

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, February 21, 2013, in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy; Commissioners Paul D. Sullivan, Kathy A. Kenney, and Catherine B. Holbrook. Also present were License Agents Lieut. Paul Bonanca and Officer Scott Uhlman; Assistant City Solicitor Kate Feodoroff; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of January 17, 2013.

A motion was made by Commissioner Sullivan to approve the minutes of the aforesaid meeting which motion was seconded by Commissioner Holbrook. All members voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of March, 2013: 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 Kenney to approve the police officers as listed as license agents for the month of March, 2013. The motion was seconded by Commissioner Holbrook. All members present voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

- (a) **All Alcoholic Beverages** - Brockton Firefighters Local 144 – William Hill, Manager, for the Memorial Ceremony to be held at 80 Perkins Avenue, on Friday, March 8, 2013, from 12:00 noon to 8:00 p.m.

Present was James Young who stated this is being requested for the annual Strand Memorial breakfast which is held annually. The breakfast at the union hall starts at approximately 10:00 a.m. and will be over at about 2:00 p.m.

Paperwork being in order, a motion was made by Commissioner Sullivan to approve the permit which motion was seconded by Commissioner Kenney.

During discussion, Commissioner Kenney asked why they need the permit until 8 p.m. if the function only goes until about 2:00 p.m. Mr. Young indicated that once the breakfast winds down there will be some people who remain. The later hours were requested so they would not be in violation in case things went later.

With no further questions, the vote in favor was unanimous.

Chairman McDuffy then reviewed that the board had previously approved a permit for a meat raffle scheduled for February 9th which had to be cancelled due to the blizzard. They have asked to have the date of the permit changed to April 6, 2013 during the same hours which are 6:00 p.m. to 12:00 midnight. A letter so indicating has been submitted.

A motion was made by Commissioner Kenney to transfer the date of the permit from February 9th to April 6, 2013 which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

- (b) **Wine and Malt Beverages** – Temple Beth Emunah – Stuart Kirsch, Manager, for a Comedy Night and Auction to be held at 479 Torrey Street, on Saturday, March 16, 2013, from 8:00 p.m. to 11:00 a.m.

Present was Debbie Kirsch, 99 Fuller Street, Middleboro, who stated they have planned a Comedy Night and Auction and would like to sell beer and wine. They expect between 100-200 people to attend, mostly members but the event is open to the public. Tickets will be \$15 at the door and \$12 in advance. Snacks will be served. They do not anticipate the need for a police detail but will comply if the Commission requires one.

Lieut. Bonanca stated they have had similar functions in the past and to his knowledge, there have not been problems. It was agreed that no police detail will be required.

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

- (c) **Wine and Malt** - Tri-Parish – Brockton Catholic Churches – Deborah Hymon, Manager, for a St. Patrick’s Day Dance to be held at Trinity Catholic Academy (lower campus) 631 North Main Street, on Saturday, March 16, 2013, from 7:00 p.m. to 11:00 p.m.

Present was Mary Plourde, 145 Winter Street, who stated she was present on behalf of Deborah Hymon who was ill. Mrs. Plourde stated they are having a Tri-Parish St. Patrick’s Day dance on March 16th from 7:00 p.m. to 11:00 p.m. and would like to sell beer and wine. This will be their second annual St. Patrick’s Day function. Last year they were not required to have a police detail and there were no problems. They expect approximately 150-200 people to attend.

Lieut. Bonanca stated where there were no problems at last year’s event and no police detail will be required.

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

- 4. Hearing on the request from Ames Street Pub, LLC dba The Lit – 128-132 Ames Street, to appoint Gary Lawcewicz as the manager.

Present was Gary Lawcewicz, 23 Lawton Avenue, who is being appointed as the manager due to the death of his father.

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

5. Hearing on the following charges brought against Inaccio R. Tavares dba IRT Company- 1100 Montello Street, of the following alleged violations reported on January 24, 2013:
 - (a) Violation of the stipulation on the license which states, “NO MORE THAN 15 VEHICLES ON THE LOT.”
 - (b) Failure to display the State mandated “lemon law” stickers on the vehicles to indicate the vehicle is for sale.

Present was Inaccio R. Tavares, 16 Elmont Street, Dorchester.

After the Chairman read the charges, Attorney Feodoroff swore in the following persons:

Mr. Tavares
Officer Scott Uhlman

Attorney Feodoroff explained the hearing procedure for Mr. Tavares and then proceeded with direct examination of Officer Uhlman.

