

## TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, October 18, 2012, in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy; Commissioners Paul D. Sullivan, Joshua J. Wood, Kathy A. Kenney and Alternate Catherine B. Holbrook. Also present were Asst. City Solicitor Caitlin Leach; License Agents Lieut. Paul Bonanca and Officer Scott Uhlman; and Administrative Assistant Bonnie Tucker.

After calling the meeting to order, Chairman McDuffy welcomed new commissioner, Catherine Holbrook, to the board.

1. Approval of the Minutes of the License Commission Meeting of September 20, 2012.

A motion was made by Commissioner Sullivan to approve the minutes of the aforesaid meeting which motion was seconded by Commissioner Kenney. The vote being 4 to 0 with Commissioners Sullivan, Kenney, Wood and McDuffy voting in the affirmative and Commissioner Holbrook abstaining, the minutes were approved.

2. Approval of the following police officers as license agents for the month of November, 2012: Lieuts. Paul Bonanca and Kenneth Legrice; Sgts. George Khoury, Frank Vardaro, James Baroud, Michael Powers and Charles Cassiani; Dets. Thomas Hyland, Nazaire Paul and Matthew Graham; and Officer Scott Uhlman.

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

3. Requests for Special One-day Permits:

- (a) **All Alcoholic Beverages** – Temple Beth Emunah – Stuart A. Kirsch, Manager, for a dinner to be held at 479 Torrey Street on Saturday, November 17, 2012, from 6:00 p.m. to 10:00 p.m.

Present was Stuart Kirsch, 99 Fuller Street, Middleboro.

Mr. Kirsch stated this will be the third murder mystery dinner event the Temple has put on. This year's theme will be Murder in Margueritaland and everyone in attendance will be given a role to play. They expect 80 to 100 people to attend.

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

- (b) **Wine and Malt Beverages** – Brockton Interfaith Community, Inc. – Thomas McDonnell, Manager, for a fundraising dinner to be held at Temple Beth Emunah, 479 Torrey Street, on Thursday, November 8, 2012, from 5:30 p.m. to 9:00 p.m.

Present was Thomas McDonnell, 68 Breer Street, the Secretary of the Brockton Interfaith Community.

Mr. McDonnell reviewed that this will be their fourth annual fundraising dinner and they will be honoring retired Police Chief William Conlon. They are expecting approximately 175 people to attend.

A motion was made by Commissioner Kenney to approve the permit which motion was seconded by Commissioner Wood. All members voting in the affirmative, the permit was approved.

4. Hearing on the request from G. Scott Smith dba Dew Drop Inn to transfer the Common Victualer license at 610 North Main Street to JJ's Café, LLC Nelson and Justino Fernandes.

Present were Justino Fernandes, 160 Lawrence Street and Nelson Fernandes, 146 Court Street. Justino Fernandes reviewed that they had purchased the business known as Dew Drop Inn from Scott Smith. They are planning to be open from 7:00 a.m. to 3:00 p.m. and will serve breakfast and lunch. Ms. Tucker stated Mr. Smith had come in to the office and informed her that he sold the business to the Fernandes in July and no longer has any interest in the business. He turned his Common Victualer license in and indicated the business is closed.

Chairman McDuffy reminded them that they will require inspections and Mr. Fernandes indicated he is aware of that requirement and will contact the departments when ready.

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

5. Hearing on the request from Shoe City Auto Sales, Inc. to transfer the location of the Class II Used Car Dealer license from 754 Main Street to 2020 Main Street.

This matter was postponed at the request of the applicant.

6. Hearing on the revocation of the Class II Used Car Dealer license held by Rached Enterprises, Inc. dba Brockton's Finest Auto Sales located at 369 Court Street for failing to conduct the licensed business.

Ms. Tucker stated that she received a call from Joe Rached who is one of the principals of the business. He informed her that they are no longer in business and he has signed the license over to the owner of the property, Steve Foley. Mr. Rached stated he has no interest in the license.

A motion was made by Commissioner Kenney to revoke the license. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the license was revoked.

7. Hearing on the request from Cardoso Café, Inc. – Carlos Cardoso, Manager, 146-148 Montello Street, to extend the closing hour to 2:00 a.m. on Thursdays, Fridays, Saturdays and eves of legal holidays and to extend the hours on the entertainment license. (Hours rolled back to 12:00 a.m. with no one allowed to enter after 11:00 p.m. and entertainment hours rolled back to 11:30 p.m., after hearing on February 15, 2012)

Present were Attorney William Sims, 53 Arlington Street and Carlos Cardoso, 112 North Warren Avenue.

Attorney Sims reviewed the requests and stated that since February when the board rolled back the hours, Mr. Cardoso has been in full compliance. It is his understanding that there have been no complaints and no incidents and Mr. Cardoso has worked in cooperation with all local agencies. He is now requesting the Commission consider granting his 2:00 a.m. license.

Lieut. Bonanca reviewed that from the time of the rollback on February 13, 2012 to October 18, 2012, there have been no calls for service. Just prior to the rollback, from January 2012 to February 2012, there were 9 calls for service and from January 1, 2011 to January 1, 2012, there were a total of 31 calls for service. He indicated there is a cycle of violence in that the successful 2:00 a.m. bars attract a large clientele from the Boston area. After frequenting the establishments, these individuals leave the City to go back to the Boston area. They have no stake in the community, many times after being involved in vandalism, assault and batteries and destruction to property in the City, all of which require police response. Lieut. Bonanca indicated that the 2:00 a.m. bars have a major impact on the police department and in order to be pro-active, the police will station themselves at the bars when the patrons are pouring out at closing time in an attempt to stop any potential problems. This practice essentially results in an unpaid detail for the bar at closing time. There is a negative impact on citizens of the City when the majority of the police are required to respond to the bars at closing time which leaves the entire City open and response time to residents takes longer. He indicated the Chief opposes the 2:00 a.m. license but as a compromise would go along with a 1:00 a.m. closing at this establishment.

In response to questions from Commissioner Wood, Lieut. Bonanca stated most calls to the establishment for disturbances occurred in the 1:30-2:00 a.m. time frame. There were also 7 calls for code enforcement. He indicated the calls could have been made by the establishment and therefore, no violations were brought forward. Commissioner Wood asked if it is a generalized opinion of the Brockton Police that they are against 2:00 a.m. closings and Lieut. Bonanca indicated it is.

Officer Uhlman then stated that Carlos Cardoso is not listed as a crowd manager which is required by the Fire Department. The licensee did not know if anyone else from the establishment is a certified crowd control manager.

Attorney Sims stated that Mr. Cardoso has indicated his capacity is for 95 people and it is his understanding that a crowd manager is not required. Officer Uhlman stated he does not know what the licensee's occupancy is. Attorney Sims asked if the Commission could go forward with the application and he will look into the question of a crowd manager. Chairman McDuffy

indicated someone must take the crowd manager course and it is not just a matter of submitting a name.

Attorney Sims then stated that Mr. Cardoso has been in business for eight years and with the exception of the one incident he has had no other violations. He assured the Commission that if there is a compliance issue with a crowd manager or with any other matter, it will be taken care of.

A motion was then made by Commissioner Sullivan to postpone the request. The motion was seconded by Commissioner Kenney.

After discussion, a vote was taken. With Commissioners Kenney, Wood, Holbrook and McDuffy voting opposed and Commissioner Sullivan voting in favor, the motion did not carry.

Commissioner Kenney stated in her opinion, there have been no recent incidents because the hours were rolled back and she made a motion to not allow the 2:00 a.m. closing hour to be reinstated based on what has been presented. The motion was seconded by Chairman McDuffy.

During discussion, Commissioner Wood reviewed this licensee has an eight year operation with no violations. It is his opinion that if it is the position that there should not be 2:00 a.m. licenses then it should be put in place by ordinance as opposed to punishing people who really have no license violations and based solely on some policy. He indicated the position puts these bar owners in a bad position when trying to compete with other bars. He reviewed that this is a situation where there are 39 calls to the establishment in a year but no violations brought before the License Commission until 2012 when the roll back was implemented.

In response to questions, Mr. Cardoso stated he has had his 2 a.m. closing hour on Friday and Saturday nights for seven years. He was approved for 2 a.m. on Thursdays in 2011.

Chairman McDuffy stated that no licensee in the City is entitled to a 2 a.m. closing and stated that it must be earned and rules and regulations must be followed. He reviewed that Cardoso's had not followed the rules which resulted in injuries to individuals who were required to be taken to the hospital. He indicated he would not have a problem giving him a 1:00 closing hour and acknowledged that things have improved.

A vote was then taken. With Commissioners McDuffy, Kenney, Sullivan and Holbrook voting in the affirmative and Commissioner Wood opposed, the motion carried.

A motion was then made by Commissioner Holbrook to extend the closing hour to 1:00 a.m. The motion was seconded by Chairman McDuffy.

Commissioner Kenney stated she would like to see an amendment to provide for a specific amount of time such as a year before Mr. Cardoso can re-apply for the 2 a.m. closing. He should understand that it will not be an automatic approval and he can only come back if there are no further problems.

Attorney Sims stated a year would be extremely detrimental to Mr. Cardoso's business and suggested a maximum of six months be required.

Commissioner Wood suggested that the amendment to the motion be amended to six months before he can re-apply for the 2:00 a.m. closing.

A motion was then made by Commissioner Holbrook to extend the closing hour to 1:00 a.m. and if there are no further incidents, the licensee may petition the Commission for a 2:00 a.m. closing in six months. The motion was seconded by Commissioner Kenney. With Commissioners Holbrook, Kenney and Wood voting in the affirmative and Commissioners McDuffy and Sullivan voting opposed, the motion carried by vote of 3 to 2.

