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The License Commission held its regular monthly meeting at 6:00 p.m. on Wednesday, January 18, 2012 in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy, Commissioners Joseph P. Kelley, Paul D. Sullivan, Bruce G. Dansby, Joshua J. Wood and Alternate Kathy Kenney. Also present were Asst. City Solicitor Kate Feodoroff, License Agent Capt. Emanuel Gomes and Adm. Asst. Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of December 14, 2011.

A motion was made by Commissioner Sullivan to approve the minutes of the meeting of December 14, 2011. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of February 2012: Capt. Emanuel Gomes; Lieuts. Thomas LaFratta and Paul Bonanca; Sgts Frank Vardaro and Kenneth Lofstrom; Dets. Michael Schaaf, John Lonergan, James Smith and Ernest Bell; and Officer Scott Uhlman.

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

3. Requests for Special One-day Permits:

There were no applications for Special One-day permits.

Before proceeding on the regular agenda items, Chairman McDuffy announced that this is Commissioner Kelley's last meeting as a member of the License Commission. He thanked Joe for the many years he has been involved with City activities and for the past eight years as being a member of the License Commission. Chairman McDuffy expressed both the Commission's and the City's appreciation for everything he has done. He then presented him with a Certificate of Appreciation in recognition of his eight years of dedicated service as a member of the License Commission.

4. Hearing on the request from DBI Stores LLC dba Dunkin Donuts for a Common Victualer license at 1280 Belmont Street.

Present were James Vincenzi, 45 Grabeau Drive and Mathew Tenore, 24 School Street, South Easton.

Mr. Vincenzi stated that they had taken over the sight on May 22, 2011 and were unaware that they had to renew the license under new ownership. The operation had gone from a franchisee to a corporate location.

The Adm. Asst. stated this was brought to our attention when Mr. Tenore came in to renew the common victualer license but could not file as the license had never been transferred and was still issued under the previous owner.

Officer Uhlman stated he inspected the location that morning and spoke with the manager on duty, Amanda Francis. DBI Stores LLC have been the new owners since March, 2011 but there is no new Common Victualer. Officer Uhlman state he gave some recommendations on fire extinguishers and Lieut. Williams has informed them that a full inspection will have to be done prior to a license being issued. Officer Uhlman stated they have not had a Common Victualer license since they took over last year and he advised the manager that until they are licensed, there is to be no seating on the premise.

Mr. Tenore stated they have taken care of the fire extinguishers and have put in requests for the inspections.

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

5. Hearing on the following requests from RJA Corporation dba Joe Angelo's Café – 216 Main and 11 Crescent Streets:

   (a) To alter the licensed premises by eliminating the tables from the dining areas, nightly, from 9:00 p.m. to closing.

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

   (b) To restore the time at which no patrons are allowed entrance to 1:00 a.m. (Current restriction implemented after hearings on April 27, 2011, requires that no patrons be allowed in after 12:00 midnight.)

Chairman McDuffy stated that item (a) has been postponed.

Present were Attorney John Pavlos, 120 Torrey Street. Also present was Joseph Angelo, 30 Arborview Terrace, West Bridgewater.

Attorney Pavlos explained that the request to alter the premise is being postpone because the abutters were not notified as required. They anticipate they will be at the next meeting on that matter. He then read from the minutes of the meeting of June, 2011 pertaining to the restriction of not allowing anyone in after midnight. The minutes indicated that 'it was agreed that if there are no further problems, the licensee may petition the Commission in six months to request to amend the stipulation which prohibits patrons from being allowed into the establishment after 12:00 midnight."

Attorney Pavlos reviewed that Mr. Angelo has had a business in the City of Brockton for 20 years and until last spring he had essentially no violations. Since then, the patrons have not been allowed to enter after 12:00 midnight and this has crushed the business. Attorney Pavlos stated Mr. Angelo will tell them that there have been layoffs and his income is no longer coming from the bar. He and his wife are borrowing from all kinds of personal funds in order to continue to try and maintain the business until the license and the times are restored. For right now it is difficult and would be impossible to continue if he had no reserves. He then asked Mr. Angelo to describe some of the business challenges he has been faced with.

