

**Town of Stoneham
Liquor Licensing Authority
Minutes of Meeting of
January 7, 2014**

Chairman Sweeney called the meeting to order at 7:01 p.m. Also present were Selectman Boussy, Selectman DePinto, Selectwoman O'Neill and Selectman Vallarelli.

Reconsider Petroleum Group IV, LLC, d/b/a Spot Pond Mobil, 2 South Street/New Beer & Wine Package Store

Selectman DePinto read legal ad. Chairman Sweeney asks Town Counsel to open this matter up for discussion.

Attorney Solomon states that he would like to go over the basic principles to help the Board with its decision making.

Attorney Solomon explains *Overview of Chapter 138, Section 23 of the Massachusetts General Laws Regarding The Issuing of Licenses Prepared by William H. Solomon For The Stoneham Board of Selectmen For January 7, 2014 - CHAPTER 138 ALCOHOLIC LIQUORS Section 23 Nature of licenses and permits; status as property rights; refusal to issue or reissue, revocation, etc.; refund of fee; transfers; death, receivership or bankruptcy of licensee; expiration; pledging for loans* *The provisions for the issue of licenses and permits hereunder imply no intention to create rights generally for persons to engage or continue in the transaction of the business authorized by the licenses or permits respectively, but are enacted with a view only to serve the public need and in such a manner as to protect the common good and, to that end, to provide, in the opinion of the licensing authorities, an adequate number of places at which the public may obtain, in the manner and for the kind of use indicated, the different sorts of beverages for the sale of which provision is made. ... (See attached.) Brief Summary of Relevant Case Law an ABCC Decisions: (1) The statutory language is clear that there is no right to a liquor license of this type specified in M.G.L. c. 138, s.12. A local licensing authority has discretion to determine public convenience, public need, and public good, with respect to whether to grant a license to sell alcoholic beverages. (2) "Need in the literal sense of the requirement is not what the statute is about. Rather the test includes an assessment of public want and the appropriateness of a liquor license at a particular location." "Consideration of the number of existing licenses in the area and the views of the inhabitants in the area can be taken into account when making a determination, as well as taking into account a wide range of factors-such as traffic, noise, size, the sort of operation that carries the license and the reputation of the applicant." "The opposition of the neighborhood, albeit an important factor for a licensing board to consider, does not convert the exercise of a licensing board's adjudicatory function into a plebiscite." (3) The test of public need includes a combination of the competing interest of the "public want" and the appropriateness of the location. In other words, if a licensee were to petition for a liquor license for an establishment near an elementary school, the public appropriateness might outweigh the public need. (4) Neither the board's broad discretion nor the limitations on judicial review, however, mean that the local board can do whatever it pleases whenever it chooses to do so. The local board "may exercise judgment about public convenience and public good that is very broad, but it is not untrammelled." Instead, "[w]here the factual premise on which [the board] purports to exercise discretion is not supported by the record, its action is arbitrary and capricious and based upon error of law, and cannot stand." (5) Sound exercise of discretion required the commission to consider the need for the business the applicant sought to run, not the need for some hypothetical business or the need for a [14] business of the type typically run by others. (6) Thus, a Board must state the reasons for its decision whether or not to issue the liquor license. M.G.L. c. 138, s.23. Adjudicatory findings must be "adequate to enable [a court] to determine (a) whether the order and conclusions were warranted by appropriate subsidiary findings, and (b) whether such subsidiary findings were supported by substantial evidence." "General findings are insufficient, and if the licensing board does not make sufficient findings, it remains the Commission's obligation to articulate the findings of fact, which were the basis of the conclusions it drew, and not merely adopt the findings of the board. Recitals of testimony do not constitute findings.* Chairman Sweeney opens up for the petitioner to address the board.