8. Hearing on the request from Emysafari Dance Club Corp. – Christian Ekechukwu, Manager, 22-26 Perkins Avenue, to extend the closing hour to 2:00 a.m. on Thursdays, Fridays, Saturdays, and eves of legal holidays. (Hours rolled back to 1:00 a.m. and entertainment to 12:30 a.m. after hearing on January 18, 2012)

Present was Christian Ekechukwu, 22 Flinte Locke Road, Randolph.

Mr. Ekechukwu stated there have been no problems at his establishment. He indicated he was required to have a police detail on weekends for the last violation. They cannot always get a detail but the cost is \$225 per night when a police officer is assigned. Mr. Ekechukwu stated he had appealed this to the ABCC but has since dropped the appeal. He paid for a 2:00 license but has been rolled back to 1 a.m. since January and the year is almost over. He stated he has put his life into the business and he doesn't want to have to get rid of it. He wants to be competitive with other establishments in the area.

Chairman McDuffy indicated that it is his understanding that the stipulation requiring a police detail on weekends has not been able to be met and asked Mr. Ekechukwu how many times he has had a detail officer. Mr. Ekechukwu stated he has had details on 6 nights in the last two months. Chairman McDuffy stated he wants to make it clear for the record that the detail office is unable to fill the detail because the officers are not available.

Lieut. Bonanca stated the Police Department standpoint on 2:00 a.m. closings is the same as was stated during the last hearing. He indicated the problem in filling the details is because officers are not willing to work at some establishments.

Officer Uhlman stated that on October 15, 2012 at 1:02 p.m., he went to the establishment to conduct an inspection at the request of the License Commission. When he pulled up, there was a sign stating the establishment was closed. He observed Mr. Ekechukwu's car parked on the side of the building. "Casa Da Musica" was painted in 2 foot tall letters on the side of the building. Mr. Ekechukwu was at the front door and allowed him to enter. Upon entering, Officer Uhlman stated he saw another sign for "Casa Da Musica" painted on the back wall. He then proceeded out the rear exit of the building where there was another sign for "Casa Da Musica." He found serious fire and safety violations and contacted Lieut. Willims who stated he would respond. On October 18, 2012, Lieut. Williams did an inspection and found violations that he will be writing

up. Officer Uhlman stated there was a total of 6 violations. In addition, the dumpster is not in compliance.

Chairman McDuffy asked Mr. Ekechukwu if he had changed the name of the establishment and he stated he had not. The Chairman indicated he has also seen the name painted on the side of the building and Mr. Ekechukwu stated the name is Emysafari and he is not changing it and the sign on the building doesn't have anything to do with it. Officer Uhlman indicated there are advertisements on Facebook for "Casa de Musica" at 22 Perkins Avenue as well as for a Halloween party on October 27<sup>th</sup>.

Chairman McDuffy suggested that Mr. Ekechukwu have this taken off his wall and to stop advertising under this name. He further indicated that in his opinion a 2:00 a.m. license is a privilege and the establishments have to earn it. He reviewed that Mr. Ekechukwu has been in on both liquor violations as well as violations of the entertainment license, allowing people in after closing, dumpster issues and now there is a question of whether or not he has changed the name. He advised Mr. Ekechukwu that he needs to understand the rules and laws of the Commonwealth and to conduct his business properly in the City of Brockton. Chairman McDuffy stated he is not in favor of a 2:00 a.m. license.

Commissioner Kenney stated she agrees with the Chairman that Mr. Ekechukwu is before the Commission on violations much too often and he cannot always use the excuse that he does not understand the rules.

Mr. Ekechukwu stated in his opinion he doesn't think he has done anything that awful. He indicated they are dragging him down and he asked what he has done. He stated the commission should make the playing field the same for everyone and it is not fair that some people are only allowed 1:00 a.m. licenses. He stated if the Fire Department finds any violations he cannot renew his license. He stated the inspectors from the building, fire, health and now the police department are trying to harass them.

Ms. Tucker informed Mr. Ekechukwu that whenever an application is submitted to the License Commission, she sends a request for an inspection to the police department and that is the reason Officer Uhlman was there.

Commissioner Wood indicated that Mr. Ekechukwu was before the Commission a short time ago when the requirement for a police detail on weekends was put in place. The Adm. Asst. indicated that violation is not included on his history because he had appealed their decision and only within the last few days, notice was received from the ABCC that the appeal was withdrawn. Commissioner Wood indicated that at the January hearing when the hours were rolled back he was told he could come back. Ms. Tucker stated he was notified that he could come back if there were no other problems and there was another violation which resulted in the requirement for a police detail.

Chairman McDuffy asked if anyone present is in favor or opposed to the request for a 2 a.m. license.

No one came forward in favor.

The following persons came forward in opposition to the request:

Ron Bethony, 1083 Main Street, Chairman of the Campello Business Association, who stated he had met with the directors of the Association who all are against the 2:00 a.m. license. In his opinion, the people from outside the City being drawn in to the bars with 2:00 a.m. closings are becoming a night mare to the City. These people do not leave at 2:00 a.m. and hang around in the parking lot until much later.

Deborah Bethony, 1083 Main Street, stated she can hear the music playing from this establishment every Thursday, Friday and Saturday and she is opposed to the 2 a.m. license. Mrs. Bethony also commented about the deplorable condition of the dumpster.

Chris Pedjukas stated he owns the building at 13 Perkins Avenue which is directly across the street. He stated there are five apartments upstairs and the noise is constantly disturbing the tenants. On Sunday mornings, the parking lot and sidewalks are loaded with trash. This occurs every weekend. He stated he understands there is going to be some trash but it just goes on and on. He stated he is opposed to the 2 a.m. closing.

Tom McLaughlin, 1274 Main Street – Apt. 4, stated he has a store at 1102 Main Street and is also the secretary of the Campello Business Association. The Emysafari Club is located behind his building. He indicated he is against the 1:00 license and is most definitely opposed to the 2:00 licenses. In his opinion, when the board issues a 2:00 license, they are issuing a license to create havoc in the City. Mr. McLaughlin stated the public is at risk and the sober patrons at the bars are at risk and most patrons at a bar at 2:00 a.m. would have difficulty passing a sobriety test. The police were called two times three weeks ago because people were jumping up and down on cars. He stated he is not saying they were from Chris's place but during the hours from 10:00 p.m. on Friday to Sunday at 2:00 a.m., it is a combat zone.

Mr. Bethony stated that he has letters from Joseph Romano, the new owner of the Franklin Building and Gary Leonard a director of the Campello Business Association, and they are both opposed to the 2:00 a.m. license being granted. Chairman McDuffy indicated the Commission has been informed of the letters.

Mr. Ekechukwu stated that these people do not know what is going on in bars and when he pays the police detail they remain until 15 minutes after the closing to make sure everything is cleared.

In response to questions from Commissioner Wood, Mr. Ekechukwu agreed that his establishment is located in the area of Bar Dino's. Bar Dino's does not have a 2:00 license. He stated that Morabeza has a 2:00 a.m. closing but it was pointed out that is located much further up Main Street.

With no further information presented, a motion was made by Commissioner Sullivan to deny the request which motion was seconded by Commissioner McDuffy. With Commissioners

Sullivan, McDuffy, Kenney and Holbrook voting in the affirmative and Commissioner Wood voting opposed, the motion carried by vote of 4 to 1.

9. Hearing on the request from Joselin Perez dba VIP Auto Sales to transfer the Class II Used Car Dealer license at 491 Main Street to Avon Auto Sales, Inc.

Present were Dana Nessen, 24 Marshall Lane, Easton, Joselin Perez, 44 Nessralla Drive, and Adrian Pitre, 44 Nessralla Drive.

Officer Uhlman recommended that agenda Item #10, hearing on the revocation of the license held by Joselin Perez for not operating the licensed business, be taken up prior to the transfer. Mr. Nessen stated that Mr. Perez has been there cleaning things up. There were cars out front and the last seven vehicles were removed approximately two weeks ago. Officer Uhlman stated he had submitted pictures, however, the lot is vacant now and the business is no longer being operated. It was reviewed that the pictures submitted by Officer Uhlman were from September 18, 2012 and there were two cars there. Mr. Nessen stated he informed Mr. Perez that he had to clean the lot up because he was going out of business and he signed a letter indicating he would be vacating the building as of October 1<sup>st</sup>. Officer Uhlman stated they have not been in business for the past 18 days so he would recommend the license be revoked and then deal with the transfer.

Mr. Nessen stated Mr. Perez is going out of business and for this reason he is giving the place back to him because he owns the property. He asked Officer Uhlman why he would have the license revoked.

Chairman McDuffy reviewed that the license does not have to be revoked, however, the business has been closed down and the board needs to be made aware as to the reason it has been closed. Commissioner Wood indicated the two matters could be combined and the transfer could be accomplished.

With regard to the transfer, Officer Uhlman stated he would recommend the transfer be assigned to Mr. Nessen's Belmont Street location. He noted that reports will be forthcoming next week for violations observed at Avon Auto Brokers. He suggested the license be transferred from Main Street to the Belmont Street location to right the Commission's wrong in approving the annexation of the Belmont Street car lot with the Montello Street license.

Chairman McDuffy asked Mr. Nessen as the landlord, what his intent would be for the location and he indicated he has it listed to rent as another car dealership or he will put the property up for sale as a car dealership.

Commissioner Kenney stated that the Commission is not allowed to let someone hold onto a license while they look for a tenant or sell the property. She indicated it is her understanding that they must operate the business in order to keep the license. Chairman McDuffy agreed that the license cannot be held for an indefinite period without operating.

