

## Selectmen's Meeting-Liquor License Violation Hearings

October 10, 2007

Ayer Town Hall, 1<sup>st</sup> Floor Meeting Room, Main Street, Ayer, MA

Meeting recorded by AYERPAC made part of meeting minutes-CD available for viewing by written request to Town Administrator or by purchase from AYERPAC directly.

### Present

Gary J. Luca, Chairman	X
Carolyn McCreary, Vice-Chairman	X
Cornelius F. Sullivan, Clerk	X
Frank F. Maxant, Member	Delayed
Pauline Conley, Member	X
Shaun Suhoski, Town Administrator	Absent
Janet Lewis, Secretary	X
Chief Richard Rizzo, Ayer Police Dept.	X
Officer Andrew S. Kularski, Ayer Police Dept.	X

**7:05p.m. Chairman Luca Open Hearings: Present and attending:** Philip Berry-Carlin's Restaurant, James Januskiewicz-LaSita, Inc., Mark Fermanian-Traffic Circle Liquors Inc. d/b/a Jack-O-Lantern, Jeffrey Gendron-The Vineyard and Linda Kenney-Shaker Hills Golf Club.

Chairman Luca called for a motion to approve the Agenda. Selectman Conley moved the Board approve the Agenda, 2<sup>nd</sup> by Selectman McCreary, VOTE: unanimous, so moved. Selectman Conley raised concern re the order on the agenda posting re Hearings being taken up vs. order of packet.

Chairman Luca requested the Legal Notice be read into the record- Selectman Sullivan read the Legal Notice into the record which ran in the Nashoba Publications Newspaper the week of October 5, 2007. Chief Rizzo corrected the Section of the MGL cited in the Newspaper from Section 64 to Section 34.

Chairman Luca turned the discussion over to Chief Rizzo who introduced Officer Andrew Kularski the Ayer Police Officer given the assignment to conduct compliance testing of all the establishments in the Town of Ayer that sell and serve alcohol beverages. Chief Rizzo updated the Board that on July 28, 2007 and August 9, 2007 the Police Dept. (Officer Kularski) conducted Compliance Testing of Ayer businesses as stated above the goal was not to catch businesses breaking the law by serving minors but to ensure these businesses were following the guidelines set by the Massachusetts Alcohol Beverage Commission (ABCC). The testing was a sting where an underage operative was sent into the business and attempted to purchase an alcoholic beverage. Chief Rizzo advised the Board to a notice of this testing was placed in the May 25, 2007 local newspaper. On 7-28-07 ten businesses hold liquor licenses were tested-seven of which passed the testing, unfortunately three of the businesses failed: The Vineyard, Jack-O-Lantern and Carlin's. On August 9, 2007 four businesses holding liquor licenses were tested, two businesses passes and two businesses failed: Shaker Hills Golf Course and LaSita. Chief Rizzo produced incident report re the compliance checks advising to each of the Compliance Test Violation Notices were given to each server or clerk who made the sale. Chief Rizzo stated Officer Kularski has recommended that each of the businesses who failed the testing be given a three (3) day liquor license suspension with the three days suspended for twelve months if no new violations occur during this twelve month period. Ted Mahoney, the ABCC Investigator assigned to Ayer agrees this is a reasonable penalty. Chief Rizzo stated for the record he agrees with Office Kularski's recommendation as well as advising the Board to another sting being conducted in 90 days and suggested licensees be given stern warning next time corrective action will be taken much more seriously.

**Carlin's Restaurant-License # 006000002-7 Depot Square, Ayer, MA** -The Board met with Philip Berry, owner. Patrolman Kularski read from his incident report Carlin's Restaurant's violation of Chapter 138 Section 34 the sale of an alcohol beverage to a person less than twenty-one years of age without being asked for identification by an employee working at Carlin's on 7-28-07. Mr. Berry acknowledged incident did happen, employee was terminated immediately, apologized to Board and to Town and read statement into the record, re same.

Selectman Sullivan moved the Board based upon the Findings find that there was a Violation of MGL Chapter 138 Section 34 and the Board vote to suspend Carlin's License for a period of three days, execution of which shall be suspended for a period of twelve months if no new violations occur during this twelve month period, a written warning be issued and be placed in the licensee's file, the owner/employee attend Alcohol Intervention Methods (AIM) recertification of package store and server training to be conducted on October 17, 2007 at the Billiard's Café, 39 Main St., Ayer, MA from 6:00p.m. to 9:30p.m. and that there be no further violations of the license or the General Laws, 2<sup>nd</sup> by Selectman Conley for friendly amendment adding copy ABCC & APD, VOTE: unanimous, so moved.

- Selectman Sullivan at this time requested five (5) Licensee's present waive deficiencies re Chapter cited in Legal Notice published on 10-5-07 corrected to state Section 34-waive rights to have republished to cite correct Chapter & Section. Philip Berry yes, James Januskiewicz yes, Jeffrey Gendron yes, Mark Fermanian yes, Linda Kenney yes.

