

The Board of Selectmen met on Tuesday, May 23, 2017 at 6:00pm in the Main Meeting Room of the Town Hall. The following members were present.

Eric Kraus, Chairman
Nancy Mackenzie, Clerk a
Mark Gallivan
David Salvatore

Also present:
James Johnson, Town Administrator
Attorney Jeffrey Blake, K-P Law
Cindy Berube, Executive Assistant

Mr. Kraus called the meeting to order followed by the Pledge of Allegiance,

Mr. Kraus wanted to thank his Selectmen colleagues for allowing him to be Chairman. There is an upcoming election on June 3rd and I will most likely not be the Chairman. I want to thank my wife for putting up with me for thirty years. We have been extremely busy with handling some significant issues impacting our town. There are issues that have taken up a substantial amount of time for all of us up here. I also want to thank our Town Administrator Jim Johnson, Cindy Berube, Police Chief John Carmichael, Fire Chief Tim Bailey, and all the department heads and wonderful staff for their dedication. We have a great team here in Walpole and that should never get lost in the day to day activity. Looking back over this year I am very proud of what this board has accomplished. Although the four Selectmen may have different visions on what is best for our town. We have worked collaboratively on the most pressing issues of the last 12 months. The vast majority, which have focused on safety. Those issues included the Spectra gas line, the proposed MBTA train, ongoing issues with Longview farm, new police and fire stations, the increased emphasis on the opioid crisis and our unwavering commitment to allow any establishment to serve the underage citizens of our town. While this is only a partial list these issues are on the mind of our citizens on a daily basis and all four of us have taken this very seriously. When Jim Stanton was here before he left to be a judge these were areas of concern for him as well. For the two incoming Selectmen I would offer a handful of observations. I love the pre-election enthusiasm of the thought of new leadership and the two new Selectmen coming in will have eyes open, and they will find out rather quickly that there has been little mismanagement or poor judgment implemented by this Board. For the most part people criticize you when the Board votes a different way then they want. From our prospective it is never personal and we are making decision based on all the facts. While we can agree to disagree an opposing vote or different view does not mean a lack of leadership by this Board. This Board has voted unanimously almost 95% of the time this year, which is amazing with a various background and interest. So please come in expect to roll up your sleeves and develop solutions. And remember one thing, we do not receive a stipend; we do this because we are passionate for the town, and want this town to be the best it can for the residents, corporate tax payers, our families and the visitors who come here.

APPOINTMENTS

RED WING DINER, Hearing for Alleged liquor violation

Attorney Blake explained we are here for 5 different hearings, two of the establishments are for 2nd offense and two for first offense and one for many offenses. You take it seriously, you recognize, the stings and the various compliance checks are for education. You are very willing to work with establishment who make mistakes, who serve alcohol to minors, you have allowed me to reach out to license holders, if they are willing to accept responsibly you are willing to work with them. First offense is 2 days and 2nd is 3 days. Which days they are you allow them to choose. I did reach out to every one of the establishment owners and three have indicated they are willing to take responsibility for their action. Work with you and negotiate on a particular day and not appeal to the ABCC.

MOTION moved by Mr. Kraus to open the public hearing for Red Wing Diner Inc. d/b/a Red Wing Diner for an alleged violation of the terms of their liquor license, second by Mr. Gallivan, VOTED 4-0-0

Liam Murphy appeared before the Board. Attorney Blake this is your second offense did you read the police report? Mr. Murphy, I am embarrassed, we have never had a liquor violation until two years ago, I continue to educate my staff. I suspended the staff for 2 weeks and I made her take the TIP certification. Mr. Kraus, the Red Wing has been in our community for a long time, we take this seriously, I would be interested to know what will be different, you had such a wonderful run. Identify systematic now. It is probably not just one server; I do not want this to become the way of life. Mr. Murphy there is no excuse even it is busy, if you do not look 40 years old you must card I had a meeting with everyone and this happens again that person will be discharged on the spot, I cannot tolerate this, not acceptable.

Mrs. Mackenzie appreciates him offering TIP education to the staff. Mr. Gallivan understands on a night when it is busy it is hard to do. But it still needs to be done. Mr. Kraus offered help from them and the Police Department

Mr. Salvatore noted that his wife is 15 years older and they went to a place in Boston and my wife was carded. The person said I don't want to lose my job. You do your job or lose your job.

Attorney Blake asked Chief Carmichael if there is anything he wants to say. He stated No.

