

RTM Finance Committee Meeting

May 29, 2012

BACK UP MATERIAL  
RTM ITEM # 3

Members Present:

Jeff Wieser, Chair;  
Allen Bomes;  
John McCarthy;  
Lois Schine;  
Lee Arthurs.

Others Present:

Gary Conrad, Finance Director;  
Alicia Mozian, Director, Conservation Department.

Alicia Mozian presented the Conservation Commission's request for our endorsement of the revised fees that the Conservation Department proposes to charge for the resolution of wetland boundary locations in town. She advised that the Wetlands maps currently in use by the town are occasionally inaccurate and are updated through field investigation by soil scientists retained by both the owner and the Town. While it might be useful to redo all of the maps that are over 30 years old, this exercise would cost the town close to \$200,000. The maps are questioned around 20-25 times a year, and this expense is therefore both unwarranted and most probably not possible.

The new fees follow on a proposed new policy which allows Conservation staff to review on-site an application for an amendment to the wetlands map and determine more quickly the accuracy of that amendment. Currently a soil test is required and if that test conflicts with other information, a broader review is necessary, including the hiring of a second soil scientist by the applicant.

Our committee did not question the new fees, and we were perhaps amenable to approving them, but we questioned the wisdom of the new policy which seemed to eliminate the second opinion review component of wetland map amendments from the procedure currently in place. Ms. Mozian acknowledged the committee's concern and agreed to come back to the full RTM meeting with a response to how we can incorporate a review feature into the new procedures.

No vote was taken.

Respectfully submitted,

Jeff Wieser, Chair

## Sunday Liquor Sales - Proposed Ordinance Change

April 24, 2012

To the RTM:

I am submitting this minor modification to Westport's "Permitted hours for Sunday sales" ordinance (Sec. 6-1 or the Town Code) in an effort to promote the usage of restaurants in our town. I call it the Three Day Weekend Rule.

Currently Westport allows establishments to sell liquor on Sundays between noon and 11pm. The State allows sales to occur from 11am until 1am the following Monday morning. I was contacted by a number of restaurateurs informing me of this difference. They explained that people were not coming to Westport venues on those days or leaving early in order to frequent a Fairfield or Norwalk establishment where the hours of sale follow the less restrictive state rules.

While this modification could be done for all Sundays, the merchants sought only to have it done on the Sundays prior to a national holiday celebrated on a Monday. Their reasoning was that those Sundays are much like Saturday nights where people do not have to work the next day and are looking to enjoy being out later, on a three day weekend. They were not interested in making it every Sunday.

Primarily the days involved would be the Sundays prior to Memorial Day and Labor Day and once to three times over seven years for New Years and Independence Day. Essentially this would affect no more than two to four days a year and a maximum of 17 days over seven years.

This modification levels the playing field for our merchants and does not create any significant impact on our town's infrastructure while giving Westporters a better opportunity to enjoy their own town's offerings.

If you have any questions feel free to contact me.

Matthew Mandell  
RTM District One

## Sunday Liquor Sales Timeline

August 19, 1935 - Westport creates Sunday rules from noon to 9pm.

From 1974-1981 - State changes Sunday hours from 9pm to 11pm then to 1am the following day. State also allows towns to limit those hours if they so choose. If Towns do not adopt new limiting changes the state hours stand, even if older town hours are on the books. This is the case in Fairfield and Norwalk where their older Sunday ordinance is superseded.

October 25, 1979 - Westport adopts new Sunday hours to 11pm, expanding from 9pm, but limiting from State allowed 1am Monday.

February 3, 1981 - RTM votes down 32-4 resolution to increase all Sunday sales to State allowed 1am Monday.

April 4, 1985 - RTM votes down 24-10 a resolution to require an 11pm closing time, every day, for restaurants that server beer and wine. There was indirect discussion of whether or not the 1500 foot rule would remain intact.

**TO: The RTM Ordinance Committee**

**FROM: Matthew Mandell**

**DATE: April 24, 2012**

**RE: Ordinance modification - to allow later Sunday Sales of Alcohol in Restaurants on 3 day weekends. "The Three Day Weekend Rule."**

**Contact Person:** Matthew Mandell 203-227-1333 matthew@westportd1.com

**Why do we need this ordinance? (What problem does it solve?)**

A. Westport restaurants are at a disadvantage to those in neighboring towns during 2 to 4 nights a year.

**Is the proposed ordinance a new one or an amendment to an existing Westport ordinance? If an amendment, what are the proposed changes and why are they important? (Copy of existing ordinance to be attached.)**

A. The proposed ordinance is an amendment to Section 6-1 of the Town Code of Ordinances – A copy of Section 6-1 is attached

**Is this the only practical solution to the perceived problem or are there other options (either legislative or non-legislative):**

