

TAPED

The License Commission held its regular monthly meeting on Wednesday, February 15, 2012 in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy; Commissioners Paul D. Sullivan and Kathy Kenney. Also present were License Agents Lieut. Paul Bonanca and Officer Scott Uhlman; City Solicitor Phil Nessralla and Asst. City Solicitor Caitlyn Leach; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of January 18, 2012.

A motion was made by Commissioner Kenney to approve the minutes of the meeting as submitted which motion was seconded by Commissioner Sullivan and made unanimous by vote of Chairman McDuffy.

2. Approval of the following police officers as license agents for the month of March, 2012: 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 as listed as license agents for the month of March, 2012. The motion was seconded by Commissioner Kenney and made unanimous by vote of Chairman McDuffy.

Before proceeding thru the agenda items, Chairman McDuffy advised those present that there are only three members in attendance this evening and as a courtesy, anyone wishing to postpone their matter in order to have a full board present to vote may do so if their item has not been previously postponed. No one asked for a postponement.

3. Requests for Special One-day Permits:

- (a) **Wine and Malt Beverages** – St. Edith Stein Parish – Rev. Joseph Raeke, Manager, for a dance to be held at Trinity Catholic Academy (Lower Campus) 621 North Main Street, on Saturday, March 10, 2012 from 7:00 p.m. to 11:00 p.m.

Present was Debra Hymon, 45 Bellrock Avenue, who stated they have planned a St. Patrick's Day dance to raise funds. This will involve parishioners from St. Edith Stein, Our Lady of Lourdes and Christ the King parishes which have merged. They are asking for a one day beer and wine license and hope to sell between 100-200 tickets. The Noel Henry Irish Band will be entertaining. It was reviewed that Lieut. Barry at the Police Department has reviewed the application and has left it to the discretion of the organizers on whether or not they have a police detail.

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

4. Hearing on the request from Bertucci's Restaurant Corp. dba Bertucci's Brick Oven Ristorante – 1285 Belmont Street, to appoint Rony Belizaire as the manager to replace Shane Holland.

Present was Rony Belizair, 39 Frankton Avenue, who stated he is the manager at Bertucci's Restaurant located on Belmont Street. He has been working for Bertucci's for 24 years and has been a manager for 18 years. For the past four years he has managed of the Randolph Restaurant where there is a liquor license.

Paperwork being in order, a motion was made by Commissioner Sullivan to approve the appointment of Rony Belizaire as the manager. The motion was seconded by Commissioner Kenney and made unanimous by vote of Chairman McDuffy.

5. Hearing on the request from the Polish White Eagle Club of Montello, Inc. – Joseph Lazorko, Manager, for two (2) coin-operated video skeeball machines to be added to the Automatic Amusement Device license (currently licensed for 1 Pool table).

Present was Joseph Lazorko, 17 Lucy Lane, who stated they are requesting two skeeball machines to be licensed at the Club.

Chairman McDuffy read from last year's ABCC Decision, which stated that the licensee must not possess in or on the licensed premises any automatic amusement devices or video poker machines. He indicated he would like to get a clarification from the State as to whether this refers to the 15 day liquor license suspension or whether it is indefinite and if it includes all coin-operated amusement devices. It was requested that Mr. Lazorko contact the ABCC to get a clarification of this in writing.

Attorney Nessralla indicated it would be more effective for the City to contact the ABCC and it was requested that the Adm. Asst. request the clarification on behalf of the City.

A motion was then made by Commissioner Kenney to postpone the matter until a clarification from the Alcoholic Beverages Control Commission is received. The motion was seconded by Commissioner Sullivan and made unanimous by vote of Chairman McDuffy.

6. Hearing on the request from Insurance Collision Center, Inc. to transfer the location of the Class II license to sell second-hand motor vehicles from 135 Oak Hill Way to 50 Meadowbrook Road, Suite 7.

Present were Elizabeth and Norman Berkowicz, 152 Dean Street, South Easton.

Mr. Berkowitz reviewed that the last time they were before the board was to transfer the license from Hi Tech Auto to Insurance Collision Center, Inc. About a week after this took place, they were informed that the landlord was selling the property so they had to find a new location. They have been renovating the property. The police officer was there several days ago to review the plan. Mr. Berkowitz requested that the location of the license be transferred pending Officer Uhlman's review of the plan.

Officer Uhlman stated that he would not recommend the license be issued at this time. There is no license in place at that location for the body shop or repair facility and they are currently operating without licenses issued. He stated he was provided with a copy of the plot plan filed with the License Commission. They are asking for 30+ cars and this does not take into consideration parking for his employees. He then made suggestions that the handicapped parking spaces need to be moved closer to the main door so there will be parking for people coming into the office as well as for employees' vehicles. Officer Uhlman recommended nine spots along the west and southwest sides of the lot and the vehicles must be whole, saleable cars and the spaces must be marked for car sales only.

In response to questions from Chairman McDuffy, Officer Uhlman stated that there are currently cars there that have been repaired. As of right now, there is no license to operate repairs or a body shop.

Mr. Berkowitz stated there is currently enough space there for 100 cars and he doesn't know what Officer Uhlman is talking about. He stated he does have repair and body shop licenses and they were issued several months ago. After the Fire Department had him put walls and doors up, they told him he had to put sprinklers in. He stated he did this and it was finished last week. He asked the Fire Department to look at it and was told by the inspector that he believed him and didn't have to look at it. He stated the Building Inspector has his permits and they are issued and the licenses are in effect. They just have to come down and see the sprinkler system and he will be given his permits.

Officer Uhlman stated that the licenses on the wall are for his Oak Hill Way location, not for Meadowbrook Road.

Mr. Berkowitz stated there are 18 acres where he can park vehicles and his employees can park anywhere. He does not need 30 cars but to be limited to 9 would be ridiculous because there is plenty of space. He indicated Sargent's Way has the grass and Meadowbrook has the fenced area. Mr. Berkowitz stated there are no restrictions on either of the Auto Body or Repair licenses. It was requested he provide the office with a copy of both licenses.

In response to questions from the Chairman, Mr. Berkowitz stated he would not have any problem meeting with Officer Uhlman to go over the plan.

