

## TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Wednesday, April 18, 2012, in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy; Commissioners Paul D. Sullivan, Bruce G. Dansby and Kathy A. Kenney. Also present were Asst. City Solicitor Kate Feodoroff; License Agents Lieut. Paul Bonanca and Officer Scott Uhlman; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of March 21, 2012, the Special Meeting of March 7, 2012 and the amended minutes of the Meeting of January 18, 2012.

A motion was made by Commissioner Sullivan to approve the minutes of the meetings as listed. The motion was seconded by Commissioner Kenney. All members present voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of May, 2012: Lieuts. Paul Bonanca and Kenneth Legrice; Sgts. George Khoury, Frank Vardaro, Kenneth Lofstrom and David Dickinson; Dets. Tom Hyland and Nazaire Paul; and Officer Scott Uhlman.

A motion was made by Commissioner Kenney to approve the police officers as listed for the month of May, 2012 which motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

- (a) **Wine and Malt Beverages** - First Lutheran Church - James Benson Manager, for a Wine and Beer Tasting at the Fruth Center – 891 Montello Street on Saturday, April 28, 2012, from 6:00 p.m. to 9:00 p.m.

Present was James Benson, 35 South Street, West Bridgewater.

Mr. Benson stated this will be a Beer and Wine Testing and they expect under 100 people will attend. Tickets are being sold in advance and no one under 21 will be allowed in. He indicated the event will be run by the owner of the Wine Cellar of West Bridgewater which is licensed and the individuals who will be serving the wine are Tips certified.

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

- (b) **All Alcoholic Beverages** – Brockton Library Foundation – Fred Howell, Manager, for a fundraiser to be held at the Brockton Public Library on Saturday, June 23, 2012, from 8:00 p.m. to 1:00 a.m.

No one appeared on this request and no action was taken.

- (b) **All Alcoholic Beverages (2 Permits)** – Annunciation Philoptohos – Despina Papadopoulou, Manager, for a Food Festival to be held at 457 Oak Street on Saturday, May 19, 2012 and Sunday, May 20, 2012, from 11:00 a.m. to 10:00 p.m.

Present was Despina Papadopoulou, 444 West Elm Street.

Mrs. Papadopoulou stated she is the president of the Ladies Philoptohos and they will be having a Food Festival which will be held indoors. On Saturday they plan to be open until 10:00 p.m. and on Sunday, it is anticipated the event will end by 6:00 p.m. They expect no more than 100 people to be in attendance at any one time. This is a much smaller event than the Food Festival which the Church holds in the fall. There will be no tents outside. It was agreed that the hours for Sunday will be left as requested which is for a closing time of 10:00 p.m. just in case it runs later than 6:00 p.m.

A motion was made by Commissioner Sullivan to approve the permits. The motion was seconded by Commissioner Dansby. All members present voting in the affirmative, the motion carried.

- (d) **All Alcoholic Beverages** – Brockton Firefighters Local 144 – William Hill, Manager, for a Scholarship Award to be held on Saturday, May 19, 2012 from 5:00 p.m. to 12:00 midnight.

Present was William Hill, 80 Ellis Street, who stated this is an annual event when the scholarships are presented. It will be held at the Union Hall on Perkins Avenue.

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

4. Hearing on the request from Brockton Fair Caterers, Inc. – Maura Carney, Manager, 433 Forest Avenue, to amend the Entertainment license on Sunday, May 27, 2012 to include Country Bands from 2:00 p.m. to 3:00 p.m. and from 6:00 p.m. to 9:00 p.m., Rodeo Events from 3:00 p.m. to 5:00 p.m. and Barrel Racing from 5:00 p.m. to 6:00 p.m.

Present were George Carney, who stated he is filling in for his daughter, Maura, who is the manager on the license. Also present was Thomas Clifford, 39 Carpet Street, Rehobeth.

Mr. Carney reviewed that at last year's event, an agreement was worked out with Capt. Gomes and they will keep the same security plan for this year's rodeo. He stated there were no complaints from the neighbors as far as he knows.

Chairman McDuffy agreed that the changes made last year had worked out very well and he is not aware of any complaints.

Mr. Clifford also stated they had done everything Capt. Gomes requested last year. Everything had worked out fine and there were no problems.

Lieut. Bonanca indicated he would have no objection provided the same stipulations required at the Sept. 25, 2011 event are put into the record and required at this year's event.

The stipulations were then reviewed:

- The gates have a set opening and closing time to be worked out between Lieut. Bonanca and Mr. Carney.
- There be some means of stopping the cars as they enter the Fairgrounds
- That two platoons of four officers are assigned to the parking lot area and there will also be police details inside
- The police officers will stay on the scene until everyone is gone
- All cars are turned off with radios off after they are parked.

Commissioner Dansby asked if there were issues with tail gating at last year's event. Mr. Clifford agreed that there were some issues with the event a year ago but the event that took place last September had no complaints. Mr. Carney stated they will have the same format as what was agreed to with Capt. Gomes previously.

Lieut. Bonanca asked if the time the gates will open will be pre-announced. He stated in order to alleviate the tailgating problem, the opening time has to be advertised in advance of the event. Mr. Carney stated they will not be allowed to enter prior to the time that is agreed upon. Mr. Clifford stated at last September's event the gates opened at noon time, people were given 5-10 minutes to get their belongings from their cars and had to go into the event.

At Commissioner Kenney's suggestion, Chairman McDuffy asked if there was anyone present opposed to the request and no one came forward.