Mr. Angelo stated he has had to lay off 13 people since the hours were rolled back. The revenue has been cut in half. He has taken $120,000 from their IRA account in order to keep things going. He stated they think that by getting back on a regular 1:00 a.m. closing, it will help turn things around. He stated they have had no problems in the last six months and basically, they have had no customers. The roll back was devastating to their business. Mr. Angelo stated that prior to the roll back, they would do approximately $6,000 in business on a regular Saturday night. Last Saturday night, they took in $46. Attorney Pavlos stated that at one time, there were four or five bartenders on a weekend night and now there is only one.

Attorney Pavlos stated that in order to be up front, Mr. Angelo did not agree with the guilty findings in the April decision and that is being challenged in Superior Court.

Chairman McDuffy stated it does not make sense to close at 1 a.m. and to allow people in up until 1:00 a.m. so that time will have to be changed. He stated it is unfortunate what has happened to his business but he is glad to see that things have improved. He indicated that he feels everyone deserves another chance and maybe if things continue to get better, it might happen in the future. Chairman McDuffy stated to Mr. Angelo that he still does not have a manager and Mr. Angelo stated he is the manager. The Adm. Asst. stated the appointment of Mr. Angelo as the manager was disapproved by the ABCC back in July. Mr. Angelo was notified of this and has done nothing to address the problem. Mr. Angelo stated Buddy Simmons is still there every morning.

Officer Uhlman stated he went to Joe Angelo's today at 2:16 p.m. He asked the bartender on duty if the manager, Carl Simmons, was there and she told him she did not know who Carl Simmons was. He then inspected the licenses and the Alcohol, Common Victualer, Entertainment and Automatic Amusement Devices that were on display were all expired. There was no license for the cigarette machine. In the front room he found four unlicensed video machines with people drinking and smoking and playing the machines. Officer Uhlman stated he took photos and will be doing a formal complaint on the video poker games. They have given Mr. Angelo 48 hours to remove the games.

Attorney Pavlos stated the front room is a storage room and it should not be accessed. It is not authorized and no one is playing for money. Mr. Angelo stated the machines are licensed. Attorney Pavlos agreed they are licensed but will be removed within 48 hours. Mr. Angelo stated he does not allow smoking in his establishment.

Commissioner Kelley asked if they were playing the games for the entertainment value and Mr. Angelo stated yes.

Capt. Gomes stated that due to the timing of the inspection, a full report will follow.

In response to questions, Mr. Angelo stated his daughter had put the wrong licenses up. They did renew all of their licenses and have current licenses.

Commissioner Kenney asked Mr. Angelo if he is attributing the difference from $6,000 to $46 all to one hour. She asked how many drinks they sell in that one hour. Mr. Angelo stated the people don't come at all because no one can get in after midnight. He stated if he can allow people in up until 12:30, they will come and stay until closing.

Commissioner Dansby stated he has some concerns and it seems there is a pattern with issues arising but Mr. Angelo is just giving lip service and excuses. He stated that the police department has to do their job and he is getting frustrated with all of the excuses. Commissioner Dansby indicated he would assume that Mr. Angelo would be on top of his business at this point. Mr. Angelo stated he is on top of his business. Commissioner Dansby stated that what is being presented is that people are smoking, the licenses weren't posted, and there are unlicensed games. He asked Mr. Angelo if he is serious about getting his things in order or just playing games with the Commission.

Mr. Angelo stated he wants to do some business and support his family and employees. He stated if not hanging up the right licenses is a serious issue, he apologizes. As far as the machines, they are all licensed and will be gone tonight. He stated he is very serious about his business and spends 18 hours a day there. Attorney Pavlos stated the room where they were smoking is not in either one of the main restaurant/bar areas. There is a hallway that goes to the bathrooms and then there is a door that goes to the storage area and this is where it was happening. It is a storage room and the public is not allowed access. It is an undeveloped part of the establishment.

In response to questions from Commissioner Kelley, Mr. Angelo stated he is licensed for five coin-operated machines. He has five in there, four out back and one out front. He then asked Officer Uhlman what he had found and Officer Uhlman stated there was one game in the front bar, one in the back bar. He stated there were six or seven machines. Commissioner Kelley stated he does not buy the thing about the games out back and he doubts that Mr. Angelo is being honest with the board. Commissioner Kelley indicated he would not want to do anything on this until after the hearing is held.

Commissioner Wood stated that it seems if they defer making a decision it will essentially put him out of business. He indicated he feels they owe it to him to make a decision one way or the other. He stated there may well be that there are violations but they do not have a full report before them. As it relates to the issues regarding safety which were brought up before, it seems that those problems have stopped. He stated he feels they must keep in perspective what the nature of the violations were as compared to the new matters being brought up tonight. Commissioner Kelley stated he feels it is a pattern of bad behavior that is not being addressed

but at the very least, to give him a 1:00 a.m. is off the board. Realistically, 12:30 would be the best they could do and Mr. Angelo stated 12:30 would be fine with him.