A motion was made by Commissioner Sullivan to approve the transfer of the location of the license pending receipt of copies of the Occupancy Permit, Repair and Auto Body licenses as well as a revised plan acceptable to Officer Uhlman. The motion was seconded by Commissioner Kenney and made unanimous by vote of Chairman McDuffy.

7. Hearing on the request from Angel Hinostroza dba The Peruvian Place for a Wine and Malt Restaurant license at 55 V.F.W. Parkway.

Present were Jillian Schuler, 282 Main Street, Apt. 1, and Angel Hinostroza, 600 Main Street #2.

Ms. Schuler stated that in her opinion, The Peruvian Place should have a beer and wine license because they have clients from all over the world and they all have continued to request an alcoholic beverage with their meal. She stated that if they get the beer and wine license, it will allow their company as well as their clientele to grow. They genuinely care about their customers and will serve a little alcohol with meals and keep things under control for a quiet family based restaurant. This will be a benefit for everyone.

In response to questions, Ms. Schuler stated that she works at the restaurant. Hours of operation are from 10 a.m. and to 9:00 p.m. The Adm. Asst. reviewed for those present that the hours for a beer and wine license cannot be restricted between 11:00 a.m. to 11:00 p.m.

Lieut. Bonanca stated he has no issues as far as that establishment goes and asked Officer Uhlman for his input.

Officer Uhlman stated he would recommend that Tips training be required. At this time, he would not recommend the license be approved and stated that Mr. Hinostrza told him he would be buying his alcohol at BJ's. Officer Uhlman indicated he explained that it must be purchased through a distributor. He was informed that Ms. Schuler is Tips trained but that she does not work every day. In his opinion, Mr. Hinostrza needs more knowledge of the alcohol laws and needs to be aware of the responsibility that goes along with having a liquor license.

Ms. Schuler stated she received her Tips certification when she worked in Boston. She has also explained to her boss about where they can purchase the alcohol and knows it cannot be purchased at a liquor store. If he needs to purchase a cooler for the alcohol, he will do so. If they receive the license, she will be working more hours.

Chairman McDuffy stressed that anyone serving alcohol must also be certified in a server training course. Officer Uhlman suggested that the owner should also become certified.

Mr. Hinostrza stated he has been in business at this location for three years. There have been no problems.

A motion was made by Commissioner Kenney to approve the license with the provision that all employees and the owner get certified in a server training course. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

8. Hearing (postponed from meeting of January 18, 2012) on the request from RJA Corporation dba Joe Angelo's Café – 216 Main and 11 Crescent Streets, to alter the licensed premises by eliminating the tables from the dining areas, nightly, from 9:00 p.m. to closing.

- The combined capacity prior to 9:00 p.m. for dining with tables will be 184 occupants consisting of Mulligan's Function Room (133) and Joe Angelo's Café (51).
- The combined capacity from 9:00 p.m. to closing will be 396 occupants consisting of Mulligan's Function Room (286) and Joe Angelo's Café (110).

Present were Attorney John McK. Pavlos, 120 Torrey Street and Joseph Angelo, 10 Arbour View Terrace, West Bridgewater.

Attorney Pavlos stated he has a letter from Lieut. Edward Williams dated January 18, 2012 after they had a number of conversations regarding the changing of the language on the license. He reviewed that the approved plan on file is for a capacity of 160 with tables. At the time of the approval, the aspect of having no tables at functions and fundraisers was not contemplated. The Certificate of Inspection allows for a capacity of 396 without tables and chairs.

Ms. Tucker stated all that was received was the second page of Lieut. Williams' letter and Attorney Pavlos stated he will provide the Commission with a copy. He then reviewed that Lieut. Williams has indicated that what is being asked is reasonable and that any controls for overcrowding can be taken care of with enforcement by the Building and Fire Departments. Mr. Angelo is receiving requests from people wanting to hold fundraisers and large functions on an ongoing basis. Recently, they had a fundraiser for a youth baseball league and 150 people attended consisting of parents and their children. Attorney Pavlos stated if that had been for a larger number, they would have had to ask for an expanded occupancy.

Attorney Pavlos indicated that an architect and an engineer have done plans and have provided a letter stating the space can accommodate up to 401 with the tables and chairs removed. Lieut. Williams has stated that the rational way of doing this is that at 9:00 p.m. on a nightly basis, the tables can be removed and stored upstairs and there are no issues with the Fire Department as far as blocking egress.

In response to questions from Commissioner Kenney, Attorney Pavlos indicated that this occupancy has been allowed during special events in the past. They are asking for the numbers indicated on the Certificate of Inspection.

Mr. Angelo stated when the original plans for 160 were submitted, he did not have a clue he could fit so many people without tables. When he received his occupancy permit, it was for 396 without tables and he didn't know that plan wasn't on file with the License Commission.

Ms. Tucker explained that when Mr. Angelo came in for his license, he presented a plan which showed seating for 160 and this plan was approved by the Commission with the stipulation that there be no more than 160 people according to the plan. Subsequently, he must have submitted a different plan to the Building Department and they had approved a number without tables which was never presented to and approved by the License Commission.

Attorney Pavlos indicated that one of the issues spoken to by Lieut. Williams was the time of the removal of the tables. He felt this was cumbersome and it didn't make sense so the time should be removed. If a function happens earlier, the tables should be allowed to be removed earlier.

Mr. Angelo stated that the tables will be removed no more than 20 times per year and it will not happen every night. Ms. Tucker asked what are the types of functions he is talking about and whether they are regular Friday night events which is open to the public or a private functions.

Mr. Angelo used the example of a St. Patrick's Day function when they bring in the Irish Step Dancers and move the tables out. Chairman McDuffy stated one of the issues is how they will be removing the tables and chairs and where they will be stored. It was stated that they will be removed to the second floor.

Commissioner Kenney asked how they will determine when the tables are removed and Mr. Angelo stated it would only be when they had a special event. She asked how the License Agents will know when the functions are taking place.

Attorney Pavlos stated Lieut. Williams has addressed that in his letter and he will provide the Commission with a copy. He has indicated the only reasonable way to police it is through the Building and Fire Departments. He stated that one example is a morning bereavement function and the way the license currently is issued, he would have to turn it down if it was for more than 160.

