**TOWN COUNCIL SPECIAL MEETING**

# November 21, 2013

1. **ROLL CALL**

Town Council members present:

Kristine S. Trocki, President

Mary E. Meagher, Vice President

Thomas P. Tighe

Eugene B. Mihaly

Blake A. Dickinson

Also in attendance:

Town Administrator Kevin E. Paicos

Town Solicitor Peter D. Ruggiero

Assistant Town Solicitor David R. Petrarca, Jr.

Police Chief Edward A. Mello

Town Clerk Cheryl A. Fernstrom

## **CALL TO ORDER, PLEDGE OF ALLEGIANCE**

President Trocki called the special meeting to order at 5:03 p.m.in the Rosamond A. Tefft Council Chambers of the Jamestown Town Hall at 93 Narragansett Avenue and led the Pledge of Allegiance

## **PUBLIC HEARINGS, LICENSES AND PERMITS**

*All approvals for licenses and permits are subject to the resolution of debts, taxes and appropriate signatures as well as, when applicable, proof of insurance.*

**A motion was made by Eugene Mihaly with second by Mary Meagher to convene as the Alcoholic Beverage Licensing Board and open the public hearing at 5:04 p.m. President Trocki, Aye; Vice President Meagher, Aye; Councilor Tighe, Aye; Councilor Mihaly, Aye; Councilor Dickinson, Aye.**

A) COUNCIL SITTING AS THE ALCOHOLIC BEVERAGE LICENSING BOARD

## **NOTICE** is hereby given by the Town Council of the Town of Jamestown, being the Licensing Board in said Town as provided under Title 3, Chapters 1-12 of the General Laws of Rhode Island 1956, and as amended, that the following application has been received by the Town Council for a **NEW LICENSE** under said Act, for the period November 21, 2013 to November 30, 2013 (duly advertised in the *Jamestown Press* November 7th and November 14th editions)

**NEW LICENSE:**

**CLASS B – VICTUALER**

Portuguese American Citizens Club

dba: Jamestown Bar and Grille

11 Pemberton Avenue

Jamestown, RI 02835

1. Request a motion to approve the **NEW** liquor license application upon resolution of debts, taxes, State approvals and appropriate signatures for the period November 21, 2013 to November 30, 2013

Public comment: Attorney John Murphy stated he is in attendance representing the PACC, an 87 year old, non-profit organization, the Holy Ghost Society. The management of the restaurant is returning to the Holy Ghost Society. Treasurer Donna Wood and President Joan Dupee will run the operation and are in attendance (Jamestown residents). Attorney Murphy referenced Police Chief Mello’s recommended license conditions and stated he would like to review No. 6 and No. 8 imposed on the license as the result of conduct by the prior operator. The new managers would like patrons to have the opportunity to dine on the outdoor patio Sunday through Thursday until 10:00 p.m. and Friday and Saturday until midnight. Joan Dupee will be there constantly and lives adjacent to the location. Donna Wood is taking care of finances. Both of them are well known in this Town as upstanding citizens. Attorney Murphy asked the Council to allow the requested changes. He further stated there would be no outside bar or music; servers would bring food and alcohol from the inside restaurant to tables within the totally enclosed patio area, if granted by the Council. The operation would be returning to past practices. There are no objections to having those stipulations printed on the license.

President Trocki stated the Council will listen to all viewpoints.

Police Chief Mello stated the recommended conditions are the same as those attached to the prior license holder by the Council. Due to past issues he recommended using the same restrictions. President Trocki asked whether these conditions were still warranted. Chief Mello explained past issues and why the conditions were imposed relating to use of the patio and potential noise issues that disturb neighbors in close proximity. Condition 1 was reviewed; the service area needs to be defined. Chief recommends that any event outside of the specified area should come back before the Council for a permit.

Abutter Kellie Cunningham Toland of Lawn Avenue stated she has lived right behind the PACC since 1996. The previous operator was disrespectful and there was noise and other concerns. With young children she does not want to hear inappropriate language, which could be heard previously in her home with the windows closed. The expense incurred by she and her husband for installation of shrubbery barriers was referenced. She did not bring an attorney to this hearing, and does not want the restrictions removed. There was no outdoor patio or food service when she moved in; that was a recent addition in 2002. The reasonable parameters worked; this is a residential zone, not a commercial zone.

