconded by Lorraine Brue. **Vote: 5-0-0**

Motion by Jim DeVellis based on the testimony of the Foxborough Police and under the guidelines of the Rules and Regulations, I move that a letter of reprimand and a three day suspension be imposed on Bar Louie Tavern & Grill.

Discussion – It was suggested that the Board should come up with something that sends a strong message. One and two day suspensions were suggested. Lorraine Brue said she is not comfortable with a 2-day suspension. A suspension being held for a year seems to be a significant deterrent to prevent this from happening again. **Vote: 2-3-0**

Motion by Larry Harrington to impose a Letter of Reprimand and a 3-day Suspension of the Liquor License to be held for a 12 month period and to be implemented after any subsequent violations. Seconded by Paul Mortenson.

Vote: 3-2-0 Jim DeVellis and Paul Mortenson voted in the negative.

7:20 – Public Hearing – Sunoco Inc. – Public Hearing Notice was read by Jim DeVellis, Clerk.

Motion by Paul Mortenson to close the Public Hearing. Seconded by Larry Harrington. **Vote: 5-0-0**

Motion by Paul Mortenson to approve the application as submitted by Sunoco Inc. on behalf of the Sunoco Service Station 101-105 Main Street, Foxborough to amend the license for underground storage tanks of 14,000 gallons of gasoline and 85 gallons of waste oil. Seconded by Larry Harrington.

Vote: 5-0-0

7:45 – Public Hearing – South High and Fisher Street Stop Sign – Jim DeVellis read the Public Hearing Notice. The purpose of this Public Hearing is to discuss the installation of an additional stop sign on South High Street at the intersection of Fisher Street.

Bob Swanson, Highway Superintendent, gave a brief background of the traffic issues at this intersection. He does not agree with “putting stop signs in the middle of the block” on through streets. He pointed out that no one expects to see a stop sign there. He said speed is a problem in this area. Ari and Christine Weinstein spoke of the high traffic volume and speed of vehicles traveling on South High Street. Ari said the radar trailer is a nice start at controlling the traffic but he would suggest speed bumps. On July 9th he took a thirty minute tabulation of traffic violations, 18 in all and 12 of them were failure to stop at the stop sign. He suggested having a police officer stationed there at least during heavy traffic hours. He feels that would send a clear message about speeding on residential streets. Christine Weinstein is concerned for the children in the area and suggested putting a “not a through way” sign thinking it would deter people from speeding through the neighborhood.

Motion by Larry Harrington to close the Public Hearing. Seconded by Paul Mortenson. **Vote: 5-0-0**

Motion by Larry Harrington to authorize Highway Superintendent to install a third stop sign at the intersection of South High Street and Fisher Street. Seconded by Lorraine Brue. **Vote: 5-0-0**

8:10 – Change of Manager – Red Robin – Cynthia E. Lyons was present to discuss the request by Red Robin International, Inc. for a change of Manager at Red Robin, 290 Patriot Place. Cynthia gave a brief summary of her experience in the restaurant business. She noted that after listening to the hearing for Bar Louie, she will make a change in the TIPs training for the servers at the Red Robin. The policy is to card everyone who appears to be under the age of 40 and there is 3 drink policy in place.

Motion by Paul Mortenson to approve the application for Change of Manager naming Cynthia E. Lyons as the new manager as submitted by Red Robin International, Inc. for Red Robin, 290 Patriot Place, Foxborough. Seconded by Larry Harrington. **Vote: 5-0-0**

ACTION:

Minutes – The Minutes of the Board of selectmen's Meeting of August 16, 2010 were reviewed.

Motion by Larry Harrington to approve the Minutes of August 16, 2010 as amended. Seconded by Paul Mortenson. **Vote: 5-0-0**

Invoice – Received from Thomas J. Groux, Groux & Associates, an invoice for services relating to the recruitment of a Town Manager in the amount of \$2,130.00.

Motion by Larry Harrington to approve the Invoice in the amount of \$2,130.00 as submitted by Groux & Associates. Seconded by Paul Mortenson. **Vote: 5-0-0**

Appointments – Received from C. Paul Dumas, 4 Adams Street a request to be appointed to the Norfolk County Advisory Board.

Motion by Larry Harrington to approve the appointment of C. Paul Dumas, 4 Adams Street to the Norfolk County Advisory Board, the term expiring August 1, 2011 as requested. Seconded by Paul Mortenson. **Vote: 5-0-0**

Received from Joan Gallivan, 63 Alden Street, a request to be appointed to the Norfolk County Advisory Board as an Alternate.

