

## TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Wednesday, December 10, 2008 in the G.A.R. Room at City Hall. Present were Chairman James E. Holmgren; Commissioners Edward F. Cotter and Joseph P. Kelley. Also present were License Agent Lieut. John Crowley; Asst. City Solicitor Phil Nessralla; and Administrative Assistant Bonnie Tucker.

1. Approval of the minutes of the meeting of November 18, 2008.

A motion was made by Commissioner Cotter to approve the minutes of the meeting of November 18, 2008. The motion was seconded by Commissioner Kelley. All members present voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of January, 2009: Lieuts. John Crowley, Thomas LaFratta and John Flynn; Sgts. William Barry and Paul Bonanca; Dets. Michael Schaaf, Erik Hilliard, John Lonergan, Sanford Gurney, James Smith, Dominic Persampieri and Ernie Bell; and Officers Scott Uhlman, and William Healy.

A motion was made by Commissioner Cotter to approve the police officers as listed as license agents for the month of January, 2009. The motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

3. Requests for Special One-day Permits:

- (a) **All Alcoholic Beverages** – City of Brockton – Mayor’s Office – Moises M. Rodrigues, Manager, for a New Year’s Eve celebration at City Hall on Wednesday, December 31, 2008 from 8:00 p.m. to 1:00 a.m.

Present was Moises Rodrigues, 35 Tribou Street.

Mr. Rodrigues stated the Mayor’s office is planning a New Years Eve celebration in the downtown area. In response to questions from the Chairman, Mr. Rodrigues stated they plan to serve the alcohol in the G.A.R. Room so that they can control who is coming in and leaving the room. Mr. Rodrigues stated that notices were sent to area businesses asking for their help and Joe Angelo was the only one to respond. He stated the beverages and bartending will be taken care of by Joe Angelo. Alcohol will be restricted to the second floor of City Hall. Mr. Rodrigues indicated he has been working with Chief Conlon who will be providing five police officers. There will be an officer on each level of the City Hall and two will be outside. They have also been in constant communication with the Fire Department because they will be having fireworks in the downtown area.

A motion was made by Commissioner Kelley to approve the permit which motion was seconded by Commissioner Cotter. All members voting in the affirmative, the motion carried.

- (b) **Wine and Malt** – Temple Beth Emunah – Stuart Kirsch, Manager, for a “Theatre Night” to be held at 479 Torrey Street on Saturday, January 10, 2009, from 7:00 p.m. to 11:00 p.m.

Present was Stuart Kirsch, 99 Fuller Street, Middleboro. Mr. Kirsch stated they are planning a theatre night which will be held at the Temple on January 10, 2009 and are requesting a one-day beer and wine license from 7 p.m. to 11 p.m.

A motion was made by Commissioner Cotter to approve the permit which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

Mr. Kirsch then stated he had another request for a one-day permit for March 28, 2009. Mr. Kirsch stated this will be a Comedy Show which will also be held at the Temple Beth Emunah from 7:00 p.m. to 11:00 p.m.

A motion was made by Commissioner Cotter to approve the permit which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

4. Hearings on the application for renewal of the following Class III Motor Vehicle Junk Dealers’ licenses:
- (a) Andrade, Inc. dba Everett’s Auto Parts – 553 Thatcher Street
  - (b) Regal Auto Parts, Inc. dba Brockton Auto Parts – 511 Thatcher Street
  - (c) Jack’s Used Auto Parts, Inc. – 212 North Cary Street
  - (d) David Lynch dba Lynch’s Cycle and Truck Sales – 1200 Montello Street and 5 Terminal Place

Present were the following representatives of the above businesses:

- (a) Andrade, Inc. – Tom Andrade, 166 Brook Street, Plympton
- (b) Regal Auto Parts, Inc. – Don Galante, 19 Camden Way, South Easton
- (c) Jack’s Used Auto Parts, Inc. – Mark Willis, 1662 Center Street West Roxbury
- (d) Lynch’s Cycle and Truck Sales – David Lynch – 30 Quincy Street

The Administrative Assistant stated there was a legal ad published in The Enterprise newspaper a week in advance of this hearing and she has not received any calls from anyone having problems with the renewal of any of the licenses.

Paperwork being in order, a motion was made by Commissioner Kelley to approve the renewal of the licenses. The motion was seconded by Commissioner Cotter and made unanimous by vote of Chairman Holmgren.

5. Hearing on the request from Athanasios Loucagos dba Supreme Coffee and Donuts to transfer the Common Victualer license at 741 Crescent Street to BDE, Inc. dba Supreme Coffee and Donuts.

Present was Stavroulas Loucagos, 913 South Street, Bridgewater.

In response to questions from the Chairman, Mrs. Stavroulas stated the license is being transferred from a soul proprietorship to the corporation. There will be no change in management, hours or location.

A motion was made by Commissioner Cotter to approve the transfer which motion was seconded by Commissioner Kelley. All members present voting in the affirmative, the motion carried.

6. Hearing on the request from Bene Di Sera, Inc. dba Pasta Bene – Benjamin Albanese, Manager, 1041 Pearl Street to amend the description of the premise by adding a third dining area, office and storage room.

Present was Benjamin Albanese, 16 Patriots Way, Mansfield.

Attorney Albanese stated he had received a Special Permit from the ZBA for the additional seating. He indicated he has expanded an existing dining room. There is approximately 450 square feet and the maximum seats that could be put in there would be 50. The storage room has been made into the office and the office into a storage room. The hours and operation will remain the same.

A motion was made by Commissioner Kelley to approve the request which motion was seconded by Commissioner Cotter. All members voting in the affirmative, the motion carried.

7. Hearing on the charge brought by the local police against Orlando Andrade dba Rice's Market – 763-769 North Main Street, of an alleged violation of M.G.L. Chapter 138, Section 34, to wit: “. . . whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his own use or the use of . . . any other person”, on November 15, 2008 at approximately 8:00 p.m.

Present was Attorney John Creedon, 71 Legion Parkway and Orlando Andrade, 21 Albion Street.

It was reviewed that this investigation was prompted by a complaint which resulted in the report filed by Det. Smith.

Det. Smith's report states that on November 15, 2008, he observed two dark skinned males outside of Rice's Market. One was wearing a white hooded sweatshirt and the other had all black clothing on. The male wearing the white sweatshirt passed something to the other male who entered the store while he waited outside. A few minutes later he exited the store and handed a brown bag to the male wearing the white sweatshirt. Det. Smith pulled up to them with the blue lights on the cruiser. Det. Smith asked the male with the brown bag what was in the bag. The male identified himself as Rudy Almedia

Moniz, 38 Curve Avenue. The other individual stated his name was Herder Moniz, 08/18/90, Brockton, d.o.b. 07/09/91. He stated the beer was for his father. Det. Smith then returned to the store with the two individuals and Officer Lopez. Det. Smith stated he explained to the clerk, Joaquin Depina that he had sold beer to a minor. The clerk stated Gullit had an I.D. but he sold the beer to Herder and he did not have any I.D.

Det. Smith reported that he then asked the two underaged individuals why they went to that store and Herder stated his friends told him that Rice's Market would sell him beer. He then explained that they would be notified to appear for a hearing and Det. Smith seized the 40 oz. Malt King Cobra Liquor.

Chairman Holmgren reviewed that this investigation was prompted by an outside complaint.

Attorney Creedon stipulated to the facts in the report and stated Mr. Andrade would stipulate to a guilty plea. He has owned the establishment since 1997 and has not had any violations during that time. It was suggested that the clerk has difficulty in understanding English. He suggested his client would not be adverse to a stern letter of warning in his file.

A motion was made by Commissioner Cotter to find the licensee guilty as charged. The motion was seconded by Commissioner Kelley. All members voting in the affirmative, the motion carried.

After discussion, a motion was made by Commissioner Kelley to place a letter of warning in the file with the understanding that the licensee and the clerks receive server training and furnish proof of the training within 60 days. The motion was seconded by Commissioner Cotter and made unanimous by vote of Chairman Holmgren.

8. Hearing on the charges brought against Carlos Lima dba Rolando's – 133 North Main Street of the following alleged violation:
  - (a) **Brockton License Commission Rule #8**, to wit: "The last drink must be served before the closing hour. All glasses and bottles must be cleared from the tables or bar by 15 minutes after the closing hour. All customers must have left the premises by 30 minutes after the closing hour. Any licensee and his employees shall not be prohibited from being upon such premises at any time for the purpose of cleaning, making emergency repairs to, or providing security for, such premises or preparing food for the day's business or opening or closing the business in an orderly manner. They may not drink after the closing hour." and
  - (b) Operating beyond the approved hours of your Entertainment license.

This hearing was postponed at the request of the licensee.

9. Renewal of Licenses for 2009

**A. Licenses to Sell Alcoholic Beverages**

1. All Alcoholic Restaurants

A motion was made by Commissioner Cotter to approve the All Alcoholic Restaurant licenses as listed. The motion was seconded by Commissioner Kelley. With all three members present voting in the affirmative, the motion carried.

2. Wine and Malt Restaurants

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

3. All Alcoholic Hotels

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

4. All Alcoholic General On-Premise

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

5. All Alcoholic Package Stores

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

6. Wine and Malt Package Stores

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

7. All Alcoholic Clubs

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

Chairman Holmgren then reviewed that in addition, licensees who haven't paid taxes or made an arrangement to pay taxes will have their licenses held.

It was also reviewed that if the licensees are not in compliance with their Certificate of Inspections or tax issues, they are required to go through the whole processes of re-applying for a license.

It was noted that the approvals are given pending receipt of the required Certificates of Inspection and tax payments. The Adm. Asst. reviewed that the licensees have been given until December 29<sup>th</sup> and that follow up telephone calls will be made to the licensees who are not in compliance.

**B. Common Victualer Licenses**

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

**C. Innholder Licenses**

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

**D. Licenses to Sell Second-Hand Motor Vehicles (Class I and II)**

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

**E. Lodging House Licenses**

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

All approvals are pending receipt of the required City departments.

**F. Entertainment Licenses**

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

### **G. Automatic Amusement Device Licenses**

A motion was made by Commissioner Cotter to approve the Wine and Malt Restaurant licenses as listed which motion was seconded by Commissioner Kelley and made unanimous by vote of Chairman Holmgren.

### **H. Fortune Teller Licenses**

No application for renewal was filed.

13. Communications

14. Any other business to come before the Commission.

Renewals

This matter was taken up prior to agenda item number 7.

Attorney John Creedon, 71 Legion Parkway, stated he is present to request the Commission to consider and accept the application of the Pub which is owned and operated by Debra Sawaya. He stated that Mrs. Sawaya had signed the applications for renewal on November 26. He indicated that they have been in business for 25 years. Attorney Creedon stated that Mrs. Sawaya and her husband, Joe, are a two person operation and due to economic problems had to lay off their chef. Mr. Sawaya has had health issues and never got the papers back to the License Commission office. In addition, Mr. and Mrs. Sawaya have had some significant financial difficulties. Attorney Creedon stated Joe Sawaya is the hands on person at the business. He stated there has never been a Brockton violation and not filing was a total inadvertent oversight. Attorney Creedon stated Chapter 138 has leeway for such emergencies. He indicated that he is asking the board to accept the application signed by Debbie which was never filed and to accept the check for \$2,500. He indicated he is asking the board to accept this as a late file and let the ABCC do it as it may. He stated there is enough case law in an emergency situation and that the November filing should be waived which is the power of the ABCC.

In response to questions from the Chairman, Attorney Creedon stated he is calling this a late file and he is willing to argue it with the ABCC having found enough case law. He stated he does not want other licensees in the City to know about this.

A motion was made by Commissioner Kelley to accept this as a late filing. The motion was seconded by Commissioner Cotter. All members voting in the affirmative, the motion carried.

The Commission scheduled a special meeting for December 30, 2008 if needed.

It was agreed that the next regular meeting will be held on January 14, 2009. (This was later changed to January 21, 2009)

With no further business to come before the Commission, a motion was made by Commissioner Cotter to adjourn the meeting. The motion was seconded by Commissioner and made unanimous by vote of Chairman Holmgren.

Respectfully submitted,

---

James E. Holmgren  
Chairman

APPROVED:

---

Edward F. Cotter, Commissioner

---

Joseph P. Kelley, Commissioner

---

Paul D. Sullivan, Commissioner

---

Bruce G. Dansby, Commissioner

---

Fred Fontaine, Alternate Commissioner