Abutter John Lawless of Pemberton Avenue stated he is in support of the PACC function hall and dinner service and is not trying to speak against them or shut them down. He is here to speak on the noise issues. He expressed concern for late night noise and doesn’t want a repeat of past performances. Unless proper conditions are put in place, the noise and other issues will continue. The conditions make the operation more harmonious with the surrounding area. Mr. Lawless noted the PACC held a Class D Club liquor license until 2002. In 2001 there was a question of whether there should have been a return to the Zoning Board for approval due to the non-conforming use in a residential zone, and the PACC was allowed to expand the use without Zoning Board review, which is not harmonious with the surrounding residential area. He asked the Council to consider this when granting a new license. He questioned why anyone had to be out on a week night drinking alcohol until 1:00 a.m.; it is unnecessary and does not promote good community values. Local licensing boards may set earlier closing times for local establishments as outlined in State law and suggested a 10:00 p.m. closing. He strongly agrees with the 8:00 p.m. closing on the patio.

President Trocki questioned Solicitor Ruggiero on the zoning issues. Solicitor Ruggiero stated the PACC is located in a residential zone and is a non-conforming use. Attorney Murphy stated the PACC was formerly in the commercial district until the lines were redrawn in order to allow the Pemberton Apartments to be built. Extensive hearings were referenced. The area was zoned commercial when the building was built in 1926. People built houses and moved to homes around an established club with a liquor license.

Solicitor Ruggiero noted by law the hours of operation allowed are 6:00 a.m. to 1:00 a.m. if the Council allows, unless otherwise approved.

Abutter Michael Swistak of Narragansett Avenue stated he has never had a noise issue and the PACC were good neighbors.

Abutter Robert Trout of Lawn Avenue referenced the letter to the Council he and his wife prepared. He feels the noise had gotten out of hand, including the music and noise from the car shows, and asked for consideration. In the past they were told that thet PACC was here first and could do what they want. They heard plans for the new operation include soft dinner music followed by louder music for the bar after dinner. He requests the same restrictions placed on the PACC previously be continued.

Abutter Barbara Trout of Lawn Avenue stated they were aware of the PACC’s existence when they purchased their home in 1991. They support their community involvement and the services provided by PACC, but believe it does not give them special privileges or allows them to impinge on their rights as neighbors and taxpayers. They are not objecting to the granting of a new liquor license, but feel their concerns and complaints of the past are relevant. They feel the operating restrictions placed on the Jamestown Tavern should continue to be enforced or even strengthened. Ms. Trout referenced past experiences that disrupted their lifestyles, including excessive noise, raised voices, offensive language, loudspeakers and music from the outdoor patio and parking lot. They were subjected to revving car engines and screeching tires, yelling and arguments past midnight, and many nights could not use their back deck. Often they could not keep their windows open, hear television, or sleep due to the noise. There were times they couldn’t play in the yard with their granddaughters because of the foul language. They have been subjected to threats and rude behavior from past PACC operators and had to call the Police on numerous occasions. The past Council listened to neighbors’ concerns and imposed restrictions, including removal of the bar and restricted hours for the patio area. She hopes the Council will reinstate those restrictions so that we can live in harmony with the PACC.

Abutter Leonard Nihan of Pemberton Avenue stated he lives 60 yards away. Any noise generated in the parking lot can be heard clearly. He has school age children and the noise generated by past operators hampered their ability to study and sleep.