A motion was made by Commissioner Sullivan to approve the request with all of the same stipulations as reviewed. The motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

5. Hearing on the request from Giannaros, Inc. – Nicolas Giannaros, Manager, 430 Main Street, to transfer stock in the corporation.

Present were Attorney Clyde Hanyen, 45 Bristol Drive, South Easton and Nicolas Giannaros, 98 Allen Road, North Easton.

Attorney Hanyen stated that Mr. Giannaros' father, Charles Giannaros, had passed away and by virtue of his will, Nick is the heir to his remaining shares in the business. This will give Nick 100 percent ownership in Giannaros, Inc.

Paperwork being in order, a motion was made by Commissioner Sullivan to approve the transfer of stock which motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

6. Hearing on the request from Rockton Corp. dba Bud's Liquor & Convenience – Michelle M. Tibets, Manager, 532 North Quincy Street, to transfer stock in the corporation.

Present was Twinkle Patel, 124 Christopher Road, Brockton.

Mr. Patel stated he is the owner of the business and is applying for the transfer of stock because he is buying out his partner, Paresh Patel.

Paperwork being in order, a motion was made by Commissioner Kenney to approve the transfer of stock which motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

7. Hearing on the request from Centerville Auto Body, Inc. to transfer the location of the Class II Used Car Dealer license from 9 Packard Street to 1554 Main Street.

Present was Michael O'Connell, 572 Pleasant Street, Hanson.

Mr. O'Connell reviewed that he is moving his business from Packard Street to the Main Street location where there is a lot more room. In response to questions from the Commissioners, he stated there is plenty of room for customer parking in addition to the cars being offered for sale and inside his body shop. There was no restriction on the number of cars at the Packard Street location where it is an old license with no stipulations.

Officer Uhlman stated he had made an inspection and met with the owner of the property as well as Mr. O'Connell and they came up with a total number of 30 cars for sale. He stated the lot is so large, the cars for sale will not interfere with the day to day operation.

A motion as made by Commissioner Sullivan to approve the transfer of the location of the license to 1554 Main Street with the stipulation that there be no more than 30 cars for sale in accordance with the agreed upon plan. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

8. Hearing on the request from Mark Reid dba Reggae on the Grill for a Common Victualer license at 25 Pleasant Street.

Present was Mark Reid, 90 Pearl Street.

Mr. Reid stated he will be the owner and the chef. It was reviewed that the current licensee has moved out and the landlord has notified the Commission that he will be leasing the restaurant to Mr. Reid. He is aware that he needs to get all of the department inspections in order. It was also reviewed that the hours are stipulated by the ZBA to 7:00 a.m. to 11:00 p.m. and Mr. Reid was advised that he cannot operate beyond those hours.

A motion was made by Commissioner Sullivan to approve the Common Victualer license pending receipt of the department inspection approvals. The motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

9. Hearing on the request from Tonka, Inc. dba Tenka Sushi to transfer the Common Victualer license at 793 Crescent Street to Fusion Delight, Inc. dba Tenka Sushi.

Present was Jia Zheng Lu and Xiao Qin Zou, both of 15 Lunt Street, Quincy.

Mr. Lu is requesting to transfer the license to his wife, Xiao Qin Zou, who has formed a new corporation and he will manage the business. The name of the restaurant will remain Tenka Sushi.

Paperwork being in order a motion was made by Commissioner Kenney to approve the transfer of the license. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

10. Hearing on the request from Li Hua, Inc. dba China King to transfer the Common Victualer license at 180 Oak Street to Ni's Family, Inc. dba New China King.

Present was Attorney Chris Coleman, 128 Lincoln Street, Boston, representing Jianzheng Ni, 18 Sharon Road, Quincy who will be the new owner.

Attorney Coleman reviewed that the restaurant is located at Oak Street Crossing. It is 1,500 square feet and has seating for 18. There are three booths and two tables. Hours will remain the same as the present restaurant which is from 11:00 a.m. to 12:00 midnight, seven days a week. Mr. Ni has never owned a restaurant but has been a cook at various restaurants over the past twelve years. His wife will also be working with him.

A motion was made by Commissioner Sullivan to approve the transfer of the license pending receipt of the department inspection approvals. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

11. Hearing on the request from Manco Industries, Inc. dba Auto Gallery to transfer the Class II Used Car Dealer license at 175-187 North Main Street to Gomes Auto Body, Inc.

Present was Attorney Jack Silverstein, 71 Legion Parkway, representing the applicant, Gomes Auto Body, Inc. and Orlando Gomes, 73 Cleary Drive, Stoughton. Also present was the seller, James Mann, 125 Washington Street, North Easton.

Officer Uhlman stated he has reviewed the plan with Mr. Gomes and Councillor Denapoli and they have come up with a workable layout which he has attached to his report. The total number of cars for sale is 22. He must fence in one side of the property which abuts a multi-family dwelling. The hours will be 8:00 a.m. to 6:00 p.m., seven days a week. There will be no repair work until properly licensed and there are to be no cars but vehicles for sale in the spots designated for sales. The lot was measured off and they agreed on a total number of 22 cars. Mr. Gomes plans to do repairs and body work in the future.

Attorney Silverstein stated Mr. Gomes did meet with Officer Uhlman and indicated the plan is well thought out. They came up with 22 cars which was a reduction from the 46 on the plan they submitted. The 46 vehicles did not work and they appreciate Officer Uhlman's input. Attorney Silverstein asked if they could make the license for 25 cars for sale. He stated Mr. Gomes was anticipating more cars before he met with Officer Uhlman .