MOTION moved by Mrs. Mackenzie that the evidentiary portion of this hearing be closed, seconded by Mr. Kraus, VOTED 4-0-0

MOTION moved by Mr. Salvatore that after hearing testimony regarding the alleged violations of Red Wing Diner, 2235 Boston Providence HWY and deliberation, the Board of Selectmen finds the following facts

1. The Restaurant is currently the holder of a license under G.L. c.138 §12.

2. The licensee was found to have served an under aged person on April 21, 2017. This is a violation of G.L. c. 138, §34-sale of alcohol to a minor, Code of the Massachusetts Regulations 204 section 2.05(2) permitting illegalities or disorders on the licensed premises, and improper management.
3. As such, this is the second violation and Red Wing Diner has agreed to a three day suspension with the days chosen being provided to the Board of Selectmen within seven days and they have waived their right to appeal.

SECONDED by Mrs. Mackenzie VOTED 4-0-0

TEXAS ROADHOUSE, Hearing for Alleged Liquor Violation

Attorney Blake explained the Texas Roadhouse has agreed to accept responsibility. Attorney Andrew Upton representation.

MOTION moved by Mr. Kraus to open the public hearing for Texas Roadhouse Holdings, LLC d/b/a Texas Roadhouse for an alleged violation of the terms of their liquor license, seconded by Mr. Gallivan, VOTED 4-0-0

Attorney Blake spoke to Attorney Upton, you and I had discussion the board looks favorably on those that accept responsibility. Do you agree that you received the notice? Attorney Upton yes, and a police report. Attorney Upton, yes. Agrees to the report. He introduced the Manager of Record.

Tristan Gaffny, I apologize to the board and community since the mistake was made we have taken steps to be sure this does not happen again. We have reeducated staff, and the person who made the mistake was suspended for a week and has multiple conversations with us. We have a policy that anyone under 30 be carded. I have made clear that anyone that asks for alcohol be carded. It is embarrassing and my goal is to never have this happen again.

Mr. Kraus so the current policy is anyone under 30 is carded. You did mention this does not happen again. Mr. Gaffny the new policy is anyone that asks for alcohol gets carded. Mr. Kraus pleaded that this does not happen again, please make this a one-time event.

Attorney Upton, the new policy is everyone gets carded. Michael Helpton, District management is here.

Attorney Blake asked Chief Carmichael if he has anything to say. He stated no we appreciate the effort.

MOTION moved by Mrs. Mackenzie that the evidentiary portion of this hearing be closed, seconded by Mr. Kraus, VOTED 4-0-0

MOTION moved by Mr. Salvatore that after hearing testimony regarding the alleged violations of Texas Roadhouse, located at 102D Boston Providence Hwy and deliberation, the Board of Selectmen find the following facts

1. The Restaurant is currently the holder of a license under G.L. c.138 §12.
2. The licensee was found to have served an under aged person on April 21, 2017 This is a violation of G.L. c. 138, §34-sale of alcohol to a minor, Code of the Massachusetts Regulations 204 section 2.05(2) permitting illegalities or disorders on the licensed premises, and improper management.
3. As such, this is the first violation and Texas Roadhouse has agreed to a two-day suspension with the days chosen being provided to the Board of Selectmen within seven days and they have waived their right to appeal.

Seconded by Mrs. Mackenzie, VOTED 4-0-0

PATRIOT TAVERN, Hearing for Alleged liquor violation

MOTION moved by Mr. Kraus to open the public hearing for Patriot Tavern LLC d/b/a Patriot Tavern for an alleged violation of the terms of their liquor license, MG 4-0-0

Steve Hixson, Manger was present. Attorney Blake asked did you receive the notice and the police report. Mr. Hixon, yes I did. Being a new restaurant I take full responsibility not having enough awareness, all staff has been trained in Serve Safe, tip certified. Pam the person that served has over 18 years' experience. I feel I am at fault for not being vigilant. The things to make sure this not happen again upping the age from 30 to 40 on carding. All staff is Serve Safe certified. Card everyone. I did not think I would be up here; I have never had this happen to say I am disappointed is an understatement. Mr. Kraus is disappointed to say the least the resources you have put in to this place. You cannot do enough to rectify the situation and to be sure that you are not back before us, you have to play by the rules, I appreciate you apology. Hope it is a long career for you.

Mr. Salvatore remembers him coming in when you got the license. It is a very popular place, it is disappointing. I hope the value of protecting kids is understood. The ultimate penalty will be paid. I hope not to see you again.

Pam I want to apologize to the town and the owner. I have two young sons and I get it. Mr. Kraus we don't like this anymore than you do. It is our job and police to protect the children in the town. I have been in your establishment; we are all excited about what you were doing. We have laws in place to protect people.

Chief Carmichael, we thank you for putting the safeguards in place.