In response to questions, Mr. Angelo stated that the increase in capacity will be mostly for private functions. He indicated that many of the clubs move tables out because they don't have function halls. He will not be removing the tables every night.

Lieut. Bonanca asked if he is asking to increase the occupancy to 396 and Mr. Angelo stated it is only without tables the way it states in his occupancy permit. Lieut. Bonanca indicated it may be difficult to enforce and to perform a count. In his opinion, he sees this as a challenge.

Mr. Angelo stated every place in the City has different occupancy numbers with and without tables. The Adm. Asst. asked for names of the places he is referring to. Mr. Angelo stated you can go anywhere and named Westgate, Tamboo and Cristal as examples.

Attorney Pavlos stated they are trying to formalize what the Building Department has already authorized which is consistent with what the Engineer and Architect have said as well as what is stated in Lieut. Williams' letter. They want the approved plan on file to reflect what the Building Department has already identified as appropriate numbers for that space.

Attorney Nessralla stated that what Attorney Pavlos has stated is correct and the number of people you can fit into a place is a science when the tables and chairs are removed. He indicated that when it comes to License Commission jurisdiction, there are different factors which must be considered and they must determine what type of events, how often they will take place and whether or not they are the type of events that will resurrect any other activity. He advised the Commission that they have the right to be more restrictive than what the Building Inspector sets as a total number allowed within the premises.

Attorney Pavlos indicated he agrees with that to a certain extent, however, M.G.L. Chapter 138, Section 12 speaks to that specifically and states that no license issued under this section shall be subject to any conditional requirements varying the occupancy of the licensed premises as certified by any state or local agency charged with the administration and enforcement of the state building code and its rules and regulations. He stated that as a practical footnote, there hasn't been the kind of nights with excessive numbers coming in to Joe Angelo's at a non

function for some time now and there hasn't been a need to remove the tables. He stated last month they had been in to extend the hours by a half hour to allow people to enter due to the loss in business. He indicated what they are asking is to have the ability to bring in business for a prearranged, contracted function as opposed to public events.

Officer Uhlman stated he had submitted a report dated February 4, 2012 after he went to the location on January 17th at the request of the License Commission to make an inspection for the change in premises and found a room with four video poker machines. He stated there are some concerns.

Attorney Nessralla asked if Attorney Pavlos has had an opportunity to look at the report and he stated that although they did not fully address that at the last hearing, it was raised and responded to and Mr. Angelo had indicated he would have the games removed immediately and they are no longer in the establishment.

Chairman McDuffy stated that matter will be brought up before the License Commission at a hearing in the near future. One of the issues brought up was that there needs to be a manager. He indicated he has talked to people who go in there and they don't know who Carl Simmons is and the report indicates the employee did not know who Carl Simmons is. He expressed concern that he still has no appointed and approved manager on the premises. Mr. Angelo stated the issue with the State in not approving his name as manager goes back fifteen years. He indicated if this is not squared away in two weeks, he will submit a new name to be appointed as the manager. The Adm. Asst. stated that the problem has to be cleared up or else nothing that goes in will be approved. She suggested that the Commission hold off on the request before them until the problem is corrected in the State and a manager is in place.

Chairman McDuffy stated he wants to see a manager in place before proceeding. Attorney Pavlos stated that the problem with attaching Joe's name as the manager has to do with his involvement with the pool company and not with Joe Angelo's Café. The Adm. Asst. stated that it will tie in due to Mr. Angelo being an officer in the corporation.

Attorney Pavlos asked if the Commission could approve the change in premises contingent upon the manager being approved. Chairman McDuffy stated he wants to see the manager be approved and would rather hold off until then. He suggested it be postponed and when the manager is approved, it will go back on the agenda.

Attorney Pavlos stated it is not a bonafide issue, it is a mistake. The Adm. Asst. stated it is a violation to not have an approved manager on the license and the manager of record is not on the premise. He has been notified to appear each time Joe Angelo's has been before the Commission but has never come in. Attorney Pavlos stated Mr. Simmons is elderly and he is known by a different name.

Commissioner Kenney commented on the request before the Commission this evening which states they are requesting the increased capacity nightly. She stated she is not comfortable with that wording and would like it to be changed to read, "to alter the licensed premise by eliminating the tables from the dining areas during special events." The special events can be

controlled but she questioned who is going to make sure that the tables are moved out before 396 people go in there. Attorney Pavlos suggested the wording could be changed to say events to exceed 160 occupants should require additional space. Lieut. Bonanca questioned whether special events should be defined and Attorney Pavlos stated that is exceeding what should be the function of the Commission to define what constitutes an event that will result in the need to remove the tables and increase the capacity. He stated that is overreaching.

Attorney Nessralla asked how they will anyone know what a special event is. Attorney Pavlos stated the events are dictated by the number of people and they have already said this isn't a Friday night function where people are crowded in and there is a need to remove tables. He indicated that Lieut. Williams speaks to that in his letter and it is the function of the Fire Department or any other enforcement agency to use Chapter 148 to enforce that.

Attorney Nessralla indicated he agrees with Attorney Pavlos' interpretation of Chapter 138, however, it went into a different direction when Mr. Angelo stated earlier in the evening that they wouldn't expect the removal of the tables more than 20 times throughout the year as opposed to having 396 with tables removed every night. With the information presented, it brings up the question of what kind of events would they have on those 20 occasions. Attorney Pavlos stated they are trying to forecast it. Attorney Nessralla stated they should be able to understand the legitimate concerns of the police and the Commission that they do not want to go back to what it was before.

Chairman McDuffy suggested that the details must be worked out and the manager situation corrected.

A motion was made by Commissioner Kenney to postpone the hearing until the Commission's next meeting provided there is a manager and the details of the events are worked out. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

9. Hearing on the charges of the local police against Joseph Savino dba International Auto Wholesale, holder of a Class II Used Car Dealer license at 130 Elliot Street, of the following alleged violations:
 - (a) M.G.L. Chapter 140, Section 62 - failure to properly maintain a Used Car Record Book.
 - (b) The licensed used car business located at 130 Elliot Street is not being operated, observed since November 2, 2010.