Officer Uhlman stated that the licenses are issued for the public's convenience and he serves no public convenience by holding a pocket license. Mr. Nessen has no intention of operating the Main Street location and could easily transfer the license to his Belmont Street dealership.

Mr. Nessen stated he does not know what one piece of property has to do with the other and he is present for the 491 Main Street location. He indicated he understands that if the license is transferred he cannot leave the lot empty and something has to be done within a reasonable amount of time.

The Adm. Asst. indicated license renewals will be coming up next month and the Commission could approve the transfer and review it before they approve the renewal.

The Chairman reminded Mr. Nessen that empty lots are not good for the City and he has to do something about it. Mr. Nessen stated that Officer Uhlman has to understand that the bars and car dealerships bring people into the community and pay salaries to people in Brockton and to shut everyone down is not a good thing.

A motion was made by Commissioner Wood to approve the transfer of the license. The motion was seconded by Commissioner Sullivan. With Commissioners Wood, Sullivan, Holbrook and McDuffy voting in the affirmative and Commissioner Kenney abstaining, the motion carried by vote of 4 to 0.

10. Hearing on the revocation of the Class II Used Car Dealer license held by Joselin Perez dba VIP Auto Sales located at 491 Main Street for failing to conduct the licensed business.

Based on the decision to transfer on the prior hearing, a motion was made by Commissioner Wood to file this alleged violation which motion was seconded by Chairman McDuffy. All members voting in the affirmative, the motion carried.

11. Hearing on the charge against Antonia Cardoso dba Malu's Lounge – 23-25 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 therefore whether present or not.", reported on September 22, 2012 at approximately 12:40 a.m.

Representing the licensee was Attorney John Creedon, 71 Legion Parkway and his client, Antonia Cardoso, 480 West Elm Street.

Attorney Leach reviewed that this hearing involves an alleged assault and battery that occurred in the bathroom at Malu's Lounge. She indicated the alleged assailant was the bouncer who was working at the time and the victim was an individual named Oscar Texeira.

Attorney Leach then swore in the following witnesses:

Officer Charles Jarrett, Brockton Police Dept.

Det. Thomas Hyland, Brockton Police Dept.  
Antonia Cardoso

The first witness called by Attorney Leach was Officer Charles Jarrett who stated while on duty on September 22, 2012, he responded to a call for an assault and battery in progress in the bathroom at Malu's Lounge. Upon his arrival, he observed a baby shower taking place on the first floor. He went up to the second floor and spoke with the bouncer, an individual whose name is Eddie. Eddie admitted to being involved in an altercation in the bathroom. Officer Jarrett stated he observed blood in the bathroom and it was obvious an assault had taken place. He didn't think Eddie made a call to police. Officer Jarrett stated he also spoke with the victim who told him he had been attacked by the bouncer who pushed him into the bathroom and punched him in the face several times. The victim told him he had seen a gun fall on the floor, however, no firearm was found. Francisco Fernandes, a witness of the alleged incident, stated that the bouncer, Eddie, had attacked Oscar Texeira. It was unprovoked and Francisco said that Eddie pushed Oscar into the bathroom and the door was locked. Officer Jarrett indicated there was no lock on the door. Francisco also stated that they were in the bathroom for a short period of time and then Eddie walked out of the bathroom alone and he went in and found Oscar on the ground unconscious. Officer Jarrett stated he had not spoken with the owner.

On cross examination by Attorney Creedon, Officer Jarrett stated he did not arrest anyone at the scene. Oscar had been let in by Eddie the bouncer and was a customer. Mr. Fernandes had also been a customer but was not with Oscar Texeira. Officer Jarrett stated the case should be in Brockton District Court. He had filed a complaint but it has not been heard. Attorney Leach stated she called the District Court to inquire about the case and it is scheduled to be heard on October 31<sup>st</sup>. Officer Jarrett stated he saw Mrs. Cardoso in the building that night but did not talk to her. He had not summonsed anyone to the hearing this evening to testify.

Attorney Leach then called Det. Thomas Hyland, who stated he was on duty on September 22, 2012, and responded to 23 Montello Street for an assault and battery. He investigated the incident along with Dets. McDermott and Graham as well as other officers. During the course of his investigation, he spoke with the bouncer, Edward Mattingly, who told him he had lit Oscar up in the bathroom. He stated he did not have a firearm although he has a license to carry. Det. Hyland stated he asked Mattingly why he hadn't called the police and he said he didn't know. He also spoke with the owner, Antonia Cardoso, who told him she didn't know about the incident until the police arrived.

On cross examination by Attorney Creedon, Det. Hyland stated he pat frisked Edward Mattingly and found no weapon. Mattingly told him that he knew Oscar Texeira and that he is going to get a warrant for his arrest. Det. Hyland stated he did see blood in the bathroom as well as the damage to Oscar Texeira's face. Mrs. Cardoso appeared to be upset with what had happened. Det. McDermott had filed a report after the incident.

With regard to the video cameras, Attorney Leach stated that Det. McDermott's report states there were cameras but Mrs. Cardoso did not know how they worked and some were not working properly so there was no video footage of the incident.

Attorney Creedon stated that the cameras were working properly but Mrs. Cardoso didn't know how to work them and neither did the police officer.

In response to questions from Commissioner Wood, Det. Hyland stated the motivation for the attack was that Oscar Texeira was accompanied by two females and Ed Mattingly had invited the females to the bar. When they showed up with Texeira, it annoyed him and he told Texeira not go into the bar. Det. Hyland stated he does not know the reason for his statement pertaining to getting a warrant and that it sounds like some kind of retribution.

In response to further questions, Det. Hyland was not aware of any other employees who might have seen what happened. He was told there were people upstairs that evening but when he got there, Ed Mattingly was the only one there. The call to police had been made by the victim who was across the street. There is a stairway inside the building from the second floor to the first floor.

Attorney Creedon called on Antonia Cardoso who stated she was holding a baby shower for her daughter on the first floor. Eddie was working as security upstairs. She saw the lights of the police car flashing outside and she asked the police what happened and they said somebody had called them. She then went upstairs and asked Eddie what had happened he said he had told the guy he couldn't let anyone else in but he had entered when someone went out. He said he went upstairs and was dancing but she doesn't know anything else about it. Mrs. Cardoso stated the man was lying because Eddie doesn't have a gun. She did not see Mr. Texeira. Eddie told her that he was pushed by Texeira and he pushed him back. Eddie has been fired. Eddie told her he asked everyone around to call the police. Eddie also told her he had previously arrested Oscar Texeira.

Attorney Leach indicated she understands that Mrs. Cardoso is stating she was not aware of the incident but not only was her employee aware of it, but he actually perpetrated the incident and he was the assaulter. She advised the Commission that just because the owner is not aware, the liability of her employees' awareness of an illegality can be imputed on to her.

Commissioner Wood indicated he understands the failure to call the police constitutes an allowance of an illegality. He then asked whether it constitutes a good enough effort if a person is involved in restraining a patron doing something and they call out for someone in the room to call the police. Attorney Leach stated that would be a factual determination for the board to make. Commissioner Wood asked if they were to find that happened, would that negate the idea of permission. He then asked if it would constitute a good enough effort if a person is restraining a patron at a bar and says somebody call the police. Attorney Leach stated that would be irrelevant here because that is not an accurate characterization of what happened as testified to. Commissioner Wood indicated they will be making factual findings but if they find Eddie said the words, "somebody call the police" as he was actively trying to restrain a patron, would that be a lack of permission? Attorney Leach again stated that would be a determination for the board to make.

City Solicitor Philip Nessralla came forward at this time and stated that the line of inquiry by Commissioner Wood is moot because there has been no evidence by any of the witnesses about

this moot question. He indicated it would not be proper for Attorney Leach to have to respond or speculate as to the relevance if it is an imputed or relevant type of notification where there is nothing on the table other than counsel making the statement.

Commissioner Wood stated that in defense of his question which wasn't theoretical, during her testimony, Mrs. Cardoso stated that Eddie Mattingly yelled out to the crowd of people for someone to call the police. Although he does not know if they will find that is what happened, the question remains. He asked whether that would constitute or whether it would negate the notion that he permitted the illegality.

Attorney Nessralla stated that it does not negate the illegality.

Chairman McDuffy reviewed that the only call that was received was from the victim.

Commissioner Kenney asked if he was arrested for assault and battery and Det. Hyland explained that assault and battery is not an arrestable offense unless it is witnessed by a police officer so a complaint was sought. He was charged with assault and battery. She then asked if bouncers occasionally injure people when they are trying to remove someone from the club and then get charged with assault and battery and Det. Hyland indicated it is possible for a patron to get injured. They use discretion if this occurs but in this instance, the bouncer wasn't escorting someone from the bar, he was putting someone into a closed bathroom while assaulting them.

Attorney Creedon stated for the record that he agrees with Attorney Leach that a licensee is responsible, however, they have to get to the second issue which he stated he has told this board every time he is before them, they never summons the person who is making any allegations. He stated this is a problem and total hearsay. He stated Mrs. Cardoso would have called the police if she knew but they were already there.

Attorney Leach stated this is her determination and that where the bouncer had admitted to the police that he lit the guy up, that was sufficient evidence that he committed the assault. Attorney Creedon stated it is a conclusion.

Mrs. Cardoso stated she pays security \$600 per week to try and make her place safe. Chairman McDuffy indicated that the bottom line is that the bouncer did not handle the situation properly. Mrs. Cardoso stated she understands and Eddie is no longer employed there.