MOTION moved by Mrs. Mackenzie that the evidentiary portion of this hearing be closed, seconded by Mr. Kraus, VOTED 4-0-0

MOTION moved by Mr. Salvatore that after hearing testimony regarding the alleged violations of Patriot Tavern located at 100-104 Main Street and deliberation, the Board of Selectmen find the following facts

1. The Restaurant is currently the holder of a license under G.L. c.138 §12.
2. The licensee was found to have served an under aged person on April 21, 2017. This is a violation of G.L. c. 138, §34-sale of alcohol to a minor, Code of the Massachusetts

Regulations 204 section 2.05(2) permitting illegalities or disorders on the licensed premises, and improper management.

3. As such, this is the first violation and Patriot Tavern has agreed to a two-day suspension with the days chosen being provided to the Board of Selectmen within seven days and they have waived their right to appeal.

Seconded by Mr. Gallivan, VOTED 4-0-0

SAPORE VERO, Hearing for alleged liquor violation

MOTION Mr. Kraus to open the public hearing for True Flavors, LLC d/b/a Sapore Vero Restaurant for an alleged violation of the terms of their liquor license, seconded by Mr. Gallivan, VOTED 4-0-0

Attorney Blake did reach out to counsel. Are you contesting you sold alcohol to a minor? Did the Restaurant receive the document and the police report? Attorney Lint, Yes. The restaurant served an underage operative and they agree. Do you have anything to say to the Board?

The first offense from May 2016 the first violation is under appeal, it was our position to have this continued to wait for the disposition of the appeal. But I was told you were not interested in doing that. I told Town Counsel we would be willing to accept two days and withdraw our appeal. You would not accept, so we have to wait for the first hearing to be resolved. You gave us 2 days on the first hearing.

Mr. Kraus, we have guidelines to follow. Whether or not we have legal resolution on the first offense, and expand as many days as we want. At the end of the day if you have 1 or 2 in a calendar year, spend more time tightening up the shift. You said you served a minor and you said yes. I do not care about the first hearing, I am going to recommend that we vote on this violation, you have served illegally to minors in one year and that is unacceptable. Mr. Salvatore noted it is the same bartender. Attorney Lint, she came highly recommended and great experience, the first violation she misread the license and made a mistake and in this case she did not ask for an ID as a result she is no longer with Sapore Vero. That is the only person that has done something. This is not a bar room this is fine dining, clientele is usually much older. Mr. Salvatore does not feel that matters. He doesn't care if it is top of the hub or corner bar that is an argument. When a kid walks in, hey what is a kid doing here. Attorney Lint talked about the first incident. The server misread the license and I have interviewed her. The 2nd time this was a male operative, he looked over 21, I can't tell you anything more than that. This time she believed the person was over 21, we did not accept it. Mr. Salvatore questioned, what did you do? Attorney Lint, she is no longer with us. Mr. Salvatore, every argument you make here, the first time kid in a high-end establishment. You should have been on notice right away. The second time the person did not check the ID. You didn't learn from the experience. I think it is fair to go outside the guidelines. Give a three-day suspension. After the first time she took TIPS. The second time she believed they were over 21, she was the one who served them; she has not violations in Mansfield. Mr. Kraus, there was another establishment blaming the server. Attorney Lint, we know that. You have a rouge waitress. Mr. Kraus if you had worked with us on that violation, but instead you took a different tack, it is mind-blowing that under one year you are back with us.

Attorney Lint we feel a suspension is excessive for a first offense. You have a different policy. Not concurrent with the philosophy with the ABCC and that is why we are appealing. Mrs. Mackenzie, it does not make sense to me, these are our polices, you know what you are getting into. We are clear about breaking the rules, to say it is unfair. Attorney Lint, we have a difference of opinion,

Mrs. Mackenzie, has Vero ever past a sting? Police Chief Carmichael explained that Vero is a new establishment and I believe last year they questioned getting a letter. We were able to show that we did send the letter. Mrs. Mackenzie, so on both checks you have served someone. As far as I am concerned, you serve people all the time. Attorney Lint, you make it sound we are very cavalier. Mr. Kraus you have been here for a short time and both times failed. During the time you have been caught again. Sitting up here how should we view this. Attorney Lint, we admit. We do not serve underage. We did not receive either letter. The Mail is supposed to go to Mansfield.

Mr. Gallivan I consider this as a 2nd violation. If you are not going to accept for a 3 day we need to have police come up. Jeff this is a 2nd offense. It is a valid suspension until the ABCC finds otherwise. They have admitted to the facts, the only issue here is the penalty itself. You can have the officers get up. They have admitted to serving to minors.

Attorney Jeff Blake swore in all the police officers, Detective and the Police Chief. Chief Carmichael explained the Walpole Police Department applies for grants for underage drinking, this year in many years the grant was delayed. We like to do one in the spring, we did a compliance check we did 39 establishments and out of that five of them failed. Detective Songin, and Officer Manganello performed the stings.