Representing the licensee was Attorney Robert Galvin, 10 Enterprise Street, Duxbury. Also present was Joseph Savino, 7 Oak Leaf Lane, South Easton.

The following persons were sworn in by Attorney Nessralla:

Officer Scott Uhlman, Brockton Police
Joseph Savino

On direct examination by Attorney Nessralla, Officer Uhlman reviewed his report of November 12, 2011 stating the property has not been occupied as a used car dealership since an inspection on 11/2/2010 when it appeared to be defunct and not in business. The used car business at that location is currently closed and the property is void of automobiles for sales. The inspection of the location was the result of Mr. Savino's request to transfer the license which was subsequently withdrawn. Officer Uhlman stated that he went to the location with the inspectors from the Fire Department and the Building Department to conduct a forensic examination of the used Vehicle Record Book and a multitude of violations were found. The UVR was not maintained as it should be which is in violation of Mass State law and License Commission rules and regulations.

Officer Uhlman further stated that it is his understanding that a Class II license to sell second-hand motor vehicles is still issued and outstanding for that property despite it not being used. Mr. Savino failed to turn in the license when he ceased operation at the location. Officer Uhlman indicated he has been by the property on a number of occasions and has not seen it open for business in over a year. On July 21, 2011, he attempted to make a follow up inspection of the property and was unable to locate anyone. The only thing on the property was junk and smashed up cars from Lou's Auto Body and a log item was entered in the police log.

Officer Uhlman took copies of the Used Vehicle Record book and noted that there are 88 pages of used auto records and the following violations were found:

- 24 pages – Marked with no disposition of the vehicle
- 3 pages – With crossed out information
- 11 pages – No date when the vehicle was acquired
- 84 pages – No information on who acquired the vehicle
- 2 pages – Missing or incomplete Vehicle identification number
- 2 pages – No information where the vehicle was acquired
- 61 pages – No information of who disposed of or sold the vehicle
- 13 Pages – Missing odometer mileage when vehicle was acquired
- 11 Pages – Missing odometer mileage when the vehicle was disposed of or sold
- 8 Pages – The UVR page had little to no information
- 2 Pages – Dates the vehicle was disposed of or sold are before the date of acquisition
- 3 pages – Vehicles were disposed of or sold but never acquired
- 2 Pages – Had control numbers for the reassignment of title by the dealers
- 85 Pages – Were incomplete in some form

Officer Uhlman then explained that detailed instructions are included as part of the Used Vehicle Record Book and explains how to fill out the book and what is required by Mass State law. Instructions are on pages 1 to 3 and Page 4 is intentionally left blank.

Officer Uhlman stated that there were so many entries not in chronological order as is required, he could not possibly list them all in his report. He indicated this was prevalent throughout the entire book. On the day of the inspection, the titles that were on scene did not match the vehicles that were on the lot and the vehicles on the lot did not match up with the book or the titles that were on scene. In conclusion, Officer Uhlman asked that the Commission, in an expeditious

manner take whatever appropriate action with regard to this Used Vehicle Sales license for 130 Elliot Street.

Officer Uhlman then submitted photos of the licensed location which he took on February 13, 2011 and noted there are no signs indicating what the business is and nothing to indicate the cars are for sale. There are six cars on the lot. He stated that in the Commission's packet are pictures taken on 11/13/11 which look pretty much the same as the property did as recently as three days ago and the pictures from the initial inspection taken a year prior on 11/2/10.

Mr. Savino stated his used car license is for 40 vehicles.

In response to questions from Attorney Nessralla, Officer Uhlman stated he travels Elliot Street and goes by the business on almost a daily basis. He has made notations in the police log that he has gone to the location five times since the initial inspection in 2010. For one year, there was nothing but junk on the lot. He then referred to a picture taken on 11/13/11 at 3:06 p.m. which shows nothing for sale and no sign to indicate there are vehicles for sale.

On cross examination by Attorney Galvin, Officer Uhlman stated he does not know what day of the week November 13, 2011 was. Attorney Galvin informed him that it was a Sunday and Officer Uhlman indicated he does not know if the business is open on Sundays or not. Attorney Galvin stated that the variance from the ZBA indicates there can be no business conducted on Sundays.

Attorney Galvin then offered as an exhibit a copy of the original ZBA variance which states the hours of operation to be 7:00 a.m. to 7:00 p.m. on Monday through Saturday.

Attorney Nessralla then commented that the only references to time are in the petitioner's statement. Attorney Galvin reviewed that the proposal was to operate during the hours stated and the variance was granted on the basis of the proposal. He agreed that it was not a condition.

In response to further questions from Attorney Galvin, Officer Uhlman stated there are no movable or permanent signs. The photograph he submitted shows an awning with the name International Auto Wholesale and a telephone number that has been scratched out but there is no sign to indicate what the business is. He made his initial inspection on Tuesday, November 2, 2010 and was given access to the book on that date. Mr. Savino was not present at the time. Officer Uhlman stated he does not know the name of the person who provided him with the book. He noted the violations in the book which was for calendar year 2010. He stated that he had a conversation with Mr. Savino and his father who was also present. He informed them how to fix some of the problems and informed them that that a report would be forwarded to the License Commission.

Attorney Galvin asked if there had been any effort on the part of Mr. Savino to remedy the issues and Officer Uhlman stated he explained the problems to Mr. Savino's first attorney who indicated he would attempt to get them taken care of. He never heard anything further. The lot then sat empty from 11/2/10 to 7/21/11. He did speak to Mr. Savino on the phone. Officer Uhlman stated the only copy of the book was taken on the day of his initial inspection. Changes

made to the book after that would have been a violation. He has no knowledge of Mr. Savino remedying any of the problems. On Thursday, July 21, 2011, he went to the business but the place was locked and there has been no sign of life for the past ten months. He did not attempt to reach Mr. Savino other than by going to the business location. In November, 2011, he submitted this report requesting some action be taken by the License Commission against this licensee.

Officer Uhlman stated he is not aware of any job action taken by Mr. Savino against the individual running the lot in November, 2010. Attorney Galvin stated that person was fired. From the record book of 2010, it would appear that there were 64 vehicles sold and 24 have no disposition. He stated he has no idea as to how many vehicles were sold in 2011 but he didn't see cars on the lot as indicated in the pictures taken. As far as the vehicles on the lot this past week, they did not appear to be marked for sale.