Officer Uhlman stated on January 24, 2013, he went to IRT Company at 1100 Montello Street. There appeared to be 25 cars on the property for sale and the license allows for 15. None of the cars had the State mandated lemon law sticker on them and there was nothing to indicate the cars were for sale. There is also a repair facility on the property and he observed that there were registered and unregistered vehicles on the property. Just prior to this evening’s meeting, Officer Uhlman stated he went to the location and there were still no lemon law stickers on the vehicles. The cars have been moved to allow for plowing but the lot is still a mess. There is a repair license as well as a car sale license for the location.

Officer Uhlman then reviewed the photos he had taken on January 24th depicting cars, both registered and unregistered, parked all over the lot and not in accordance with the plan on file. He stated that the lemon law stickers must be on every car being actively offered for sale. With no stickers on the vehicles, he can’t determine which cars are for sale. In addition, the lemon law sticker must be on a vehicle with a dealer plate, otherwise it is considered unregistered. There is a sign on the building which says IRT Company and a phone number along with Cape Verdean Oil. It does not mention car sales. Officer Uhlman stated he is not as concerned with sign as he is with the way the cars are parked. He indicated that the Registry clearly states that if there are two businesses on the same property, there must be some distinction between the vehicles.

He continued to review the pictures which show another car with no sticker and it still had the auction tag and the RMV inspection sticker which is against the Registry regulations. Officer Uhlman stated the individual who was there at the time did not speak English.

Mr. Tavares stated he agreed that Officer Uhlman was telling the truth and the cars were all over the place. He indicated the reason for this was that they were taking down the billboard so the cars had to be moved. The vehicles do not have the lemon law sticker on them because he only has vehicles with over 125,000 miles. In response to questions from Attorney Feodoroff, Mr.

Tavares stated he is exempt from placing the lemon law stickers on the vehicles because of the mileage. He stated the place is still a mess because his plow broke down.

Officer Uhlman stated this is not the only time he has been there. In addition to being to the location on January 24, 2013, he has been by there on a regular basis.

In response to questions from the Chairman, Officer Uhlman stated that they also have a Motor Vehicle Repair Mechanical/Body license for 12 vehicles and he questioned where the repair vehicles are being parked. He stated there is no delineation between the businesses. When he was there just prior to the meeting, the front row of vehicles had been moved are all parked up against the fence. There are cars in the back and an old oil truck is being stored. He stated there are 25 cars on the lot and he can't determine which are for sale.

Chairman McDuffy indicated this is a clear situation where the property needs to be lined to show where the cars being offered for sale are and nothing else should be parked in those spots designated. Mr. Tavares stated the cars for sale are in the front and the repair cars are located in the back. He is not there all of the time so he cannot always be there to control things. The Chairman reminded Mr. Tavares that he cannot have more than 15 cars on the lot for sale.

In response to questions from Attorney Feodoroff, Officer Uhlman stated he cannot measure the property at this time due to the snow banks. On the day he took the pictures there was no measurable snow. He does not have plan with him. Mr. Tavares stated that with the billboard gone, they will have more space to park the cars.

Mr. Tavares was informed that he needs to have designated spaces for the used cars as well as for handicapped parking spaces. In addition, the entrances and exits cannot be blocked. He stated he does not operate his oil business from this location.

It was suggested that Officer Uhlman meet with Mr. Tavares at the location once the snow is gone.

Attorney Feodoroff stated that there should be a finding of a violation because there has been an admission that the cars were not parked in accordance with the plan but she feels Mr. Tavares has been forthcoming with the Commission and suggested that a letter be placed in the file stating there is a violation and setting a date for an inspection. Officer Uhlman suggested that Mr. Tavares hire someone to prepare a plan for the Commission. If there is not sufficient space for the vehicles the number of cars on either his repair license or dealer's license will have to be reduced. He was reminded that the spaces must be 9 x 20 for the cars and the plan must be drawn to scale.

A motion was made by Commission Holbrook to find a violation and to require a plan be submitted for Officer Uhlman's review no later than May 1, 2012. In addition, the lot must be lined in accordance with the approved plan by May 31, 2013. The motion was seconded by Commissioner Kenney. With Commissioners Holbrook, Kenney and McDuffy voting in the affirmative and Commissioner Sullivan opposed, the motion carried by vote of 3 to 1.