Holy Ghost Society President Joan Dupee noted her ownership of properties on North Road and Narragansett Avenue in Jamestown and stated she came back to the PACC by request. She referenced the previous quote that dinner music would be soft and then it would be louder for the bar. There are two televisions at the bar, so music would not get too loud, and she is 77 years old and doesn’t like loud music. She told the employees not to tolerate bad language and to ask bad patrons to leave. The majority of the people who worked cleaning, painting, and improving the facility (especially the bathrooms) are over 70. They put a lot of work into this every day for two months, and plan on keeping it nice. There will be no loud music, as it is a family restaurant, with reasonable prices. There are two dining areas and the bar restaurant, with shuffleboard in the bar after 9:00 p.m. Anyone would be proud to bring children, the elderly, family and friends there. She stated it would be tuned up music, not loud, and she will do anything to help the neighborhood and will answer any questions. She offers to put up a stockade fence for their privacy. All will be pleased with what has been done, and it will be a lot different with a little old lady in charge.

Councilor Tighe asked how many patrons were proposed for the outside patio. Attorney Murphy stated 20 to 25. The old permit should have that number. Councilor Tighe asked if granted, how would noise and other issues be addressed? Ms. Dupee stated servers would call her and she would not let it get out of hand. The PACC just wants the hours of service on the patio a little longer. If it doesn’t work, she would be the first to admit it. Attorney Murphy stated they request to extend operations from 8:00 p.m. weeknights to 10:00 p.m. and on weekends from 10:00 p.m. to midnight. Ms. Dupee asked for a chance to return to the way it was as the PACC. If it doesn’t work, they will put it back. They will make it respectful and quiet, and can keep it under control.

Abutter Marianne Nihan of Pemberton Avenue commented they have good intentions, but the patio is the problem. One time there was only 7 people on the patio and it was too loud. Her family would like to continue to frequent the PACC. The area residents are great people and the neighborhood wonderful, and they need consideration after all they have been through.

PACC Member Joe Medeiros of Frigate Street stated he has respect for the neighbors and sympathizes for what has happened. He understands the need for quiet with children. Joan will do an excellent job. He asked the Council to give them a chance and let Joan do her best.

Ms. Nihan referenced the noise from car shows, noted the Police Department had to be called, and gave examples of living next to the PACC. Mr. Medeiros stated he has tried to assist the neighbors the best he could and gave examples. He asked the Council to give the PACC a shot, and stated Joan will back this up.

Abutter Michael Toland of Lawn Avenue stated this is an awful lot to ask an elderly woman to police a bar crowd. These are the same issues since 2000, he has had to call the Police Department numerous times, and he has always gotten attitude from club members. The only help they received was when the restrictions were put in place. This is a residential area and he hopes the Council takes into consideration the restrictions recommended by Police Chief Mello.

Joan Dupee understands a permit is needed for car shows, the past problems with car shows, and stated there won’t be any more car shows. John Lawless stated it is not an all or nothing situation. It is crafting a license that is a win/win situation.

President Trocki noted that is the Council’s goal, we are sympathetic to all concerns, and it is nice to have an affordable venue in town. Vice President Meagher referenced outdoor lighting concerns, and it was noted the large parking lot light on the pole has been removed. Solicitor Ruggiero noted the Building Official could check to determine that there is no flow of light that has a direct impact on neighbors.

Chief Mello asked for the diagram of the seating areas and setting a seating capacity for the patio as a condition for granting the license. There is no outdoor bar allowed, only table seating. Discussion ensued of stipulating a time period for outdoor seating with a review period and testimony by the neighbors. PACC attorney John Murphy suggested Memorial Day to Columbus Day. Councilor Dickinson attested that Joan Dupee will do what she promises. The new operators should not be punished for past experiences. Ms. Dupee asserted that any problems will be brought to her attention immediately. She referenced the use of sound buffers and installing a 6 ft. stockade fence on the west property line.

Vice President Meagher proposed modifying the summer hours for outdoor seating on the patio Monday through Thursday to 9:00 p.m. and Saturday and Sunday to 11:00 p.m. Discussion ensued of Chief Mello’s suggested hours of operation on the patio Monday through Thursday to 8:00 p.m. and Friday and Saturday to 10:00 p.m. and the need for a review period. Councilor Tighe noted the issue must be reviewed from all sides and restrictions are needed. Discussion ensued of kitchen hours (open until 10:00 p.m.) Council review of the operation should be scheduled for the first meeting in August.