Chairman McDuffy brought up the manager issue again and stated if he had a manager that the employees knew, some of the issues that arise could be eliminated. He stated that someone needs to be responsible for their employees' mistakes. Chairman McDuffy stated that if his employees have never met the manager then that person is not doing a very good job. He advised him that they need to have someone appointed who will do the job right.

A motion was made by Commissioner Kelley to amend the stipulation to read that "no patrons be allowed in after 12:30 a.m." The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

6. Hearing on the following requests from CSMR Corporation dba The Spot:

(a) An All Alcoholic Restaurant license at 133 North Main Street;
(b) To appoint Chenet Sam as the manager;
(c) For a 2:00 a.m. closing hour on Thursdays thru Saturdays and eves of legal holidays;
(d) An Entertainment license for Orch. (4) pieces, Vocalists, Dancing by Patrons, Disc jockey and Jukebox on Sunday from 6:00 p.m. to 8:00 p.m. and on Thursday through Saturday from 10:00 p.m. to 1:00 a.m. and TV, Radio/Stereo (no hours specified on application)

Present were Attorney John Creedon, 71 Legion Parkway, Chenet Sam, 1156 Adams Street, Dorchester.

Attorney Creedon reviewed that in November 2010, they were before the Commission on a transfer of the existing license from Carlos Lima. The transfer was approved and was forwarded to the ABCC but was disapproved some time later due to outstanding taxes owed by the previous licensee. Attorney Creedon stated that he along with others attempted to get the State to allow them to pay some taxes in order to get this taken care of but that was also rejected. Mr. Lima owed Mr. Sam $73,000 in outstanding rent. The license in Mr. Lima's name expired at the end of 2011 and Mr. Sam is now applying as owner and manager of the bar along with Manny Ramos who is a 50 percent owner in the corporation applying for the license. Mr. Sam's wife will also be a director.

Attorney Creedon stated that Mr. Sam knows the business and will always be available. Historically, because of the small size of bar, there have been no violations for years. There is seating for 27 and the total occupancy is 87. Mr. Sam has applied to the City for a façade improvement grant and has been accepted. There is currently a disability act challenge with regard to an entrance ramp. Attorney Creedon indicated he anticipates this will be resolved sometime soon. He asked the board for the original hours of 2:00 a.m.

Attorney Creedon then stated that his clients have taken over the business itself by Court Agreement and he stated he has a copy of the Agreement. They have been trying to contact Mr. Lima for months and months.

Chairman McDuffy asked if changes had been made to the interior that could affect the occupancy. Attorney Creedon stated there is a small dance floor and a 14 stool bar. He indicated there is very little food, mainly for the help. The Adm. Asst. stated they are applying for a restaurant license and are required to serve food. Attorney Creedon stated they will serve food if they have to.

Commissioner Kelley then asked about Mr. Ramos who is a partner in this entity and recalled that there were problems at the location when he owned it as CV Island and Starz. He reviewed the history of the CV Islands license which included a roll back of the hours and a suspension of the license in 2006 for allowing a disorder, disturbance and a violation of hindering or delaying an investigator. Mr. Manny Ramos, 97 Oak Street, came forward and stated that he owned the business a long time ago and there had been fights at the location. Mr. Ramos indicated he had someone else managing the place for him.

Commissioner Kelley then asked if there is any input from the police.

Officer Uhlman stated he could not make an inspection of the interior where the business is not open. A log had been reviewed but there hadn't been anything major. He does have a problem with them providing power to 159 North Main Street which is the location of a revoked car dealer license. There are extension cords going out the back door. In addition, there are apartments above the bar. He stated he will review the logs when a full inspection can be conducted. Mr. Ramos stated that they have removed the power to Mr. Belcher. Officer Uhlman indicated that as of three days ago, there was a blue extension cord hooked up out the back door. Mr. Ramos stated he tried to help him but has told him not to use it anymore.

