

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, November 17, 2011, in the G.A.R. Room at City Hall. Present were Acting Chairman Scott H. McDuffy; Commissioners Joseph P. Kelley, Paul D. Sullivan and Alternate Kathy Kenney. Also present were Asst. City Solicitor Kate Feodoroff and Adm. Asst. Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of October 19, 2011.

A motion was made by Commissioner Kenney to approve the minutes of the meeting of October 19, 2011, which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of December, 2011: Capt. Emanuel Gomes; Lieuts. Thomas LaFratta and Paul Bonanca; Sgts Frank Vardaro and Kenneth Lofstrom; Dets. Michael Schaaf, John Lonergan, James Smith and Ernest Bell; and Officer Scott Uhlman.

A motion was made by Commissioner Sullivan to approve the police officers listed as license agents for the month of December, 2011. The motion was seconded by Commissioner Kelley. All members present voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

- (a) All Alcoholic Beverages – Brockton Firefighters Local 144 – William E. Hill, Manager, for a Retirement Party at 80 Perkins Avenue on Tuesday, December 13, 2011 from 6:00 p.m. to 12:00 midnight.

Present was William Hill, 80 Ellis Street, who stated this is an annual event held for the members who have retired throughout the year.

Commissioner Kenney stated that the date on the application for the fire permit indicated October 31, 2011 and it was agreed that this was an error and will be changed. Mr. Hill stated the correct date is December 13th.

A motion was made by Commissioner Sullivan to approve the one-day permit for December 13, 2011 which motion was seconded by Commissioner Kenney. All members present voting in the affirmative, the motion carried.

- ADD (b) All Alcoholic Beverages – Brockton Firefighters Local 144 – Michael McKenna, Manager, for a Scholarship Dance to be held at 80 Perkins Avenue on Saturday, November 19, 2011, from 6:00 p.m. to 12:00 midnight.

Present was Michael McKenna, 42 Cricket Road, who reviewed the request for a one day permit for the scholarship dance to be held on November 19th. He indicated this is an annual event and they award scholarships to high school students.

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

4. Hearing on the following charges against Harji Hotel, Inc. dba Holiday Inn – 195 Westgate Drive, of the following alleged violations:
 - (a) **Brockton License Commission Rule #10**, to wit: “No physical renovations shall be made unless a plan is submitted and approved by the License Commission;
 - (b) **M.G.L. Chapter 138, Section 77**, to wit: The licensing authorities may, after hearing or reasonable opportunity therefor, cancel any license issued under this chapter if the licensee ceases to conduct the licensed business.

Present was Attorney John McCluskey, 932 Main Street, who stated he is present on behalf of the owner of the hotel.

Attorney McCluskey stipulated that there have been alterations to the hotel. He indicated that his client has owned this hotel for many years. The restaurant, bar and room service all fall under the Innholders license. Attorney McCluskey stated they have shut down the restaurant although he is not sure when this happened. This past summer, building permits were pulled to perform work at the hotel. They are in the process of demolishing the swimming pool and there will be no more building in that section. He stated he has brought the licenses with him to the meeting this evening with the intention of turning them in because they have no more use for serving alcohol. His client was under the impression that the innholder’s license allowed them to operate their rooms. It is his understanding that by turning in the innholders license they will still have the ability to operate the rooms.

The Adm. Asst. stated that the Innholder license allows for the service of food and beverages to the rooms. The Lodging House license is for lodging.

Attorney McCluskey then reviewed the letter he had sent to the Commission on November 15, 2011 in which he explained the situation at the Holiday Inn. He stated that his clients are preparing to file for the renewal of the Lodging House license and this will be done by December 7th. He indicated that they are actually cutting the hotel in half and have been to the Planning Board to divide the lot.

Commissioner McDuffy then reviewed that there are two items before the Commission. He reviewed the charges and asked that they be dealt with one at a time.

Attorney McCluskey stated that his clients did not understand that they had to come before the License Commission to get approval for the renovations. They had met with the Building Inspector and got their Building Permit earlier in the summer. Lieut. Williams has been there a number of times. He acknowledged that there is no question that major renovations have been done.

Commissioner Kelley asked if they had stopped working since the notice was issued and Attorney McCluskey stated that he had gone there the other day and did not see much happening. There is a new pool which is not finished.

Attorney McCluskey stated that the notice was delivered but the “powers that be” had not received it because it was left at the front desk. He has met with the owners of the hotel. There are people working at the hotel but Lieut. Williams has insisted that safety provisions are kept in order.

Attorney Feodoroff asked Attorney McCluskey if they have been issued Building Permits and he indicated they have which is part of the confusion. Commissioner Kelley stated that they had been informed in July that they had to go before the License Commission and expressed concerned with the length of time that has gone by without complying. Attorney McCluskey apologized on behalf of his client and stated he is sure they did not intend anything improper.

Ms. Tucker stated that part of the problem might be with the ownership as the person who had come to the office and identified himself as the owner is not listed on any of the licensee’s records. Attorney McCluskey stated Janak Patel is the manager and he works for Hiren Hotel which owns the land. Chairman Kelley stated he would like to hear from the Building Inspector to find out exactly what has been going on since July. Attorney McCluskey stated he thinks a lot has been going on since July.

Commissioner Sullivan then asked why the owner is not present this evening. Attorney McCluskey stated he didn’t think there would be a lot of questions and he thought he would come in, turn in the license and discuss what is being planned.

