

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, March 21, 2013, in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy; Commissioners Paul D. Sullivan, Bruce G. Dansby, Joshua J. Wood and Kathy A. Kenney; License Agents Lieut. Paul Bonanca and Officer Scott Uhlman; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of February 21, 2013.

A motion was made by Commissioner Sullivan to approve the minutes of the February 21, 2013 meeting as submitted. The motion was seconded by Commissioner Kenney. All members present voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of April, 2013: Lieuts. Paul Bonanca and Kenneth Legrice; Sgts. George Khoury, Frank Vardaro, James Baroud, Michael Powers and Charles Cassiani; Dets. Thomas Hyland, Nazeera Paul and Matthew Graham; and Officer Scott Uhlman.

A motion was made by Commissioner Sullivan to approve the police officers as listed as license agents for the month of April, 2013. The motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

- (a) **All Alcoholic Beverages** – St. Theresa’s Church – Fr. Tony Mouanes, Manager, for a Dinner and Dance to be held at 343 North Main Street on Saturday, April 20, 2013, from 8:00 p.m. to 1:00 a.m.

(This request was taken up after agenda item number 4.)

Present was Joyce Nessralla, 400 North Warren Avenue, who stated they have planned a dinner and dance at the Church hall and requesting a full alcohol license for the event. Most of the food will be prepared off premise and there will be a band. In reply to questions, Ms. Nessralla stated they will have two police details. She had not been contacted by anyone from the police department.

Lieut. Bonanca indicated there have been no problems at prior functions and it was agreed that it will be left up to the Church to get their own detail officers.

Commissioner Kenney asked about a separate entertainment license and it was reviewed that it is not required on a one-day permit.

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

4. Hearing on the request from Kenek Spa, Inc. dba Colonial Spa – 9 Franklin Street, to appoint Nicole Keneklis as the manager.

Present was Nicole Keneklis, 57 Liberty Street, Randolph.

It was reviewed that Ms. Keneklis is taking over as the manager to replace her father who has owned the establishment for years.

A motion was made by Commissioner Sullivan to approve the appointment of Nicole Keneklis as the manager. The motion was seconded by Commissioner Wood. All members voting in the affirmative, the motion carried.

5. Hearing on the request from Dana Wahler dba P & P Soulfood – 880 Main Street, to extend the hours of operation to 6:00 a.m. to 1:00 a.m. (Current hours are 10:00 a.m. to 9:00 a.m.)

(Upon Mr. Wahler's arrival, the matter was taken up after agenda item #11)

Present was Dana Wahler, 59 Ithaca Road, who stated he is not planning to be open from 6:00 a.m. to 1:00 a.m. but would like to try opening for breakfast to see if he can increase his revenue and he would also like to try the later closing to see if will draw more business then.

In response to questions from Commissioner Kenney, Mr. Wahler stated he has both sit down and take out business. There are four tables.

Lieut. Bonanca stated he has had no problems with the location but does not see the need for a 1:00 a.m. license and would be concerned with traffic and people congregating. Mr. Wahler asked if they would be willing to consider a midnight closing hour. Lieut. Bonanca indicated he would not object to this if the Commission is willing to give him the opportunity to try it out.

Commissioner Kenney stated she feels that 10:00 p.m. is plenty late for people to go and get dinner. Commissioner Wood indicated he would not be opposed where Mr. Wahler is experimenting to see which hours would bring in more business and what is going to be the best mix of hours. Commissioner Dansby agreed that he should be given the opportunity to see what is best for the business since there have not been any problems.

A motion was made by Commissioner Dansby to approve the extension of the hours to 6:00 a.m. to midnight. The motion was seconded by Commissioner Sullivan. With Commissioners Dansby, Sullivan, Wood and McDuffy voting in the affirmative and Commissioner Kenney opposed, the motion carried by vote of 4 to 1.

6. Hearing on the request from Gretchen Keyworth dba Fuller Art Museum, to transfer the All Alcoholic Restaurant license at 455 Oak Street to Fuller Art Museum, Inc.

Fuller Art Museum, Inc. requests the following:

- (a) Appointment of John Hastie as the manager;

- (b) An Entertainment license for Orchestra(6) pieces, Vocalists(3), Dancing by Patrons, Disc Jockey and Recorded Music on Thursday thru Sunday from 5:00 p.m. to 12:00 midnight.

Present was John Hastie, 44 Central Street, Easton.

Mr. Hastie reviewed the request for the liquor license. He stated they have weddings at the Museum throughout the year. It was reviewed that the days for the entertainment should be on Thursday through Sunday from 5:00 p.m. to 12:00 midnight. In addition to the weddings, they also serve alcoholic beverages at art openings and sometimes on Thursdays they have music and the bar is open. The bartenders are tips certified.