Question directed at Detective Timothy Songin. Attorney Blake asked what is your understanding why you are here. You are familiar with the 4/21 compliance check. Detective Songin, I get a list of the establishments, I gather operatives, criminal justice majors, take them to establishment, train them, send them in to buy alcohol, if they succeed they come and tell us. Attorney Blake, did you do this with Sapore Vero? Detective Songin Yes with operative 1. Attorney Blake, how did you do it? Detective Songin explained we pull close to the establishment and describe the premises and tell the operative to order a drink, not to touch the drink. They provide them with a \$20 bill. Operative 1 came out and said they served me. Detective Songin, I take the operative and go back in and have him identify the person. Attorney Blake, that happened, he pointed out the person. Did you confront the person? Detective Songin stated, I remember the person was the same as the last time. She admitted to it. I asked her for her name and she said you should know it from last time. Try to keep it very simple. Attorney Blake did she indicate whether she checked the ID. Detective Songin she did not check ID.

Attorney Lint, of the 5 violations that took place, how many involved operative 1? Detective Songin stated all five. Attorney Lint, do you have a picture of operative 1? Detective Songin showed him a picture. Attorney Lint, do you take a picture before you start. Detective Songin stated yes but does not have that picture with him. Attorney Lint, did the operative pay for the drink. Detective Songin, I give them 20 bills and it is copied if they ask for the money they give the money. In this case they did not exchange money.

Attorney Lint wants a copy of the picture and the one they take at the beginning as well. Attorney Blake I will give it to them after he removes the license number. Attorney Lint wants the picture you take prior to the sting I would like as well.

Attorney Blake during this time did you send out letters. Detective Songin, no we did not as we did it on our own budget we were waiting for the grant. Attorney Lint was it posted in the paper? Chief Carmichael when we send the letter out we advise this is not the only time we will be doing this.

Attorney Lint does not want to ask any more questions. Attorney Blake would like to ask the owner Kenny DeFazio a few questions. Do you own the restaurant? Mr. DeFazio stated yes. Attorney Blake did you speak to the server? Mr. DeFazio yes when I realized it happened. She took it upon herself to leave. She quit. Mr. DeFazio she told us that she was not coming back. Her response was that he looks like he is 30 years old. I do not deny anything,

Attorney Blake, You said they let her go. Attorney Lint, I advised them not to do anything yet. She did not say she was quitting; she spoke to his wife and wanted to come back. We advised her that she was done. She called a few days later. Mr. DeFazio she said she quit to the people not to us.

MOTION moved by Mrs. Mackenzie that the evidentiary portion of this hearing be closed, seconded by Mr. Salvatore, VOTED 4-0-0

Mr. Salvatore, the 2nd violation is more egregious than the first. This time she does not ask for an ID. It is interesting maybe she wasn't telling the truth the first time she violated state law. I apologize for laughing, my friends say stand in front of a mirror and see if you can make an argument. When I was hearing the argument I believe there is a Lack of logic. We should treat this as 2nd offense.

Mr. DeFazio, I understand the system is all about, and we do ID, anyone who may look 30 and under. I have tried last time last time that my bartender did this, what I do not understand is your policy is the 2 day suspension. What I do not understand is that when I go to my customers 40 and under and my servers ask for ID. We have great customers and tough customers. We ask them and want ID and they say really you want to see my ID. We say we have to do this. They turn around and leave. Mr. Salvatore, so that is why you do not card? Mr. DeFazio no one over 30. I have not served any kids in town, what I have to look at as I tell my staff if anyone looks under 30 you need to ID them. Again I have to take a chance and take ID from everyone. They say his is not a bar because I am trying to get away from a bar. I have to make decision do I look or lose customers. I understand 100% what you are saying. Mr. Salvatore if you say that you are not carding because they may leave. Mr. DeFazio I understand, I try to take what I do seriously on your end.

Mr. Kraus, we get zero pleasure of doing this. I was excited about you opening this. I have had events in Mansfield. Whether you insult someone for asking for ID, I get it on a certain level. We see two violations. I would appreciate that you started with this at being remorseful. I am insulted that there was not a bigger push to work with us on the first offense. I appreciate your opinion. I respect you and your establishment. I do not appreciate the process. We will make a decision unless you wish to make an agreement with our attorney.

Attorney Lint that is five days with first and second offense. We would accept 3 days and drop the appeal and not take the 2 days. David Salvatore, they did not agree to sufficient facts.