Officer Uhlman stated that the additional three cars will take up 400 square feet based on the 20' x 9' per vehicle space. He indicated that if the cars are going to be squeezed in, there will be no room for customers. When he gets his other licenses, there will need to be spaces for the repair vehicles as well as for his employees. Officer Uhlman stated in his opinion the three additional vehicles to bring the total up to 25 will make a big difference.

Attorney Silverstein stated again that all they are looking for are three additional cars which may even be limited to compact cars. Officer Uhlman stated there is not room for the additional cars and mathematically it doesn't work. Chairman McDuffy reviewed the plan which was submitted and agreed that it wouldn't work. He asked about the back side of the lot and Officer Uhlman stated there is a dumpster which has to be fenced in. His plan is not to scale but is based on his plan they submitted three more vehicles will not fit. As far as the vehicles inside the building, he would need to get his other licenses which are through the City Council.

Ward Five Councillor Dennis DeNapoli stated he went to the location with Officer Uhlman this morning. He indicated they are trying to clean up Main Street. He indicated Mr. Mann's son was running the business at this location and it was a mess. Mr. Gomes is going before the City Council for a Garage license. At this time, Councillor DeNapoli stated he would go along with Officer Uhlman's recommendation for no more than 22 cars.

Chairman McDuffy agreed that the applicant can operate with the 22 vehicles and can come back in the future. Attorney Silverstein stated that would be amenable to his client who has operated a business in the City for over 24 years where he had a garage on Elliot Street. He has had no problems and the City is fortunate to have Mr. Gomes purchase the property and run a business at the location.

Councillor DeNapoli stated there were issues on Elliot Street. He suggested they go forward with Officer Uhlman's recommendation and if there are no problems, he can come back.

A motion was made by Commissioner Dansby to approve the transfer of the license in accordance with the amended plan for 22 cars for sale. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

12. Hearing on the request from St. Jean Auto Sales and Repair, Inc. to transfer the Class II Used Car Dealer license at 225 North Montello Street to North End Motors, Inc.

Present were Mohammad Ahmed, 10 East Street, Mohammad , Guestner St.Jean, 44 Appleton Street.

Mr. Ahmed stated that they leased the property to Mr. St. Jean who is no longer at the business and they are applying to have the license transferred back to North End Motors.

Ms. Tucker reviewed that the Court has issued a judgment and ordered Mr. St. Jean to pay \$2,540.27 by today. No further information has been received. Mr. St. Jean stated that his lawyer went to Court today and everything is fine.

Attorney Feodoroff asked if there is any documentation showing the payment was made. Mr. Mohammed stated Mr. St. Jean called him about an hour ago and told him the matter was dismissed and he told him to bring a document stating this. He indicated that if the judgment has not been settled, then they as North End Motors will guarantee the judgment of \$2,500 and make sure it is paid because they do have a retainer of his money and they will take it out of there. He asked that the Commission approve the transfer of the license pending the payment of the judgment.

Attorney Feodoroff stated that generally, once the judgment is issued, the case isn't going to be dismissed.

In response to questions, Mr. Mohammad stated they will guarantee that if the matter hasn't been dismissed, they will pay the judgment within a week.

Chairman McDuffy then stated that if this doesn't get taken care of within the week, then they will have to come back before the Commission next month. Attorney Feodoroff suggested that the Commission could approve it pending documentation showing the judgment has been paid and have that done within a week but it has to be settled one way or the other.

Officer Uhlman stated there are some issues at North End regarding the dumpster which the Board of Health has spoken to them about. He then asked how long the business will remain empty once they take the license back. Mr. Mohammad stated they already have a lease with a tenant so they will be moving in once the license is taken care of. Even once the license is approved, they will not be opening the business under North End Motors. The Adm. Asst. suggested that this be held until the judgment is cleared up and then the people who are leasing it can come in to apply for the license. Mr. Mohammad stated Mr. Gesner is not going to be around because he is leaving for some other type of business. He stated that is why they want to get the license back. With regard to their other lot on North Montello Street, that is being renovated and should be all set.

Both Chairman McDuffy and Commissioner Kenney indicated they had concerns with the pending judgment.

Commissioner Sullivan then made a motion to postpone the matter until the next meeting in order to get everything straightened out. Commissioner Kenney seconded the motion.

Mr. Mohammed stated that Gesner will not be around. Ms. Tucker indicated that Gesner is still going to the auctions to buy vehicles and she has received calls from the auctions requesting a verification of his license. He still has a Duplicate license and is apparently using it at the auction.

In response to questions from Attorney Feodoroff, Mr. St. Jean stated he will still be living in Brockton but has to go to New York for a few days. Attorney Feodoroff stated it is his obligation to present the board with the evidence and if he is going to be around he has an obligation to the North End people to make sure the documentation is in order for the transfer. She indicated that if he can have his lawyer

come down with the appropriate documents, the Commission will go forward. She then suggested that he call his attorney. The Chairman stated it will be held until the end of the meeting.

At the end of the meeting, Chairman McDuffy stated the hearing is being reopened.

Officer Uhlman stated that he can speak on the reputation of the two owners of North End Motors whom he has known professionally. In addition, he stated one of the officers at work is a very good friend of theirs. He indicated that every time he has spoken with his friend at work to tell them to take care of things they have. Officer Uhlman stated they are asking for a week to take care of this and if it is not paid, they will take care of it themselves. In his opinion, he feels they are good for their word. Officer Uhlman stated he is concerned that Mr. St. Jean will disappear and leave the license hanging and there will be an empty lot.