A. The amendment to the ordinance requires legislative action.

**Have we exhausted all non-legislative alternatives?**

A. There are no other legal non-legislative alternatives.

**Does the problem warrant the solution? That is, is the problem serious enough, or widespread enough, to justify any restrictions that will result if this ordinance is passed?**

A. The problem requires amendment to the ordinance. The restrictions on the slated days are being eased.



A. N/A

**QUESTIONS TO BE ANSWERED WITH ASSISTANCE FROM THE TOWN ATTORNEY OR ASSISTANT TOWN ATTORNEY:**

**Q. Does the proposed ordinance conflict with any existing laws (municipal, state or federal?) If so, what modifications can be recommended? (Or, should the proposed ordinance be rejected in favor of a non-legislate alternative?)**

A. The proposal does not conflict with the provisions of the Liquor Control Act.

The State of Connecticut regulates the hours of sale of alcoholic beverages under the Liquor Control Act, specifically Section 30-91. However, pursuant to subsection (b) of that Section, the state has authorized municipalities to adopt ordinances whereby the number of hours during which sales of liquor by certain establishments may be reduced. This is the enabling statute which authorized the current ordinance, Section 6-1.

While the proposal increases the hours for Sunday sales during certain times of the year, the number of days and hours during which alcohol may be sold on Sunday is nevertheless a reduction in the hours otherwise allowed under state statute.

**Q. Is the language (and the intent) of the proposed ordinance consistent with Westport's powers as a municipality? (Copy of the state and/or federal enabling legislation to be attached.)**

A. Yes, see above response. A copy of Section 30-91(b) is attached .

**Q. Are there any existing state or federal statutes covering the same subject? If so, why is the proposed ordinance necessary or advisable? (Copy of relevant state or federal law to be attached.)**

A. The Liquor Control Act is the controlling law and the town could rely on the state law insofar as the hours for the sale of liquor are concerned. However, as stated, the town is given the authority to adopt an ordinance that reduces the number of hours during which the sale of liquor is permissible and, in 1979, the town did that by adopting the current ordinance which reduces the number of hours for selling liquor on Sundays. These hours are a reduction from those otherwise permitted by state law.

**Q. Do our neighboring towns have similar ordinances? (Copies to be attached.) Does the policy in neighboring towns have an impact on Westport?**

**A.** Yes. Attached are copies of ordinances from Darien, Wilton, Norwalk, Stamford, Middletown and Fairfield

**Q. Is the language of the proposed ordinance consistent with its intent? Is the language of the proposed ordinance as clear as it can be? Will it be easily understood? Would it be clearer if definitions were added or revisions were made?**

**A.** The language of the ordinance is consistent with its intent and is subject to the review and recommended changes of the ordinance committee.

RE: Sunday Liquor Ordinance

**Subject:** RE: Sunday Liquor Ordinance  
**From:** "Call, Dale" <DCALL@westportct.gov>  
**Date:** Wed, 23 May 2012 09:02:47 -0400  
**To:** "Mandell, Matthew I." <matthew@westportD1.com>

Good morning Matthew,

Didn't get your call but I would not get the message if you called the admin phone number until Carol Cody came in - best bet is to call my office directly at the number below.

As for the Sunday liquor sales:

As we talked about, I do not anticipate that extending the Sunday hours until 1AM will have an adverse impact on the Police Department operations or to the overall safety of the community. As discussed, extending closing time from 11PM Sundays to 1AM Mondays would only be applicable to those 3-day weekends involving major national holidays, which occur on a infrequent basis.

Dale

Dale E. Call  
Chief of Police  
Westport Police Department  
50 Jesup Road  
Westport, CT 06880

PH: 203-341-6026  
FAX: 203-341-6092

-----Original Message-----

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March 14, 2012

Hi Matthew,

I am contacting you as the RTM representative for the district where my restaurant is located. I am not sure if you are aware of the fact that Westport has town law that restaurants can not sell alcohol past 11 pm on Sunday's. From my almost 19 years of owning Viva Zapata Mexican Restaurant I would not be at all surprised if you were not aware of this law. Every Sunday I see the shocked expressions on my customers faces (most of whom live in Westport), as we have to inform them of the early closing time. Matthew it's not just about liquor sales, we lose considerable dinning revenue as well. Our neighboring towns of Norwalk, and Fairfield stay open until 1am on Sunday's so they reap the benefit of Westport's early closing time. What I am suggesting is not to change the law, but could we amend it? What I'm suggesting is allowing Westport restaurants to stay open until 1am on Sunday's on Labor day weekend, Memorial day weekend, and any time the forth of July national holiday falls on Monday. Over the years I have found that on these holiday weekends Westport restaurants loose substantial income to our neighboring towns: I would appreciate any attention you could give to this matter.

Thank You,  
Harry Brady  
Viva Zapata Mexican Restaurant



Mathew Mandall  
RTM-1

As the RTM representative for the district where my restaurant is located, I am writing to you in reference to a blue law that exists in our town. This law limits our Sunday hours of operation from 11:00 a.m. – 11:00 p.m.