MOTION moved by Mr. Salvatore that after hearing testimony regarding the alleged violations of Sapore Vero Restaurant, located at 944-946 Main Street and deliberation, the Board of Selectmen find the following facts

1. The Restaurant is currently the holder of a license under G.L. c. 138 Section 12.
2. On April 21, 2017 an employee of Sapore Vero sold an alcoholic beverage to a person under the age of 21 years during a liquor license compliance check by the Walpole Police Alcohol Compliance Sting Operation Team. This is a violation of G.L. c.138 Section 34 sale of alcohol to a minor, Code of the Massachusetts Regulations CMR 204 section 205(2) permitting illegalities or disorders on the licensed premises and improper management.
3. The Licensee does not contest it sold an alcoholic beverage to a person under the age of 21.
4. The Licensee was previously found, on May 5, 2016 to have served minors, for whom the Licensee received a 2-day suspension and the Restaurant did not contest that it served a minor. Thus, there have been two violations within 12 months.

As such, this is the second violation for Sapore Vero the Selectmen hereby suspends the license for three days and allowing the licensee to choose those days with one day being a Friday and inform the Board within seven days of receipt of this decision seconded by Mrs. Mackenzie VOTED 4-0-0

EASTERN PEARL, Hearing for alleged liquor violation

MOTION moved by Mrs. Mackenzie to open the public hearing for Hong Kong Eastern pearl Enterprises Inc. d/b/a Eastern Pearl for an alleged violation of the terms of their liquor license, Seconded by Mr. Gallivan, VOTED 4-0-0

Attorney Blake noted this establishment has been before you several times and they have served minors and over serving and you suspended for 6 months. Shortly before the hearing and they were found again to serve a minor, this was while the other violations were before the Board. We were unable to notice the hearing and deal with it at that time. I have not had an opportunity to speak to Counsel. I am not exactly how they want to proceed. Let counsel speak.

Mrs. Mackenzie at the last hearing we needed an interpreter. Attorney Jai explained they were going to have testimony. Mrs. Mackenzie If we go further and you do not agree are you going to say that you didn't have a translator. So you are ok with no translator, Attorney Jai yes.

Attorney Jai at the last hearing we were aware of this violation that occurred on 4/21 it was not discussed, this was part of the sting operation by the police. He agrees that operative was a minor and he did sell without carding. What he is contesting is the 4/15/17 incident that someone got drunk and stated he had his last drink at Easter Pearl. After reading the police report they did not say when he had the last drink. That is not enough proof when he had last drink.

Attorney Blake, you go the notice, Attorney Jai, Yes and Mr. Zhang, Yes. On 4/15 it states that the person drank at Eastern Pearl. You are not agreeing to sufficient facts of 4/15. I reached out to you and you do not want a translator. Attorney Jai stated yes. I am going to get the police officers and your client does not wish to testify on his behalf. Your client does not wish to testify. Attorney Jai. Yes

Attorney Blake anyone going testify in both events please raise your right hand. Attorney Blake swore the officers in.

Chief Carmichael we are prepared to move forward with the officers present they can testify. Brought Officer William Madden who is our prosecutor officer. He can testify to you about the plea deal about the 24D program and last drink data, which was at Eastern Pearl. Attorney Blake asked the Chief to explain what last drinking data. Chief Carmichael, when someone is arrested for an OUI first offense they may plea out to a 24D program. Case continued without a finding and education type program. The judge will ask were they had their last drink under oath and that individual said Eastern Pearl. Chief Carmichael talked about what the 24D program is. It is an Alcohol education program. Prior to that plea, the judge will ask where they had their last drink and he said Eastern Pearl.

Attorney Blake, the establishment owner has admitted to serving to a minor.

Attorney Blake asked Detective Songin- were you in charge of this sting? Detective Songin- Yes I was. Attorney Blake can you explain what happened. Talked about the operative and where they get them, educate train them take them out in unmarked cruisers, take to every establishment that serves alcohol and ask them to go in and order a drink. Attorney Jai-we is not contesting that. Detective Songin continued, we sent someone in and he asked for a beer the operative went in and was served a beer and he came out and let us know. We bring him back in and ask him to point out who served. He pointed to the owner. Attorney Blake did you confront the server and did he say anything to you. Detective Songin I remember him saying to his partner he forgot to card them. Attorney Blake was that the owner, Detective Songin yes.

Attorney Jai does this operative have a beard. Detective Songin, he does have facial hair. Attorney Jai nothing further.

Attorney Blake with respect to the 2nd incident, is the arresting officer here? Officer Tom Perciaccante, Attorney Blake explains what happened. Officer Perciaccante got a call from someone at BIGY plaza that there was a male staggering and trying to get into cars. We went there and noticed he was gone. A witness told Officer Beberman the license plate number. The plate came back from a house on Beaverbrook lane.