Mrs. Cardoso stated she had a business for thirteen years and never had any problems. Since she opened this business 15 months ago there haven't been any problems. The bouncer didn't want the individual in because he had problems with him before. She stated she has not had any problems and she does not allow people in with hats and hoods.

Chairman McDuffy reminded Mrs. Cardoso that when she first came in he had warned her that this was a bar that had a lot of problems and cautioned her to be careful. She had represented to the board at the time that she was only going to be open until 10:30 p.m. and was going to be serving food. He advised Mrs. Cardoso that if she isn't there, she needs to have someone running the establishment appropriately and doing the right things.

Lieut. Bonanca stated he knows that they have said the bouncer was fired but indicated he is not sure about the steps being taken as far as hiring and he questioned what kind of control the business has if there is an employee engaged in some sort of negative conduct.

Chairman McDuffy reviewed for the licensee that with the rules the way they are, she is responsible for what takes place there and she indicated she understands.

Commissioner Wood commented that the whole point of Chairman McDuffy's original warning and his warning to many license holders is that if you open bars in certain neighborhoods, it attracts elements of the public and that leads to violations. He stated they have the direct opposite here which is they don't have any problems with the public and it is a problem with the bar employees. He indicated he knows bar owners have a hard balance to make between having extremely tight security and maintaining complete order and maybe stepping over the line and being too aggressive. He indicated he is glad to hear that Eddie is no longer working there.

Chairman McDuffy indicated that he agrees with Commissioner Wood in that all places make mistakes and they learn from their mistakes. He stated his feeling is that in this incident the license holder might not have been responsible and this time a letter be placed in the file.

Commissioner Kenney made a motion to find the licensee not guilty on the charge and stated she believes the licensee would have called police had the police not already been there. The motion was seconded by Commissioner Holbrook. A vote was then taken and with Commissioners Kenney and Holbrook voting in the affirmative and Commissioners McDuffy, Sullivan and Wood opposed, the motion did not carry.

Commissioner Wood stated he understands the inclination is to try and not overly punish someone who is trying to do a good job with their business but indicated the regulation is fairly clear and whether she was there or had actual knowledge is somewhat irrelevant and the question is whether it was permitted which is a very broad term. He stated it might make sense to put a note in her file but not issue a violation but to file it.

Commissioner Wood made a motion to file the violation with a note placed in the file and if there are no violations within the next six months, the charge will be dismissed. The motion was seconded by Commissioner Kenney. With Commissioners Wood, Kenney and Holbrook voting in the affirmative and Commissioners McDuffy and Sullivan opposed, the motion carried by vote of 3 to 2.

12. Hearing (continued from meeting of September 20, 2012) on the request from Antonia Cardoso dba Malu's Lounge – 23-25 Montello Street, to extend the closing hour to 2:00 a.m. on Thursdays, Fridays, Saturdays and eves of legal holidays.

Attorney Creedon requested this matter be postponed and explained that they have not received a clearance from the Tax Collector yet although he has met with Mr. Brophy. Attorney Creedon stated they will be back in a couple of months. Commissioner McDuffy reminded him that the

tax situation has to be straightened out in order for the license to be renewed and Attorney Creedon indicated he understands this.

13. Hearing on the charges against RJA Corporation dba Joe Angelo's Café – Joseph Angelo, Manager, 216 Main and 11 Crescent Streets, of the following alleged violations:

**June 29, 2012, approximately 10:15 p.m.**

- (1) **ABCC Rule 2.05(2)**, “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 therefore whether present or not.”
- (2) **M.G.L. Chapter 138, Section 63A**, to wit: “Any person who hinders or delays any authorized investigator...or who refuses to give to such investigator, inspector or agent such information as may be required for proper enforcement of this chapter...”

**July 9, 2012, approximately 12:52 p.m.**

**ABCC Rule 2.05(2) – permitting an illegality, to wit:** “527 CMR 10.03 (13) Hazards to egress - Lack of egress from sleeping area as required by the building code.”

**August 26, 2012, 2:39 p.m.**

**Brockton License Commission Rule #22**, to wit: “All doors and windows shall remain closed at all times from 12:00 noon to closing.”

Present were Attorney Louis Cassis, 18 Russell Park who requested that the charges be heard all at once and it was agreed that they will hear each date separately.

After the charges were read by Chairman McDuffy, the following persons were sworn in by Attorney Leach:

Officer Scott Uhlman, Brockton Police  
Det. Santiago Cirino, Brockton Police  
Dennis Pientranonio, 55 John Berman Drive  
Thomas Williams, 16 Ridgeway Court  
Steve Lainas, 5 Rock Meadow Drive  
Tara Mitchell, 105 Welsford Street  
Sheila Angelo, 10 Arborview Terrace, West Bridgewater  
Joe Angelo, 10 Arborview Terrace  
Lieut. Paul Bonanca, Brockton Police

Lieut. Bonanca reviewed his report dated July 9, 2012, stating that on June 29, 2012 at 11:16 p.m., the Brockton Police received a 911 call from a victim who is present this evening to testify. This person stated he was assaulted inside Joe Angelo's and was treated outside the bar by Brockton Fire and transported to the hospital for treatment of injuries that were sustained in the assault. Det. Cirino investigated the case. The bar did not report the incident. He stated it

should be noted that the assault occurred in the bathroom of Joe Angelo's and was interrupted by a person who is inferred as an employment relationship by the name of Al McCarthy.

Attorney Cassis objected stating that an inference has to have a basis.

Attorney Nessralla stated this is an opening statement by Lieut. Bonanca. It is a point well taken but Attorney Cassis will have the opportunity to challenge that.

Lieut. Bonanca stated they will infer that an employee of some type witnessed the assault. When Detectives interviewed this person, he was behind the bar and admitted to opening the business up and had a set of keys to the business. In the past, the same individual had the keys and opened up the door for Lieut. Bonanca. On the day when he was interviewed by the detectives, Al McCarthy was behind the bar and admitted to opening the business for Joe. There was no one else in the bar except for one patron sitting at the bar with an alcoholic beverage in front of him. During the assault, or subsequent to, Al McCarthy told the victim, "you better not call the police, you better not tell them it happened here. A couple of weeks after this event, Joe Angelo's had a hearing scheduled for the extension of hours of operation. Lieut. Bonanca stated they will show the victim had no motive to be untruthful and did display injuries. He was transported from the bar to the hospital. Mr. Angelo did cooperate and provided the police with the video system. They had the video system checked by the County investigators who found there was no video and it was inoperable at that time. Det. Santiago Cirino will testify further on that matter.

Attorney Cassis stated he noticed in the reports that Officer Ellis was the responding officer and asked if he is present. Attorney Leach stated Officer Ellis was summonsed but had a previous commitment; however, she has an affidavit from him stating that the narrative of his report is true and accurate.

Attorney Cassis objected for the record that Officer Ellis is not present and not subject to cross examination.

Attorney Nessralla stated for the record that counsel is free to subpoena anyone he wants to have present. Attorney Cassis stated the usual practice is that the police officer who responded to the scene would be present and if he had thought he wasn't going to be present he would have subpoenaed him.

Attorney Leach called on Dennis Pietrantonio who stated he was at Joe Angelo's Café on June 29<sup>th</sup> on two different occasions. Early in the evening, he was there with his mother to meet a soap opera actress, Kristian Alfonso. He and his mother left after meeting the actress and he spoke with Colin who is Joe Angelo's son who told him to meet him back at the bar for a drink and then they would go to the Brockton Fair. Dennis stated his friend, Officer Frank Czarnowski, would be working at the fair that night. About 20 minutes before he went back to Joe Angelos, he spoke with Colin who told him he had to drop his mother's car back and he told him to wait for him at the bar. Dennis stated he arrived at the bar at about 10:30 p.m. and saw Al McCarthy who he had met when he was there earlier. There were two female bartenders and seven or eight people scattered around the bar. Al McCarthy was standing where Mr. Angelo usually stands which is at the opening in the bar. He told Al he was there to meet Colin and Al

told him Colin was with his mother. He called Colin on the phone and Colin said he would be there in less than fifteen minutes. Dennis said he then ordered a Heineken. He had 4 \$100 bills and 5 \$20's. He paid for his beer and put his money back in his pocket. He sat at the bar where he could see the front door and the side door. After about 10 or 15 minutes he called Colin who said he was on his way. As he was sitting there, Mike Paull who is someone he grew up with, came up to him and they talked for a bit. He walked away and another individual, Scott Vassall, came up and they talked for a while. Scott left and a friend of his sister came up and asked him if he was Dennis Pietrantonio. As he was talking to her she walked away which he thought was rude at the time but he said she must have been told to get away from him. (Attorney Cassis objected to this.)

Attorney Cassis stated there should be a question and answer and Mr. Pietrantonio should not be allowed to just ramble on.

In response to questions from Attorney Leach, Mr. Pietrantonio stated he went to the restroom and as he was washing his hands, he saw this huge guy come in and he hit him in the side of his face. He threw him against the mirror and picked him up and threw him on the ground and started pounding on him and called him by his last name. His assailant said he was going to kill him. Dennis stated he was yelling for help and as he was pounding on him three guys who he believes to be Mike Paull, Scott Vassall and Al McCarthy. Al McCarthy told the person to get off of him, you're killing him and he pulled him off. They got the person out of there and Dennis said that Al McCarthy got in his face and told him he better not call the cops and he better not say nothing happened here.