Michael Toland asked why everyone gives into the PACC. The noise is there and it prevents neighbors from enjoying their decks and backyards in summer months due to constant disruptions. He could live with the 8:00 p.m. weekday stipulation. He asks the Council to follow Chief Mello’s recommended stipulations.

Leonard Nihan commented it is up to the PACC to come back with options. The past operator was a nightmare. He would like the new operation to be successful, but the patio is the problem. The Town owes it to the neighbors to address their concerns.

Mike Swistak referenced the Noise Ordinance. The police have the ordinance as a tool to work with; if the PACC is not compliant, the tool is there to regulate the activity.

John Lawless stated the noise only happens until the Police show up.

Discussion ensued of moving people inside after dinner and prohibiting smoking in the rear area adjacent to the patio. Town Administrator Paicos noted issues can be addressed at any time, including a show cause hearing, and the neighborhood is not held hostage. Any conditions imposed must be taken seriously. Discussion ensued of monthly Police Department reports and other monitoring.

Mike Toland would like the Council to stay with Chief Mello’s stipulations, no amplifiers outside or lighting, and no smoking in the back.

Joan Dupee referenced the dedication of the PAC members who donate their time and don’t get paid and the role they play in this community. Councilor Dickinson stated that it is nice to be able to dine outside in July and August, understands everyone’s position, and is looking for a balance. He suggests operating hours for the patio to 10:00 p.m. Monday through Thursday and 11:00 p.m. Friday and Saturday for July and August, with a trial period, to be reviewed at the first Council meeting in August. Councilor Mihaly supports that suggestion. Attorney Murphy considers that reasonable and suggested there be no automatic review, with regular reports from the Police Department.

Chief Mello noted stipulations No. 6 and No. 8 were set for the previous licensee for the weekday closure to 8:00 p.m. and weekend closure to 10:00 p.m. for the patio area.

Mike Toland stated he spent $6,000 for trees and shrubs as a buffer along his property line and reiterated that he wants the same restrictions on this operator as were placed on the prior operator. He would be happy with the stockade fence and noted restaurant staff has been very disruptive when leaving the facility at the end of the evening shift. Joan Dupee and Donna Wood stated the staff has been informed they can’t park on the west side of the building, cannot leave through the west side exit, are to leave immediately and quietly, with no loitering, and this will be restaurant policy.

Discussion ensued of incorporating Chief Mello’s recommendations, modifying No. 8. The west side is adjacent to Lawn Avenue, and that is where the stockade fence would be installed. The maximum number of seating allowed was reviewed and the prior seating questioned.

**A motion was made by Mary Meagher with second by Eugene Mihaly to grant the Class B-Victualer liquor license with the restaurant inside bar open until 1:00 a.m.; the outside patio will be open Sunday through Thursday until 8:00 p.m. until July 1st and be open Sunday through Thursday July 1st to Labor Day until 9:00 p.m.; and the outside patio will be open Friday and Saturday until 10:00 p.m. until July 1st and be open Friday and Saturday from July 1st to Labor Day until 11:00 p.m. with the following stipulations:**

* **No smoking in the patio area**
* **No music or amplifiers on the patio**
* **No bar on the patio**
* **Lighting will not spill into the adjacent properties**
* **Police will report to the Council each month**
* **PACC will construct a 6 ft. stockade fence with the good side facing the neighbors**
* **The PACC will enforce their policy of staff not parking on the west side nor leaving at the end of their shifts through the west side doors**
* **Maximum seating capacity of 24 for the patio**

Discussion. Chief Mello’s Condition No. 8 is modified. The recommendation is for a 6 ft. stockade fence. A diagram should be provided with a seating capacity limit of 24 prior to the issuance of the license, six tables of four. (Short recess called. The Clerk was asked to check the files for past seating capacity limits.)