Ms. Tucker stated Mr. St. Jean must turn in his license and he said he will turn it in the following day.

Councillor Dennis DeNapoli stated he is in agreement with Officer Uhlman and he has known the owners of North End Motors for many years and they run a great business. What he wants to do as a City is protect that license. He indicated he is aware that Bonnie had received a call that Mr. St. Jean was trying to use the license when he is not suppose to and agreed that he cannot be trusted. He asked the Commission to do whatever they can do so the license is not lost.

Chairman McDuffy stated he wants this to be cleared up in the right way and doesn't want any problems to come back at the board once the license is transferred.

Commissioner Dansby indicated he would also be in agreement and he knows North End ran a good business in the City. He stated he would have no issue in approving the transfer pending the resolution of the judgment.

Chairman McDuffy reviewed that they have represented that the judgment will be taken care of within one week and he asked if this would be reasonable for the other members. Officer Uhlman stated he can find out first thing in the morning if the matter has been satisfied and he can report to Ms. Tucker that the judgment has been satisfied and he will get a copy from the Court. He indicated if the other license is not turned in that it can be null and void. Ms. Tucker stated if the license is still in Mr. St. Jean's possession, he will be allowed to continue to go to the auction. Further, it was Mr. St. Jean's attorney who had requested the duplicate license be issued to Mr. St. Jean. Officer Uhlman insisted that it should all be resolved by 4:00 p.m. the following day.

Chairman McDuffy stated that if the duplicate license is not turned in, it will be up to Mr. Ahmed to make sure he does what he is supposed to do. He insisted that the license be turned in.

A motion was made by Commissioner Dansby to approve the transfer of the license pending satisfactory judgment and submission of the license within seven days. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

13. **POSTPONE** Hearing on the charges brought by the State Police against Joseph Savino dba International Auto Wholesale – 130 Elliot Street, of the following alleged violations:

- (a) **M.G.L. Chapter 110, Section 5** – Failure to have a Business Certificate;
- (b) **M.G.L. Chapter 140, Section 62** – Violation of the Used Vehicle Record Book;
- (c) **M.G.L. Chapter 90, Section 7N1/4** – No Warranty Stickers Displayed on Vehicles;
- (d) **M.G.L. Chapter 140, Section 60** – Violation of RMV Regulations regarding the sale of Used Vehicles

14. Hearing (postponed from meeting of March 21, 2012) on the charge brought by the local police against Soares Club, LLC dba Bar Dino's – Lucindo Soares, Manager, 1002 Main 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 to take place in or on the licensed premises. The licensee shall be responsible therefor, whether present or not.", reported on November 19, 2011.

Present were Attorney John Creedon, 71 Legion Parkway, representing Lucindo Soares, 37 Johnson Street. Also present were Jessica Perreira, 99 Provost Street and Tamara Maya, 464 Pleasant Street.

The following persons were then sworn in by Attorney Feodoroff:

Officer Shawn Baker, 7 Commercial Street  
Lucindo Soares  
Jessica Perreira  
Tamara Maya

The first witness called by Attorney Feodoroff was Officer Shawn Baker who stated that on November 19, 2011, he and his partner, Officer Anthony Giardini were dispatched to 1012 Main Street for an assault and battery in progress. He indicated 1012 Main Street is Crown Chicken which is adjacent to Bar Dino's. Upon their arrival, there were two females screaming and it was somewhat chaotic. The EMT's were already on scene and were treating two females. One of the females, Rochelle Ober, had a human bite mark on her upper lip and the other female, Casey McGrath, had been punched in the face and when she had fallen to the ground she hit her shoulder. While they were being treated, they stated that the ex-boyfriend was involved and he was in the area. The police officers tried to get a description of him and searched the area. In the meantime, the two females were transported to the Brockton Hospital.

Officer Baker stated that later that evening, the two victims were interviewed at the Brockton Hospital. Mrs. Ober informed him that she was in Bar Dino's and it was crowded. She saw her ex-boyfriend and he approached her and accused her of flirting and talking to other men. This escalated into a verbal confrontation and she stated he was in her face and this is when he had lunged forward and bitten her. According to Mrs. Ober, this took place while inside Bar Dino's. Mrs. Ober told the officers that Antonio Gomes was escorted out of the bar by one of the employees of the bar. Officer Baker stated they also spoke with Ms. McGrath who informed the officers that once they were outside, they were arguing and Mr. Gomes punched her in the face and knocked her to the ground injuring her shoulder. She confirmed that there was an argument inside the establishment. Officer Baker stated he is unsure whether the Bar Dino's employee was outside when the second altercation took place. Although Mr. Soares and he acknowledged each other, he did not interview any of the employees of Bar Dino's. Officer Baker stated he was in uniform at the time.

On cross examination by Attorney Creedon, Officer Baker stated that when they arrived, the Fire Department was already there in front of Crown Fried Chicken. Mrs. Ober told him that Gomes was her ex-boyfriend. He does not recall if either Mrs. Ober or Ms. McGrath said they were removed from the bar by the owner. Neither he nor his partner had gone inside the bar that night. Antonio Gomes was arrested and the case has not come to trial yet. They went to Taunton District Court and Mr. Gomes was on probation and was surrendered. Officer Baker indicated he believes he is still in jail. Officer Baker stated that at the surrender hearing he had spoken with Mrs. Ober but they were concerned with the restraining order at that time.