Dennis stated that at first he was thinking Al just saved my life but then got in his face. Al McCarthy left and after a few minutes no one came to help him. Dennis stated he thought he had been stabbed because his ribs had been busted up. He looked and there was no one at the bar. He went straight out to where the function area is, opened all the doors and finally got out to Main Street and collapsed. As he was running out, he called 911 and then called his friend Officer Frank who was working at the fair and asked him to get some help because he had been attacked in the bathroom. A few minutes later, Colin called on the phone and said where are you and what just happened. Colin came around the corner and told him you better not say this happened here. (Attorney Cassis objected to this)

Dennis then stated that Mrs. Angelo called his house and left a message. Colin left a message and said his family was concerned about him and his mother likes him and don't be mad at them, it wasn't his fault. He stated they did show concern and said whatever happened wasn't their fault but they just wanted to make sure he was alright.

On cross examination by Attorney Cassis, Mr. Pietrantonio stated he is an actor and is familiar with Kristian Alfonso who is an actress in Days of Our Lives. He knows Colin but has not seen him for about a month and a half. He called Colin because he heard Kristian Alfonso was going to be at Joe Angelo's and asked to be invited because his mother is a big fan. Dennis stated that originally it was open to the public and was posted on Facebook to come down to Joe Angelo's because Kristian Alfonso is going to be there at 6:00 but there was a retraction and they said sorry we were not supposed to do that. They had pictures taken and at the time was treated with

respect by the Angelo family. He got back at about 10:30 p.m. He has only been to the bar about five times but knows Mr. Angelo stands in the same spot and Al McCarthy was standing in that spot. He does not know if Al McCarthy is an employee. He knows who beat him up and why. He sent a private message to an individual and Tom Johnson had found out and was angry with him. He was in the men's room by himself and Tom Johnson had come in behind him. At some point Al McCarthy and two other individuals had come in and stopped the beating. He was bleeding from his ear, lip and face. He thought he was stabbed in his rib area but the only reason he knew he wasn't was because there was no blood. He was in a lot of pain. He was assaulted at about 11 p.m. After he called 911, no one came, he called his friend Officer Frank Czarnowski and told him what happened. It is his recollection that the Fire Department, an ambulance, Officer Ellis and Colin Angelo all came at about the same time. He did not lose consciousness. He was also robbed of about \$500. He spoke with Officer Ellis and he told him he thought he had been stabbed. He also told him that he was screaming for help when he was being beaten in the bathroom. When he was speaking with Officer Ellis, he did not know he had been robbed and did not realize it until he was at the hospital. He told Officer Ellis that Al McCarthy had told him not to say it happened there.

In response to further questions from Attorney Cassis, Dennis stated he was working on a movie, Grown Ups 2. In February, he had filmed Angels Around Me. He filmed a movie in Brockton sometime in August. He did not post anything about being stabbed in Joe Angelo's that night. The next day he posted on Facebook that he was attacked last night at Joe Angelo's by Tom Johnson who works for the City and asked if anyone had any information about it. He had posted the pictures with his mother and Kristian Alfonso on the night of the incident. The Angelos' had left him messages asking why he was badmouthing them on Facebook.

Dennis stated that he was seen at the hospital where they did tests and was there for about two hours when he noticed the \$500 missing from his pocket. He got mad and left the hospital. He showed a \$2,000 hospital bill.

Attorney Leach then called Det. Santiago Cirino who stated he was asked to follow up on an incident that had occurred at Joe Angelo's. He began his investigation on July 2<sup>nd</sup> which was three days after the incident. He conducted an interview with the victim to ascertain his side of the story and try to identify who the suspect was. The statements made by Mr. Pietrantonio this evening were consistent with what he had told him. Det. Cirino stated he searched the CAD system which revealed the only call was the 911 call received from the area of Joe Angelo's at 10:16 p.m. from the male caller reporting he was assaulted.

Det. Cirino stated he spoke with Al McCarthy who said he was present at Joe Angelo's on that night and that he was a patron of the bar. He had gone to the bar to meet with Mr. Angelo. While he was at the bar, he was not aware of any incidents that took place. He stated he had gone to the restroom to use the facility. He said he had not witnessed anything in the restroom. He and Sgt. Khoury went to Joe Angelo's on July 4<sup>th</sup> shortly after 10 a.m. and met with Mr. McCarthy. When they went into the establishment, there were two males present, one male who appeared to be a customer with an open bottle of beer and a glass in front of him and another individual behind the bar who was subsequently identified as Al McCarthy. Mr. McCarthy told the detectives he had opened the business for Mr. Angelo and said he had a set of keys.

Det. Cirino stated he had interviewed pretty much all of the individuals named including Mike Paull, Tom Johnson, Thomas Williams, Scott Vassal and the bouncer, France Payne.

The bouncer, Mr. Payne, stated he was unaware of any incidents occurring inside the bar. He was aware that something was occurring on the Main Street side of the bar where people were walking by and seemed interested in what was going on on the sidewalk. He walked over and saw a male down on the ground.

Det. Cirino stated he interviewed Thomas Williams who told him he was at the bar as a patron that night and didn't observe anything going on. He did say he heard a loud bang coming from the bathroom and he went to the bathroom because he thought someone might be hurt in there. He said he saw two guys in the bathroom. Det. Cirino asked if either individual exhibited any injuries and he stated no. He said he saw Tommy the City guy and the victim.

During the course of his investigation, he presented Mr. Pietrantonio with a photo array and he identified Tom Johnson as the assaulter.

Det. Cirino stated that Mr. Angelo was cooperative and had provided him with a couple of phone numbers. A video system had been pulled and sent to the HEAT Lab of the Plymouth County Sheriff's Department in hopes of extracting any evidence that might be available. The results were negative and they found it to be inoperable. They did not detect any software that was able to record. They stated the hardware inside the unit was missing a couple of screws and the hard drive was inconsistent with the device.

On cross examination of Det. Cirino by Attorney Cassis, Det. Cirino stated he was not present on the night of the incident. He did not speak with Officer Ellis but did review his report. He cannot recall if he asked Al McCarthy if he was an employee of the bar. Det. Cirino was asked to review Officer Ellis' report and there was no mention of the victim being stabbed. Mr. Pietrantonio told him he was yelling for someone to call 911 which was not mentioned in Officer Ellis' report. There was no mention of Dennis missing \$500. Dennis told him that he had gone to the hospital and left. Det. Cirino was asked to read from his report which stated, "he walked out because he was tired of waiting."

Attorney Leach then asked Det. Cirino to read from Officer Ellis' report which stated, "I returned to Joe Angelo's and spoke with Al McCarthy. He said he heard noises coming from the bathroom and then entered. He stated he saw a fight and pulled the suspect off the victim. He stated the suspect immediately left and he was unable to describe or identify the suspect." Det. Cirino stated this statement from Al McCarthy is inconsistent with what he had told him in that Al said he went to the bathroom to use the facilities and didn't encounter any issues there. Officer Ellis' report was taken the day of the incident and Det. Cirino stated he did not interview Al McCarthy until several days later.

Attorney Leach then asked Det. Cirino about his complaint against Al McCarthy for witness intimidation. Other employees of the establishment had acknowledged that Mr. McCarthy performed handiwork at the bar. They were employees who were present when he and the Lieut. had gone in to retrieve the recording equipment.

Attorney Leach indicated she has no further witnesses.

Attorney Cassis then stated if the City rests, he would move for a finding of not guilty on the two counts before the Commission. He stated there is no evidence that Joe Angelo's permitted an illegality. He indicated something may have occurred but there must be some evidence for it to be permitted. He stated that just because something happens on the licensed premises, it doesn't mean they permitted it. He then stated he would cite two cases and if the board has to take this under advisement to read then they should. He stated the appellate courts in the Commonwealth have examined two cases where findings of permitting an illegality have been sustained. In both cases, the Court does not say if it happens in your bar, you are guilty no matter what. He then quoted from Rico of the Berkshires vs. ABCC and Frontrunners vs. ABCC. In the case involving Rico's of the Berkshires they found the bartender was not a low level employee and was essentially the owner where his wife was listed on all paperwork as owning the establishment. In the Rum Runners case a drug deal took place right in front of the bartender and it was found that the licensee permitted the illegality. He stated that the idea that you are liable if anything happens on the licensed premise is not the law.

Commissioner Wood asked if there are examples where the Courts are confirming the local licensing authority's decision to find a violation. He asked if Attorney Cassis had any examples of cases like this one where the local licensing authority says this is a violation and the Courts reversed them. Attorney Cassis indicated there are no reported cases but there are cases in the ABCC where the licensee is found not guilty in patron on patron assaults. He asked if Al McCarthy is considered a low level employee and, if so, is it a form of permission if he said to the person telling of the attack, don't tell anyone that you were attacked here. Attorney Cassis indicated it is not because the event had already occurred. Attorney Cassis stated that by not report something doesn't mean you permitted it.

Attorney Cassis stated as far as the hindering or delaying charge, he doesn't know where that came from and stated there is no evidence. Commissioner Wood stated that the evidence was that when the police arrived and the employees were questioned, they said nothing happened. Attorney Leach stated there is case law in the Rum Runners case that says mere passivity or abstinence from prevention of action may support the findings that the licensee permitted an illegality. Attorney Cassis stated it is in the context of the owner not allowing it to happen but says if low level employees allow it to happen it is a different story. Attorney Leach asked if all low level employees have keys to the establishment and open up the bar.

Attorney Cassis stated his motion is on record and they can deal with it later. He stated he would like to call some witnesses.

Commissioner Wood asked if the board would be taking some action on the motion. Attorney Cassis stated he would not expect them to allow the motion and would expect that it be denied.