Attorney McCluskey stated there is a meeting planned with the Building Inspector on December 7th. Commissioner Kelley stated he would like to hear from the Building Inspector and the owners because aside from ignorance of not knowing they have to come before the Commission which is understandable, the time frame is not and the magnitude of the safety violations which includes shutting off the sprinkler system is unacceptable.

Attorney McCluskey stated he has had many conversations with Lieut. Williams who has indicated he is satisfied that they have done what they are supposed to do. Ms. Tucker stated she had spoken to Lieut. Williams today and he did say he does not have a problem with the Lodging House license remaining issued.

In response to Commissioner McDuffy, Attorney Feodoroff stated where they have conceded to the violations, she has nothing further. Attorney McCluskey stated he is hoping that the Commission does not issue any punishment. He has informed his clients that they need to bring everyone together. Ms. Tucker indicated that since they have admitted to the violations they could be found in violation and the licenses could be cancelled or revoked. Attorney McCluskey stated he would rather just turn the licenses in before something like that was done.

Attorney McCluskey stated that he is asking the Commission to take the licenses and table the violations because they are trying to do the right thing.

Commissioner Kelley indicated he feels this would be fair.

Attorney Feodoroff stated she plans to attend the meeting with the Building Superintendent.

The Adm. Asst. asked Attorney McCluskey if they are planning to file for the renewal of the liquor license and he stated he didn't think so. One of the buildings will be a Holiday Inn Express and the other will be a LaQuinta and he is not sure of the difference between the two hotels. He stated there are some small meeting rooms.

Commissioner Kelley suggested he be allowed to turn in the license and to table the hearing on the renovations to a later date and at that point a discussion on penalties can be held.

It was agreed that a motion would not be necessary to accept the licenses which are being turned in by Attorney McCluskey.

Attorney McCluskey stated they have the meeting scheduled for December 7th and will work to resolve some of the technical issues. If the hearing is going to be tabled, he would like it to be continued until they figure out exactly what they are doing. Ms. Tucker stated that if they are not going to renew the liquor license, it will just die at the end of the year because the charges are against the liquor license.

Commissioner Kelley then made a motion to table the hearing and request Lieut. Williams, the Building Superintendent and the ownership to appear for the hearing. The motion was seconded by Commissioner Kenney.

During discussion, Attorney McCluskey indicated that in addition to the meeting, there are tax issues which the owners have to resolve as well as the Building Code issues. The Adm. Asst. stated that even if they are not filing for the renewal of the liquor license, they will be required to submit the annual inspections in order to renew the Lodging House license.

With no further information presented, a vote was taken and all members voting in the affirmative, the motion carried.

5. Hearing on the charge against Brockton Phalanx, Inc. dba Pisces Lounge – Alexander Strangis, Manager, 816-818-820 Main Street, of the following alleged violations:

May 29, 2011:

- (a) **ABCC Rule 2.05 (2) Permitting an illegality on the licensed premises**, to wit: “Allowing Entertainment beyond the approved hours on the license which is issued pursuant to M.G.L. Chapter 140, Section 183A; and
- (b) **Brockton License Commission Rule 8(a) (Restaurant Licenses)**, 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.

August 10, 2011:

ABCC Rule 2.05 (2) Permitting an illegality on the licensed premises, to wit:
“ Keeping unlicensed coin-operated amusement devices on the premises.”

This hearing was postponed at the request of Attorney John Creedon.

6. Hearing on the charges against Soares Club, LLC – Lucindo Soares, Manager, 1002 Main Street, of alleged violations of Alcoholic Beverages Control Commission **204CMR 2.05(2) – Permitting an illegality on the licensed premises, to wit: M.G.L. Chapter 138, Section 34** – Sale or delivery of an alcoholic beverage to a person under 21 years of age - **3 counts** on the night of September 10, 2011 and the early morning of September 11, 2011 and **2 counts** on September 18, 2011 at approximately 12:15 a.m.

This matter was postponed at the request of Attorney John Creedon.

7. Communications

Several reports were submitted by Officer Uhlman requesting that the Used Car Dealer licenses not be renewed because the businesses are not in operation.

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

- (a) Texas Roadhouse Holdings, LLC dba Texas Roadhouse – Matthew Frohne, Manager, 124 Westgate Drive – Sign Form 43 for change in beneficial interest of parent company, Texas Roadhouse, Inc.

Paperwork being in order, a Form 43 was signed and will be sent to the Alcoholic Beverages Control Commission for approval.

- (b) Bene DiSera, Inc. – Sign Form 43 for change in dba from Pasta Bene to Tutto Bene

A new business certificate has been filed and this will be forwarded to the ABCC.

- (c) Commissioner McDuffy asked if the used car license for Brockton Motors has transferred their location and was told they have not. The Adm. Asst. stated that the owners had been given permission to have an annex at the new location; however they have not formally been approved to move their license.

With no further business to come before the Commission, a motion was made by Commissioner Kelley to adjourn. The motion was seconded by Commissioner Kenney. All members present voting in the affirmative, the motion carried and the meeting was adjourned.

Respectfully submitted,

Scott H. McDuffy
Acting Chairman

APPROVED:

Joseph P. Kelley, Commissioner

Paul D. Sullivan, Commissioner

Bruce G. Dansby, Commissioner

Joshua J. Wood, Commissioner

Fred Fontaine, Alternate Commissioner

Kathy Kenney, Alternate Commissioner