Motion by Larry Harrington to approve the appointment of Joan Gallivan to the Norfolk County Advisory Board as an Alternate, term expiring August 1, 2011 as requested. Seconded by Paul Mortenson. **Vote: 5-0-0**

Early Opening Hours on Sunday – Received from Mark Levin on behalf of Showcase Live, LLC, a request for extension of the liquor license hours to

permit the serving of alcoholic beverages with food at 11:00 a.m. on Sundays during the Stadium football season.

Motion by Lorraine Brue to approve the request for extension of the liquor license hours to 11:00 a.m. on Sundays during the Stadium football season as requested by Mark Levin, Showcase Lie, LLC. Seconded by Paul Mortenson.

Vote: 5-0-0

Received from Thomas J. Perruna, Tavolino restaurant, a request for the extension of the liquor license hours to permit the serving of alcoholic beverages with food at 11:00 a.m. on Sundays during the Stadium football season.

Motion by Larry Harrington to approve the request to extend the liquor license hours to 11:00 a.m. on Sundays during the Stadium football season as requested by Thomas J. Perruna, Tavolino. Seconded by Paul Mortenson.

Vote: 5-0-0

Foxborough Cultural Council – Received a notice from the Foxborough Cultural Council Chairman Betsy Buckland that the Council is looking for volunteers to serve on the council and anyone interested should call the Selectmen's Office for further information.

NEW/OLD BUSINESS

Submit to Permanent Building Committee, will interview 3 or 4, make a recommendation to the Board for review.

Town Asset Review Committee – Four RFPs have been sent to the auctioneer – 9/17 to respond has to happen before 12./31 – close within 30 days. Tax attorney helped put together. Ned approval of....fees will be covered by premiums.

Have had a number of meetings on health insurance change. Develop eligibility audit in the near future and go back to the audit committee with recommendations – particularly the retiree issues.

Update on last meeting, starting process of negotiations and come up with strategies to begin the process.

Larry Harrington commented on the background checks and CORI checks. The search Committee hired a company to do the resumes. The goal is to have this all done by the Search Committee and report back to the Board of Selectmen before the next scheduled meeting. If appropriate the Board would go into Executive Session for discussion. A request was made by Lorraine Brue to be able to review what was sent to Attorney DeRensis. Lorraine has no

problem with the process but that this becomes the Board's decision to make. She pointed out that the Board voted to start negotiations with Kevin Paicos subject to the outcome of the background check and at the last meeting she expected that the Board would be handling the background check. Larry Harrington believes that it is unnecessary for the Board to do any individual background checking as he is very satisfied with the work of the Search Committee or Town Counsel. He does not anticipate any issues that have to be brought before the BOS.

Motion by Paul Mortenson that the BOS be allowed to see the results of the full background check that is the same as what Attorney DeRensis will see. Seconded by Lorraine Brue.

A further discussion was held regarding the importance of the background check, whether not seeing it would be a problem and having trust in the Search Committee, the Chief of Police and the Town Attorney.

Vote: 2-3-0 Larry Harrington, Lynda Walsh and Jim DeVellis were the dissenting votes.

Jim DeVellis asked the Board to consider adopting a code of ethics for a one year period similar to the Dissention Rule of the Advisory Committee. He felt this would help the Board move forward with the business of the Town and not get bogged down in unkind or derogatory remarks being made about one another and then going to the newspaper in defense of something said.

Paul Mortenson voiced his opinion on a process that he feels was "totally flawed". He said the point he made was harsh but he felt it to be true. Jim DeVellis pointed out that if everyone went to the newspaper nothing would get done. Lorraine Brue said that the Advisory Committee is an appointed committee not political; the BOS is political. She feels that the Board needs to do things in a collaborative manner; the Board needs to stay focused on the goals and objectives and in that way move forward. She objected to Larry Harrington raising his voice at her at every meeting. Jim DeVellis pointed out that issues should be settled at the BOS table not in the newspaper. He will do all he can to keep things civil. He said it is important that all members of the Board support whatever decision is made.

Motion by Larry Harrington to go into Executive Session for the purpose of reviewing and possibly releasing Executive Session Minutes and exit from Executive Session for the sole purpose of adjournment. Seconded by Lorraine Brue.

Vote: 5-0-0	Lynda Walsh, Chairman	Yes
	Larry Harrington, Vice Chair.	Yes
	Jim DeVellis, Clerk	Yes
	Lorraine Brue	Yes

Paul Mortenson

Yes

Motion by Paul Mortenson to adjourn. Seconded by Larry Harrington.
Vote: 5-0-0 Meeting adjourned at 10:30 p.m.

James J. DeVellis, Clerk