6. Hearing on the following charges brought against Clerville, LLC dba Auto Solutions – 1067 and 1081 Montello Street, of the following alleged violations reported on January 24, 2013:
 - (a) Violation of the stipulation on the license which states, “MAXIMUM OF 18 VEHICLES ON BOTH LOTS COMBINED WITH NO MORE THAN SEVEN (7) VEHICLES ALONG THE FRONT AT 1067 MONTELLO STREET.”
 - (b) Failure to display the State mandated “lemon law” stickers on the vehicles to indicate the vehicle is for sale.
 - (c) Violation of City Ordinance which prohibits banners from being displayed over a public sidewalk (Sect. 27-65)

Present were Attorney Stephen Wainwright, 193 Washington Street, South Easton, Joel Clerville, 165 Tribou Street and Simon Augustin, 170 Melrose Street.

The following persons were sworn in by Attorney Feodoroff:

Joel Clerville
Simon Augustin
Officer Scott Uhlman

On direct examination by Attorney Feodoroff, Officer Uhlman stated that on January 24, 2013, he went to Auto Solutions at 1081 and 1067 Montello Street. He observed 28 cars on both lots combined and the licensee is allowed a total of 18 vehicles on both lots. In addition, the license allows for only 7 vehicles placed along the front property line at 1067 Montello Street. A photograph taken on January 24th showed there were 9 vehicles along the front. The cars had no lemon law stickers on them. The lot is so crowded that customers have to park on the street which is creating a safety hazard at a very busy intersection. Officer Uhlman stated he has received numerous calls regarding cars being parked on the sidewalk.

Officer Uhlman continued and stated there are banners on poles and they flutter out over the sidewalk. The banners are not permitted by the Building Department.

On cross examination by Attorney Wainwright, Officer Uhlman stated he had been to the location just prior to this evening’s meeting. Attorney Wainwright showed a picture of the lot and asked Officer Uhlman if the picture was accurate as to what he had observed tonight. Officer Uhlman stated he did not see any lemon law stickers on the cars. He agreed that the lot had been cleaned up out front.

Attorney Wainwright stated the photographs he was presenting were developed on 2/19/13. Officer Uhlman stated it appears to be in compliance at this time.

Attorney Feodoroff stated that there is no contest to the fact that they were not in compliance on January 24, 2013 so that would leave the Commission in the position to find a violation. She further stated that it seems the licensee is making a good faith effort to come back into

compliance after being notified of the violations. She would suggest a letter be placed in the file so that the licensee is put on notice as to what the requirements and their obligations are under the law. She stated that in order to insure compliance, they be required to line the lot by May 31st.

Officer Uhlman stated there is a repair facility at the location and there is no parking on the lot. The plan on file does not address the repair facility. Attorney Feodoroff suggested that Officer Uhlman could meet with the licensee and review the parking plan. If revisions are needed, they can submit a new plan to the board. The mechanical repair license allows for six vehicles to be stored outside over night.

Attorney Feodoroff then recommended to the board to have Officer Uhlman be requested to re-inspect the location and review the plan. Officer Uhlman stated he could be there the following morning.

A motion was made by Commissioner Kenney to find the licensee in violation and to adopt Attorney Feodoroff's recommendations to require Officer Uhlman to make an inspection and review the plan and that the lot be lined by May 31, 2013. The motion was seconded by Commissioner Holbrook. All members voting in the affirmative, the motion carried.

7. Hearing (postponed from meeting of January 17, 2013) on the charge brought against Brockton Phalanx, Inc. dba Pisces Lounge – Alexander Strangis, Manager, 816-818-820 Main Street, of the following alleged violations of ABCC Rule 2.05(2) , to wit:
“Permitting an illegality on the licensed premises”, observed on Saturday, October 20, 2012 at approximately 12:53 a.m. to 1:02 a.m.:
 - (a) Allowing Entertainment beyond approved hours of 8:00 p.m. to 12:30 a.m.; and
 - (b) Violating the Entertainment license by allowing Live Entertainment in the form of a Disc Jockey which has not been approved by the License Commission.
(Currently licensed for Orchestra (2) pieces, Dancing by Patrons and Singers)

Present were Alexander Strangis, 30 Homesite Road and Aldo Pena, 21 Ridgeway Court.

