

**SELECTMEN'S MEETING
TOWN OF ACTON JULY 12TH, 2012 7PM**

SALUTE TO THE FLAG

Bill announced Lorraine was back home and will be returning to work on Tuesday. Chairman Kryzak thanked the staff for their added efforts while she was out and stated how pleased he and everyone else were to hear she was returning.

1. APPROVAL OF AGENDA:

Bill Shields made a motion to approve the agenda as written; seconded by Ted Kryzak. Vote was unanimous. Motion carried.

2. APPROVAL OF MINUTES OF LAST MEETING:

Bill Shields made a motion to approve the minutes from the last meeting as written; seconded by Ted Kryzak. Vote was unanimous. Motion carried.

3. OLD BUSINESS:

None.

4. NEW BUSINESS:

A. LIQUOR LICENSE PUBLIC HEARING, KB ENTERPRISES:

Bill Shields made a motion to enter into the public hearing for KB Enterprises liquor license, seconded by Ted Kryzak. Vote was unanimous. Motion carried.

Mr. Kryzak opened the meeting by inviting anyone who wanted to speak on the liquor license to come to the podium, in single file.

Brad Morin, Attorney for Bill Palladino, stated for the record that they do not feel there is a pending application before the Board. He reminded the Board of the objections he has already sent to the Town's attorney. Mr. Morin continued by saying that he wanted it clear that he and his client were not waiving any rights to this hearing and objected to all of these proceedings.

Attorney Morin presented the Board with materials in which he'd like them to consider in making their decision. He asked the Board to renew his client's liquor license. Mr. Morin gave a brief background of Mr. Palladino, his family and history surrounding the business. Mr. Morin stated Mr. Palladino has invested over 1.5 million dollars in this business and has continued to make the business better. Mr. Morin indicated that the public nuisance and public safety issues previously presented to the Board were 2nd and 3rd hand in nature and he did not feel they were accurate. Mr. Morin also wanted the record clear that this establishment was also a family restaurant. Mr. Morin pointed out a letter written by Elias Thomas, Acton resident, claiming to have hosted an event for Senator Susan Collins. Mr. Morin continued to point out letters in his packet by other residents and non-residents in favor of the restaurant. Chairman Ted Kryzak read a letter aloud, also in favor of Willy's, by Normand and Debra Cloutier, of Acton Maine. In regards to real estate property taxes, Attorney Morin indicated that Mr. Palladino is only one member of the Acton LLC, who is the legal owner of record and that his client has made a few installment payments on the taxes, and that the business is working to catch those taxes up. He went on to describe the recent tax lien he located at the registry for 559 Rt. 109 and reminded the Board that Iron Tails was just granted a liquor license renewal and asked for equal treatment. Mr. Morin described what he believed was the true character of his client Bill Palladino. Mr. Kryzak asked for clarification on one question regarding the ownership and difference between KB Enterprises and Apple Ridge LLC. Mr. Morin stated that yes Mr. Palladino was the owner and part of the LLC, but just one member. Mr. Kryzak reiterated therefore Mr. Palladino is responsible for the property taxes ultimately. Mr. Morin reserved the right to re-address the Board if necessary after others spoke.

Tim Matthews, a resident of Acton, noted he has gone to Willey's numerous times as a customer and as an entertainer with his family over the years. He stated he has never seen anything but a professional establishment in the 5 years he has frequented the place.

Dennis Long stated that he has always been against any establishment in Acton serving alcohol but that does not mean that it shouldn't be allowed. He went on to say he has never seen any negative signs outside of the establishment and he has sat through many public hearings that Mr. Palladino has attended. With that said, he noted for the most part Bill has been nothing but respectable to the Town of Acton and personally he hopes the Selectmen would grant the liquor license when the time comes.