Attorney Mario Patalano represents Arthur Sordillo the owner of the Petroleum Group IV, LLC d/b/a Spot Pond Mobil. He stated that he had said everything he could possibly say after the two hour presentation from the hearing on November 19, 2013. He feels he addressed everything. Chairman Sweeney states that Attorney Patalano did a good job that night. Chairman Sweeney says this is new ground for the Selectmen to reconsider a liquor license. Chairman Sweeney would like to hear the input from the Department Heads. Chairman Sweeney reads the comments into the record. *January 7, 2014 From: Robert E. Grover Re: 614 Main Street, Stoneham Per request an inspection of the gas station at 614 Main Street was done on 1/6/14. The station is located at the intersection of two very busy streets; Main Street and South Street. The 12,720 square foot site is congested, as it contains a 1,380 square foot building and two gas islands with entrances/exits onto both Main Street and South Street. Parking on site is limited and Maneuverability is very difficult, especially when there is a snowfall and space becomes even more limited* Chairman Sweeney reads *From: Cheryl Noble, Building Inspector, 1/7/2014, Re: 616 Main Street, AKA 2 South Street. According to our records and after a site visit to the above mentioned address, the current site does not meet the approved site plan in regards to the location of parking spaces. The approved site plan requires four spaces all shown to the right of the building. The current layout has a total of five (5) parking spaces, two of which are tandem to the left of the building and do not meet the 5 foot side setback requirement. These two spaces are currently buried in snow and unusable.* Chairman Sweeney reads comment from Shelly MacNeill on the School Committee. *Recently the Stoneham Substance Abuse Coalition has formed in an effort to address the epidemic of drug and alcohol abuse in our community. Substance abuse has a negative impact on children, families and our town. The coalition's main purposes are to promote drug and alcohol awareness and drug and alcohol abuse prevention. The Coalition strongly encourages the Board to reconsider its recent vote to expand the availability of beer and wine sales at convenience stores in Stoneham. We share the concerns that have been expressed by other members of the community in regards to the number of children who may enter these locations unaccompanied by an adult and their close proximity to areas frequented by our youth. We feel it is critical that the Board give serious reconsideration to the previous vote for approval and we thank you in advance for your consideration of these remarks. Sincerely, The Stoneham Substance Abuse Coalition.* Chairman Sweeney asks Chief McIntyre to read his comment into the record. *Chief James McIntyre, January 7, 2014, Re: Spot Pond Mobil Beer/Wine Liquor License*