Attorney Galvin then presented pictures taken on February 13th showing the vehicles on the lot.

Attorney Galvin then called on Joseph Savino who stated he has owned the property and held the license since 2002. He is authorized to have 40 vehicles on the property. He is aware of the inspection made by Officer Uhlman on November 2, 2010 and responded to the location as soon as he heard he was there. He took the book and initialed the pages he looked at. He understood that there were some problems with the way the information was entered into the book. He had fired the person responsible, Mark Hanna, on the spot. Mr. Savino stated he had never hired another lawyer and had met Officer Uhlman. Officer Uhlman had made some recommendations as to what he could do as far as the UVR book and Mr. Savino stated most of it had already been fixed. He stated that they talked about the property at length and Officer Uhlman had thought it was a good idea that Mr. Hanna was fired. It is his recollection that the Building Inspector didn't come until several weeks after. Officer Uhlman had indicated to him that he was satisfied with his efforts to remedy the problems with the UVR book. He is not aware of any further problems with the records of his UVR book.

Mr. Savino stated that the individual who rents the storage yard from him had told him that Officer Uhlman had jumped the fence to enter the property on a Sunday.

Attorney Nessralla objected to this hearsay information and Mr. Savino stated the individual who told him this, Luis DaSilva, is present.

Mr. Savino continued and stated that due to the economy, the business is not as good as it once was. He stated he also has another location in East Bridgewater. Elliot Street is a quiet side street and there is not a lot of traffic. 99 percent of his business there is done through the internet. In 2010, he estimated that 8 or 9 cars per month were sold. Mr. Savino stated he has the book from 11/2/10 to present. Mr. Savino stated his business is not defunct at 130 Elliot Street and he has no intention of closing the business. Mr. Savino stated they pull the more expensive cars inside the body shop every night because of the problems in the area. Officer Uhlman was just recently in court with Luis Silva because of the alarms. He has no flags or banners on the property. There are Mass. General Law stickers as required on every vehicle.

On cross examination by Attorney Nessralla, Mr. Savino stated he agrees that his books were in disorder as reported by Officer Uhlman and that there were no signs on the lot advertising that the cars were for sale. Mr. Hanna was employed by him for six or eight months. He did not train Mr. Hanna and there are no requirements for a person to sell cars. He did review the books being maintained by Mr. Hanna but he did not find them to be as bad as reported by Officer Uhlman. Mr. Savino stated that he had rectified every record initialed by Officer Uhlman by the time he met with him three days later.

Officer Uhlman stated they have one day to correct an entry and he would not tell anyone to do anything illegal. Mr. Savino stated he did not change anything, he only put the correct information in.

Luis Silva, 35 Brookside Avenue, was then sworn by Attorney Nessralla.

In response to questions from Attorney Galvin, Mr. Silva stated that several weeks ago, he observed Officer Uhlman come into the lot and take pictures. He was in the office at the time. He has not seen him on the property since.

In response to questions from Attorney Nessralla, Mr. Silva stated that he did not see Officer Uhlman jump over the fence. He met Officer Uhlman at District Court last week as a result of actions taken against him by the Brockton Police.

Chairman McDuffy stated he travels Elliot Street frequently and has not seen the business open during the past year. In his opinion it appears to be a storage place for a body shop because of the wrecked vehicles on the property. From his observations during the past year, as a citizen and not as a Commissioner, it appeared to be a closed car dealership. He stated if this is the way the business is being operated, it is not right for the City of Brockton.

Chairman McDuffy reviewed that the hearing is being held because of bad record keeping and as far as he is concerned, the business was not operated during 2011. Mr. Savino stated he has the record book to show that it was operated. Chairman McDuffy asked Officer Uhlman to take a look at the book to see if it is in order.

Commissioner Kenney commented that she does not understand how there were only five cars on the lot on 2/11/12 and on 2/13/12, a couple of days prior to the hearing, there are many more cars on the lot. Mr. Savino stated there were fifteen cars on the lot. Photographs were reviewed and Attorney Galvin indicated the same vehicles are in both pictures.

After quickly reviewing the record book, Officer Uhlman stated that from 9/21/10 to 2/6/12, there are 46 pages and 25 cars sold.

In closing, Attorney Galvin submitted a letter for the Commission's review. After review, it was agreed that the information contained in the letter is mainly what was discussed during the hearing. Attorney Galvin stated that in no way is he suggesting that Officer Uhlman is not doing his job and it would be inappropriate for Mr. Savino to come in and suggest that everything was in order back on November 2, 2010 because it wasn't. Mr. Savino accepts responsibility and at

the time took steps to rectify the problem by firing the person responsible for watching over his business. He indicated it was a bad business decision to leave his business in the care of this individual who he thought was experienced because he had operated another dealership. He indicated there were a number of mistakes that could be immediately rectified. Mr. Savino did not suggest that he changed any information but fixed the book the way he thought he was permitted to do. Since then, the book has been kept in order and he does not operate on Sundays. Attorney Galvin explained that Mr. Savino runs two businesses and a lot of his business is over the internet and he is not always at the Elliot Street location. He stated that all you can do is tell the truth, fix the problem and try to do the right thing and Mr. Savino has done all of those things. He admits to his mistake and acknowledged that Officer Uhlman is only doing his job. Attorney Galvin stated he will supply Officer Uhlman with Mr. Savino's contact information as well as with his information in case of a problem.

Attorney Galvin stated he would appreciate the Commission's consideration in not revoking or suspending the license or taking any disciplinary action. He stated he can certainly understand any criticism the Commission might have on how the business was operated previously and Mr. Savino's accepts full responsibility for that.

Ms. Tucker stated that Officer Uhlman had submitted the report back in November and requested the license not be renewed, however, due to renewals and other year end matters, a hearing could not be scheduled on a timely basis.

Chairman McDuffy asked if it is legal to put the sales from both the Brockton location and the East Bridgewater location in one book and Mr. Savino stated it is not and he keeps the records totally separate.