Pat Hannon, resident and landowner spoke against the liquor license request. Mr. Hannon reminded the Board that they have already been here once before and there seems to be a pattern of incomplete and inaccurate paperwork. He noted a 2009 liquor license application of Mr. Palladino's that asks if the applicant or manager has ever been convicted of any violation of the law, other than a minor traffic violation, of any state of the United States, Mr. Hannon indicated at first Mr. Palladino checked off no, then later changed it to yes to include a conviction of what Mr. Palladino said was a misdemeanor for an NSF check of \$500.00 in Portland. Before continuing Mr. Hannon indicated to the Selectmen he would be presenting his book of all the findings that he discusses this evening to the Board at the conclusion of the meeting so that there couldn't be any chance of someone saying his information wasn't factual or true. Mr. Hannon next explained to the Selectmen what happens when a corporation applies for a liquor license and stated that both the corporation and individual had to answer questions. With that said, Mr. Hannon pointed out that in 2009 Mr. Palladino and his wife Karen each owned 50% of the corporation. In 2010 according to Mr. Hannon, Mr. Palladino submitted a very incomplete application including the supplemental portion being completely blank. Mr. Hannon pointed out that the Selectmen have the right to have "Corey Authority" and encouraged them, based on what he has seen for the Board to utilize it. Mr. Hannon discussed Mr. Palladino's 2011 liquor application, again pointing out that his food/liquor numbers were left blank, as they were in 2010. Mr. Hannon then went on to say that on the 2011 application Mr. Palladino indicated that he had never been convicted of a crime other than a minor traffic violation, and questioned how that changed from the yes Mr. Palladino answered on his 2009 application. According to Mr. Hannon, also in 2011 Mr. Palladino indicated that he owned 100% of the stock of the company and pointed out he did not complete that portion of the 2010 application at all so there could be no tracking of the sale between Mr. and Mrs. Palladino. Mr. Hannon discussed his concerns with the diagrams presented as well. Mr. Hannon stated at the first hearing he raised concerns about the numbers submitted in the 2012 application in regards to the food and alcohol sales, for example \$680,000 for food and \$290,000 for alcohol, Mr. Hannon questioned the even numbers and how that was almost impossible. He went on to point out in the revised 2012 application, food was now \$664,000.15 and alcohol was \$291,000 and still Mr. Palladino checked no in regards to the conviction question. Hannon also argued in the 2012 application the location of the liquor was missing from the diagram. Also in regards to the diagram, Hannon stated the first 2012 application had 4 dining rooms and 1 kitchen, while the revised application had 5 dining rooms and 3 bars. Mr. Hannon goes on to show all of the discrepancies he believes exist in the supplemental application, including the amount of shares, and the conflict in what Mr. Palladino states in the 2009 – 2012 applications. Mr. Hannon discussed the federal tax liens that were in effect in 2009 and questioned how they could still be there in both names, Karen and Bill, if there were stocks transferred as Mr. Palladino stated. Mr. Kryzak stated he would like copies; Mr. Hannon reminded Kryzak he would be leaving the book with all his documentation with them. Mr. Hannon encouraged the Board to look into Mr. Palladino's resale agreement. Mr. Hannon discussed a planning board meeting in which it was decided that all employees of KB Enterprises be tip certified and offered copies of the 7 employees who completed it. However, Mr. Hannon pointed out when you read the bottom of each tip document, it clearly states, this document is not proof of tips certification, simply that you completely the course. Mr. Hannon also questioned why each certificate had different fonts, and told the Board he believes Mr. Palladino is giving the Board more useless paperwork. Mr. Hannon also questioned the amount of employees he actually had and whether or not the employees were paid under the table. Mr. Hannon also said that another stipulation of the Planning Board was that the manager was tip certified, he questioned why Chris Palladino, the manager listed on

the revised 2012 application was not one of the 7 certifications submitted to the Board. Mr. Hannon addressed the previous statement by Attorney Morin about the nuisance calls being 2nd or 3rd hand and read the statement from Chief Baker of the York County Sheriff's Department pointing out 17 calls for service and that it was in fact first hand. Mr. Hannon read aloud letters from the Town of Acton to Mr. Palladino in regards to 4 different returned check situations to the point that the Town will no longer accept checks from him. Mr. Hannon discussed a judgment from a now deceased plumber in which the widow had to take to court to try and collect and offered such paperwork from the Court as proof of another unpaid bill of Mr. Palladino and questioned his character. Mr. Hannon reiterated all of his points laid out during his presentation and offered the Board his book of evidence.