The permitted closing hours of operation in Westport are as follows:

Monday-Thursday 1:00 a.m.  
Friday-Saturday 2:00 a.m.  
Sunday 11:00 p.m.

As a life long resident, as well as a restaurant owner in Saugatuck for the past 18 years, I have watched our clientele leave our community on Sundays because of the blue law. Our two closest neighbors restaurant policy, Fairfield & Norwalk, permits them to remain open until 1:00 a.m. on Sundays and reap the rewards.

With increased competition and the ever-expanding food service choices in our surrounding communities, we lose a considerable amount of revenue as a result of this law, and I am requesting that this law be amended to permit us to operate until 1:00 a.m. on Sundays during the summer.

In my opinion the majority of revenue is lost during the summer months, Memorial Day through Labor Day. It is during this time period when most of our community is enjoying the outdoor options that our town provides, causing them to arrive at local establishments at a later time than during the winter months. When informed of our early closing time, most of our clientele heads to our surrounding communities.

Any assistance concerning this matter would be greatly appreciated. Please feel free to contact me if I can be of any assistance.

Thank you in advance for your consideration.

Regards,

Stephen Carpentieri  
Dunville's Restaurant  
41 Saugatuck Ave  
Westport, CT 06880

(203) 227-0511



# BLACK DUCK INC.

DEAR WESTPORT RTM members:

I AM WRITING THIS LETTER IN SUPPORT OF MATTHEW MANPELL'S PROPOSAL TO ALLOW WESTPORT'S CAFES AND RESTAURANTS TO REMAIN OPEN UNTIL 1 AM ON SUNDAY NIGHTS WHEN THE NEXT DAY IS A NATIONAL HOLIDAY SUCH AS MEMORIAL DAY OR PRESIDENTS DAY.

FOR THE PAST 3 1/2 YEARS THIS WESTPORT SUNDAY "BLUE LAW" HAS HELPED CREATE FINANCIAL HARDSHIPS FOR THE BLACK DUCK CAFE AS WELL AS OTHER WESTPORT EATING ESTABLISHMENTS THIS FACT IS NEARLY MORE PREVALENT THAN IN THE MIDDLE OF A HOLIDAY WEEKEND WHEN WE HAVE TO CLOSE BOTH THE KITCHEN AND BAR EARLY TO COMPLY WITH THE LAW. THESE PARTICULAR SUNDAY NIGHTS ARE USUALLY BUSY AND CUSTOMERS ARE INCREDULOUS (AND OFTEN UPSET) TO LEARN THEY HAVE TO GET UP AND LEAVE. AT THIS POINT WE FIND OURSELVES APOLOGIZING TO OUR CUSTOMERS AND GIVING THEM NAMES AND DIRECTIONS OF ESTABLISHMENTS IN FAIRFIELD AND NORWALK THAT COULD STAY OPEN UNTIL 1 AM.

HOLIDAY WEEKENDS ARE A MUCH NEEDED AND MUNICIPAL BOOST IN BUSINESS FOR THE RESTAURANT AND TAVERN INDUSTRY, ESPECIALLY DURING THESE DIFFICULT ECONOMIC TIMES. ALLOWING RESTAURANTS TO STAY OPEN TILL 1 AM ON HOLIDAY SUNDAY WEEKENDS WOULD FIT IN NICELY WITH WESTPORT'S NEW PRO-BUSINESS ATTITUDE. PLEASE CONSIDER MODIFYING THIS WESTPORT "BLUE LAW" WHICH HAS HURT SO MANY RESTAURANTS FOR SO MANY YEARS.

Very Truly Yours;

Peter ATKIN

BLACK DUCK CAFE

Mansion Clam House  
541 Riverside Avenue  
Westport CT 06880  
203-557-4811

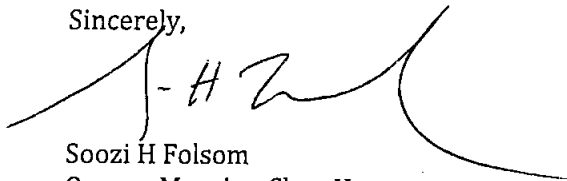
March 20, 2012

Matthew Mandell  
RTM District 1 Representative  
Town of Westport

Dear Matthew,

The Mansion Clam House does not, in any way, object to changing Westport Liquor codes to allow Sunday bar service past the current 11:00 PM closing time. In this volatile economy, it hurts our bottom line when a fully seated restaurant and bar leave at the current closing time, only to go to neighboring Fairfield or Norwalk to spend their money. We need the opportunity to fairly compete with the neighboring towns that do not have a Sunday restriction in place.

Sincerely,



Soozi H Folsom  
Owner, Mansion Clam House