Back to the vote on the motion. **President Trocki, Aye; Vice President Meagher, Aye; Councilor Tighe, Aye; Councilor Mihaly, Aye; Councilor Dickinson, Aye.**

1. **RENEWAL:** Approval of License

**CLASS B – VICTUALER**

Portuguese American Citizens Club

dba: Jamestown Bar and Grille

11 Pemberton Avenue

Jamestown, RI 02835

1. Request a motion to approve the liquor license **RENEWAL** application upon resolution of debts, taxes, State approvals and appropriate signatures for the year December 1, 2013 to November 30, 2014

**A motion was made by Mary Meagher with second by Eugene Mihaly to grant the liquor license renewal with the same terms and conditions as stipulated in these Minutes for the granting of the new license. President Trocki, Aye; Vice President Meagher, Aye; Councilor Tighe, Aye; Councilor Mihaly, Aye; Councilor Dickinson, Aye.**

B) LICENSES & PERMITS

*All approvals for licenses and permits are subject to the resolution of debts, taxes and appropriate signatures as well as, when applicable, proof of insurance.*

1. **NEW** Multi-License application (November 21, 2013-November 30, 2013)

a) Portuguese American Citizen’s Club dba: **Jamestown Bar and Grille**

i) Victualing License

ii) Entertainment License

**A motion was made by Mary Meagher with second by Thomas Tighe to grant the new Multi-License application for Victualing and Entertainment subject to all conditions.**

Discussion. The type of entertainment was questioned. PACC President Joan Dupee stated entertainment had not been determined, but there would not be any loud bands. There would be weddings with DJ’s that take place in the Holy Ghost Hall.

Back to the vote on the motion. **President Trocki, Aye; Vice President Meagher, Aye; Councilor Tighe, Aye; Councilor Mihaly, Aye; Councilor Dickinson, Aye.**

1. Multi-License renewal application (December 1, 2013-November 30, 2014)
2. Portuguese American Citizen’s Club dba: **Jamestown Bar and Grille**

i) Victualing License

ii) Entertainment License

**A motion was made by Blake Dickinson with second by Eugene Mihaly to grant the Multi-License renewal for Victualing and Entertainment subject to all conditions. President Trocki, Aye; Vice President Meagher, Aye; Councilor Tighe, Aye; Councilor Mihaly, Aye; Councilor Dickinson, Aye.**

3) **NEW** Holiday License (November 21, 2013-February 28, 2014):

a) Portuguese American Citizens Club dba: **Jamestown Bar and Grille**

**A motion was made by Blake Dickinson with second by Eugene Mihaly to grant the New Holiday License subject to all conditions. President Trocki, Aye; Vice President Meagher, Aye; Councilor Tighe, Aye; Councilor Mihaly, Aye; Councilor Dickinson, Aye.**

**A motion was made by Eugene Mihaly with second by Thomas Tighe to adjourn as the Alcoholic Beverage Licensing Board. President Trocki, Aye; Vice President Meagher, Aye; Councilor Tighe, Aye; Councilor Mihaly, Aye; Councilor Dickinson, Aye.**

C) APPOINTMENTS AND VACANCIES

1. Discussion of vacancies and appointments. The memorandum outlining applicants and vacancies was referenced. The recommendation of Andy Yates for the Tree Committee was referenced. The Clerk will contact Mr. Yates requesting him to submit an application form for that position.
2. Scheduling of interviews. The Council’s schedule is full, and it is preferable to interview applicants prior to December 16th. It is Council consensus to interview new applicants rather than reappointments. There would be 10 interviews. Discussion continued.

There are two applicants for the Tree Warden position. The Council did not have any reservations reappointing current members who have submitted applications for reappointment. Council members should review candidates and schedule interviews as needed. Discussion ensued of Planning Commission, Zoning Board Alternate, and Tree Warden positions. Thomas Ginnerty has reached his maximum term limit. Appointments will be on the December 2nd agenda under Consent Agenda. Discussion continued.

## **ADJOURNMENT**

**A motion was made by Mary Meagher with second by Blake Dickinson to adjourn. President Trocki, Aye; Vice President Meagher, Aye; Councilor Tighe, Aye; Councilor Mihaly, Aye; Councilor Dickinson, Aye.**

The special meeting was adjourned at 7:10 p.m.

Attest:

Cheryl A. Fernstrom, CMC, Town Clerk

Copies to: Town Council

Town Administrator

Finance Director

Town Solicitor