

**BOARD OF SELECTMEN
MEETING MINUTES - DECEMBER 22, 2008**

7:00 p.m. - Selectmen's Meeting Room, 63 Main Street, Northborough, MA

MEMBERS PRESENT: Dawn Rand, Chairman
Jeff Amberson, Vice Chairman
Leslie Rutan, Clerk
Fran Bakstran
William Pantazis

*Pledge of Allegiance

APPROVAL OF MINUTES – DECEMBER 8, 2008 REGULAR MEETING

Selectman Rutan moved the Board vote to accept the Minutes of the December 8, 2008 Regular Meeting; Selectman Amberson seconded the motion; all members voted in favor.

7:05 p.m. HEARING – JJ's SPORTS BAR & GRILL

To consider action against JJ's Sports Bar & Grill for the following alleged violations against their All Alcoholic Beverages Restaurant License for premises located at 380 Southwest Cutoff:

- Violation of M.G.L. Ch. 138, sections 34A and 34D – improper display of ABCC “operating under the influence” signs and “underage persons attempting to purchase” signs.
- Violation of Northborough Municipal Code 9-44-020 – failure to comply with all alcohol and beer and wine license training requirements.
- Violation of a License Condition set by the Board of Selectmen – that two door monitors are required to be on duty Wednesday through Saturday evenings and Holidays.
- Violation of M.G.L. Ch.138, section 69—service of an alcoholic beverage to an intoxicated person.
- Violation of M.G.L. Chapter 138, section 23—improper management of licensed premises.

The Board of Selectmen held a disciplinary hearing regarding alleged violations of the all alcoholic beverages restaurant license for JJ's Sports Bar & Grill exercised at 380 Southwest Cutoff, to wit: improper display of ABCC “operating under the influence” signs and “underage persons attempting to purchase” signs in violation of M.G.L. Ch. 138, sections 34A and 34D; failure to comply with all alcohol and beer and wine license training requirements in violation of Northborough Municipal Code 9-44-020; failure to have two door monitors on duty Wednesday through Saturday evenings and Holidays in violation of a License Condition set by the Board of Selectmen; service of an alcoholic beverage to an intoxicated person in violation of M.G.L. Ch.138, section 69; and improper management of licensed premises in violation of M.G.L. Ch.138, section 23.

PUBLIC HEARING CONT. . .

Following a formal reading of the Hearing Notice, Chairman Rand asked that all potential witnesses for both the Town and the Defense stand, raise their right hand and be sworn in. Lieutenant William Lyver, Police Chief Mark Leahy, Detective Sergeant Brian Griffin and JJ's owner Vincent Maiuri were all formally sworn in.

Northborough Police Department Lt. William Lyver presented evidence regarding the previous-mentioned charges, including service of an alcoholic beverage to an intoxicated person. He identified one arrest by the Concord (MA) Police Department on October 4, 2008 for operation of a motor vehicle under the influence of alcohol in which the person operating the vehicle identified JJ's Sports Bar & Grill as the last place she had consumed alcohol. The blood alcohol level of the person arrested was .15. The operator was given field sobriety tests at the time she was stopped and failed all of the tests. Lt. Lyver noted that the October 4, 2008 arrest represents the tenth incident of this kind for calendar year 2008.

Mr. Maiuri stated that everything presented by Lieutenant Lyver regarding the previous-mentioned violations was true and that he has since determined that there was a problem with alcohol service practices at the restaurant. He added that he has taken the necessary steps to comply with all of the State and Local Regulations. He discussed the policy and operational changes that have been made since the November 19, 2008 investigation conducted by the Police Department, in conjunction with the ABCC.

Chairman Rand acknowledged receipt, on December 18, 2008, of Mr. Maiuri's submission, dated December 17, 2008, to the Board containing the following:

1. JJ's Sports Bar & Grill Business Charter.
2. Memo to all alcoholic beverage servers and managers.
3. Summary of alcoholic beverage service and procedures.
4. Refusal of service report.
5. Board of Directors letter modifying hours of operation.
6. Employee roster with alcohol certification cards.
7. Letter naming Theodore Bitensky as Bar Manager.
8. Theodore Bitensky's alcohol certification card.