On Tuesday, January 7, 2014, the Board of Selectmen will be holding a hearing to reconsider the application to sell beer/wine at Spot Pond Mobil, 2 South Street. On behalf of the Stoneham Police Department, I would like to express two concerns over the issuance of a beer/wine liquor license for this establishment. My first concern relates to Spot Pond Mobil's location and layout. Spot Pond Mobil is located at the south east corner of intersection of Main Street (Route 28), South Street, and North Border Road. Main Street is a four lane roadway (two northbound and two southbound lanes) while South Street and North Border Road are one lane (east/west). Vehicle access to the site is through driveways on South Street and Main Street. On the site is the convenience store and two separate gas pumps. There are five marked parking spaces on site – two along the north side of the property line and three to the right side of the convenience store. There is no area dedicated for vehicles making deliveries to the site. The small size of the site can make the maneuverability of vehicles difficult, especially relating to how vehicles enter the site and try properly position in order to pump gasoline. Additional traffic from the sale of alcohol will make this situation more problematic. I believe that an increase in the number of vehicles entering/exiting this site beyond the current convenience store and fueling traffic will make it more difficult for vehicles to safely navigate through the site and adjoining roadways. The Main Street intersection receives heavy traffic throughout the day, especially during commuting hours. The following average daily vehicle (ADV) count data was obtained from the Mass DOT website: 18,100 – ADV on Park Street as it changes to North Border Road (2008 data) 14, 800 – ADV on Main Street south of the intersection (2006 data) 14,300 – ADV on Main Street north of the intersection (2008 data) 18,500 – ADV on South Street east of Fairview Road (2008 data) Additional traffic entering and exiting the property has the potential for increasing congestion and the number of vehicle crashes that occur in the area. As a reference, in 2010, emergency personnel responded to 13 vehicle crashes in or near the intersections of Main Street, South Street, and North Border Road. In 2011, there were 9 reported crashes; and in 2012 and 2013, there were 8 reported crashes. My second concern arises from the sale of alcoholic beverages from a convenience store. By its very nature, a convenience store is open to all ages of the general public who wish to purchase consumable goods. Ordinarily, the foot traffic of minors entering and exiting a convenience store would not raise concern by a store clerk. Contrast this with the presence of minors in a package store, whose purpose is to predominantly sell alcoholic beverages. Currently, if an individual who appears to be a minor enters a package store, this would immediately be a concern for store personnel and their activity would be heavily monitored. At a convenience store located within a gas station, a clerk's attention is divided between processing sales of goods and gasoline. Further, store personnel need to be observant of activity taking place outside of the store, such as problems at the gasoline pumps. I am concerned that a store clerk whose attention is divided among many activities will not be able to properly monitor the area in which alcoholic beverages are stored, thus allowing under age persons the ability to access them. Further, based upon the existing floor plan of this convenience store, its small size and the number/height of display units would significantly reduce the visibility for store personnel at the cash register to monitor the alcoholic beverage chests. Thank you for the opportunity to present these concerns to the Board. Chairman Sweeney passes around pictures of the parking. Chairman Sweeney reads a petition submitted by approximately 150-175 residents: *On January 7, 2014 the Board of Selectmen will have a hearing on the sale of beer and wine that was petitioned by two local Mobil Gas Stations – The one on Montvale Avenue (across from the Stoneham Arena) and the one on Route 28 (across from the Zoo, Friendly's Restaurant and the Boys & Girls Club Pool). One of many arguments made by Mobil is that this effort to obtain a liquor license is opposed by very few residents. Please sign here to represent the fact you do not want beer/wine sold from a gas station in Stoneham.* Chairman Sweeney refers to a map that shows the distance of all 5 liquor stores from Spot Pond Mobil: Center Beverage 0.9 miles, McDonoughs Liquor 0.9, Rapid Liquors 2.0, Redstone Liquors 2.1, and BJs Liquors 3.0. Selectwoman O'Neill thinks this meeting took place without all this information. She appreciates that everyone is involved in this process. Town Administrator Ragucci states for the record that according to the census Stoneham's population has been fairly consistent over the past 30 years. Selectman Vallarelli clarifies what they are voting on tonight. Town Counsel suggests the board request the record from the last meeting be submitted into these minutes. *(Minutes from November 19, 2013) Petroleum Group IV, LLC, d/b/a Spot Pond Mobil, 2 South Street/New Beer & Wine Package Store. Selectman DePinto read legal ad. Attorney Mario Patalano was present to represent Arthur Sordillo who owns Petroleum Group IV, LLC, d/b/a Spot Pond Mobil, 2 South Street. Attorney Patalano explains why Arthur Sordillo is interested in this license and how he will regulate the selling of beer & wine. All employees will be over 18 and required to comply with any restrictions, rules and regulations. All employees will be tips certified. There will be a designated area in the store for the sale beer & wine. Chairman Sweeney reads the petition against allowing this license from the neighborhood that was submitted to the Board of Selectmen on November 19, 2013. Selectmen DePinto asks what hours will beer & wine be sold. Attorney Patalano states they will sell the same hours as the other package stores in town. Chairman Sweeney says thank you to Mr. Sordillo not applying for the Mobil by the Middle School. Selectman Vallarelli states the business is immaculate. Selectmen Vallarelli agree that the sale of beer & wine will not put any package stores out of business. Selectwoman O'Neill feels it is not a good idea. She feels it is not safe for children. Selectwoman O'Neill states that the specialty businesses would be affected by the gas stations selling beer & wine. Selectmen Sweeney opens the public hearing. Resident Bill McCabe speaks regarding Arthur Sordillo and states that Mr. Sordillo is a great business owner and a great person. Resident Jim Sullivan states he feels that there are enough liquor stores in Stoneham. Resident Debra Taylor is an abutter and speaks against liquor being sold at the gas station. A Washington Street resident states that he never has had a problem at the gas station and he is in supportive of this license. Resident Bill Previdi speaks against approving this license and supports Selectwoman O'Neill opinion. A resident from 34 High Street supports Selectwoman O'Neill opinion on this issue. Selectman Vallarelli closes public hearing, seconded by Selectman DePinto. Selectman DePinto moved for approval of the following New Beer & Wine Package Store License to Petroleum Group IV, LLC, d/b/a Spot Pond Mobil, 2 South Street. Motion was seconded by Selectman Vallarelli. Voting in Favor: Selectman DePinto, Selectman Vallarelli, Chairman Sweeney Voting Opposed: Selectman Boussy, Selectwoman O'Neill. Motion was passed (3-2). Chairman Sweeney opens to public hearing. Roy Slocum 612 Main Street states Mr. Sordillo does a great job. He runs a great station. Mr. Slocum is speaking in favor of the sale of beer and wine and he does not feel it would have a negative impact on the neighborhood. Jim Sullivan 6 Sunset Road states that no one is saying Mr. Sordillo is an honorary*