Mr. Sam stated he has been the owner of the building since 2004 and a lot of his initiative to take on the license and to run the business is to have more control of the premise. He had entered into an agreement with Mr. Lima with a lease option to buy which went belly up. It has been difficult to sustain the building but he has turned it around from the residences upstairs to the patrons going in. He stated he is not a flim flam type of person and appreciates what he has been able to transform since purchasing the building. He stated that being approved for the façade program was a huge accomplishment for him and he has been interfacing with the State, the Mayor's staff and the BRA people and he sees good things to come. Mr. Sam stated he will bring a level of constancy to this business.

Commissioner Kelley then commented that this is a new license and it has been the habit of the board not to give out 2:00 a.m. licenses before there is an operating history. Attorney Creedon stated this has always been a 2:00 a.m. license. Ms. Tucker stated that the prior licensee had a 1:00 a.m. closing. Commissioner Kelley stated there is a partner who had violations so he would like to see some historical evidence of good behavior.

Commissioner Kenney expressed concern over the fact that the tenants living above the bar might have issues with a 2:00 a.m.

The Adm. Asst. asked for a clarification of the Entertainment license. Attorney Creedon stated he would like to amend the hours on Thursday through Saturday to 9:00 p.m. to 1:00 a.m. Commissioner Kelley indicated the 1:00 a.m. would have be adjusted and he also asked about the Sunday hours.

A motion was then made by Commissioner Wood to approve the All Alcoholic Restaurant license. The motion was seconded by Commissioner Kelley. All members voting in the affirmative, the motion carried.

A second motion was made by Commissioner Wood to approve Chenet Sam as the manager. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

A third motion as made by Commissioner Kelley to approve an amended closing hour of 1:00 a.m., seven days. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

Prior to the Commission voting on the Entertainment license, Attorney Creedon requested to amend the hours on Sunday to 5:00 p.m. to 10:00 p.m. Commissioner Kelley indicated the ending hour on the other days would have to be adjusted to end at 12:30 a.m. It was then agreed that the hours on the television would be from opening which is noon on Sunday and at 11:00 a.m. all other days to 12:30 a.m.

A motion was made by Commissioner Wood to approve the Entertainment license with amended hours which motion was seconded by Commissioner Kelley. All members voting in the affirmative, the motion carried.

The Adm. Asst. then stated that the request for an Automatic Amusement Device was inadvertently omitted from the agenda, however, they had advertised and notified the abutters as required by ordinance. They are requesting coin-operated pool table, soccer table and two video games.

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

Chairman McDuffy stated those are the types of things that can cut into the capacity and they indicated this would be checked. Inspections from the departments will also have to be provided before any licenses are issued.

7. Hearing (postponed from meetings of November 17, 2011 and December 14, 2011) on the charges brought by the local police against Max's Hideout, Inc. – Michael Asack, Manager, 68 Field Street, of an alleged violation of **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.", reported on September 16, 2011.

Appearing was Attorney David Asack, 95 West Elm Street and his client, Louis Asack, 68 Field Street.

The following persons were then sworn in by Attorney Feodoroff:

Louis Asack
Officer Shawn Baker, Brockton Police
Daniel Payne, 955 Centre Street

The first witness called by Attorney Feodoroff was Officer Shawn Baker who stated that on September 16, 2011, at approximately12:30 a.m., he was dispatched to Max's Blues Café at 68 Field Street for an Assault and Battery investigation. The dispatcher told him that a party was assaulted with a bat. When he arrived, the door was locked and the location was closed. There was no one around outside and the lights were turned down low inside. Officer Baker stated he knocked on the door and a female bartender answered and let him. She then walked back behind the bar. He saw two males inside who he thought might have been cleaning. He asked the bartender who had been hit with a bat and the bartender stated there was no fight and nothing had happened. One of the males also stated that nothing had happened. Officer Baker then left the bar and walked around outside to look for any signs of an assault but found nothing.

Officer Baker stated he then called dispatch and they informed him that the party had called in and was at the Brockton Hospital and wanted to file a complaint. He went to the Brockton Hospital and interviewed Daniel Payne. His observations of Mr. Payne were that his eyes were swollen shut, his nose was on the side of his face, his mouth and face were completely covered with dried blood and he had a bandage around his head due to some type of laceration. Mr. Payne told him that he had been at Max's and was outside on the handicapped ramp near the entrance door. He had gotten in an argument with another male and some pushing and shoving took place. He was then blindsided by three punches to his face. He tried to get back into Max's but they would not let him back in. Someone handed him a towel to try and stop the bleeding. Mr. Payne identified the assailant as being Steven Dunn.