Commissioner Kenney then asked Officer Uhlman if the 2011 book appeared to be in order and Officer Uhlman stated that he could not tell. She then asked for him to briefly look at the book and Officer Uhlman indicated he needs titles and to view the vehicles on the lot. He was then asked to take a quick look at the book which he did.

While Officer Uhlman was reviewing the book, Chairman McDuffy commented that it is obvious that mistakes were made in 2010. He indicated his question is what has been done in 2011. He stated if this license does stay with Mr. Savino, the only way he would consider voting on this is if the business is open during the hours stated which are from 7:00 a.m. to 7:00 p.m. Monday through Saturday. If it is found to be closed up, the licensee will have to come back before the Commission for further action. He stated there is no doubt in his mind that it wasn't an active car dealership during 2011 based on his observations.

Mr. Savino stated the body shop is open 12 hours a day. Chairman McDuffy stated the place looked like an auto body shop parking area. There were dented cars and wrecked cars. Attorney Galvin stated there is a fenced area where the wrecked cars are kept. The business belongs to Lou's Custom Auto Body. Mr. Savino stated the business is separated by a chain link fence. Attorney Galvin told the Commission that they are welcome to go to the property. Chairman McDuffy stated he would hope that if an agent does go to the property they would be greeted and should be able to get in anytime when the business is open.

After briefly reviewing the 2011 book, Officer Uhlman stated that he does see some discrepancies and some problems but is not going to go into details. Mr. Savino asked what problems he sees and Officer Uhlman indicated there are some cars out of order. He also sees the name of the person he had originally wanted to transfer the license to who is taking in all of the cars except for one. Officer Uhlman stated that Mr. Savino withdrew the request to transfer the license; however, the person is now running his business.

Chairman McDuffy then suggested that this hearing be continued to next month which will give Officer Uhlman thirty days to stop in and check out the book. The Commission can monitor the location to see that it is open. Chairman McDuffy stated he will take Mr. Savino at his word that he will not make any changes to the book before he sees it. Attorney Galvin stated the book will be made available.

Attorney Nessralla stated he is unsure whether the City would want to join in on that suggestion for several reasons. He stated they are talking about books being in disorder, a manager who had no oversight and training as well as the licensee who did not check on that person running the business. He indicated there must be some standard of oversight and the City of Brockton fosters and encourages business and they are not looking to close people down, however, there is an expectation that the business will be conducted according to the standards that the City expects and that the law dictates. For the period of time that this business is in question and that the observations were made, Officer Uhlman has clearly stated that the books were not in order and the physical observations of the business indicated it was not an active and open business as the license requires.

Attorney Nessralla further suggested that Mr. Savino not be put out of business but that there needs to be some strict oversight as to what the licensee is doing and that the business is being operated. He stated he has no objection to the Commission allowing the business to continue but only with strict oversight and responsibilities of the owner and if it falls short, then sanctions must be continued.

Chairman McDuffy indicated he agrees with Attorney Nessralla and for that reason was suggesting a thirty day continuance to see that they are conducting the business.

Officer Uhlman stated he will be referring any further inspections to the RMV because he feels he could be prejudice and is very confused as to what he is being shown this evening. He stated he will contact the Registry and let them deal with it appropriately.

Attorney Nessralla stated the board should made a decision on the violations brought by Officer Uhlman. He indicated he does not want the issues confused and the board should not be considering what has taken place over the past two weeks.

Commissioner Kenney stated that the Commission has to decide whether Mr. Savino is guilty of having a bad book in 2010 which he has admitted to.

Attorney Galvin asked the Commission if they could use the word responsible as opposed to guilty.

Mr. Savino stated the issues on his used car book were not of any fraudulent manner and there was no deceitfulness intended. He stated the biggest issue was not putting in the name of the person who acquired the vehicle.

Chairman McDuffy stated that the rules and laws are there and he has to follow what is required.

A motion was then made by Commissioner Sullivan to find the licensee responsible of failing to properly maintain a used car record book which motion was seconded by Commission Kenney and made unanimous by vote of Chairman McDuffy.

A second motion was made by Commissioner Kenney that based on testimony presented, the business is being operated, whether or not it is obvious to the passerby, there is business being conducted at that location.

Commissioner Sullivan stated he travels that route all the time and to him, it appears there is no business there at all.

Commissioner Sullivan then seconded the motion.

With no further discussion, the motion carried with the vote being two to one with Chairman McDuffy voting opposed.

Chairman McDuffy stated he would hope he will continue the business and he hopes they will be cooperative with any inspectors who go to the location.

Chairman McDuffy then asked for discussion on the charge of violating M.G.L. Chapter 140, Section 62. Commissioner Kenney stated she does not want to see Mr. Savino lose his license because she feels he has made progress in doing the book correctly and to being open to have either Officer Uhlman or someone from the RMV in to inspect the property and his record book.

She then made a motion that a letter of reprimand be placed in his file and no other penalties be assessed. The motion was seconded by Commissioner Sullivan and made unanimous by vote of Chairman McDuffy.

10. **(POSTPONE)** Hearing on the charge brought by the local police against Arcangela Lima dba M & T Auto Body, Sales and Rental, holder of a Class II Used Car Dealer license at 691-701 Montello Street, of an alleged violation of M.G.L. Chapter 140, Section 62 - failure to properly maintain a Used Car Record Book.
11. Hearing on the charge brought by the local police against Todd Copeland dba Copeland Auto Discount that the licensed used car business located at 1554 Main Street is not being operated.

Present was Todd Copeland, 27 Wingate Road, Wellesley.

The Adm. Asst. stated that a letter requesting a postponement from Mr. Copeland's attorney was received today. Chairman McDuffy asked Mr. Copeland if he wanted this postponed. Mr. Copeland stated he doesn't need his attorney and will go forward with the hearing.

The following persons were sworn in by Attorney Nessralla:

Todd Copeland
Officer Scott Uhlman, Brockton Police Department

Officer Uhlman then read from his report dated November 12, 2011, which states that Mr. Copeland no longer owns the property and he is not occupying it as a business. The former business at that location is currently closed and the property is void of autos for sale as well as the business sign that has been removed. It is his understanding that a Class II license to sell second-hand motor vehicles is still issued and outstanding for that property even though it is not being used. Mr. Copeland failed to turn in or transfer the license when he ceased operation and sold the business.