Gail Boisvert, resident of Acton, spoke in favor of the restaurant and indicated she and other woman have gone up for the past 4 or 5 years. She went on to say they have good food and are always treated with the upmost respect. Gail stated she has never seen anything out of the ordinary or suspicious activity. She closed by saying the food was good and the waitresses are excellent and they enjoy it very much and also noted what a family environment it is.

Dave Winchell Jr. spoke in regards to the septic system and stated that his father did that work and was in fact paid for it. Mr. Winchell did not want to speak on behalf of the Landy allegation but didn't believe this hearing should be about going through each other's finances. Mr. Winchell stated he felt as if there was a lot of a personal attack going on, he also stated he did not frequent Willy's often, but on an occasional motorcycle rides he has stopped at similar establishments and has seen such groups or gangs in his passings but never at Willy's. Winchell Jr. went on to proclaim the establishment down the road had the same clientele.

Mr. Hannon proclaimed to the Board that his book includes the liens of Mr. Landry and not to allow anyone to convince them otherwise.

Attorney Morin requested Mr. Palladino join him at the microphone so they could address questions together and also offered to answer any questions the Board may have about the current application. Mr. Morin asked Mr. Palladino where the liquor was stored; Mr. Palladino pointed to the diagram and stated liquor cabinets. In regards to the sales tax, food and alcohol numbers submitted, Attorney Morin indicated they were beyond the scope of the Town. Mr. Palladino also stated that Larry Sanborn authorized him to round up his numbers and not spend hours trying to calculate them. Mr. Palladino indicated he uses Pay Choice as his payroll service and that his establishment was not open during the day or on Mondays. Also, he said that all the dining rooms were not open at the same time. Mr. Morin stated that Mr. Palladino regrets all of the checks he has bounced to the Town and hopes it will not happen again. Mr. Palladino discussed the conviction charge on the application and stated it has been dismissed, thus why it was checked yes during the first years, and currently is answered with a no. Again, he stated Larry Sanborn looked into it himself. Mr. Palladino stated all liens filed by the IRS have been discharged over a year ago and he has the paperwork to prove it. Mr. Palladino stated the business has a multi-million dollar liability policy, a fire and workers comp policy and could provide them if necessary. Mr. Kryzak asked if an insurance binder had to be sent to the state, Mr. Palladino answered no. Attorney Morin clarified that the insurance is sent to anyone who has a mortgage on it. Morin discussed the York County Sheriff Dept report and stated that in some cases the calls weren't even to The Shed, but just as a landmark. He also stated in other cases, Mr. Palladino or his staff actually made the calls themselves. Mr. Kryzak asked about the motorcycle accident that happened after the first hearing but before this one, Attorney Morin stated he spoke to Trooper Kevin Strout about it and the individual lost control of his bike near the driveway; it is unclear if he was turning into the establishment, but either way he was certainly not leaving there, according to Morin. Mr. Morin went on to say the individual was taken to the hospital by private family and that was the extent of the accident and investigation. He also added there were no claims that the restaurant was involved, it was just where it

happened. Mr. Kryzak asked Mr. Morin if the police report on the incident in question was included in the packet he was submitting, Mr. Morin answered no. In regards to the stock allegations, Mr. Morin stated if the Town wanted copies of these they could be obtained. Mr. Morin asked Mr. Palladino who the other members of the other members of the LLC were; Mr. Palladino answered himself, his wife Karen and his brother-in-law James. Mr. Morin stated he did not believe the Board needed to hear a rebuttal on the Landry issue, as it was a disputed bill and was addressed in Court. Mr. Palladino stated that there have been prank calls to the Sheriff's Department regarding issues at his establishment, at least dispatchers say based on the tone they believe it's a prank and call right back to see if its accurate.

James Crowley, owner of property in the same parking lot as Mr. Palladino spoke in favor of the liquor license. Mr. Crowley stated he has never had any troubles with Willy's and that there are camera covering the parking lots and that the Sheriff's Dept is aware of that. He stated that he and Mr. Palladino have a decent business relationship and that Mr. Palladino has always been upfront with him. Mr. Crowley feels like the situation between Mr. Hannon and Mr. Palladino is like the Hatfield's and McCoy's and has been going on for years and the Board should take it into consideration. Mr. Crowley also stated Mr. Palladino runs a first class business, is a hard worker and they have no problems working together and he'd hate to see Mr. Palladino lively hood ruined because of issues between these two individuals. He believes if there are issues with the State or IRS then that's up to them to go after Mr. Palladino, not the Town. Mr. Crowley also stated that the motorcycle issues at Willy's are no different down the hill. He closed by saying he was disappointed to not see a full Board of Selectmen when such

Bill Shields made a motion to close the public hearing, seconded by Ted Kryzak. All in favor, unanimous.