Officer Baker continued and stated the Mr. Payne told him he had gotten through work and stopped in Max's for a drink. He hadn't been there that long. After interviewing Mr. Payne, Officer Baker stated he requested BCI to come to the hospital for pictures because he was going to be taken from Brockton Hospital to a Boston Hospital for further treatment. When they went back to Max's, they found wet spots on the ramp where it looked like they had tried to wash the blood away, however, they did find a few droplets of blood that had not been washed off. Officer Baker stated the D.A. has begun the process of prosecuting this case.

On cross examination by Attorney Asack, Officer Baker stated when he initially went to the location to investigate, there was nothing that caught his attention.

Attorney Feodoroff called as her next witness, Daniel Payne who stated he lives at 955 Centre Street. On September 16, 2011, he had gone to Max's Blue's Café at approximately 9:45 p.m. While he was inside the bar, he encountered Steven Dunn and Robert Smith. Robert Smith had hit him with a pool stick and he had bitten Smith on the finger to get the pool stick off his neck. He took the pool stick and told them he didn't want any more trouble and it was agreed that they were done. Both Smith and Dunn had left the building. Mr. Payne stated this was at approximately 10:25 p.m. He spent another ten minutes inside and then left the bar. As he was walking outside, Robert Smith started pushing him and as he was turning around, Steven Dunn came up and blindsided him. Daniel stated it all happened very quickly. He thought he was hit with a bat or something sharp because the whole side of his face was cracked open. He stated he doesn't remember much right after that but then he woke up, a couple people helped him up. As he was trying to gather himself up, he went to the door and all the lights were off. Someone from inside the bar opened the door, handed him a towel and told him to get out of there. They did not assist him any further. Mr. Payne stated he then crawled to his truck and drove himself to the hospital. He said he was not intoxicated.

On cross examination by Attorney Asack, Mr. Payne stated that when he got to the hospital, he called the police. He didn't mention the pool stick incident to Officer Baker. When he left the bar, it was still open for business. He stated there was one bartender on duty. There are two glass panels and a glass door leading out to the ramp. In his opinion, it shouldn't be that difficult to see to the ramp from the bar. Due to his injuries, he is not clear on everything that happened after he was punched. He did not call the police or an ambulance from Max's because he was fearful and wanted to get out of there. He stated he called a friend and left a message on his phone saying he was driving himself to the hospital.

In response to questions from Attorney Feodoroff, Mr. Payne stated he was on his hands and knees when he banged on the door. The person who answered the door handed him the towel low to the ground.

In response to questions from Chairman McDuffy, Mr. Payne stated that as far as he knows, the bartender was the only employee on that evening. It was a guy who had handed him the towel. Officer Baker stated that when he went in, there was a female bartender and two male parties who appeared to be cleaning up.

In response to questions from Commissioner Sullivan, Mr. Payne stated criminal charges were filed against Steven Dunn. He stated he received a Defendant notice in the mail stating he assaulted him with a pool stick but that was dismissed. There is a court case pending. Attorney Feodoroff explained that the allegations before the board are that the bar didn't respond appropriately to an incident that they should have responded to and called the police.

Commissioner Wood asked if the allegation is that the bar allowed a disturbance because of the event with the pool stick that occurred inside or for the altercation that happened outside. Attorney Feodoroff indicated she thinks it is a continuing event in that there is a fight in the bar and no police are called and then there is the altercation that occurred outside. She advised the Commission that they can make their own determination as to whether or not they were aware there was a fight going on.

In response to questions from Commissioner Kenney, it was determined that this occurred on a Thursday night and they have a 1:00 a.m. closing. At 10:30 p.m., they were still open for business.

In response to questions from Commissioner Kelley, Attorney Asack stated that no one in the establishment was aware of the fight inside. He stated that it was Mr. Payne's testimony that he never told anyone in the establishment, including the bartender, about the pool stick incident. Attorney Asack stated the bartender never knew there was a fight inside and he was not aware of this and questioned why they were being called in on a violation. Attorney Feodoroff stated that there is an argument that there is a bloody and injured person outside who is not allowed inside for help nor are the police or ambulance called.

In response to a questions from Chairman McDuffy, Mr. Payne stated it was a guy who opened the door and he heard him say, "wow, you really walloped him this time" and then said to him, "get out of here."