Mr. Maiuri further informed the Board of a staff meeting that was held with all employees at which time the new policies and procedures were reviewed. In addition to the implementation of a new procedure whereby a person of management level status will spend time on the restaurant floor on Wednesday through Sunday nights to observe service and interact with customers, Mr. Maiuri agreed with the Board's decision that two door monitors will be required to be on duty Thursday through Saturday evenings and Holidays, including the Wednesday before Thanksgiving (one at the front entrance in the restaurant area and one at the rear entrance in the bar area).

Mr. Maiuri took full responsibility for the violations detailed in the December 10, 2008 hearing notice and acknowledged his responsibility, as president of the license holder, for the operation of the restaurant.

PUBLIC HEARING CONT. . .

Following the hearing, the Board of Selectmen unanimously found that the violations alleged had occurred. The Board voted to impose a written warning for each of the following: violation of M.G.L. Ch. 138, sections 34A and 34D; violation of Northborough Municipal Code 9-44-020; and violation of a License Condition set by the Board of Selectmen.

Mr. Maiuri stated his preference not to have the license suspended for violation of M.G.L. Ch. 138, section 69; and violation of M.G.L. Ch. 138, section 23. He informed the Board that he would prefer to permanently reduce the closing hours to 1:00 a.m., Thursday through Saturday, with last call at 12:00 a.m. In exchange for the reduction in operating hours and confirmation that Mr. Maiuri was formally waiving any right of appeal, the Board agreed not to suspend the license. The new hours of operation were approved by the Board effective immediately. The change in hours will also be reflected on the all alcoholic beverages restaurant license renewal for 2009.

Following a brief discussion amongst members of the Board and Mr. Maiuri, the following motions were made.

Violation of M.G.L. Ch. 138, sections 34A and 34D

The Board was informed earlier in the hearing by Lt. Lyver that as a result of an investigation conducted by the Northborough Police Department that began on November 19, 2008, JJ's Sports Bar & Grill was found to be in violation of improper display of ABCC "operating under the influence" signs and "underage persons attempting to purchase" signs. The proper signs have since been erected.

Selectman Amberson moved the Board vote to provide a written warning to JJ's Sports Bar & Grill for their violation of M.G.L. Ch. 138, sections 34A and 34D – improper display of ABCC "operating under the influence" signs and "underage persons attempting to purchase" signs and responsible for improper management, in violation of Ch. 138, section 23; Selectman Bakstran seconded the motion; all members voted in favor.

Violation of Northborough Municipal Code 9-44-020

The Board was informed earlier in the hearing by Lt. Lyver that as a result of an investigation conducted by the Northborough Police Department that began on November 19, 2008, JJ's Sports Bar & Grill was found to be in violation of the Town's all alcohol and beer and wine license training requirements. Since the investigation, Mr. Maiuri has provided documentation that all employees have met the proper license training.

Selectman Amberson moved the Board vote to provide a written warning to JJ's Sports Bar & Grill for their violation of Northborough Municipal Code 9-44-020 – failure to comply with all alcohol and beer and wine license training requirements and responsible for improper management, in violation of Ch. 138, section 23; Selectman Bakstran seconded the motion; all members voted in favor.

PUBLIC HEARING CONT...**Violation of a License Condition set by the Board of Selectmen**

The Board was informed earlier in the hearing by Lt. Lyver that as a result of an investigation conducted by the Northborough Police Department that began on November 19, 2008, JJ's Sports Bar & Grill was found to be in violation of their License Condition that two door monitors are required to be on duty Wednesday through Saturday evenings and Holidays.

Mr. Maiuri requested permission to place door monitors at each of the entrances only when that particular entrance is being used. Lt. Lyver disagreed and stressed the importance of having door monitors at both doors during the times discussed above.

Selectman Amberson moved the Board vote to provide a written warning to JJ's Sports Bar & Grill for their violation of the License Condition set by the Board of Selectmen that two door monitors are required to be on duty Wednesday through Saturday evenings and Holidays and responsible for improper management, in violation of Ch. 138, section 23; Selectman Rutan seconded the motion; all members voted in favor.

Violation of M.G.L. Ch.138, section 69

The Board was informed earlier in the hearing by Lt. Lyver that as a result of an incident that occurred on October 4, 2008, JJ's Sports Bar & Grill was found to be in violation of M.G.L. Ch.138, section 69 – service of an alcoholic beverage to an intoxicated person.

