

**SPECIAL MEETING OF THE FRANKLIN LOCAL ABC BOARD
MAY 3, 2005**

The Special Hearing of the Local Alcoholic Beverage Control Board of the Township of Franklin, County of Somerset, New Jersey was called to order by the Mayor at 6:40 p.m.

The Mayor read the following statement: "In accordance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975, be advised that adequate notice of this Special Hearing of the Local Alcoholic Beverage Control Board of the Township of Franklin, County of Somerset was made by the posting on the bulletin board at the Municipal Complex and by faxing to the officially designated newspapers, a notice indicating that the Special Hearing would take place at the Municipal Building at 6:30 p.m. on May 3, 2005. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk."

Everyone present participated in the salute to the flag.

The Township Clerk called the roll.

Present: Ms. Ashley-Williams, Mr. Chivukula (arrived at 6:51 p.m.), Ms. Danile (arrived at 6:51 p.m.), Ms. Eberle, Mayor Levine, Deputy Mayor McKenzie, Mr. Regan, Ms. Ritchie (at 6:52 p.m.)

Absent: Mr. Sumter

Also Present: Kenneth W. Daly, Township Manager, Louis N. Rainone, Esq., Township Attorney and Ann Marie McCarthy, Township Clerk.

EXECUTIVE SESSION

Upon motion by Mr. Regan, seconded by Deputy Mayor McKenzie, the following resolution was adopted as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Eberle			Chivukula
Levine	McKenzie			Danile
Regan				Ritchie
				Sumter

WHEREAS, Section 8 of the Open Public Meetings Act, (N.J.S.A. 10:4-12 (b) (1-9), Chapter 231, P.L. 1975, permits the exclusion of the Public from a meeting under certain circumstances; and

WHEREAS, the Township Council is of the opinion that such circumstances do exist;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin in the County of Somerset, State of New Jersey, as follows:

- 1 The public shall be excluded from discussion of and action upon the hereinafter specified subject matters;
- 2 The general nature of the subject matter to be discussed is as follows:

Attorney-Client Privilege – ABC Hearing Procedures

- 3 The Township Council may take official action on those items discussed in Executive Session upon completion of the Execution Session.
- 4 The minutes of the discussions shall be made available to the public as soon as the matters under discussion are no longer of a confidential or sensitive nature.
- 5 This resolution shall take effect immediately.

The hearing adjourned to executive session at 6:50 p.m.

The hearing resumed at 7:07 p.m.

At 7:10 p.m., Hector Rodriquez, Township Prosecutor arrived. Aaron Patel, Attorney for Franklin Town Pub & Liquor, Inc. trading as, Half Time Pub, (the license holder) and Mr. Rodriquez left the meeting room for a short conference.

A short settlement conference ensued involving Hector Rodriquez, Township Prosecutor and Aaron Patel, Attorney for Franklin Town Pub & Liquor, Inc. trading as, Half Time Pub, (the license holder).

The following were formally acknowledged at the hearing: Hector Rodriquez, Township Prosecutor and Aaron Patel, Attorney for Franklin Town Pub & Liquor, Inc. trading as, Half Time Pub, (the license holder).

Mr. Patel, on behalf of Franklin Town Pub & Liquor, Inc. trading as, Half Time Pub, (the license holder), plead guilty of the following charges:

Violation #1. Sale of liquor to an intoxicated person in violation of N.J.A.C. 13:2-23.1(p)(September 11, 2004);

Violation #2. Sale of liquor to an intoxicated person in violation of N.J.A.C. 13:2-23.1(p)(September 12, 2004);

Violation #3. Violation of a condition of license, which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (September 11, 2004);

Violation #4. Violation of a condition of license, which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (September 12, 2004);

Violation #5. Violation of a condition of license, which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (November 29, 2004);

Violation #6. Violation of a condition of license which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (December 11th and 12th, 2004);

Violation #7. Allow permit or suffered on licensed premises a brawl or act of violence in violation of N.J.A.C. 13:2-23.6(a)2 (December 11-12, 2004);

Violation # 8. Allowing, permitting or suffering licensed premises being conducted in such a manner to become a nuisance in violation of N.J.A.C. 13:2-23.6(a)3 (December 11-12, 2004).