Attorney Asack indicated he does not know who this guy is and would have had to report it to the owner or manager if it was the employee. He stated they are being charged with ABCC Rule 2.05(2) – permitting an incident. He stated it is not failing to report an incident. He stated permitting means you are watching it and didn't take some action to stop it. Attorney Asack stated he is not clear as to who threw a towel at him but the bartender was not aware of anything. He stated the evidence is not clear.

Commissioner McDuffy asked Mr. Asack if he was notified of the incident. Mr. Asack stated he had been notified at 12:30 a.m. but didn't get his messages until 4:30 a.m. and at 4:45 a.m., he had called Officer Baker. The bartender had notified him that Officer Baker had been in and said there was a fight with a baseball bat outside and she had no knowledge of it and he should call Officer Baker. Officer Baker also had called him. Attorney Asack stated that information was erroneous as there had been no fight with a baseball bat.

Commissioner Wood asked why the bar was closed at 10:30. Officer Baker then stated that September 16th was Saturday morning and the incident was on a Friday night. Attorney Asack indicated that the door wasn't locked and he asked Mr. Asack to explain the procedure to lock the door which he described and stated it requires a key.

Mr. Asack described his establishment as being a square room with a long bar across the back wall that has a pool room which is an indented open room and bathrooms are on the other side. It is a wide open room with a stage. The pool room is visible from the bar. The bartender, Shannon, no longer works for him. The door Mr. Payne referred to as being a glass door is actually a steel door with two side lights. Mr. Asack stated this is the first he is hearing about any incident inside the bar. He stated he is a good friend of Mr. Payne's stepbrother who is the person he had called on the way to the hospital. Mr. Asack stated he told his stepbrother that he knew there was an incident that happened outside the bar and he was going to help him as much as he can with the insurance. He stated that what happened was outside and that no one returned into the bar. Mr. Payne had not received a towel from the bar. It was a person who gave him his

shirt outside and helped him. He stated Mr. Payne was so dazed and confused that they had put him down on the ground to sit because he couldn't even walk. He stated when he heard about the incident, he was very upset because he does not know Daniel very well but he has been a friend of his step brother for thirty years. He stated he helped Officer Baker with all of the information he had.

Officer Baker stated he works the 12 midnight to 8:00 a.m. shift in the area of Max's and has never had a problem there before. Officer Baker stated the call had come in at 11:39 and by the time he received the call it was Friday morning at 12:30 a.m. Mr. Payne had called police and a nurse from the hospital had also called.

In response to questions, Mr. Asack stated that on Friday nights there is always a bartender, floor person and himself. On Thursday nights, there is a bartender and there is no entertainment. He usually closes at 11:30 or 12:00. That is why it was closed when Officer Baker came by. On the evening of the incident, there was only a bartender on duty and no manager. The reason the bartender no longer works for him has nothing to do with this incident.

Chairman McDuffy reminded Mr. Asack that if an employee is aware of an incident it should always be reported. He acknowledged that it is up in the air whether the bartender knew this happened. Mr. Asack stated it is a standard procedure that if they have knowledge of any type of situation, they are to call the police immediately and he keeps the police department number posted behind the bar.

In his closing remarks, Attorney Asack stated it is unclear as to whether or not anyone knew about the incident but they did not fail to stop something that was ongoing.

Attorney Feodoroff indicated the reality is that there is some evidence before the board that an altercation occurred within the bar because Mr. Payne was charged with a crime which was subsequently dismissed because he was the victim. She stated it is questionable if the bartender saw this happen.

A motion was made by Commissioner Wood to find no violation. He stated his reason is that he does not believe it has been proven that they permitted a disturbance. The motion was seconded by Commissioner Kelley. All members voting in the affirmative, the motion carried.

8. Hearing on the charge brought by the local police against Emysafari Dance Club Corp. – Christian Ekechukwu, Manager 22-26 Perkins Avenue, of an alleged violation of Brockton License Commission Rule 8(b)(1) (General On-Premise licenses) pertaining to Holders of Licenses with a 2:00 a.m. closing hour, to wit: "No patrons are allowed admittance after 1:00 a.m. Any patron leaving the establishment, not to include patrons going outside to smoke, is not allowed to re-enter after 1:00 a.m." "A violation . . . will result in an automatic one hour rollback of the closing hour as well as any other sanction(s) deemed appropriate.", observed on November 20, 2011, at 1:09 a.m.

Present were Christian Ekechukwu, 24 Flintlocke Road, Randolph.