gentleman. What the question here tonight is do we want Stoneham to be a community where we want convenient stores selling beer and wine? Cindy Hemmingway 14 Fells Rd., last meeting Selectwoman O'Neill and Selectman Boussy voted against and would like to personally thank Chairman Sweeney for changing his vote and she hopes tonight is 5-0. She feels we do not need the convenience of convenient stores selling beer and wine. Arthur Sordillo the applicant states he understands how people feel (it's a new concept). He understands the neighbors not wanting it. He states that driving in and out to purchase alcohol is not the issue because that's what you do at a package store. He states parking is a good issue to bring up for his station. He feels that he applied for the license and was supposed to get a hearing in 6 weeks. He was fine waiting five months to let everyone know these licenses were available. He has been an owner for 6 years. He has donated money to the town. If he thought it was a bad idea he wouldn't apply. Chairman Sweeney says he understands what he said and a lot of truth what he said. Chairman Sweeney states we followed all requirements of the ABCC in the process of you applying for the license. Selectman Boussy states he feels that a town with a 4 mile radius doesn't need convenient stores selling beer and wine. Robert Nolan, 36 Parkway Road stated he didn't speak at the last meeting because he thought it would be denied. But now that it was approved he felt the need to speak regarding the fact that he was not notified where he could throw a baseball to the gas station he found that problematic. The approval of one and denial of another at the last meeting did not make sense. He doesn't understand the process and he hopes that there will be a 5-0 vote tonight. He feels a lot of this could've been avoided if the process was stream lined in November. Selectman Vallarelli states that Attorney Patalano did a great job which is what changed his mind at the November meeting. Lauren Murphy, 41 Fairview Road, tells Mr. Sordillo that he is wonderful neighbor a lot of the kids have grown up in his store. Selectman DePinto close public hearing and seconded by Selectman Vallarelli. Town Counsel states there will a written decision that he will present for approval that will be consistent with their findings. Selectman DePinto made a motion to approve the license, seconded by Selectman Boussy.

Voting Against:

Selectman Boussy
Selectman DePinto
Selectwoman O'Neill
Selectman Vallarelli
Chairman Sweeney

Motion did not pass (0-5).

Selectman DePinto made a motion for a two (2) minute recess.

Approve Non-Profit Special Alcoholic License/Rev. Mario J. Orrigo/ St. Patrick Parish Center/71 Central Street (1/11/14)

Selectman DePinto moved for approval of the following Non-Profit Special Alcoholic License for St. Patrick Parish. Motion was seconded by Selectwoman ONEILL **and unanimously voted (5-0)**.

Approve Non-Profit Special Alcoholic License/Rev. Mario J. Orrigo/ St. Patrick Parish Center/71 Central Street (3/15/14)

Selectman DePinto moved for approval of the following Non-Profit Special Alcoholic License for St. Patrick Parish. Motion was seconded by Selectwoman O'Neill and **unanimously voted (5-0)**.

Approve LLA Minutes

Selectman Boussy moved approval of the 12/16/13 LLA minutes, seconded by Selectwoman O'Neill **and unanimously voted (5-0)**.

Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Erin Sinclair