The first witness called by Attorney Cassis was Thomas Williams, 16 Ridgeway Court, who stated he is a Parking Control Officer for the City of Brockton. He is familiar with Joe Angelo's and was there on June 29<sup>th</sup>. He stated he was sitting at the corner of the bar which is located next to the bathroom. Al was a patron that night and was sitting at the bar. He had had come over to

talk to him. They heard a bang and they both got up and went to look inside the bathroom and nothing was there. One guy was by the sink and the other guy was in the stall. Nothing was being said and one of the individuals went one way to the front door and the other went the other way to the porch. Mr. Pietrantonio was one of the individuals in the bathroom. He didn't hear him say anything to Al McCarthy or anyone else. Mr. Williams stated he did not know an assault had taken place. When he first heard the noise he thought someone had fallen down or was smashing the dispensers. He stated he received a text from someone saying Dennis had said he was robbed and beaten up and stabbed. Mr. Williams stated he had gone into the men's room around 10:30 p.m. and he just went back to his seat which is when he received the text. He stated that the Fire Dept. responded and had come over to him and said they were looking for a victim. They went into both bathrooms and could not find anyone and went out the front door and found Dennis.

The next witness called by Attorney Cassis was Tara Mitchell who stated she has been employed at Joe Angelo's for nine years. She works as a bartender on Thursday and Friday nights. She was working on June 29<sup>th</sup> and her shift began at 5:00 p.m. to 1:00 a.m. She stated Dennis Pietrantonio had been in at around 6:00 p.m. and the second time he came in was at about 10:00 p.m. He had ordered a Heineken at the bar and she remembers he went right to the bathroom and left his full beer on the bar. A couple minutes later she saw him leave the bathroom, look at her and went out to Mulligans. She did not see any blood or bruises on him. There was another bartender on duty at the time whose name is Meghan. Tara stated that Al McCarthy is not an employee of Joe Angelo's. She did not know that Dennis was assaulted but found out later that night because he had put it on Facebook. One of her friends had told her that he posted that he was robbed and stabbed at Joe Angelo's.

In response to questions from Commissioner Wood, Tara stated she remembers Tom Johnson being in the bar that night. She does not know if he went into the bathroom. She heard nothing coming from the bathroom. She does not recall Al McCarthy going into the bathroom because she was waiting on customers. There were approximately 8 or 9 people in the bar. The jukebox was playing. She stated she heard no noise that would have drawn her attention to the bathroom.

The next witness called by Attorney Cassis was Steve Lainus, who stated he owns the Dry Cleaners on Legion Parkway. He is a patron of Joe Angelo's. He was not present on the night of the incident. He has done work to Joe's video system. He stated the original hard drive had crashed six months ago and he replaced it with one that he had. It was working and he was going to replace it with a larger hard drive and this is the reason that some of the screws were missing. He had left them next to the system. He indicated it was obvious that the system was being worked on. He does not know if it was working that night.

On cross examination by Attorney Leach, Mr. Lainus stated he had replaced the hard drive with a 30 or 40 gig hard drive.

Attorney Cassis then called Sheila Angelo, who stated she had been at the bar at 5:45 p.m. because the actress, whose dad is a patron of the bar, was coming to the establishment. She was supposed to arrive sometime between 6 and 6:30 p.m. This had been posted on Facebook and it had gone viral. Sheila stated she told her Joe that this had to be taken down and it was reposted

that it was to be a private meeting not open to the public. At about 4:30 p.m., her son had asked her if it was okay for Dennis Pientrantonio to bring his mother down and she said okay but to tell them there will be no autographs or pictures. She stated that Dennis was sitting with his mother on the deck and when she arrived, introduced himself and his mother. She told them there was to be no autographs and no pictures. The actress arrived about 15 minutes later and Sheila stated she went out to greet them and told them that she would bring them through the crowds to the bars and into Mulligans which was closed. They went in and took some pictures and when they come out Dennis was getting his camera out and asked if his mother could have a picture with her. The actress did not know Dennis and she said okay and had someone take a picture with him and his mother. They left after. Mrs. Angelo stated she was there all night except for approximately 25 minutes when she had to bring one of her vehicles home and she asked her son to follow her. She thought she left at about 10:15-10:30 p.m. When they were on Montello Street, she saw the Fire Department and Ambulance coming. She followed them up Crescent Street and asked someone what had happened and was told that someone got beat up. She stated she went up to her security guy who was standing on the corner and said someone was on Main Street. She and her son went running up to him and her son recognized Dennis. Dennis said, "Colin will you look and see if I'm stabbed?" The ambulance attendant told him he had to go. The police got there and the fireman told the police officer he was going to Brockton Hospital and they could talk to him there.

Mrs. Angelo stated that the following day at 10:45 a.m., her son, Colin, showed her a text he received from Dennis saying to have his mother please call him so she did. She stated she asked Dennis if he was alright and he was in a rant about how he almost got killed in her bathroom and that he had broken ribs and kept yelling at her. She told him she was calling because he had asked for her to call and she wanted to make sure he was okay. Dennis' mother finally took the phone away from him and thanked her for letting them get their picture with the actress. She told her she had to calm Dennis down.

In response to questions from Attorney Leach, Mrs. Angelo stated she called back because she had been cut off with his mother. She does not recall what message she left on his voice mail but did not say anything like don't blame our bar. Attorney Leach stated she was not insinuating that.

Commissioner Wood asked if anyone in her family had any communication from Dennis after what had happened. She indicated she tried to get the texts from her son but Verizon dumps them after so many days. Mrs. Angelo stated she has not talked to Al McCarthy. When she got to the bar that night, she spoke to Kara the bartender and asked her what had happened. Kara told her she had seen Dennis leaving through the archway to Mulligan's and thought he was making a phone call. Mrs. Angelo then stated she knows Al McCarthy as a regular customer. She asked him if he saw anything that night but he said he doesn't remember anything.

Attorney Leach then asked Mrs. Angelo if Mr. McCarthy has keys to her establishment or whether he opens the bar occasionally and she stated she has no clue if Mr. McCarthy has keys. She suggested that Attorney Leach could ask her husband.

The next witness called by Attorney Cassis was Joseph Angelo who stated he has owned the bar for 20 years. He was at the bar that night but had left at about 9:30 p.m. to attend a retirement party and was gone for about 1 ½ hours. Mr. Angelo said he got back right after the incident happened. Mr. Angelo stated Al McCarthy is a friend and a customer. He lives somewhere in the downtown area. He had a key to the place because he would get called on a regular basis by the Fire Department because his sprinkler system would go off all of the time and Al could get there quickly to let them in. Mr. Angelo stated he had the alarm company call Al McCarthy. Al did this as a favor but does not work for him and has never been on his payroll. Al has never worked behind the bar.

In response to questions from Attorney Leach, Mr. Angelo stated it is possible that he had opened the establishment on the morning that Det. Cirino and Sgt. Khoury had gone there. It is also possible that Al was behind the bar and served a customer. He stated he doesn't work there but he opened the bar and served a beer to a patron. Mr. Angelo stated he does not know if Al ever lived in his bar and he doesn't know where he lives. A couple of weeks ago he had moved in with his girlfriend in Whitman. He said that Al might have stayed in the basement of Joe Angelo's but not to his knowledge.

In response to questions from Chairman McDuffy, Mr. Angelo stated Al McCarthy did favors as a friend and compared him to Norm at Cheers.

In response to questions from Commissioner Wood, Mr. Angelo stated that none of his other customers have a key to his place and none of his other customers serve beers to other patrons. Commissioner Wood asked Mr. Angelo how it is possible for patrons to get behind the bar. Mr. Angelo stated it was July 4<sup>th</sup> morning and it was just a unique situation. He said his bartender had shown up 15 minutes later. Mr. Angelo stated the person having the beer left the money on the bar. He knew how much the beer cost because he is a regular customer and left a five dollar bill on the bar when he left. There was no change in the drawer to give him. Chairman McDuffy advised Mr. Angelo that he should not be open for business if there is no employee present. Mr. Angelo acknowledged that this occurred and agreed that in retrospect, Al should have told the person they weren't open. Mr. Angelo stated he takes the responsibility for this.

Commissioner Holbrook asked if it is appropriate under the license to have someone who is not an employee serving alcohol on a licensed premise. The Chairman said it is not and the establishment should not even be open.

Attorney Cassis indicated that that in order to put this into context, the issue is whether Al is an employee or not and that there is no charge brought on July 4<sup>th</sup>. Commissioner Wood indicated that they have to make that determination on circumstantial evidence and these things go to whether or not he was an employee.

Chairman McDuffy asked Mr. Angelo if Al McCarthy is still allowed to go into his establishment and he stated he is and that Al had done nothing wrong. He is not allowed to serve beers. Al told him that he didn't know anything about what happened and Tommy Williams had said he went into the bathroom with Al and he didn't see anything either. Mr. Angelo stated that

Dennis had never said anything to Tommy Williams or to his bartender and if he was that hurt he should have said something to someone.

Commissioner Kenney recalled that Mr. Pietrantonio had said that Al helped him and stopped him from being hurt. Mr. Angelo stated that is what Mr. Pietrantonio said but that is not what Al said.

Attorney Cassis stated that Al has been charged and his lawyer would not allow him to come in and testify tonight. Chairman McDuffy questioned what Mr. Angelo's good friend who has a key to the place, was serving alcohol from behind the bar and has made a statement that he did know what was going didn't go to any employee in the bar to report this. He asked him why Al McCarthy is still allowed to go into his place.

Mr. Angelo said it has still not been proven that Al did anything wrong.

Attorney Cassis stated that the only evidence before the board is in the police report from Officer Ellis who he was unable to cross examine. Officer Ellis' report said that Al said there was a fight in the men's room. The other officer testifying tonight said that Al told him he didn't see anything.