In response to follow up questions by Attorney Feodoroff, Officer Baker stated it is not uncommon not to request videos for a domestic assault case and generally, the testimony of the officer is sufficient at the hearing. His victim had pointed out her ex-boyfriend as being the suspect. Officer Baker stated he was not in the area for the purpose of looking for a license violation and was specifically there for an assault and battery report. It was only after interviewing Mrs. Ober at the hospital that he realized there was a potential license violation. In looking at the police logs, Officer Baker stated he determined that no one had called in the incident from Bar Dino's and the call was made from Crown Fried Chicken.

In response to questions from Attorney Creedon, Officer Baker stated the call came from Crown Chicken and the Fire and Ambulance were already on scene when they arrived. During their investigations, Officer Baker stated he had not run the two victim's Board of Probation records. Attorney Feodoroff objected to this.

Lieut. Bonanca stated Bar Dino's has been a problem to police and from August to March, there have been a dozen reported incidents there. He is not sure how many sustained complaints there are. Since March 21<sup>st</sup>, he has not received anything.

Attorney Creedon stated the offense that allegedly took place was on November 19<sup>th</sup> and was part of the hearing that resulted in the rollback of the hours. They have a video there that is good for thirty days but no one contacted them for the longest time and the video was not checked. Attorney Creedon stated the Commission rolled back the hours as the result of a subsequent hearing. He knows of no new violations that Bar Dino's has been charged with since the roll back. Chairman McDuffy agreed and stated there were three instances in 2011 which resulted in the rollback. Attorney Creedon stated it is a problem for a licensee if there is evidence that ought to be preserved and it would be nice if the License Commission through its agents or the police would notify the owner right away so the video can be reviewed.

Lieut. Bonanca asked that it be noted that at previous hearings before the Commission, there has been testimony of problems with the video system. Attorney Creedon stated that was said at the last hearing and it has been fixed. Mr. Soares stated he has installed a new video system.

Attorney Creedon stated he wants the board to hear the testimony of the owner, bartender and patron.

Attorney Creedon called as his first witness Lucindo Soares who stated he was present that evening. On the night of the incident, the two females and male were at the bar drinking. They all came in together and they have been to his establishment a number of times before. The two girls went out to

the back where there is a smoking area. After about five minutes, he went out back and found them smoking weed. He told them they can't be doing that and told them they needed to leave. Mr. Gomes was still inside at the bar drinking. Mr. Soares stated he escorted the two females outside. They were mad but they didn't really give him a hard time. He then went back inside and went over to Gomes and told him the two girls had been smoking weed in the back and he had escorted them outside. Gomes then left the establishment. Nothing happened inside his bar that night. After about ten minutes, Jessica came in and told him there was a fight outside. He then went outside and saw everyone, including the two females he had escorted out of his establishment and Mr. Gomes, over by Crown Chicken. He asked one of the girls what happened and she said the boyfriend had just bitten her girlfriend on the mouth and told him she was calling the cops. She called the cops while he was talking to her. He then saw the Fire Department come. He saw the cops and the State police who had pulled someone over by mistake. He stated that no police officers came into his establishment that night. The bar was quiet that night and at 9:45 there were between 10 and 15 people there. Mr. Soares stated people don't start coming in until after 11:00 p.m.

On cross examination by Attorney Feodoroff, Mr. Soares stated that when he referred to "weed", he meant marijuana. He did not call police to report that they were smoking marijuana at his bar. Attorney Creedon stated you can possess an ounce or less as a civil offense and it is not a criminal charge. Mr. Soares stated he had rewired his video system about a year ago. The video was working in November 2011.

The next witness called by Attorney Creedon was Tamara who stated she has worked at Bar Dino's for about two years and was working on the night of November 19, 2011 from 8:00 p.m. to 1:00 a.m. At 9:45 p.m. she was the only bartender on duty and there were approximately 10-15 people. She stated the two girls and guy referred to have been there many times and always come in together. She had observed Mr. Soares escort the two females out and Mr. Gomes had remained at the bar. She then stated that all three had come in and ordered drinks. Within the next half hour, the two girls got up from the bar and she didn't know if they were going to the restroom. A short time later, she saw Mr. Soares take the girls outside. He came back in and told her to let him know if she saw the two girls come back in because he caught them in the back smoking weed. He went to the bar and spoke with Mr. Gomes and told him what had happened and Mr. Gomes left the bar. She stated there were no fights inside the bar. Later in the evening, there were no more than 40 people tops inside the bar. There was a DJ that night. No police came into the bar during the night.

Attorney Creedon then called Jessica Perreira who stated she was a customer on November 19<sup>th</sup>. She has been a customer of the bar for about two years. When she arrived at approximately 10 p.m., everyone was outside. She parked her car across the street from Bar Dino's. She could see two females pushing a guy in front of Crown Chicken and the guy was pushing them back. They were pushing each other back and forth. Ms. Perreira stated she went inside Bar Dino's and went to Lucindo and told him there was a fight going on. Lucindo went outside. She stated she had seen the two females in the bar before and the guy looked familiar. She doesn't know any of them personally.

In response to questions from Attorney Feodoroff, Mr. Perreira stated she only saw the three individuals when they were already outside and she had not seen any of them inside. She was too far away to see any of the bruises.