The following persons were sworn by Attorney Feodoroff:

Alexander Strangis
Aldo Pena
Det. Nazaire Paul, Brockton Police Department

On direct examination by Attorney Feodoroff, Det. Paul stated that on Saturday, October 20, 2012, he was working from 12:00 a.m. to 3:00 a.m. performing routine compliance checks of licensed establishments with Det. Thomas Hyland. At 12:53 a.m., while driving by Pisces Lounge at 820 Main Street, they could hear loud music coming from inside the establishment. There were two males standing in front of the entrance to the bar with the door wide open. He made a u-turn to further investigate and the two individuals saw the unmarked cruiser and ran back inside and closed the door. The detectives went to the front door and found the door was

locked. After knocking on the door a number of times, someone opened the door and let them in. The music was still playing very loudly. They went to the bartender and by then it was about 1:00 a.m. The bartender signaled the DJ to stop the music. The DJ didn't have any clue that they were there and over the microphone he invited the patrons to come back the following week. Det. Paul stated the music is supposed to stop at 12:30. The bartender was identified as Mr. Barros and Det. Paul informed him of the violation.

Mr. Strangis stated that he is sure whatever Det. Paul said is correct and they do not want to refute it. He then thanked the License Commission for granting him a continuance at last month's meeting. He stated there were extenuating circumstances. The disc jockey who was employed that night is no longer with them. The bartender on duty that night, Analdo Barros, has retired. Mr. Strangis stated Mr. Barros was the daytime bartender and was not aware that the entertainment had to stop at 12:30. With regard to the Entertainment license, he has had this since 1979 and was not aware that he had to have a special license for the disc jockey and karaoke. He has since obtained an application and will apply when it is feasible. Aldo had been working that night but was called home at about 12:15 and got back just after the police had left.

In response to questions from Attorney Feodoroff, Mr. Strangis stated he and Aldo both tend bar and there is also a female bartender whose name is Christina and she is Tips certified. He stated there is also a doorman but they haven't had any problems with violence or after hours drinking. On the night this happened, Aldo had locked the door when he left and although people are allowed to leave, it is locked to prevent anyone from coming in. It hadn't been a busy night and there were only 10-15 people inside. Mr. Strangis agreed that the music was too loud. He stated the doorman had said he didn't know anything about the two individuals the police had seen going in. Mr. Strangis acknowledged it was negligence on his part.

Lieut. Bonanca stated that he reviewed the calls to this establishment over the last six months and there were three calls for service that required police response. He indicated it is not one of the worse violators but it could be better.

Commissioner Holbrook commented that what Mr. Strangis has said makes sense, however, in 2011 there were two similar violations with entertainment going beyond the allowed hours. She asked Mr. Strangis what he can do going forward with the bartending staff to make sure they all understand.

Both Commissioners Kenney and McDuffy also had concerns about this being the third violation of the entertainment beyond the hours. Chairman McDuffy commented that Mr. Strangis has been in business for a long time and stated that the violations also go back to about 1985. He cautioned Mr. Strangis that he must have someone in the establishment at all times who knows what the laws and rules are. Mr. Strangis stated he has been there at closing every night since the incident.

Mr. Strangis asked if there is any time frame for applying for the disc jockey and was informed that he would have to submit the application to the office.

A motion was made by Commissioner Kenney to find the licensee in violation on both charges. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

Attorney Feodoroff indicated that the licensee's story makes sense but there are repeated violations and although she would not want to recommend something that would devastate the business, there needs to be something done that will make an impact. She suggested that the entertainment license be rolled back for a short period.

Mr. Strangis stated he has stopped all live entertainment for the past three weeks. He does have the jukebox going until 12:30.

Based on Attorney Feodoroff's recommendations, Commissioner Kenney made a motion to rollback the hours from 1:00 a.m. to 12:00 midnight and to rollback the entertainment license back to 11:30 p.m. for a one week period, from Sunday through Saturday, the dates to be determined by written notification. The motion was seconded by Commissioner Holbrook. All members voting in the affirmative, the motion carried.

8. Communications

It was reviewed that the hearing on the appeal of Joe Angelo's scheduled for February 26 has been postponed. The new date has been set for May 1, 2013.

Chairman McDuffy updated the members regarding the Home Rule Petition going before the City Council which will allow the Police Chief to shut down an establishment if there is a threat to public safety. He indicated it is still ongoing and had been postponed at last Monday's meeting. He reviewed that the Chief will be able to close a business for up to 10 days if needed and the licensee will be allowed to come before the board on appeal within 10 days. The Chief will also have the authority to allow the establishment to reopen.

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

The Commission's next regular meeting is scheduled for March 21, 2013.

Respectfully submitted,

Scott H. McDuffy
Chairman

APPROVED:

Paul D. Sullivan, Commissioner

Bruce G. Dansby, Commissioner

Joshua J. Wood, Commissioner

Kathy Kenney, Commissioner

Fred Fontaine, Alternate Commissioner

Catherine B. Holbrook
Alternate Commissioner