Commissioner Wood stated there is evidence and the testimony of Mr. Pietrantonio. He asked Mr. Angelo if it is his position that nothing happened in the bathroom and Mr. Angelo stated he is not saying that and he does not doubt Dennis' word that he got beat up. He indicated no one in the bar knew what happened until Dennis was out front lying there.

Mr. Pietrantonio had never asked anyone for help and they would have called immediately if he had told someone.

Attorney Leach stated she is not speaking for the victim but she thinks his feeling was that the fight had been broken up by someone who he thought worked at the bar and he was told not to say it happened there so he probably didn't go tell someone else and decided to take it into his own hands.

Attorney Cassis stated he had a letter from Al McCarthy stating that he is not an employee. He then stated he has no further witnesses.

Attorney Leach stated she has an affidavit from Officer Ellis testifying to the veracity of the statements in his narrative which include that he spoke with Al McCarthy who told him that he broke the fight up.

After the Commission was given the opportunity to review Officer Ellis' affidavit, Chairman McDuffy stated there is a question as to whether or not the employees or manager did know about this and that maybe Mr. Peitrantonio should have reported the incident there but he went outside because he felt threatened by one of Mr. Angelo's best customers, Al McCarthy. The Chairman stated it bothers him that Al McCarthy threatened him by saying not to report this and tried to protect the place. Five days later, he had keys to the establishment and was inside

serving someone a beer. He stated he feels Mr. Angelo should bar him from the place and not even allow him inside.

In his closing, Attorney Cassis stated this was an unfortunate incident and that Dennis had gone to the place because the Angelo's had done him a favor by allowing him to bring his mother there to see the actress. What occurred was totally beyond the control of the licensee. Tom Johnson who has nothing to do with the bar, followed Dennis into the bathroom for whatever reason and decided he was going to beat him up. The question is what happened next and whether Al McCarthy had pulled him off of Dennis. A City of Brockton employee, Tom Williams, says that when he went into the bathroom, the two were already separated and leaving. Attorney Cassis indicated he doubts how badly Dennis was hurt if he could walk by the bartender and not tell anyone. He stated that everything Dennis had said is self serving and he is an actor. Mr. Williams had gotten the information off of a text before the police arrived because Dennis had put out that he was beaten and stabbed at Joe Angelo's. Attorney Cassis stated Dennis was playing this up into a major event to push his career and had not stayed at the hospital.

Attorney Cassis continued and stated there is someone like Al McCarthy in every bar and that they do menial tasks and get a drink. They probably should not have given him a set of keys but whatever he is he is not an employee and not a high level employee. If anything, he is a low level employee, a non paid, non earning person. He stated Mr. McCarthy is a friend and even if he was an employee, on the night in question he was clearly a customer. No one at the bar permitted the illegality and there was no employee who was involved in this incident who permitted it. Attorney Cassis stated he does not understand the hindering or delaying charge. No one knew the person had been beaten up. If the police had come in to question anyone, they would have talked to them but would not have given any false information.

Attorney Leach stated the City would argue the opposite of what Attorney Cassis has said in that Mr. McCarthy is not an employee and if he is an employee, he is a low level employee. She stated that the City feels someone who has keys to the establishment, is responding when the Fire Department needs access to the building, opens the restaurant and goes behind the bar to serve customers when there is no money in the bank would seem to be someone who is much more than a low level employee and is the go to person who functions in the ways of a manager. She reviewed that the incident report filed by Officer Ellis and attested to by affidavit, was based on statements made to him on the evening of the incident and that Al McCarthy told him that he went into the bathroom, pulled the suspect off the victim and broke up the fight. Four days later when Det. Cirino interviewed him, Al says nothing happened. Attorney Leach stated by changing his testimony four days later, he is hindering an investigation. In addition, she stated that if they believe the testimony presented, just by Al telling the victim not to say anything happened at Joe's is clearly hindering.

Attorney Leach stated that the City's position is that whether or not they want to call Al an employee, he was a representative of a position of authority at the bar, that there was an assault, that Al McCarthy was aware there was an assault and did not report the assault. In his statements to Det. Cirino, he contradicted the statements he made to Officer Ellis and in his

statements to the victim, he hindered the investigation and she asked that the licensee be found at fault.

Commissioner Kenney stated there are disparaging stories. Mr. McCarthy is a good friend of the owner, occasionally goes behind the bar, serves liquor, has the keys and lets the Fire Department in and is always there, someone who occasionally goes there and sees Mr. McCarthy behind the bar and performing duties that an employee would do could mistaken him for an employee. She indicated it is understandable that if the victim who had seen Al behind the bar and then was told by Al not to say anything happened there, would not go and tell someone else at the bar. She stated Mr. Pietrantonio thought Al was an employee, he didn't get help from him and was told by him not to say anything so he felt his only recourse was to leave the building and call for help himself. She stated she believes Mr. Pietrantonio was telling the truth.

Commissioner Wood reviewed that Mr. Angelo conceded that Mr. Pietrantonio was hurt. Officer Ellis interviewed Al McCarthy separately and it would be an amazing coincidence that Al McCarthy somehow guessed the story that Mr. Pietrantonio had said that he had broken up the fight. He stated he feels it is very likely that Al McCarthy broke up the fight and in his opinion, if there was enough noise being made in the bathroom or Al McCarthy heard a noise and rushed in, it would be likely that other people who are clear employees would have heard something but didn't react. He stated he also feels there is a motive to hide the truth when it comes to calling the police officers because of the precise proceeding they are dealing with now. He indicated he has a hard time believing that Al McCarthy does not get paid for what he does. He indicated that someone who has keys, knows the alarm code, takes money and serves drinks sounds like an employee to him. He might not get a W-2 or get a paycheck, but that does not mean he is not getting paid. Commissioner Wood stated he does not know too many bar owners who would trust such duties to someone who has no affiliation with the bar. He stated it is very likely that Al McCarthy heard something; that other people heard something and he feels they can impute scienter on the part of employees. He further stated he feels the case law is fairly clear and they do not need to prove scienter or knowledge and that the responsibility of the licensee is to exercise significantly close supervision so there is compliance with the law upon the premises. The fact that there was no person on the premise that was a manager was a problem but it stretches the imagination when people who were employees claimed no knowledge and someone standing next to them knew enough to break up the fight.

Commissioner Holbrook stated she is bothered with the change in Mr. McCarthy's story in the five day time period and it leads her to believe that the first in-the-moment story on the night of the incident is most likely the truth.

Attorney Leach then stated there is a prior history of violations which is in everyone's file.

On the violations reported on June 29, 2012, a motion was made by Attorney Wood to find a violation which motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

The Commission then proceeded to hear the testimony concerning the July 9<sup>th</sup> violation.

Attorney Leach called on Officer Uhlman who stated that on July 9, 2012, at approximately 12:52 p.m., he went to Joe Angelo's to make an inspection for his pending application to increase the seating. He and Lieut. Williams arrived and asked for someone in charge and was informed by a cook that Wally Siciliano was in the cellar. Wally took them around the cellar and they found an area where it appeared that someone was sleeping. They located clothing, toiletries and mail addressed to Al McCarthy as well as an area which could be characterized as a night stand. Lieut. Williams spoke to Sheila Angelo by phone and informed her that they had found a bench seat from a van and that it appears someone is using it as a sleeping area. He told Mrs. Angelo that this must cease immediately and ordered it to be removed. Officer Uhlman had furnished pictures of the area and stated this is not only a zoning issue but also a safety issue.

Attorney Cassis had no questions for Officer Uhlman.

Upon reviewing the photos, Commissioner Kenney stated it is obvious that someone was sleeping and maybe living there.

In response to questions, Officer Uhlman stated that the cellar is accessed through the kitchen. In addition, there are stairs that go from Mulligans. Mr. Angelo stated there are 3 or 4 different exits. He stated that his employees do not use the area to sleep and if Al McCarthy was sleeping there he was sneaking down there. The area is very seldom used and is not part of the bar. It was pointed out that the basement is included on the license as a storage area and Mr. Angelo stated the area in question is not used and is actually locked down. Chairman McDuffy asked how he would even get down there with it locked and he was reminded that Mr. McCarthy has the key.

Attorney Cassis indicated he would not be offering any testimony but Mr. McCarthy is no longer sleeping there. He suggested it is not a serious violation and should be filed.

Commissioner Wood stated he is unsure whether this violation has been proven that this was a hazard to egress and made a motion to find no violation.

Commissioner Kenney asked for a clarification from Officer Uhlman as to what the lack of egress is and he indicated the State and Local Fire and Building Codes set standards for sleeping arrangements and one states that if there are not the proper egresses, you cannot sleep below grade. There must be certain size windows and doors and if it will be used as a sleeping area there must be permits issued by the Building Dept. Commissioner Wood stated that is a Building Code issue and Officer Uhlman indicated he understands that but when a liquor license is issued, it states you must follow all laws and regulations. Commissioner Wood stated the ABCC Rule applies to where the liquor is served and Officer Uhlman stated the cellar is listed as storage on the license. Attorney Cassis stated there is a storage area described on the license but there are other parts of the cellar and he doesn't know how it is cited as a liquor violation. Officer Uhlman stated he was there the other day and it the area has been cleaned up.

A motion was then made by Chairman McDuffy that there was no violation. The motion was seconded by Commissioner Wood. All members voting in the affirmative, the motion carried.

Chairman McDuffy then stated that with regard to the violation of Brockton License Commission Rule #22 on August 26, 2012, the Commission's Regulations need to be reviewed and updated. He stated it should not have happened because it is a rule but he suggested that no action be taken with regard to this.