Went to his house and his car was not there. We went to the door and spoke to wife and daughter of the alleged drunk driver and asked if they knew where he was. They were not sure where he would be. Daughter said he went to get chips. I asked her to try to call him. She handed the phone to me almost in tears he seemed to be slurring his words saying he was on North St. We wanted to see that you are all right. We asked if he had any medical conditions. They said only heart should not affect his speech. As he was walking to his cruiser the male came up the street and came in the driveway. Parked the car turned vehicle off and stepped out

of car and almost fell over. He came over to me and I explained who I was told him we were doing a well-being check. He was stumbling slurring speech, I asked for ID, which he was fumbling over. I asked if he had been at Big Y he said no and I saw Big Y bags in the back seat. He had a Big Y receipt in the car. No medical emergency on him. He was confused and alcohol was very strong and failed all the field sobriety tests. He was very determined he was going back out to ring the bells at church for Easter. I could not allow him to be in his wife's care so I placed him under arrest and asked if he know why he was there. Part of the booking process and asked where his last drink was. He refused breath test. He was charged with OUI.

Attorney Jai, did you have a chance to ask him when he had his last drink? Officer Perciaccante not sure what time it was. I was at the booking but did not hear response, I was not listening. Attorney Jai, you did hear the other officer when he had the last drink. Officer Perciaccante, I was not close enough to hear it myself. Attorney Jai, he made statements that he was not in the Big Y plaza but later he said he was at the Big Y plaza. Officer Perciaccante, yes and made a statement he was coming from work. Attorney Jai in the report he didn't know why he was there. Officer Perciaccante, yes. Attorney Jai so during the booking he didn't know why he was there.

Attorney Blake invited the police prosecutor to testify. Detective William Madden Walpole Police prosecutor. Attorney Blake you heard the chief talk about this last drink statement, and the 24D program, where you present in court. Detective Madden, I was not present for the disposition, I brought the chief the certified copy of the dockets. The Clerk Magistrate for the ongoing issues with this establishment noted it. She said I can't believe there is another violation. I conferenced the case that he did not have to plea out he could get a private attorney or he had a bunch of different options. He decided to do that and he got a date on May 23 pretrial conference, hired a private attorney and brought the case forward so he has 180 days loss of license, you can start the license suspension immediately, plead out on the 21st. Attorney Blake did he admit under oath that he go intoxicated at the Eastern Pearl? Detective Madden, I do not know if that is in the police report or not. On the docket certified by the Clerk Magistrate said the last drink was at the Eastern Pearl.

Attorney Jai, so you were not present when he made all these admissions in court. Detective Madden, no I was not.

Mr. Kraus I will say the urban definition of insanity doing the same thing over and over again and we are not going to allow that. This repeated pattern is so unsafe to this town and quite frankly it is disrespectful to this board and the residents and patrons because you are unsafe and we can't tolerate that. Quite frankly there is no room in this town for an establishment that does not follow the rules.

MOTION moved by Mrs. Mackenzie that the evidentiary portion of this hearing be closed, seconded by Mr. Gallivan, VOTED 4-0-0

MOTION moved by Mr. Kraus that after hearing and deliberation regarding alleged liquor license violations by Hong Kong Eastern Pearl Enterprise Inc. d/b/a Eastern Pearl, 2275 Providence Hwy, Walpole, MA, the Board of Selectmen finds the following facts

1. The Board finds the Restaurant is currently the holder of a license under G.L. c.138 §12.
2. The Board finds the licensee over served a person on April 15, 2017. This is a violation of G.L. 138 §69 sale to intoxicated persons and Massachusetts Regulations 204 CMR section 2.05(2),

Seconded by Mr. Gallivan

Mr. Salvatore if you are doing two separate motions you should do two separate penalties amendment to the motion. Mr. Gallivan withdrew his second.

The Board amended the motion to add: As a result of the above detailed violations, the Board of Selectmen hereby revokes the all alcohol beverage license for Hong Kong Eastern Pearl Enterprise Inc. d/b/a Eastern Pearl, 2275 Providence Hwy, Walpole, MA. Seconded by Mrs. Mackenzie
VOTED 4-0-0

MOTION moved by Mr. Kraus that after hearing and deliberation regarding alleged liquor license violations by Hong Kong Eastern Pearl Enterprise Inc. d/b/a Eastern Pearl, 2275 Providence Hwy, Walpole, MA, the Board of Selectmen finds the following facts

1.The Board finds the Licensee served under-aged persons on April 21, 2017, in violation of G.L. c. 138, §34 (sale of alcohol to a minor) and Massachusetts Regulations 204 CMR §2.05(2) (permitting illegalities or disorders on the licensed premises, and improper management).

2.The Licensee was previously found, on March 1, 2016, to have served minors, for which the Licensee served a 7-day suspension, again was found on April 25, 2017 to have served to minors and over serving a person, which the Licensee is serving a 6-month suspension. Thus, there have been six violations within 13 months.