In response to questions from Chairman McDuffy, Officer Baker indicated it was clear that the two women were injured. Chairman McDuffy stated that the question is whether it happened while they were inside or outside. He indicated that if the three individuals were regular customers, he wouldn't think they would blame the establishment if something had happened elsewhere. Officer Baker stated both victims had claimed it happened inside Bar Dino's.

Attorney Creedon stated it would make sense for the Commission to bring in one or two of the victims and commented that the Commission never brings in alleged victims. He indicated if they are so cooperative with the police to go and testify against Gomes to violate his probation, why aren't they at the hearing this evening and sworn to say they were inside the bar when they were assaulted. Chairman McDuffy asked Attorney Creedon why he did not bring them in to say they were not in the bar. He stated it is not a Court of law and he is reading the reports, listening to everyone and trying to figure it out and do the right thing. Attorney Creedon stated the officers did not go inside and the video would have solved it.

Attorney Feodoroff stated that the two women were speaking to the police officer regarding a domestic assault incident and they were not thinking about license violations. She reviewed that they were in the hospital being treated for a bite on the face and a punch in the mouth by a male and they were trying to report the facts as accurately as possible to the police officer who would be testifying on their behalf. Attorney Feodoroff stated there is no incentive for them to make up a story. She stated that on the other hand, the owner and his bartender have an incentive to say it happened outside. It is evident that the fight spilled out onto the street and the EMT's arrived at Crown Chicken but they have not shown that it didn't occur inside and the fact of the matter is there was no phone call. In addition, Attorney Feodoroff pointed out there was a civil violation on the property in that there was a person on the premises smoking marijuana and the owner did not call the police for that. She indicated that credibility is very important in this case. Officer Baker was not going there to report a license violation but was there for something completely unrelated not knowing Bar Dino's was involved until after he interviewed the two women at the hospital.

Attorney Creedon stated that the two women were angry because they had been removed from the bar for smoking marijuana so when they got outside and the ex boyfriend came out and asked them why they had done that, they get in a fight which Ms. Perreira testified that she witnessed from her car. He stated it is compounded by the fact that they obviously had an A & B with a dangerous weapon or A & B with intent to maim which are both serious felonies. The officers concern was to get the guy and not to go inside and get the license violation and they never went inside to find out whether anything had happened inside. Attorney Creedon stated that if the police had gone inside to investigate it, Lucindo would have told them to check the video. Attorney Creedon questioned the fact that the police said it was crowded at 9:45 p.m. He stated if they go to any Cape Verdean or Haitian bar in this City during the week, they won't find any trouble at that time because the young people don't go out until 11 or 11:30 p.m. He stated the trouble takes place at midnight or 1 a.m. In this instance, people are saying that nothing happened inside and they have not proven anything happened inside. The two people who could have helped this situation are not present and the licensee is clearly not permitting anything. He went outside to make the call. If they check the log, the call came from Crown Fried Chicken and what happened was that the McGrath woman made the call with her cell phone because she had seen the boyfriend bite her friend's lip. Attorney Creedon stated if there had been a fight inside the bar,

they would have found blood or other evidence or there would be other witnesses to say there was a fight.

Commissioner Kenney stated in her opinion she would agree with Attorney Creedon that there has not been proof that the incident happened inside the bar and that the police officer did not get the proper evidence. She stated there may have been other criminal activities going on at the same time with someone smoking weed or the person on probation that should be in jail but feels there isn't any indication that the incident or fighting took place inside Bar Dino's.

Commissioner Kenney then made a motion to find the licensee not guilty of the violation. The motion was seconded by Commissioner Dansby. With Commissioners Kenney, Dansby and Sullivan voting in the affirmative and Chairman McDuffy opposed, the licensee was found not guilty by vote of 3 to 1.

15. Hearing (postponed from meeting of March 21, 2012) on the charges brought by the local police against RJA Corporation dba Joe Angelo's Café – Carl Simmons, Manager, 216 Main and 11 Crescent Streets, of the following alleged violations reported on January 18, 2012:
  - A. **ABCC Rule 2.05(1)**, to wit: "...Gambling of any sort, except those games of chance authorized by the Legislature and/or local licensing authorities, shall not be permitted on any licensed premises."
  - B. **ABCC Rule 2.05(2)** – Permitting an illegality to take place on the licensed premises, to wit:
    - (1) **M.G.L. Chapter 140, Section 177A (5)** – Automatic Amusement Devices licensed under this section shall be so installed as to be in open view at all times while in operation, and shall at all times be available for inspection.
    - (2) **M.G.L. Chapter 140, Section 177A(6)** – No person keeping or offering for operation or allowed to be kept or offered for operation any automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling.
    - (3) Allowing unlicensed Automatic Amusement Devices on the premises
    - (4) **M.G.L. Chapter 270, Section 22** – Smoking in public places
  - C. **Brockton License Commission Rule 5**, to wit: "Gambling of any sort, except those games of chance authorized by the Legislature and local licensing authorities, shall not be permitted on any licensed premise."
  - D. **Brockton License Commission Rule 16**, to wit: "All licenses and building certificates shall be posted in a conspicuous place on the premises, available at all times to the proper authorities.
  - E. **M.G.L. Chapter 138, Section 26** – failing to have an appointed manager as full authority and control of the premises.