B. ACTON ON LIQUOR LICENSE APPLICATION:

Ted Kryzak recommended that instead of making a decision on the liquor license that evening that they allow Selectmen Walsh the chance to return, review the tape and also allow all three Board members the chance to review the newly submitted information. Chairman Kryzak stated this would be on the agenda in two weeks at their next meeting July 26th.

C. FIRST READING OF DISHONORED CHECK POLICY:

Chairman Kryzak explained that the first reading of two policies would take place this evening. If anyone wanted a copy of either they could come into the Town Hall. He also stated they would vote on the policies at their next meeting. Bill Shields read said draft policy aloud, see copy attached to these minutes.

D. FIRST READING OF REQUEST FOR PUBLIC INFORMATION POLICY:

Chairman Kryzak read said draft policy aloud; see copy attached to these minutes. Chairman Kryzak indicated a change that he would like to see is allowing the Office Manager to determine if the \$50.00 deposit was necessary rather than charge it to everyone. In addition, the Board will add to the policy that electronic requests are paid at .25 a page as well as printed copies, as the work has to be done either way.

E. RFP FOR \$25,000 TERM LOAN (ARTICLE 7, 2012-2013 TOWN MEETING VOTE):

Chairman Kryzak explained the RFP that was going out with the recent approval at the June Town Meeting for the window work. Bill Shields made a motion to accept the RFP as submitted, seconded by Ted Kryzak. All in favor, motion passed. Copy attached to these minutes.

F. O'DONNELL'S ASSESSING CONTRACT FOR 2012-2013:

Chairman Kryzak described the proposed contract between the Town of Acton and O'Donnell's. He read the specific duties of O'Donnell's aloud and praised the company for their work to date. Additionally he spoke of all of the new services offered by O'Donnell's. Ted Kryzak made a motion to sign the contract as presented, seconded by Bill Shields. All present in favor, motion carried. Said copy of this contract is attached to these minutes.

G. APPOINTMENTS:

The following appointments were signed by the Selectmen, after being moved by Bill Shields, seconded by Ted Kryzak. Votes were unanimous. Motions carried.

Dwight Venell, Planning Board – Expires June 30th, 2015

Gavin Maloney, Planning Board Alternate Member – Expires June 30th, 2013 (Spelling Correction Only) **5. OTHER BUSINESS:**

Jack Kelley, co-chair of the Acton Road Committee, addressed the Board in regards to Dave Cote and his election onto the Road Committee. Mr. Kryzak stated he has not yet heard that Mr. Cote was not interested. Mr. Kryzak went on to tell Mr. Kelley that this matter, as it is an elected seat, is handled through the Town Clerk and that she would handle it. Mr. Kelley also discussed his concerns that the Road Committee made a request to the Selectmen on May 1st regarding who could call a meeting and a response was received back to from MMA on June 6th; however it was not given to the Road Committee until July 12th. Mr. Kryzak apologized on behalf of the Board and indicated he believed their prior liaison had passed that along. Mr. Kryzak told Mr. Kelley that Ed Walsh was their new liaison and they'd certainly attempt to avoid these issues in the future.

6. ANNOUNCEMENTS:

Town Clerk's Office closing at 3:00pm on Friday, July 20th, 2012.

7. ADJOURNMENT: 8. MEMBERS PRESENT:

Ted Kryzak, Bill Shields

9. OTHERS PRESENT:

Brad Morin, William Palladino, Jim Crowley, Dennis Long, Cindy Hart, Jack Kelley, Virginia Shea, Pam MacAlinden, Robert Anderson, Gail Boisvert, Nancy Ruma, Dick Neal, Chip Venell, Joe Ruma, Maureen Doddrell, Mary Gannon, Bill Gannon, Janice Burns, Thomas Reardon, Paul Poyant, Dave Winchell Jr., Earl Foster, Alan Peterson, Larry Valliere