As a result of the above detailed violations, the Board of Selectmen hereby revokes the all alcohol beverage license for Hong Kong Eastern Pearl Enterprise Inc. d/b/a Eastern Pearl, 2275 Providence Hwy, Walpole, MA. Seconded by Mr. Gallivan

Discussion ensued:

Mrs. Mackenzie noted that we could not find a case where we pulled the license; I cannot be part of someone going in this direction. If we continue to let you go, this is horrific. I am sorry it got this far, because of choices that Eastern Pearl has made. There have been many times getting this far and it could have changed.

Mr. Salvatore the last hearing, something occurred to me, many of the violations talked about employee that needed to be retrained in this case every violation has not been by an employee, every other violation by the person listed as owner. He is setting the stage. In the police report it says someone yelled at him for serving the underage, this is the owner, he sets the stage for any employees that are there. He has been subject to arrest; it is he himself that is doing this. We are removing his license twice. I don't think it is sufficient with his behavior. This is egregious.

VOTED 4-0-0

Attorney Jai for the record we will appeal this decision to the ABCC.

7:50pm-Economic Development Update on Downtown event

Elizabeth Dennehy, Donnell Murphy, and Mark Romeo, appeared before the Board to update them on the upcoming downtown event. They had a meeting with department heads and police. The event in 2016 was great, we got a lot of good response from that. We had hoped that this would turn into an annual event. This year we are going to expand it a little bit. Four Friday nights in August and three in September. We have a conflict with the Country Festival so on the night of the country fest they will not to have outside entertainment. In order to make the event flow decided to do live entertainment every other Friday. We plan on making the 9/15 a big event. Last year we were limited by time. We worked with Restaurants last year. We are going to focus on restaurants outside the downtown area. Four came and we hoped to expand on that. We are going to expand and work with the merchants. See if they want to participate. Everyone seems to be on board. Last year we had a home game. We had different groups of people I think it attracts people to the downtown. Mr. Kraus noted the Board is supportive. We are big fans of this and are excited going forward.

5-20 One day Wine and Malt, Downtown event

MOTION moved by Mrs. Mackenzie to approve the one day wine and malt license for Walpole Main Street Live for September 15, 2017 subject to the following conditions

- Elm St. traffic eastbound will be diverted onto East St. and Elm St. between West and Main will be closed down at 10AM.
- The area around the two commons will be fenced or roped in with limited access points to help limit alcohol consumption to the Town Common Area.
- “No alcohol beyond this point” signs must be posted at all exits to the fenced/roped in area of the Common.
- The Stage will be positioned along eastern most side of West St. at the opening of Elm St and it will be parallel to West St.
- Identification checkpoints will be set up, just as they were last year, where people can get I.D. bracelets in order to purchase alcohol.
- The police department will be supplying several detail officers for the duration of the event.

Seconded by Mr. Gallivan VOTED 3-0-1(Mr. Salvatore Abstained)

5-21 Appointment to Trust Fund Commission

Mr. Kraus thanked her for everything she does for the town.

Susan Brown is a Financial Advisor and is seeking membership to the Trust Fund Commission.

MOTION moved by Mrs. Mackenzie to appoint Susan Brown to the Trust Fund Commission to fill an unexpired term until 4/1/19, seconded by Mr. Gallivan VOTED 4-0-0

5-22 Certificate of Adoption, Hazard Mitigation Plan

Town Engineer Margaret Walker explained the importance of this plan is to apply for future grants the town needs this in place.

MOTION moved by Mrs. Mackenzie to adopt and authorize the Chairman of the Board of Selectmen to sign the Certificate of adoption for the Hazard Mitigation Plan 2017 update, seconded by Mr. Gallivan, VOTED 4-0-0

NEW BUSINESS

5-23 Hardship Application Ambulance Fees

The Board is in receipt of a request from Fire Chief Bailey for a hardship application. In his memo to the Board he stated the applicant does meet the criteria of hardship as outlined in application.

MOTION moved by Mr. Kraus to approve the hardship application for invoice 16-274350 as recommended by Fire Chief Bailey, seconded by Mr. Gallivan, VOTED 4-0-0

5-24 Award of Bid 2017-20

Mr. Johnson noted that Rick Mattson was comfortable with this. This item was approved at Spring Town Meeting. (The Bid awards were voted as one motion.)