Officer Uhlman continued and stated that this license may hamper the new business that wants to move to that location and transfer their Class II used car license because two licenses cannot be issued to one location. He suggested that with the limited number of licenses in the City it does not make sense to allow Mr. Copeland to continue to hold that license and not exercise it or transfer it. His current Class I license allows him to sell used motor vehicles at his West Chestnut Street dealership if he wishes. He requested the License Commission take appropriate action against the license.

Officer Uhlman stated that the Main Street property is currently owned by Nitram Realty which is owned by Bob Martin. Photos of the property were also submitted.

Mr. Copeland stated he is not going to deny any of the officer's information. As indicated in Attorney Mathews letter, he is in the process of requesting to transfer the license to a new location on Manley Street owned by John Santilli and will be filing for the change in the next 30 to 60 days. In addition, he submitted a letter from John Santilli indicating Mr. Copeland is in the process of finalizing details to move his license to his property at 97 Manley Street.

Mr. Copeland stated they are coming up to their seventh anniversary on West Chestnut Street. When they built the new location, the License Commission allowed him to keep his Class I license and sell used vehicles on Main Street in order that the property not be left vacant to deteriorate. When they did move the operation to West Chestnut Street, it was with the agreement that he would sell the Main Street location to a reputable business. He tried to attach the license to the sale of the property. At the time he was in discussion with Bob Martin and some others to transfer the license but he hasn't been able to do so. He stated at this point he is just asking the License Commission for 30-60 days to get this resolved.

Officer Uhlman stated that a used car license cannot be sold. It can be transferred. Mr. Copeland can apply to transfer the license. Advanced Lock is a legitimate business which is at the Main Street location. Also moving there is Centerville Auto Body and Liberty Tax Service.

There is no indication of a used car business being operated there and he requested the City take the license back. If he wants the license, he can apply for it when he has a location or Mr. Santilli can apply for his own used car license.

Mr. Copeland stated he was not aware of what the hearing was going to be about this evening. Chairman McDuffy indicated that if the license is revoked or taken back, the best thing would be for Mr. Santilli to apply for his own license.

The Adm. Asst. stated that once this license is revoked; there is no license available to apply for.

Mr. Copeland stated he bought a five acre plot of land on Pearl Street and he might do something there. He stated the license is of value to him and he promised that within the next 30-60 days this will be taken care of.

Officer Uhlman stated that Mr. Martin bought the property in 2010 so Mr. Copeland has been holding on to the license for two years without doing anything.

Chairman McDuffy advised Mr. Copeland that for him to sell the license outright would be illegal and he indicated he understands this. He stated he is looking to run the business, not to sell the license.

Commissioner Sullivan asked what the Commission can do to try and help Mr. Copeland out. Ms. Tucker suggested they could continue this hearing for thirty days with the understanding that he will submit applications to either transfer the location or the license at least two weeks prior to the March 21 meeting and if the applications are not submitted, the Commission can revoke the license.

Officer Uhlman indicated that is preventing Centerville from doing what they want to do on Main Street.

A motion was made by Chairman McDuffy to continue the hearing until the March meeting with the understanding that Mr. Copeland will submit an application to transfer the license or the location at least two weeks in advance of March 21 and if this is not done, the Class II license will be revoked at the meeting. The motion was seconded by Commissioner Sullivan and made unanimous by vote of Commissioner Kenney.

12. **(POSTPONE)** Hearing on the charge brought by the local police against Clyde Baxter dba C & H Auto Sales that the licensed used car business located at 638 Crescent Street is not being operated.

13. Hearing on the charge brought by the local police against Cardoso Café, Inc. – Carlos Cardoso, Manager, 146-148 Montello Street, of an alleged violation of ABCC Rule 2.05(2), to wit: “No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible therefor whether present or not.”, reported on January 28, 2012 at 1:40 a.m.

Present was Carlos Cardoso, 112 Warren Avenue, the owner and manager.

The following persons were then sworn by Attorney Nessralla.

Lieut. Paul Bonanca, Brockton Police
Carlos Cardoso

Lieut. Paul Bonanca then reported that on January 28, 2012, at 1:20 a.m., he responded to Cardoso Café as a result of a report that a large fight and stabbing had occurred there. There were four individuals that were injured as a result of events that had taken place. The individuals were transported to the hospital by friends and not by ambulance. While at the Cardoso Café, Lieut. Bonanca stated he interviewed Carlos Cardoso as well as security officers Manuel Gomes and Carlos Mello who all admitted a fight had taken place inside the bar. Two people were stabbed just outside the door of the bar. Lieut. Bonanca stated he informed Mr. Cardoso that when the police received the call, it did not come from the bar and Mr. Cardoso admitted they had not called police and apologized. Witnesses were interviewed at the hospital and in combination with speaking with the owner and security officers, the stabbings occurred as a result of a continuation of the events that had taken place inside the establishment. There was blood on the sidewalk which was consistent with witness statements. An arrest was made and there is a defendant in the case.

Mr. Cardoso stated he has owned the Cardoso Café for about eight years and he tries to do his best. He stated that on this day there was a little panic and fighting inside the bar and he is the one who took the first guys outside. There were a couple of girls who tried to push the tables. He stated his bouncer tried to take out the people on the other side and tried to control the situation. By that time he saw the blue light of the police car outside. He stated that usually at about 1:30 a.m. the cruiser is outside to help them with closing because sometimes it gets bad. He indicated he understands the situation started inside. As soon as people started arguing and talking loudly they turned the lights up and stopped the music. When the police came in they asked him for the video. He stated he does not feel safe in his business. He stated he is thinking he will stop the DJ service and try to have a light type of music and have a new kind of club. He states this will keep the young people and teenagers away. He said they have had problems with fake ID's. He indicated he will stay on the door to see who gets in. Mr. Cardoso explained that on the night of the fight, it started inside and they tried to push them outside. He stated he did not feel there was a reason to call the police. Later when he saw the blue light outside he figured it was all under control. He said he has no power to control the outside. He has the security camera. He didn't think they should call the police because they tried to separate the people fighting. Mr. Cardoso stated that it was not necessary for him to call the police.