After Chairman McDuffy read the charges, Attorney Feodoroff advised the Commission that prior to opening the evidentiary hearing, she has a proposal for them to consider. She reviewed that there is pending litigation involving Joe Angelo's and she has been in communication with Mr. Angelo's attorney, John Pavlos. The litigation involves the rollback of the hours which was implemented by the Commission after the hearing in April, 2011. Attorney Feodoroff stated that after reading the reports and with the pending litigation in mind, she has come up with a proposal for the Commission that Mr. Angelo would agree to if the Commission is amenable to it. Otherwise, they will have to proceed with the hearing as scheduled.

Attorney Feodoroff then presented her proposal which would be to either rollback the hours for two weeks or suspend the license for a Friday and Saturday night. In turn, Mr. Angelo will agree to withdraw his appeal on the initial rollback and admit to the following violations as reported on January 18, 2012:

ABCC Rule **ABCC Rule 2.05(2)** – Permitting an illegality to take place on the licensed premises, to wit:

- Allowing unlicensed Automatic Amusement Devices on the premises;
- **M.G.L. Chapter 270, Section 22** – Smoking in public places;
- **Brockton License Commission Rule 16**, to wit: “All licenses and building certificates shall be posted in a conspicuous place on the premises, available at all times to the proper authorities;
- **M.G.L. Chapter 138, Section 26** – failing to have an appointed manager as full authority and control of the premises.

Attorney Feodoroff stated that in addition, Mr. Angelo will have the unlicensed video games physically removed from the property to ensure that nothing like this will ever occur again.

Attorney Feodoroff indicated it is up to the Commission on whether they want to accept the proposal or to convene the hearing.

Chairman McDuffy asked Mr. Angelo and Attorney Pavlos if they had anything to add.

Mr. Pavlos stated this was a thoughtful discussion between Joe and himself after he had a conversation with the Assistant City Solicitor. He stated they appeared before the board in January on their request to restore the hours and to change the capacity which occurred on the same day as Officer Uhlman's report. There had been brief discussions about this issue at both the January and February meetings. He reviewed that at the time, he presented to the board the serious hit which Mr. Angelo's business has taken as a result of the rollback of hours and Mr. Angelo had expressed from his heart some of those issues and the hardships he had faces. Attorney Pavlos stated the expansion of Mr. Angelo's restaurant business is going well and they will be requesting to come back before the Commission sometime in the near future to continue the request to increase the capacity which was tabled at the February meeting.

Attorney Pavlos then reviewed the remedial things that have taken place which include posting the proper licenses and certificates which he did have at the time but had not displayed them. This had been rectified right after Officer Uhlman and Lieut. Williams left the premises that day. The machines

were removed from the premises within 24 hours. Attorney Pavlos stated Mr. Angelo takes full responsibility for the games and the smoking. He had received a call from the Board of Health about the smoking and has paid a fine for having the machines. Another issue raised was the question of a manager and they have now received approval of Mr. Angelo's appointment from the ABCC. Attorney Pavlos stated it has been a difficult year and he came in to represent Mr. Angelo in filing the lawsuit in Superior Court. Mr. Angelo has indicated that he wants to move on and he has been instructed to suggest that they will file a notice to dismiss the Superior Court case. Attorney Pavlos asked the Commission to adopt what has been proposed.

Officer Uhlman stated he will go along with the City attorney and Lieut. Bonanca concurred with Officer Uhlman.

Attorney Pavlos then reviewed that there is an option for the Commission to consider with the penalty that has been proposed. He stated one of the options involved a closing on Friday and Saturday and Mr. Angelo is concerned about his employees who would lose two entire nights of tips. He would prefer to have the hours rolled back for two weeks.

Councillor Dennis DeNapoli stated there was a former police officer who owned a gas station in Brockton and in his convenience store were two of the games. He stated the games are all over the City.

Commissioner Dansby asked Attorney Feodoroff to revisit her proposal which she reviewed. She stated that what had prompted her to make the proposal is that she feels it is always positive to resolve any litigation prior to any Court hearing. She indicated that in this case, she was most uncomfortable with Mr. Angelo's lack of taking responsibility for his actions.

Commissioner Dansby expressed concern that in a few months things will go back to where they were. Mr. Angelo assured the Commission that will not happen and he will never put anyone through that again. He stated he is starting to be able to make a living with what he has now and he does not have the late night headaches. He indicated he would never bring in a DJ that brings in promoters like they had.

Commissioner Dansby again expressed his concern with the problems that happened at the former night club on South Main Street and stated he could see the same type of dynamics happening at this establishment. He does not want to see this occur at Joe Angelo's. Attorney Feodoroff also agreed with Commissioner Dansby and indicated that was her main concern and when she was approached she could see the change in Mr. Angelo's attitude and his willingness to work with the City was very positive to her. There was no incentive for him to drop the appeal. She stated the City is very aware of the situation mentioned by Commissioner Dansby and they are not willing to allow things like that to occur and her office won't let things slip the way they did.

Commissioner Kenney stated she has the same concerns that Commissioner Dansby has and she hopes it is an attitude change because good businesses are needed in the City and we need to bring people to Brockton for the right reasons and not the wrong ones.

Commissioner Sullivan stated that he has known Joe for many years and he is good with charity but his motion would be to suspend the license for fifteen days. Chairman McDuffy suggested that Commissioner Sullivan hold off on his motion and Attorney Feodoroff reviewed that there cannot be any motions because no evidence has been introduced. What she has presented is only a proposal. She stated the Commission could disagree with her or they could give an alternative option that the licensee might agree to.