Attorney Cassis stated that the air conditioner had broken that day.

It was reviewed that Mr. Angelo has been found in violation of the same Rule 22 charge which occurred in August of 2010. Officer Uhlman stated he has been there on a number of occasions and spoken with the bartender on duty, to Joe and to Al McCarthy and told them to close the door.

Commissioner Kenney stated it is a small issue but it did occur. Commissioner Wood suggested it could be filed and not come to any finding.

A motion was made by Commissioner Wood to file the charge. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

Attorney Cassis stated that he knows from the history that the hours were rolled back for a year and the year was up June 16, 2012 but that the application didn't make the agenda at that time and this incident happened after. He stated that rollbacks are the wrong thing to do and that the hours can be rolled back almost with impunity. He stated the appropriate thing to do with a violation of the law is to suspend the license for a period of time. He indicated a roll back is appropriate when everyone is pouring out into the street at 2 a.m. and causing problems at closing time. If an event occurs at 10 p.m., it has nothing to do with the closing hour. Even if the incident happened at 1:00 a.m., he stated he would argue that it was an isolated incident and the place was not out of control. He stated it is his opinion that rollbacks go to the lack of ability to control the closing hour in a way that doesn't cause massive disruption. He indicated roll backs should be specifically designed to prevent abuse of the closing hour and not every type of violation. Attorney Cassis stated that with Mr. Angelo's record and with this violation, a one day closing would be appropriate.

A motion was made by Commissioner Kenney to suspend the license for three days, on a Thursday, Friday and Saturday. The motion was seconded by Chairman McDuffy. All members voting in the affirmative, the motion carried.

14. Hearing on the following requests from RJA Corporation dba Joe Angelo's Café – 216 Main and 11 Crescent Streets:
  - (a) To alter the description of the licensed premise so that the combined Capacity of Mulligan's Function Room and Joe Angelo's Café be established at 184 occupants for dining with tables and chairs and 396 occupants with tables and chairs removed from the dining area for functions.

Chairman McDuffy reviewed that the occupancy is currently at 184 but the Building Certificate states 396. The Adm. Asst. stated they are stipulated by the License Commission in accordance with the plan that was filed at the time of their application.

Mr. Angelo indicated there might be three big fundraisers a year when he has to remove the tables. He stated there will never be another First Friday and he indicated he has learned his lesson. The Chairman advised him that if he goes just a small amount over the 184 and doesn't remove all the tables, he will be in violation. The tables will have to be removed from the area and stored somewhere safe where no one will get hurt.

Officer Uhlman stated that he and Lieut. Williams had conducted an inspection and they told Attorneys Pavlos and Cassis who were both present at the time speaking with Mr. Angelo that they found no problems. They also told Mr. Angelo that if he goes over 184, all the tables and chairs with the exception of the bar stools must be removed. He then reviewed the numbers allowed on the Occupancy Permit which states, Joe Angelo's with tables – 51 people and without tables – 110; Mulligan's with tables is 133 and without tables is 286. Officer Uhlman stated that all the tables must be removed to where he has shown them upstairs if the number goes over 184.

Chairman McDuffy asked if there is still a police detail on duty on Friday and Saturday and Mr. Angelo stated they haven't needed one. Officer Uhlman stated they are up to date on the crowd manager and he must stay up to date with the book. He stated a police officer is not required unless the Commission mandates it.

Commissioner Kenney stated she feels there should be something in the wording that the increase in capacity can only be allowed for special functions and not during regular business hours. She stated that if she is going to approve this she would want that wording added.

Commissioner Wood asked if that language is put in, how would they define "special night" and if it is only when the tables are being move out, this would be a meaningless provision. Chairman McDuffy asked if he should be required to notify the Commission and Officer Uhlman stated that this would put the burden on the Commission if he forgets. Commissioner Wood stated he is not suggesting there be a notification, he is just saying that he has a 184 Occupancy Level unless it is a "Special Night" and "Special Night" should be defined as any time there is more than 184.

Officer Uhlman stated that Lieut. Williams had sent a letter to Attorney Pavlos and suggested that the combined capacity be no greater than 184 occupants consisting of Mulligans Function Room (133) and Joe Angelo's Café (51) when tables are present. The combined capacity shall be no greater than 396 occupants consisting of Mulligan's Function Room (286) and Joe Angelo's (110) when all tables are removed. He stated this is the language that should be on his license.

Mr. Angelo stated if there is a large function, he will have detail officers.

In response to Commissioner Wood, Lieut. Bonanca stated that they cannot require any police officer to work a bar and in the past, there has been a problem in filling some of the details. It is his understanding that historically, Joe Angelo's has had the same officer working the detail.

A motion was made by Commissioner Wood to approve the increase in occupancy according to the language suggested by Lieut. Williams and on the Certificate of Occupancy. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

- (b) To extend the closing hour to 2:00 a.m. on Thursdays, Fridays, Saturdays and eves of legal holidays (Hours rolled back to 1:00 a.m. after hearing on April 27, 2011);
- (c) To extend the hours of the Entertainment license to 1:30 a.m. for live entertainment and to 1:45 a.m. for television and recorded music on Thursdays, Fridays, Saturdays and eves of legal holidays.

Attorney Cassis requested to speak briefly on this matter and it was reviewed that the hours were rolled back and after a hearing in June, 2011, it was voted that a request for an extension could not be submitted for one year. He indicated it was his assumption that if nothing happened within the year, he could reapply and get the hour restored. Nothing had happened for a year and before this request could be heard, the violation that was heard this evening came in.

The Adm. Asst. reviewed that Mr. Angelo had been before the Commission at a hearing in April on charges of gambling, illegal poker machines, allowing smoking and failure to have a manger. It was Commissioner Kenney's recollection that Mr. Angelo's attorney had requested a postponement and there were a couple of instances where notification was not proper.

Lieut. Bonanca stated that this incident occurred on June 29<sup>th</sup> and this application was scheduled to go before the board in July but had been postponed until the hearing on the violation was held. He stated he reviewed the calls and in response to Commissioner Wood's comments earlier, he has subtracted the code enforcement calls and check property calls. From 7/23/10 to 7/23/11, there were 26 incidents which consisted of assault and batteries, assault and battery investigations, disturbances and other disturbances. He indicated the Commission knows the Police Department standpoint on 2:00 a.m. They have a responsibility to the 90,000 residents of the City and as a representative of the police department, he finds the management practices disturbing, hence the violation that occurred. The police must rely on responsible citizens to assist them and they must certainly rely on responsible businesses. He reviewed that the Commission heard tonight that according to Mr. Angelo, there was a patron behind the bar running the bar. He stated these are the types of management practices that are going to affect what happens to the City and what happens at this establishment, whether it is on July 4<sup>th</sup> in the morning or July 4<sup>th</sup> at night. He questioned whether the management practices of this establishment have really changed in light of the violation heard this evening and the ones heard in the past.

Commissioner Wood stated his overall concern is to say that because there are less calls, it is working or maybe it caused the business to go down to such degree that there were less people in

there. He indicated he agrees with Lieut. Bonanca's report about management practices and it seems that in the past the hours were rolled back for just the type of event which resulted in the three day suspension this evening.

Chairman McDuffy stated he is against the extension to 2:00 a.m. He acknowledged that there have been some improvement but there are still things going on that shouldn't be.

A motion was made by Commissioner Kenney to deny the request. The motion was seconded by Chairman McDuffy.

Commissioner Wood wondered if there was some kind of safeguard that could be put into place that would make the police more comfortable with an extension of the hours to 2 a.m. He indicates he understands there are problems with details because they cannot be guaranteed. He stated he knows that there was an incident when Officer Hallisey was the detail and although he was unable to stop the incident, he was right on top of it and the police were called immediately. He asked Lieut. Bonanca if a detail would make police more comfortable.

Lieut. Bonanca stated that with the fact that they can't always fill the detail, he cannot guarantee that Mr. Angelo would have a police officer each week and is unsure if that would be the answer to that issue.

Mr. Angelo indicated that Officer Hallisey has told him he would definitely be interested in doing the detail again. Attorney Cassis asked if they could try one night with a detail to see how it goes.

A vote was then taken and with Commissioners McDuffy, Sullivan, Kenney and Holbrook voting in the affirmative and Commissioner Wood opposed, the motion to deny carried 4 to 1.

Chairman McDuffy stated the denial would also go along with the Entertainment license.

#### 15. Communications

There were no communications on file to review.

#### 16. Any other business to properly come before the Commission.

##### (a) Review survey of filing fees for 2013 applications

It was reviewed that the current filing fee on license applications is \$25 and with the seven communities surveyed, the average not including Brockton is \$128.

Commissioner Kenney stated she was surprised that Brockton is so low and proposed to increase the filing fee to \$100 for non residents and \$75 for Brockton residents to encourage more people who live in the City to have businesses here. It was Commissioner Wood's opinion that you cannot make a distinction based on being a resident. He indicated the value of a license depends on the amount of revenue you can expect to generate on having a license. It is his opinion that

\$100 might be high. It was reviewed that there has been no increase in the filing fee since it was first established.

After a brief discussion, a motion was made by Commissioner Sullivan to increase the amount to \$75. The motion was seconded by Commissioner Kenney. With Commissioners McDuffy, Sullivan and Kenney voting in the affirmative and Commissioners Wood and Holbrook voting opposed, the motion carried.

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 motion carried.

The Commission's next meeting is scheduled on November 15, 2012.

**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**

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**Catherine B. Holbrook, Alternate Commissioner**