Selectman Amberson moved the Board vote to find JJ's Sports Bar & Grill in violation of M.G.L. Ch.138, section 69—service of an alcoholic beverage to an intoxicated person, and responsible for improper management, in violation of Ch. 138, section 23, in the over-service of alcoholic beverages, for the incident that occurred on October 4, 2008, as detailed in the December 10, 2008 hearing notice to the Licensee; and to further acknowledge that the licensee has agreed to permanently reduce the closing hours to 1:00 a.m., Thursday through Saturday in lieu of a two-day suspension; Selectman Pantazis seconded the motion; all members voted in favor.

7:50 p.m. HEARING – JJ's SPORTS BAR & GRILL

To consider the application for a Change of Manager for their All Alcoholic Beverages Restaurant License for premises located at 380 Southwest Cutoff.

Mr. Maiuri was present and introduced Theodore Bitensky as the new Manager of Record. Mr. Bitensky is the new night manager and is TIPS certified. Det. Sgt. Brian Griffin informed the Board that a complete background check was performed on Mr. Bitensky and no issues were found. He added that Mr. Bitensky has over twenty years of experience in the food and hospitality industry.

Selectman Bakstran moved the Board vote to approve the application to Change the Manager for the All Alcoholic Beverages Restaurant License at JJ's Sports Bar & Grill, 380 Southwest Cutoff from Gabriele Stipo to Theodore Bitensky effective immediately; Selectman Amberson seconded the motion; all members voted in favor.

7:15 p.m. - HEARING – JJ’s SPORTS BAR & GRILL

To amend the Hours of Operation for their All Alcoholic Beverages Restaurant License for premises located at 380 Southwest Cutoff.

In response to the excessive number of violations heard both at the hearing this evening and a previous meeting held on December 8, 2008, and in lieu of a two day suspension, Mr. Maiuri proposed the following amendment to the hours of operation for JJ’s Sports Bar & Grill:

	<u>Mon – Wed</u>	<u>Thur – Sat</u>	<u>Sunday</u>
Current Hours:	11am – 2am	11am – 2am	12pm – 1am
Proposed Hours:	11am – 12am	11am – 1am	12pm – 12am

Selectman Rutan moved the Board vote to amend the Hours of Operation for the All Alcoholic Beverages Restaurant License at JJ’s Sports Bar & Grill, 380 Southwest Cutoff, to be as follows effective immediately:

Monday – Wednesday:	11 am – 12am
Thursday – Saturday:	11 am – 1am
Sunday :	12pm – 12am

Selectman Pantazis seconded the motion; all members voted in favor.

7:20 p.m. - HEARING – JJ’s SPORTS BAR & GRILL

To consider the Annual Renewal of their All Alcoholic Beverages Restaurant and related licenses for the Calendar Year 2009.

The Fire Chief Durgin suggested that the Board require that two door monitors be required to be on duty during any special events and/or live entertainment, in addition to Thursday through Saturday evenings, Holidays and the Wednesday before Thanksgiving.

Selectman Amberson moved the Board vote to renew the All Alcoholic Beverages Restaurant and related licenses for JJ’s Sports Bar & Grill at 380 Southwest Cutoff for the Calendar Year 2009; and that the existing conditions of the All Alcoholic Beverages Restaurant License be amended to include the following: That two door monitors (one at the front entrance in the restaurant area and one at the rear entrance in the bar area) are required to be on duty Thursday through Saturday evenings and Holidays, including the Wednesday before Thanksgiving and during any special events and/or live entertainment; Selectman Bakstran seconded the motion; all members voted in favor.

In response to a request by Selectman Rutan that Mr. Maiuri provide a written update on the status of the new changes, Mr. Coderre suggested that instead, Det. Sgt. Griffin, as the Board’s Licensing Agent, do so by March 31, 2009.

REPORTS

William Pantazis

- Attended the tree lighting ceremony in honor of Neil Ellsworth, who had lost his life in the Vietnam War. Provided some background information on the importance of this annual ceremony.

Fran Bakstran

- Thanked Patty Murphy, Virginia George and all the merchants for their coordination and participation in the Holiday Trolley event.
- Recognized High School Senior Samantha Andrews and her letter to the editor of the Worcester Telegram & Gazette about the importance of teenage driver training.
- Reminded residents that bows, wrapping and tissue paper are not recycling material.

