

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, June 20, 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, Kathy A. Kenney and Alternate Commissioner Catherine B. Holbrook. Also present were License Agent Lieut. Paul Bonanca; Asst. City Solicitor Katherine Feodoroff; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of May 16, 2013 and the Special Meeting of May 30, 2013.

A motion was made by Commissioner Sullivan to approve the minutes of both meetings as submitted which motion was seconded by Commissioner Wood. All members voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of July, 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 Sullivan to approve the police officers as listed as license agents for the month of July, 2013 which motion was seconded by Commissioner Holbrook. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

Add: (a) Wine and Malt Beverages - Brockton Baseball Concessions, Inc. – Michael Canina, Manager, for a Whiffle Ball Tournament to be held at the Stadium on July 20, 2013 from 4:00 p.m. to 11:00 p.m.

Present was Michael Canina, 227 Linwood Street, who stated this request is being made for the second annual John Waldron whiffle ball tournament.

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

4. Hearing on the request from Campello Veterans Firemen's Association – James Badgio, Manager, 224 Clinton Street, to serve wine and malt beverages in a closed off area on the grounds outside the Club on Saturday, September 7, 2013 (Rain date: September 8) from 12:00 noon to 6:00 p.m.

Present was James Badgio, 770 Whitman Street, Hanson, who stated this event is the Club's annual chicken bake. It will be held within a fenced in area in the parking lot. Only beer and wine will be served outside and it will all be poured into plastic cups. The hours are from noon to 6:00 p.m and last call outside will be given at 5:30 p.m.

In response to questions from the Chairman, Mr. Badgio stated they put up yellow plastic fencing so no one can go into the parking lot. They have permission to park cars at the ambulance company and at the school.

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

5. Hearing on the request from Brockton Fair Caterers, Inc. – Maura J. Carney, Manager, 433 Forest Avenue, to amend the Entertainment license to include the following special events:
 - **Saturday, July 13, 2013** - “Reggae Show Splash” – A Reggae Concert
12:00 noon to 8:00 p.m.
 - **Saturday, July 20, 2013** – Benefit for the “One Fund” Boston
Benefit Car & Motorcycle Show
9:00 a.m. to 6:00 p.m.
 - **Saturday, July 27, 2013** – “Color Me Rad”
5k Road Race on the Fairgrounds Property
7:00 a.m. to 4:00 p.m.

Representing the Brockton Fair Caterers, Inc. was Thomas Clifford, 39 Carpenter Street, Rehobeth.

Mr. Clifford stated that with regard to the Reggae Show Splash, he just received word this morning that the group could not get out of Jamaica and they will rescheduled at a later time. The benefit car show for The One Fund is being put together by Mr. LeGrice. He stated it is his understanding that The One Fund is being closed out but Mr. LeGrice has informed him that he has registered with the Attorney General’s office and there are other funds that the money raised could be put in to.

With regard to the Color Me Rad event, Mr. Clifford stated it is a 5K road race on the premises and will be a bunch of college kids running around. He stated this event will draw 4,000 to 5,000 people. There will be no alcohol served at the event. He indicated he has spoken with Lieut. Bonanca about this.

Lieut. Bonanca stated they will negotiate the number of police details necessary if that is agreeable to the Commission.

A motion was made by Commissioner Wood to approve the amendments to the entertainment as described subject to the required number of police details. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

Commissioner Kenney asked Mr. Clifford about the benefit and if the Show will just be for cars being displayed or whether there will be activities that could create noise issues. Mr. Clifford stated there will be a disc jockey with a regular sound box and it will be similar to the Wheels of Time Car Show. The cars are on display only.

Commissioner McDuffy commented that over the last few years, Mr. Clifford and Mr. Carney have cooperated and there have been no problems or complaints about the events being held.

6. Hearing on the request from Bertucci’s Restaurant Corp. – 1285 Belmont Street, to appoint Tracy A. Goulet as the manager.