The following persons were then sworn by Attorney Feodoroff:

Paul Larke, 85 Howard Street, P.O. Box 12, So. Easton
Christian Ekechukwu
Lieut. Paul Bonanca, Brockton Police
Det. Nazaire Paul, Brockton Police

The first witness called by Attorney Feodoroff was Lieut. Bonanca who stated that on November 20, 2011, he and Det. Paul arrived at Emysafari at 1:05 a.m. He observed several individuals hanging out in the parking lot at the time. At 1:09 a.m., he observed a male and a female walking hand in hand from the parking lot. He observed the male try the door and someone from inside unlocked the door and allowed both individuals inside. Lieut. Bonanca stated he verified the time on his Nextel phone. After making this observation, he and Det. Paul went to the door and tried to open it but it was locked. They knocked on the door and Mr. Ekechukwu came and opened the door to let them in. Lieut. Bonanca stated that he informed Mr. Ekechukwu that he had allowed two people into the establishment at 1:09. Mr. Ekechukwu looked at his watch and responded by pointing at the bar where there were between 10-12 people and said it was a slow business night. Lieut. Bonanca asked Mr. Ekechukwu if he was aware of the Rule that prohibits anyone from entering the bar after 1:00 a.m. and he said yes but it was slow. Lieut. Bonanca informed him that he would be reporting this to the License Commission as a violation.

Attorney Feodoroff then called on Det. Nazaire Paul who stated he was with Lieut. Bonanca at the time of this violation. He stated he had also checked his Nextel phone for the correct time. He overheard Mr. Ekechukwu tell Lieut. Bonanca that he was aware of the rule and had apologized.

Mr. Ekechukwu stated that it was not November 20th but it happened on a Friday. He stated that his doorman had been picked up by his girlfriend after 1 a.m. and had called him five minutes later to say he had forgotten his cell phone behind the bar and was coming back to get it. Mr. Ekechukwu stated when he came back, he unlocked the door with his key and walked in with his girlfriend who needed to use the ladies room. He got his phone and left. He then heard a bang on the door and saw a very bright flash light and the police were there informing him that he had let two people in and that it was 1:09 a.m. He told the officer it was someone who works there. He then stated that someone in the bar had made a comment to Det. Paul and he called for State police back-up. Mr. Ekechukwu didn't expect he would be written up. He stated he has a police detail every weekend. He said it took him six years to get his 2 a.m. license and he would not let anyone in after 1 a.m. Mr. Ekechukwu stated that he would sue anyone who made him go back to 1:00.

Attorney Feodoroff stated that he had just admitted that he let someone in after 1.

Mr. Larke then spoke and said he is an employee and was the one who had left at 1 a.m. and forgot his cell phone. He stated he went in and grabbed his phone. He saw the police and they know he works there because they had seen him there previously when they were in on another licensing matter. He stated that when he saw the officers, he was on his way back out of the

building. Det. Paul stated it was not Mr. Larke and a female that he had seen walking in at 1:09 a.m.

Attorney Feodoroff then asked Mr. Ekechukwu if he is saying that the officers are not testifying truthfully. Mr. Ekechukwu stated he did tell the officers that business was slow but he did not let anyone in after 1 a.m. He stated that no one opened the door to let the two people in. He said the only people that enter the building are people who have his keys. He stated there is a big sign on his door that says no one can enter after 1 a.m.

Chairman McDuffy stated that there seems to be a disagreement as to how the individual got in. He indicated that even if that is so, there was a female who also entered after 1 a.m. Mr. Ekechukwu stated that Mr. Larke has a key and entered himself.

Attorney Feodoroff then stated that no matter who it was, Mr. Ekechukwu could have handed the person their cell phone at the door. Even if it is an employee, another individual was allowed in. Attorney Feodoroff stated the evidence of a violation is overwhelming, their testimony has confirmed that someone was allowed in after 1:00 a.m. Mr. Ekechukwu admitted at the time that the purpose of letting the individuals in was because it was a slow night and this goes towards the motive of letting someone in. Attorney Feodoroff advised the board that the rule requires an automatic roll back.

Lieut. Bonanca corroborated what Det. Paul had testified to that Mr. Larke was not the individual they saw enter and it was another male and female who they had observed enter the establishment at 1:09 a.m.

Attorney Feodoroff then stated for the record, Mr. Ekechukwu had written a letter to her describing why he is not guilty and he has testified to most of the contents of the letter. She had the letter copied for each of the Commissioner's to review.