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

- 7. **POSTPONED** - Hearing on the request from JaCruz, Inc. dba Sunshine Café – Jose A. Cruz, Manager, for a Wine and Malt Restaurant license at 1110 Main Street.
- 8. **POSTPONED** - Hearing on the request from Golden Rock Discount Liquors, Inc. dba Rose’s Discount Liquors – May Mi Chow, Manager, to transfer the All Alcoholic Package Store license at 186 Oak Street to Hanuman Corp. dba Rose’s Discount Liquors – Dilip Ravaliuya, Manager.
- 9. **POSTPONED** - Hearing on the charges against Emysafari Dance Club Corp. – Christian Ekechukwu, Manager, 22-26 Perkins Avenue of the following alleged violations:

October 15, 2012

(1) **ABCC Rule 2.03(2)** “No license shall use, or permit to be used, any advertising matter which is false or untrue in any particular. Any advertising matter which directly, or by ambiguity or omission tends to deceive or to create a misleading impression shall be deemed to be false or untrue.” ;

(2) **ABCC Rule 2.05(2) – Permitting an illegality, to wit:** “Violating City of Brockton Ordinances as related to the dumpster”;

November 1, 2012

(1) **ABCC Rule 2.05(2) – Permitting an illegality on the licensed premise, to wit:** “527 CMR – failing to have the required number of Crowd Managers (2 required) on the premises at all times when open to patrons.”;

(2) **ABCC Rule 4.03(1) (a) to wit:** “No licensee or employee or agent of a licensee shall offer or deliver any free drinks to any person or group of persons”;

January 19, 2013

(1) **Brockton License Commission Rule #15 (General On-Premise licenses), to wit:** “No licensee shall make any distinction, discrimination or restriction on account of race, color, religious creed, national origin, sex or ancestry relative to the admission or treatment of any person.”

(2) **ABCC Rule 2.03(2)** “No license shall use, or permit to be used, any advertising matter which is false or untrue in any particular. Any advertising matter which directly, or by ambiguity or omission tends to deceive or to create a misleading impression shall be deemed to be false or untrue.”

10. **Peter Maile dba Affordable Auto Sales** – Revocation of Class II Used Car Dealer license at 1050 Montello Street in accordance with M.G.L. Chapter 140, Section 58(c)(7) “Upon receipt of notification from a surety that a bond has been cancelled, the municipal licensing authority shall notify the licensee that he has 10 days to comply with the bonding requirement. If the licensee does not comply within the 10 day period, the municipal licensing authority shall revoke the Class 2 license and shall notify the registrar who shall suspend or revoke any dealer plate issued to the licensee pursuant to section 5 of chapter 90.”

The Adm. Asst. stated the Mr. Maile had contacted the office last Friday, May 15th and stated he was going to be in Florida and would not be at tonight’s meeting. He also indicated he would have a new bond to the office by Monday, March 18th.

Mr. Steve Carnes of 16 Agawam Beach Road, Wareham, came forward and stated he has owned 1050 Montello Street since 1990. Peter Maile has leased this property from him since 1995. He stated he is not speaking on Peter’s behalf but wanted to make it clear to the Commission that that when the property was leased, the license went with it which is written in the lease agreement. If the license is revoked, he wants to be able to come back before the Commission to get the license back and he will open the business get it up and running.

The Adm. Asst. indicated it is her understanding that Mr. Maile will not provide a letter requesting a transfer so if he does not submit a bond, the license will be revoked and there are no used car licenses available which will leave Mr. Carnes with no license for the property. Mr. Carnes stated that in 2011, Mr. Maile had tried to sell the license but his attorneys had notified him that this could not be done. Mr. Carnes also stated that when the license was leased to Mr. Maile, he did not put his name on the license because he did not want the liability for the business.

Chairman McDuffy asked Mr. Carnes if he anticipated getting this straightened out within the next 30 days. Mr. Carnes indicated he hopes to work something out with Peter if he is not planning to keep the licensed business. He is present this evening to find out from the Commission what his course of action should be.

Commissioner Wood suggested that no vote be taken this evening and the matter be tabled for 30 days to allow for them to come back with an application for transfer of the license.

In reply to questions, Mr. Carnes stated he has been in contact with Mr. Maile on several occasions. He then asked if the Commission could give him a thirty day extension to give him the opportunity to work this out.

The Chairman indicated he would be willing to allow the thirty days or until the next meeting but if they cannot reach a solution to this by then, the Commission will not have any other choice but to revoke the license. He suggested that Mr. Carnes keep the office updated on the progress.

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

11. Communications

A report from Officer Uhlman concerning Auto Solutions at 1081 and 1067 Montello Street was reviewed. Officer Uhlman indicated he met with the owner on the morning after last month's meeting. Contrary to what the attorney had represented at the meeting, there were still vehicles without the required lemon law stickers on them and the dumpster was not in compliance. He gave the owner a month to put the lot in order. Chairman McDuffy indicated he drives by the location frequently and has noticed there have been improvements. Officer Uhlman stated he has instructed the owner to have a professional plan drawn up.

Chairman McDuffy then updated the members on the Home Rule Petition that the City Council Finance Committee has now passed. He reviewed that if the State Legislature approves this, it would authorize the Chief of Police to close an alcohol establishment for up to 10 days in the event of an extremely serious incident or threat to public safety. A brief discussion was held concerning this and the Chairman indicated when a copy of the finalized petition is received he will forward it to the members. He also reiterated that it does not become effective until it has been passed by the State Legislature.

The Adm. Asst. reviewed that a notice from the ABCC was received today indicating the appeal of The Lit has been withdrawn.

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

With no further business to come before the Commission, a motion was made by Commissioner Wood to adjourn the meeting. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the meeting was adjourned.

The next regular meeting will be held on April 18, 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