Leslie Rutan, Clerk

- Thanked the Police, Fire and DPW Departments for all their efforts in keeping our community safe during the recent storms. Since communication to residents was so important during these storms, Mr. Coderre took this opportunity to advise the Board and the public of the steps taken by Town officials and himself to address a number of safety concerns when the storms hit.
- Also thanked the custodial staff at the schools for their efforts in preparing the shelter at the Middle School for those who may have needed it.
- Noted recent correspondence from Verizon stating that the Town's cable access channels may not be up and running by December as earlier promised due to the recent storms.
- Noted the recent retirement of Arthur Cole from the Northborough Trails Committee. Congratulated and thanked Mr. Cole for all his work.
- Thanked Captain Theve for speaking to the middle school students about the dangers of matches, lighters and fires.

Jeff Amberson, Vice Chairman

- Noted the recent retirement of Arthur Cole from the Northborough Trails Committee. Thanked him for all of his efforts in creating the Town's trail system.
- Thanked everyone for their efforts with the recent ice storm, including the CERT Team.
- Thanked all of the employees of National Grid for their many hours of service to get power back to their customers.
- Reminded residents to shovel their sidewalks and keep nearby fire hydrants clear of debris.
- Remembered Mrs. Ellsworth (the mother of Neil Ellsworth) who passed away in November, 2007. Thanked her family for their attendance at this year's tree lighting ceremony.

Dawn Rand, Chairman

- Thanked those Town officials who coordinated the public safety measures during the ice storm, including John Coderre and MJ Fredette. Also thanked the School

REPORTS CONT...

Department and School Superintendent Charles Gobron, adding that it was nice to see the positive working relationship between School and Town officials.

John Coderre, Town Administrator

- Noted his appreciation to the Police, Fire and DPW Departments, as well as the CERT Team for their coordinating efforts for public safety during the recent storms.

PUBLIC COMMENTS

None.

CONSIDER PERMANENTLY RESTRICTING PARKING ON BEEMAN ROAD

DPW Director Kara Buzanoski requested that the Board of Selectmen permanently restrict parking on the southerly side of Beeman Road. She informed the Board that the Police, Fire and DPW Departments have experienced difficulty in bringing safety vehicles and plows down Beeman Road due to the parking of FedEx employee cars and FedEx trucks on both sides. She noted that there is adequate parking on the 1 Beeman Road site that houses FedEx for trucks and employee parking.

Attorney Steven Langer spoke on behalf of his client who is the owner of the building at 1 Beeman Road. He stated that before he was informed of tonight's hearing, he has been working with Fed Ex and their employees to address this problem. An engineer has been retained to look at the on-site parking, its access and the traffic circulation in that area. He requested the opportunity to meet with Mr. Coderre and other Town staff once the engineering study has been completed to see how this can be resolved. He asked the Board if they would be willing to reconsider their decision tonight, if after meeting with the Town staff, it is agreed that the problem can be resolved through some site development work.

Mr. Coderre stated that if the Board decides this evening to restrict parking on Beeman Road, he would be happy to work with FedEx and Attorney Langer to investigate if there are other means in addressing this public safety issue. He noted that Susan Hastert, a representative from FedEx was present. Ms. Hastert stated that FedEx will have no issue with the one-side parking ban.

Selectman Bakstran moved the Board vote to permanently restrict parking on the South side of Beeman Road per the recommendation of the DPW Director and the Police Chief; Selectman Rutan seconded the motion; all members voted in favor.

OTHER BUSINESS

None.

8:25 p.m. – EXECUTIVE SESSION

Selectman Rutan moved the Board vote to enter into Executive Session pursuant to Massachusetts General Laws, Chapter 39, Subsection 23B, Subsection 3, Collective Bargaining; Selectman Bakstran seconded the motion; the roll call vote was taken as follows:

EXECUTIVE SESSION CONT...

Pantazis "aye" Rutan "aye"

Amberson "aye" Rand "aye"
Bakstran "aye"

Chairman Rand announced that the Board would return from Executive Session only to adjourn.

8:45 p.m. – RETURN TO OPEN MEETING

ADJOURNMENT

Selectman Bakstran moved the Board vote to adjourn; Selectman Amberson seconded the motion; all members voted in favor.

Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Diane M. Wackell
Executive Assistant to the
Board of Selectmen