In response to questions from Commissioner Dansby, Mr. Larke stated he is an employee. The female he had entered with was a friend. She did not stay inside the bar. When he was leaving he noticed the police entering. Lieut. Bonanca stated that he saw two people enter the bar but did not see the two people leave. Mr. Ekechukwu stated he told Det. Paul that the person works for him.

In response to questions from Commissioner Kenney, Det. Paul stated that it was not Mr. Larke he'd seen entering and if it had been him, he would not have questioned it because he knows he works there. Det. Paul stated they had observed the person pull up, get out with a female, go up to the door and knock, the door was opened and he was allowed in.

In response to questions from Commissioner Wood, Lieut. Bonanca stated he is familiar with Mr. Larke but he is not the individual he saw exit the vehicle with the female. The individuals he observed that night were a black male and black female walking hand and hand to the front door. He stated they were not one of the 8-10 people in the bar but there is a back room where they could have been.

With no further information presented, a motion was made by Commissioner Kelley to find the licensee guilty. The motion was seconded by Commissioner Sullivan. With Commissioners Kelley, Sullivan, Wood and McDuffy voting in favor and Commissioner Dansby opposed, the motion carried.

With regard to a penalty, Commissioner Kelley stated that by the Commission's rules, it is an automatic roll back of the closing hour.

A motion was made by Commissioner Kelley to roll back the closing hour to 1:00 a.m. on Thursday, Friday, Saturday and eves of legal holidays and to also rollback the corresponding entertainment license to 12:30 a.m. The motion was seconded by Commissioner Sullivan. With Commissioners Kelley, Sullivan, Wood and McDuffy voting in the affirmative, and Commissioner Dansby opposed, the motion carried.

Mr. Ekechukwu was advised that Rule 8 will apply to his 1:00 license and that no one can be served after 1:00 a.m., all glasses and bottles must be off the tables and bar by 1:15 p.m. and everyone must be out by 1:30 a.m.

In reply to Mr. Ekechukwu, Commissioner Kelley suggested that Mr. Ekechukwu could re-apply to extend the hours to 2:00 a.m. after six months if there are no further violations.

9. Communications

Communications were reviewed which consisted of a list of non-renewed licenses which have been sent to Capt. Gomes for follow-up inspections.

A couple of letters from Mr. Fathi, the owner of the former Bay State Motors were distributed and will be placed on file.

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

At the end of the meeting Commissioner Kelley thanked the members and stated he has enjoyed serving with the board. Over the past couple of years there have been positive changes made. He thanked Attorney Feodoroff for her work with the board. He stated that the police have taken a major lead and changed the way we do business and, without politics aside, the board has really stepped up to support their initiative and a big change has been seen. He commended Lieut. Bonanca and Det. Paul for their efforts as well as commented on the fabulous job Officer Uhlman has done trying to enforce the codes of the City which lends itself hand in hand with everything the Commission tries to do.

Commissioner Kelley stated he has been on the Commission through three mayors and this is one of the better boards moving forward. He then congratulated Commissioner Kenney on being appointed as his replacement. Commissioner Kelley stated he has learned over the years that this is a Licensing Commission of one person and that the amount of work Bonnie does is insurmountable. He commented on the amount of work Officer Uhlman's code enforcement efforts put on her. He stated he has seen firsthand the way some of these guys come in and treat

and berate her. He indicated there is one alternate member who is always trying to sabotage the integrity of the board and called out Fred Fontaine as being that member. He urged the members to continue to give the police and Bonnie their full support and thanked everyone for their efforts.

Lieut. Bonanca also thanked Commissioner Kelley for his years of service and for his support to the police. He expressed his appreciation to the entire Commission as well as to Bonnie and Kate. He indicated that over the past year, they have seen a tremendous decrease in the amount of calls which is very well justified and he stated that he feels this License Commission has been more productive than any Commission in years. He stated they can see the difference on the street and it sends a message to the bars that violations will not be tolerated. They do not want to see businesses closed down but hope the problem places will change their ways. He stated that we don't need a business in Brockton that is going to bring in the kind of clientele that is going to be detrimental to the City.

Commissioner Kelley thanked Lieut. Bonanca and also thanked Capt. Gomes who had been called from the meeting.

A motion was made by Commissioner Kelley to adjourn the meeting which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

Respectfully submitted,

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Scott H. McDuffy
Chairman

APPROVED:

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Paul D. Sullivan, Commissioner

_____

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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Richard E. Bath, Alternate Commissioner