Lieut. Bonanca stated Mr. Cardoso was cooperative. Of the ten cameras in the establishment, only two were recording and those were of the dance floor area. From 1:25 a.m. to 1:40 a.m., the video showed two males wrestling on the ground followed by an unidentified female with a closed fist striking one of the males. Police were not called during that time. Lieut. Bonanca stated he had arrived at 1:40 a.m.

In response to question from Attorney Nessralla, Mr. Cardoso stated he did not call police nor did his bouncers call the police. He heard Lieut. Bonanca's testimony that there were people fighting inside. He stated that he really didn't see anyone fighting inside. His bouncers stayed at the door so no one would get in after 1:00 a.m. Mr. Cardoso stated he saw a few things on the video. With regard to the videos, Mr. Cardoso said that for a week before this incident they were not working and it was suppose to be fixed.

Chairman McDuffy asked Mr. Cardoso if he was aware there was a minor inside and he stated he was not. Commissioner McDuffy stated that Lieut. Bonanca's report states the person's date of birth to be 5/3/93 which makes him 18 years old. Lieut. Bonanca stated this 18 year old individual, identified as Alphorns Brandao, was one of the stabbing victims and he was observed on the video inside the establishment. Efforts to reach this person have been unsuccessful.

In his closing, Attorney Nessralla stated they want to encourage business, however, this is the ultimate example of the type of business and managerial oversight that the City does not need. The type of conduct reported in this matter which has been acknowledged by the licensee, fosters an activity that we are trying to fight against. There was a clear lack of managerial oversight and a clear violation of the rules in which they should have conducted themselves in notifying the police of a violent activity taking place. Attorney Nessralla indicated there was wrestling on the floor, chairs being waved back and forth, two cameras out of ten working and those only being the ones on the dance floor, blood strewn outside the premise, people being transported to the hospital by other than EMTs. He stated to allow this type of conduct puts patrons, employees and responders at risk. His feels this conduct is deplorable and requested sanctions.

Commissioner Kenney pointed out that the minor being inside is not a charge listed on the agenda. Commissioner Sullivan asked how a minor had gotten inside and questioned whether they check IDs. Ms. Tucker stated that the charges don't include the minor being inside because the report did not indicate that the person was observed being served or drinking alcohol. Attorney Nessralla indicated he feels it is reflective of the atmosphere and lack of managerial skills that an 18 year old is in there at 1:30 a.m.

Commissioner Kenney then made a motion to find Cardoso Café Guilty of violating ABCC Rule 2.05(2). The motion was seconded by Commissioner Sullivan and made unanimous by vote of Chairman McDuffy.

Attorney Nessralla suggested the secretary amend the wording to make the establishment liable of the violation as opposed to guilty.

Chairman McDuffy reviewed that the licensee currently has a 2:00 a.m. closing on his license.

Commissioner Kenney stated in her opinion, Mr. Cardoso's own statement that he does not like to call the police is enough to warrant a roll back of the hours. She recommended at least an hour roll back for a period of six months.

Commissioner Kenney made a motion for a one hour roll back for a period of six months and if there are no further incidents during the six month period, he may petition the board to request his 2:00 license be re-instated.

The motion was not seconded.

Commissioner Sullivan indicated it seems that the licensee does not know what is going on in his bar. He asked Mr. Cardoso if he was there when they were fighting on the floor. Mr. Cardoso said he was there but he did not see anything. Commissioner Sullivan indicated he does not understand why they would let an 18 year old inside.

A motion was then made by Chairman McDuffy to roll back the closing hour to 12:00 midnight for a six month period to be evaluated at the end of the six months. The motion was seconded by Commissioner Kenney.

During discussion, Chairman McDuffy stated it is clear to him that the licensee's actions were done deliberately. He reviewed that there was a very visible fight inside and nothing was done to help protect his customers and the licensee did not follow the law by not calling the police. He also expressed concern with the fact that an 18 year old was allowed to be inside the establishment at 1:30 a.m. and ended up being stabbed.

It was requested that the entertainment license be rolled back also to 11:30 p.m. in conjunction with the hours being rolled back to midnight.

Commissioner Kenney asked if no one is to be allowed inside after 11:00 p.m. and Chairman McDuffy indicated that wasn't included in the motion but could be added as an amendment.

Attorney Nessralla stated that if the Commission is converting the 2:00 a.m. closing to midnight, the same standards of 2:00 licenses should be applied, that is, no one allowed in after 11 p.m., all Entertainment must stop one-half hour before closing and last call no later than 11:45 p.m.

Mr. Cardoso asked if he could speak and it was allowed. He stated he has been in business at this location for eight years. This happened and he can't see everything going on with 50 or 60 people inside. He stated he tries to do his best. When things cleared up, he didn't see any reason to call the police.

Chairman McDuffy reminded Mr. Cardoso that he has a responsibility to his customers and employees to ensure their safety. His employees should also know that they should call the police when a problem occurs. He advised Mr. Cardoso that he is responsible as the owner and the manager. Mr. Cardoso stated he has been there eight years and this is his first violation and he doesn't understand why his hours are being rolled back two hours.

Chairman McDuffy then reviewed that the motion has been made and seconded and there is an amendment to the motion that there be no admittance after 11:00 p.m. With Chairman McDuffy and Commissioner Kenney voting in the affirmative and Commissioner Sullivan opposed, the motion carried.

The Adm. Asst. then reviewed for Mr. Cardoso that Det. Smith has submitted a complaint reporting that his windows and doors are blocked which is a violation if not corrected and he indicated he understands what to do.

14. Communications

Tamboor Restaurant has notified the board that they will be closed during the week and open on weekends only.

A hearing will be scheduled on a report of a violation at Max's Hideout.

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

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

The Commission will meet again on March 21, 2012.

Respectfully submitted,

Scott H. McDuffy
Chairman

APPROVED:

Paul D. Sullivan, Commissioner

Bruce G. Dansby, Commissioner

Joshua J. Wood, Commissioner

Kathy Kenney, Commissioner

Fred Fontaine, Alternate Commissioner

Richard E. Bath, Alternate Commissioner