Chairman McDuffy then stated that this was posted as a hearing and asked Attorney Feodoroff if it is technically a legal hearing. She indicated that if they are not inclined to agree with the stipulation, they would have to say so and open the hearing. In response to further questions, Attorney Feodoroff stated that if the Commission agrees to the proposal, then there will be a finding that goes into the file of all the admissions in lieu of a hearing. Commissioner McDuffy asked if Mr. Angelo and his attorney could just say they agree to the charges and if that would be an admission to the guilt at the hearing. She indicated people have incentives to make an agreement, however, if the terms are not agreed to the proposal won't go forward.

Attorney Pavlos stated that in order to show contrition, Mr. Angelo accepts the responsibility for the various violations and instead of challenging them, they want to move on.

In response to questions from Chairman McDuffy, Officer Uhlman stated there were three other video games on the premise which brought the total to seven and he is only licensed for five videos.

Chairman McDuffy then reviewed that this violation was found at 2:16 p.m. He agreed that positive things have taken place at Joe Angelo's and he feels it is turning in the right direction. He stated he would like to cut him a break for the amusement device violation and rather than a closing or rollback, he would like to have the poker games removed indefinitely and give a one or two month suspension for the other video games. He encouraged them to continue with the improvements and indicated he hopes he is not back before the Commission.

Attorney Feodoroff stated that Mr. Angelo and Attorney Pavlos would be willing to accept that penalty for the admissions and they could then stipulate to the facts without going through the hearing.

Chairman McDuffy stated he wants to make sure this is done properly and Attorney Feodoroff asked if the other members are inclined to go along with Chairman McDuffy's suggestion. If they are, she stated they could move to accept the stipulated admission of violations and could then impose the penalty.

Commissioner Kenney asked if they could open the hearing and charge him and then review the violations. She indicated they are not really finding him guilty but they are finding a violation. Attorney Feodoroff stated the term "guilty" is something the Commission misuses and that is more of a criminal term.

Commissioner Sullivan then asked if he should rescind his motion. Attorney Feodoroff advised him that if he is inclined to go ahead with that penalty then they could open the hearing, have Mr. Angelo stipulate to the facts that admit to the violations and then they could make individual findings on the violations and impose the penalty.

Chairman McDuffy asked Attorney Feodoroff what the proper way is to continue. She indicated they should open the hearing, she will ask Mr. Angelo if he admits to the violations and then they can impose a penalty based on the admissions. He asked if Commissioner Sullivan could still make his motion.

On Attorney Feodoroff's recommendation, Commissioner McDuffy made a motion to open this as an evidentiary hearing. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

Attorney Feodoroff then asked Mr. Angelo if he admits to the following violations:

**ABCC Rule 2.05(2)** – Permitting an illegality to take place on the licensed premises, to wit:

- (1) **M.G.L. Chapter 140, Section 177A (5)** – Automatic Amusement Devices licensed under this section shall be so installed as to be in open view at all times while in operation, and shall at all times be available for inspection.
- (2) Allowing unlicensed Automatic Amusement Devices on the premises
- (3) **M.G.L. Chapter 270, Section 22** – Smoking in public places

**Brockton License Commission Rule 16**, to wit: “All licenses and building certificates shall be posted in a conspicuous place on the premises, available at all times to the proper authorities.

**M.G.L. Chapter 138, Section 26** – failing to have an appointed manager as full authority and control of the premises.

Mr. Angelo admitted to each of the violations read.

Attorney Feodoroff advised the Commission that based on those findings, they can move to find violations of each charge read.

The Adm. Asst. asked if the charges that were not read are being dismissed and Attorney Feodoroff stated that the City is dismissing the other charges.

Commissioner Dansby made a motion to find a violation of the charges read based on the licensee's admission. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

Chairman McDuffy indicated he will give the other Commissioners the opportunity to suggest a penalty. Otherwise, he stated that as he explained earlier, he feels it would be best if the poker games were indefinitely not allowed into the establishment and to suspend the license for the five licensed video games for two months with the understanding that the appeal of the rollback is withdrawn.

Commissioner Kenney stated her opinion would be to indefinitely suspend the automatic amusement device license instead of saying one game can remain and the others have to go.

The Administrative Assistant asked if she was referring to all coin-operated games including the pool tables or whether she would include only the video type games and Commission Kenney indicated she meant only the video types.

Attorney Feodoroff stated the admissions are based on the suspension of the video games for two months.

Chairman McDuffy clarified that his motion was that the poker machines be suspended indefinitely and the other video games be suspended for two months.

Commissioner Sullivan then asked if he votes no, would it mean he is against having the video games suspended. Chairman McDuffy indicated technically, yes, but that as a Commissioner, he understands what it means.

With Commissioners McDuffy, Dansby and Kenney voting in favor and Commissioner Sullivan voting opposed, the decision was to suspend the video games for two months and the poker games indefinitely with the understanding that the appeal of the rollback is dropped.

At the end of the hearing, the Administrative Assistant reminded Mr. Angelo to bring his licenses in to have the manager's name changed.

16. Communications

There were no communications to review.

17. 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 Chairman McDuffy. All members voting in the affirmative, the meeting was adjourned.

**Respectfully submitted,**

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**Scott H. McDuffy**  
Chairman

**APPROVED:**

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**Paul D. Sullivan, Commissioner**

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**Bruce G. Dansby, Commissioner**

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**Joshua J. Wood, Commissioner**

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**Kathy Kenney, Commissioner**

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**Fred Fontaine, Alternate Commissioner**