**LaSita, Inc. -License #006000008-13 Park Street, Ayer, MA-**The Board met with James Januskiewicz Chairman Luca recused himself from all discussion due to conflict of interest. Officer Kularski read from his incident report LaSita Inc.'s violation of Chapter 138 Section 34 the sale of an alcohol beverage to a person less than twenty-one years of age without being asked for identification by an employee working at LaSita on 8-9-07. Mr. Januskiewicz acknowledged incident happened, employee was his daughter, apologized to Board & Town. Selectman Sullivan moved the Board based upon the Findings find that there was a violation of MGL Chapter 138 Section 34 and the Board vote to suspend LaSita's License for a period of three days, execution of which shall be suspended for a period of twelve months if no new violations occur during this twelve month period, a written warning be issued and placed in the licensee's file, the owner/employee attend Alcohol Intervention Methods (AIM) recertification of package store and server training to be conducted on October 17, 2007 at the Billiard's Café, 39 Main Street, Ayer, MA from 6:00p.m. to 9:30p.m. and that there be no further violations of the license or the general laws, ABCC & APD to be copied, 2<sup>nd</sup> by Selectman Conley, VOTE: unanimous, so moved.

**Jack-O-Lantern-License #006000010-2 Littleton Rd., Ayer, MA-**The Board met with Mark Fermanian. Patrolman Kularski read from his incident report Jack-O-Lantern Package Store's violation of Chapter 139 Section 34 the sale of an alcohol beverage to a person less than twenty one years of age without being asked for identification by an employee working at Jack-O-Lantern on 7-28-07. Mr. Fermanian acknowledged incident did happen, employee reprimanded and stern notice put out & signed by all Jack-O-Lantern employees. Selectman Sullivan moved the Board based upon the Findings find that there was a violation of MGL Chapter 138 Section 34 and the Board vote to suspend Jack-O-Lantern's License for a period of three days, execution of which shall be suspended for a period of twelve months if no new violations occur during this twelve month period, a written warning be given and placed in the licensee's file, the owner/employee attend Alcohol Intervention Methods (AIM) recertification of package store and server training to be conducted on October 17, 2007 at the Billiards Café, 39 Main Street, Ayer, MA from 6:00p.m.-9:30p.m. and that there be no further violations of the license or General Laws, ABCC & APD to be copied 2<sup>nd</sup> by Selectman Conley, VOTE: unanimous, so moved.

**The Vineyard- License #06000022-63 Park Street, Ayer, MA-**The Board met with Jeffrey Gendron. Patrolman Kularski read from his incident report The Vineyard's violation of Chapter 138 Section 34 the sale of an alcohol beverage to a person less than twenty-one years of age with out being asked for identification by an employee of the Vineyard working on 7-28-07. Mr. Gendron acknowledged incident did happen, employee was himself. Mr. Gendron feeling entrapment stating operative used by Ayer Police Dept. was relative(cousin) of employee working that evening at the Vineyard. Mr. Gendron apologized, ashamed felt was bazaar situation. Selectman Sullivan moved the Board based upon the Findings find that there was a violation of MGL Chapter 138 Section 34 and the Board suspend The Vineyard's License for a period of three days, execution of which shall be suspended for a period of twelve months if no new violations occur during this twelve month period, a written warning be issued and placed in the licensees file, the owner/employee attend Alcohol Intervention Methods (AIM) recertification of package store and server training to be conducted at the Billiard's Café, 39

Main Street, Ayer, MA from 6:00p.m.-9:30p.m. and that there be no further violations of the license or the General Laws, ABCC & APD be copied, 2<sup>nd</sup> by Selectman McCreary VOTE: unanimous, so moved.

**Shaker Hills Golf Course-License #006000017-Shaker Road, Ayer, MA** The Board met with Linda Kenney. Patrolman Kufarski read from his incident report Shaker Hill's Golf Course's violation of Chapter 138 Section 34 the sale of an alcohol beverage to a person less than twenty one years of age without being asked for identification by an employee working at the Shaker Hills Golf Course on 8-9-07. Ms. Kenney acknowledged incident did occur, employee did not follow policy-employee staff of Catering Company hired by Golf Course "Peppers" incident occurred in Golfer's Bar of Club House. Selectman Sullivan moved the Board based upon the Findings find that there was a violation of MGL Chapter 138 Section 34 and the Board suspend Shaker Hills Golf Course-Pepper's Catering License for a period of three days, execution of which shall be suspended for a period of twelve months if no new violations occur during this twelve month period, a written warning be placed in the licensee's file, the owner/employee of Pepper's Catering attend the Alcohol Intervention Methods (AIM) recertification of package store and server training to be conducted at Billiard's Café, 39 Main Street, Ayer, MA from 6:00p.m.-9:30p.m. and that there be no further violations of the license or the General Laws, 2<sup>nd</sup> by Selectman McCreary, VOTE: unanimous, so moved.

Selectman Maxant entered meeting during Shaker Hills Golf Course Hearing

Chairman Luca thanked everyone for their for coming out re this Public Safety issue and corrective action taken.

8:05p.m. Selectman Sullivan moved the Board close the Liquor License Violations Hearings, 2<sup>nd</sup> by Selectman McCreary, VOTE: unanimous, so moved.

Selectman Sullivan restating the Board's strict emphasis on compliance and encouraging all adhere to the provisions of Chapter 138 of the General Laws regarding the sale of alcohol beverages. Selectman McCreary stated her pleasure hearing all the violations were taken very seriously by the Alcohol establishments.

Selectman Maxant thanking Chief for background and explaining action taken. Selectman Conley thanking Chief Rizzo & women operatives for initiative, great idea and very much appreciated.

8:10p.m. Selectman Conley moved the Board adjourn, 2<sup>nd</sup> by Selectman Sullivan VOTE: unanimous, so moved.



DATE: 12-18-07

Cornelius F. Sullivan, Clerk

AYER BOARD OF SELECTMEN