Violation #9. Violation of a condition of license, which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (December 18, 2004);

Violation #10. Violation of a condition of license which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (January 15, 2005); and,

Mr. Rainone explained that a settlement had been reached and the terms are as follows:

1. The license holder shall enter a plea of guilty to all of the charges listed in the Notice of Amended Charges;

2. The license holder shall file within sixty (60) days an application for a person-to-person and place to place transfer for the subject license;

3. Sixty days following the grant of the person-to-person transfer the applicant will close on the sale of the license;

4. The license holder understands that in the event it fails to file within sixty days for a person to person transfer or that the proposed transferee fails to qualify for said transfer, than in that event the license shall deem to be forfeited; and

5. The license holder shall pay a fine to the Township of Franklin in the amount of \$5,000.00.

At 7:35 p.m., the Local Alcoholic Beverage Control Board adjourned to Executive Session. The hearing resumed at 7:38 p.m.

The Township Clerk called the roll.

Present: Ms. Ashley-Williams, Mr. Chivukula, Ms. Danile, Ms. Eberle, Mayor Levine, Deputy Mayor McKenzie, Mr. Regan, Ms. Ritchie

Absent: Mr. Sumter

Also Present: Kenneth W. Daly, Township Manager, Louis N. Rainone, Esq., Township Attorney and Ann Marie McCarthy, Township Clerk.

Mr. Rainone explained the settlement between the Local Alcoholic Beverage Control Board and the licensee.

Upon motion by Mr. Regan, seconded by Ms. Ashley-Williams, the following resolution was adopted as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			Sumter
Danile	Eberle			
Levine	McKenzie			
Regan	Ritchie			

WHEREAS, Franklin Town Pub & Liquor, Inc. trading as, Half Time Pub, (the license holder) 628 Hamilton Street, Somerset, New Jersey 08873 are the holders of liquor license number 1808-33-007-006 issued by the Township of Franklin; and,

WHEREAS, on or about March 28, 2004 in accordance with the provisions of N.J.S.A. 33:1-31 there was served upon Half Time Pub an amended Notice of Charges listing violations as follows:

Violation #1. Sale of liquor to an intoxicated person in violation of N.J.A.C. 13:2-23.1(p)(September 11, 2004);

Violation #2. Sale of liquor to an intoxicated person in violation of N.J.A.C. 13:2-23.1(p)(September 12, 2004);

Violation #3. Violation of a condition of license, which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (September 11, 2004);

Violation #4. Violation of a condition of license, which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (September 12, 2004);

Violation #5. Violation of a condition of license, which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (November 29, 2004);

Violation #6. Violation of a condition of license which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (December 11th and 12th, 2004);

Violation #7. Allow permit or suffered on licensed premises a brawl or act of violence in violation of N.J.A.C. 13:2-23.6(a)2 (December 11-12, 2004);

Violation # 8. Allowing, permitting or suffering licensed premises being conducted in such a manner to become a nuisance in violation of N.J.A.C. 13:2-23.6(a)3 (December 11-12, 2004).

Violation #9. Violation of a condition of license, which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (December 18, 2004);

Violation #10. Violation of a condition of license which requires an employee over twenty-one (21) years of age to be stationed at the entrance of the premises (January 15, 2005); and,

WHEREAS proposed penalties for the above violations range from a fifteen (15) day suspension to the revocation of the subject license; and,

WHEREAS in accordance with N.J.S.A. 33:1-31 a hearing was scheduled for May 3, 2005 and a plea of not guilty was entered on all of the charges contained in the amended Notice of Charge; and,

WHEREAS following a conference between the license holder and the prosecutor, a Resolution of all of the outstanding charges was reached.

That the terms of the Settlement/Plea agreement are as follows:

1. The license holder shall enter a plea of guilty to all of the charges listed in the Notice of Amended Charges;
2. The license holder shall file within sixty (60) days an application for a person to person and place to place transfer for the subject license;
3. Sixty days following the grant of the person-to-person transfer the applicant will close on the sale of the license;
4. The license holder understands that in the event it fails to file within sixty days for a person to person transfer or that the proposed transferee fails to qualify for said transfer, than in that event the license shall deem to be forfeited; and
5. The license holder shall pay a fine to the Township of Franklin in the amount of \$5,000.00.

NOW THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, acting in its capacity as Municipal Alcoholic Beverage Control Board that the guilty plea entered by the license holder, Franklin Town Pub & Liquor, Inc., trading as Half Time Pub as outlined above is hereby accepted and entered as a Final Order of the Municipal Alcoholic Beverage Control Board.

ADJOURNMENT

Motion was made by Deputy Mayor McKenzie and seconded by Mr. Regan to adjourn the hearing at 7:45 p.m. The motion was carried unanimously upon voice vote.

Brian D. Levine, Mayor

Ann Marie McCarthy, Township Clerk

Approved:

Date: