

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Wednesday, January 21, 2008, in the G.A.R. Room at City Hall. Present were Chairman James E. Holmgren; Commissioners Edward F. Cotter and Bruce G. Dansby. Also present were License Agent Lieut. John Crowley; Asst. City Solicitor Phil Nessralla and Administrative Assistant Bonnie Tucker.

1. Approval of the following police officers as license agents for the month of February 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 February, 2009. The motion was seconded by Commissioner Dansby and made unanimous by vote of Chairman Holmgren.

2. Requests for Special One-day Permits:

There were no applications for Special One-day Permits.

3. Hearing on the request from J & L Management, LLC dba Old Colony Café for a Common Victualer license at 320 Main Street. (Licensee failed to file for renewal)

Present was Joseph Hines, 79 Flintlocke Drive, Duxbury, who stated he is requesting a Common Victualer license for the Old Colony Café. The Adm. Asst. stated this is a license which was not renewed prior to the end of the year. At this time all paperwork is in order.

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

4. Hearing on the request from Burrito Wraps, LLC dba Burrito Wraps Mexican Grill – Ezequiel Sandoval, Manager, for a Wine and Malt Restaurant license at 688 Crescent Street. (Licensee failed to file timely renewal)

Present was Attorney Scott Rubin, 71 Legion Parkway and his client, Ezequiel Sandoval, 8 Pico Avenue, Kingston.

Attorney Rubin stated that Mr. Sandoval has been open since last May and received a beer and wine license in July. The licensee failed to file for renewal timely and Attorney Rubin stated they are requesting to have the license reissued.

5. Hearing on the request from Fistori Corp. dba Modern Autobody, to add a second lot at 534 North Montello Street to the current Class II Used Car Dealer license at 561 North Montello Street.

Present was Francis Fistori, 11 Gilberts Way, Norton, who stated he would like to add the lot which is located across the street from his business. He presented pictures and stated he has cleaned the lot up and fenced it in.

In response to questions, Mr. Fistori stated he is looking to have five cars. The lot is 10,000 square feet.

Lieut. Crowley reported that he had sent Det. Smith who made an inspection and did not have any problems with the additional lot.

It was reviewed that there are ten cars on the plan. Chairman Holmgren clarified that the stipulation would be that there be no more than a total of five cars on the lot. The Chairman stated they need a plan that shows exactly how the cars will be laid out and to show the entrances, customer parking, etc. He reviewed that the standard allowance is 9' x 20' for each vehicle. Mr. Fistori was requested to submit the plan prior to the next meeting in order for it to be reviewed by Lieut. Crowley.

A motion was made by Commissioner Cotter to postpone the hearing to the next meeting which motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

6. Hearing on the request from A.A. Lincoln Enterprises, Inc. – 1661 Main Street to transfer the Class II Used Car license to Alfred Lincoln dba A.A. Lincoln Enterprises.

This matter was postponed until the next meeting of the Commission.

7. Hearing on the request from Frank Monroe dba Champion Subs and Pizza to transfer the Common Victualer license at 144 Howard Street to William and Georgia Apazidis dba Champion Pizza.

Present was Frank Monroe, 188 Howard Street and William Apazidis, 8 Rose Way, Randolph.

Mr. Monroe stated he would like to transfer the Common Victualer license. It was reviewed that none of the department inspections have been submitted.

A motion was made by Commissioner Cotter to approve the transfer of the license pending receipt of the department inspection approvals. The motion was seconded by Commissioner Dansby and made unanimous by vote of Chairman Holmgren.

8. Hearing on the request from Kasmet Corporation dba Honey Dew Donuts for a Common Victualer license at 541 Pleasant Street.

Present was John Rappo, 12 Stonegate Lane, Dover, who stated he is requesting a Common Victualer license for his Honey Dew Donuts. Chairman Holmgren reviewed that this is already in operation. Mr. Rappo said he had given the inspection forms to the various departments who have indicated they will be ready tomorrow.

A motion was made by Commissioner Dansby to approve the license pending receipt of the inspection approvals. The motion was seconded by Commissioner Cotter and made unanimous by vote of Chairman Holmgren.

9. Hearing on the request from Teen Challenge New England, Inc. for a Lodging House license at 1159 Main Street.

Present was Russell Lopes, 43 Lucy Lane and Jesse Cirelli, 260 Shaddock Road, Taunton.

Mr. Lopes stated they are requesting a Lodging House license for the location. They have had all of the inspections and submitted the signed forms with the exception of the Fire Department. Insp. Kropas will mail the Fire Department approval form. Mr. Lopes stated he is the facility manager and Mr. Cirelli indicated he does the maintenance. There is a zoning decision.

In response to questions from Attorney Nessralla regarding the zoning, Mr. Lopes stated that the individuals in the program use the place for sleeping quarters. There is a thrift store underneath.

A motion was made by Commissioner Dansby to approve the license pending receipt of the Fire Department inspection approval. The motion was seconded by Commissioner Cotter and made unanimous by vote of Chairman Holmgren.

10. Hearing on the following requests from Harji Hotel, Inc. dba Holiday Inn – Janak Patel, Manager, 195 Westgate Drive:
 - (a) For an Automatic Amusement Device license for two (2) coin-operated video games; and
 - (b) To add a Jukebox to the Entertainment license.

This matter was postponed at the request of the licensee.

11. Hearing on the following requests from Outcast Motorcycle Club, Inc.:
 - (a) For an All Alcoholic Club license at 566 North Main Street;
 - (b) To appoint Steven McGee as the manager

- (c) For an Entertainment license for Disc Jockey, Jukebox, Televisions, Radio on Sunday through Saturday from 8:00 p.m. to 1:00 a.m.

This matter was postponed at the request of the attorney for the applicant.

- 12. Hearing on the request from Carlos Lima dba Rolando's – 133 North Main Street, to extend the closing hour to 2:00 a.m. on Thursdays, Fridays and Saturdays and eves of legal holidays.

(Refer to decision in agenda item #13.)

- 13. Hearing (postponed from meeting of December 10, 2008) on the following charges against Carlos Lima dba Rolando's 133 North Main Street:
 - (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.

Chairman Holmgren advised those present that Officer Healy was not present due to another investigation he was involved in. (He did arrive later in the hearing)

Present was Attorney John McCluskey, 932 Main Street and Carlos and Rolando Lima.

Attorney Nessralla stated he would like to enter into the record a report from Officer William Healey which states that on November 2, 2008 at 1:35 a.m., while on routine patrol he observed numerous motor vehicles in front of 133 North Main Street. The building at this location is owned and operated by Carlos A. Lima dba Rolando's. Officer Healy entered the premises and observed the establishment in full operation with approximately 60 patrons. Cocktails were being served and music was being played by the disc jockey. Mr. Lima approached Officer Healy and asked him if there was a problem. Officer Healy informed him that the business should be closed and that he was operating after hours. Mr. Lima stated that he thought by turning the clock back one hour, it would allow him to remain open. He was then informed that not only was that incorrect but that he was in violation for the second time. His license allows him to operate from 8 a.m. to 1 a.m. The patrons were then asked to leave which they did.

Attorney McCluskey stated that Mr. Lima has taken over this establishment and cleaned it up. He has rented property across the street for parking and had the pool tables and

games removed. He admits that his interpretation of the time was wrong. There have been no violations with the exception of the one incident and Attorney McCluskey stated his client is apologetic to the City and the Commission.

Chairman Holmgren stated that in all the time he has been on the board, he has not heard of this excuse and that he feels if they are going to own the business they should know the rules.

Attorney McCluskey stated his client is doing his best to make a go of this operation. He assured the Commission that it won't happen again.

A motion was made by Commissioner Cotter to find the licensee guilty which motion was seconded by Commissioner Dansby and made unanimous by vote of Chairman Holmgren.

Chairman Holmgren then suggested that they consider limiting the closing hour to 1:00 a.m. for a period of time. He indicated he feels the Commission cannot allow the policy of six months without a violation to be jeopardized. He advised the licensee that it is a privilege to have a 2:00 a.m. license.

Attorney McCluskey stated that his client purchased the business and bought the building and has put a lot of money into the building. He had opened up in June. He asked the Commission to allow him to come back in a couple of months.

Chairman Holmgren indicated that he does not find the licensee's excuse to be reasonable and he feels it was intentionally done. He stated that the Commission takes the 2:00 closings very seriously and if they violate their own standards, he feels they are opening the door to multiple other situations coming before them.

Attorney McCluskey then asked the board to consider the six months from the date of the violation and not the hearing.

Attorney Nessralla expressed concern that imposition of the penalty usually starts upon the adjudication which is tonight and not retroactive to the date of the incident. He stated he feels the Commission should be prepared to make that same consideration which could become challenging in the future.

Chairman Holmgren reviewed that the hearing was not postponed by the board.

A motion was made by Commissioner Cotter to have the closing hour remain at 1:00 a.m. for an additional six month probationary period. The motion was seconded by Commissioner Dansby and made unanimous by vote of Chairman Holmgren.

14. Communications

15. Any other business to properly come before the Commission.

The Administrative Assistant reviewed that Lieut. Crowley has asked that the Commission to adopt the ABCC's Compliance Check Guidelines to be used when conducting underage drinking compliance checks on licensed premises.

The Chairman reviewed that Healthcare of Southeastern Mass has been awarded a grant for liquor compliance enforcement. He asked the Commissioners to vote on accepting the Guidelines. Lieut. Crowley stated that it is his understanding that if a city or town does not any the guidelines, if a decision is appealed to the ABCC, it will be overturned.

A motion was made by Commissioner Cotter to adopt the Compliance Check Guidelines of the ABCC. The motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

It was agreed that the Commission will meet again on February 25, 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 Dansby 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