MOTION moved by Mrs. Mackenzie

to award contract 2017-20 to P.J. Hayes, Inc. in the amount of \$799,623.50

5-25 Award of Bid 2017-18A

to award contract 2017- 19A to All States Asphalt, Inc. in the amount of \$455,634.90

5-26 Award of Contract 2017-17A

to award contract 2017-A to Walsh Contracting Corp, on a per item unit cost basis not to exceed \$919,140.30

Seconded by Mr. Gallivan VOTED 4-0-0 (one motion for all bids)

5-27 One day All Alcoholic license, Sportsman's Association

MOTION moved by Mrs. Mackenzie to approve the One day all alcoholic license to the Walpole Sportsman's Association for June 18, 2017 from 1-5pm, seconded Mr. Gallivan, VOTED 4-0-0

5-28 One day All Alcoholic , St. Mary's

MOTION moved by Mrs. Mackenzie to approve the one day all alcoholic license to St Mary's for June 10, 2017 from 6-10pm, seconded by Mr. Gallivan, VOTED 4-0-0

5-29 Library Contract

MOTION moved by Mrs. Mackenzie to sign the contract with Library employees for the term of July 1, 2017 to June 30, 2020, seconded by Mr. Kraus VOTED 4-0-0

5-30 Town Hall Clerical Contract

MOTION moved by Mrs. Mackenzie to sign the contract with Town Hall Clerical employees for the term of July 1, 2017 to June 30, 2020 seconded by Mr. Gallivan VOTED 4-0-0

5-31 Police Contract

MOTION moved by Mr. Kraus to sign the contract with Local 115 Police for the term of July 1, 2017 to June 30, 2020 Seconded by Mr. Salvatore, VOTED 3-0-1 (Mrs. Mackenzie abstained)

CONSENT AGENDA

MOTION moved by Mr. Salvatore to approve the items listed under Consent Agenda as follows:

1. Request for Annual Apple Harvest Fair (5-32)
2. Request to use Town Common for Memorial Day observance (5-33)
3. One Day Entertainment, St Mary's Parish (5-34)
4. One Day Entertainment, Knights of Columbus (5-35)
5. Acceptance of Gifts: Police Positive Ticket Program:
 - Riccos Pizza, \$100 in coupons (5-36)
 - Bubbling Brook, \$50 in coupons (5-37)
 - Jimmy's Pizzeria, \$210 in coupons (5-38)
 - Retail Candy Store, \$200 in coupons (5-39)
 - Family Pizza, \$200 in coupons (5-40)
 - McDonalds, \$66 in coupons (5-41)

Seconded by Mr. Gallivan, VOTED 4-0-0

MINUTES

MOTION moved by Mrs. Mackenzie to approve the Executive Session minutes of , 2/28/17 and 4/25/17, seconded Mr. Gallivan, VOTED 4-0-0

MOTION moved by Mrs. Mackenzie to approve the Regular minutes of 4/25/17, 5/1/17, 5/3/17 and 5/9/17 seconded by Mr. Gallivan, VOTED 4-0-0

TOWN ADMINISTRATOR UPDATE

Jarvis Farm- the new sand in the beach area has been replaced and the flash boards in the dam have been put back and the water level is up. The parks department started the cleanup that needs to be done last week. Thanked the Jarvis Farm Committee for their fine work. He wants to keep the previous Jarvis Farm Committee members involved.

Walpole Day went very well. The recreation department did a great job.

Pools-hoping to have the pools open June 17th. The Building Maintenance is going to start working on them at the end of May beginning of June.

Memorial day- the events will start at 12:00 at the Town Common near the flag pole. Currently have 182nd INF supporting us with military vehicles. There will be a full High School band present to play and the VFW will provide the firing detail.

Vehicle Maintenance Garage- the design work has begun. Hope to have the bids in 3-4 weeks

Mr. Salvatore on Walpole Day, I was not best self my ducks were in a row I apologize to the Town and the employees

Executive Session(8:15pm)

Chairman Declaration:

Pursuant to G.L .c.30A, §21(a)(1) (3), the purpose of the session will be to

- to discuss a step 3 grievance AFSCME 1957 DPW Union member Al Peebles
- to negotiate a contract with nonunion personnel James Johnson

That a discussion of the foregoing in open session could compromise the purpose for the executive session

That the Board of Selectmen shall return to open session

MOTION moved by Mr. Kraus to enter Executive Session under G.L. C30A, Section 21 (a) (3) for the purposes declared by the Board's chairman seconded by Mr. Gallivan VOTED roll call: Mr. Gallivan-Aye, Mr. Salvatore-Aye, Mrs. Mackenzie-Aye and Mr. Kraus-Aye

The Board moved out of executive session.

MOTION moved by Mrs. Mackenzie to sign the a new employment Contract with James Johnson Town Administrator for a term from May 23, 2017 to June 30, 2022 VOTED 4-0-0

ADJOURNMENT

MOTION moved by Mr. Gallivan to adjourn the meeting at 8:45pm, seconded by Mrs. Mackenzie, VOTED 4-0-0

Respectfully Submitted

Cindy Berube