Present was Tracy Goulet, 371A Depot Street, So. Easton and Shawn Campbell, 296 Lindsey Street, North Attleboro.

Mr. Campbell stated he is the area director for Bertucci's and Tracy is one of the managers for the Brockton location. She has been there for twelve years.

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

7. Hearing on the following requests from Blazin Wings, Inc. dba Buffalo Wild Wings – 500 Westgate Drive:

- (a) To appoint Erika Madden as the Manager; and
- (b) To serve alcoholic beverages at 11:00 a.m. on Sundays.

Present was Erika Madden, 8 Parker Terrace, Taunton, who stated she is new with the Buffalo Wild Wings company but is not new to the industry or to the area. She stated she has been a manager for 30 years. With regard to the request to serve alcohol at 11 a.m., they currently open at 11:00 a.m. and are requesting to be able to serve alcoholic beverages when they open instead of having to wait until noon time.

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

8. Hearing on the request from Trung V. Dong dba Pho A Dong Restaurant – 379 Belmont Street, to transfer the Common Victualer license to Long Soup, LLC dba Pho A Dong Restaurant.

Present was Long Dai, 54 Baxendale Terrace, who stated the request is to transfer the Common Victualer license. The Adm. Asst. reviewed that the only paperwork missing is the inspection approval from the Board of Health and Mr. Dai stated he understands that he cannot get the license until this is completed.

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

9. Hearing on the request from Brockton Post #1046 V.F.W. – Brandon Doherty, Manager, 283 North Quincy Street, to amend the description of the licensed premise to include a roped off area of approximately 85' x 33' located to the northeast side of the building, adjacent to the parking lot, which contains a bocce court and horseshoe pit.

Present was Anthony Maura, 408 Centre Street, the Quartermaster at the Club. He stated that the manager could not be present this evening.

In response to questions, Mr. Maura stated they are requesting to include a roped off area outside where the bocce court and horseshoe pit are located as part of the licensed premise.

Lieut. Bonanca reviewed that Officer Uhlman made an inspection of the premises and reported that there didn't appear to be a problem. It was agreeable that they would be given a year to replace the temporary fence with a permanent fence with a locking gate.

In response to questions from Attorney Feodoroff, Mr. Maura stated there is a small patio area where they will have a couple of picnic tables. She suggested they should check with the Building Dept. to find out if approval from the Zoning Board is required. The Adm. Asst. stated that she had Mr. Doherty check with the Building Department and she was informed that no ZBA approval would be necessary. Attorney Feodoroff suggested that they should double check with the Building Department if they plan to have seating outside.

Commissioner Wood asked if they should approve pending zoning and Attorney Feodoroff indicated that the Building Department could enforce the way they want.

Commissioner Kenney suggested that it be stipulated that everything must be served in plastic cups outside.

A motion was made by Commissioner Kenney to approve the amendment to the description as requested with the stipulations that a permanent fence be installed within a year and that everything served outside must be poured into plastic cups. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

Mr. Maura was informed that this will not take effect until the approval comes back from the Alcoholic Beverages Control Commission and they will be notified in writing when the approval is received.

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

Present were Attorney John Creedon, 71 Legion Parkway, Bruce Malcolm from Land Surveys and Steve and Glenn Zimmerman, 82 Kennedy Circle, So. Easton.

Attorney Creedon reviewed that the location they are requesting to move to is 2020 Main Street which was the former Veracka Motors. The property consists of almost two acres. Attorney Creedon explained that this application was filed about a year ago but there were wetlands and conservation area issues so they were required to work with the Conservation Commission and have received approval. He stated that the Zimmerman's have the oldest Class II license in the City. It was started in 1947 by Steve's father and they are now into the fourth generation.

Attorney Creedon stated the lot at 2020 Main Street has been resurfaced and the parking lot has been done over to bring it into compliance with the City codes. He indicated that many of the suggestions had been made by Officer Uhlman and he believes they now have his blessing.

Mr. Malcolm stated that a good portion of the property was just a gravel surface area when the property was first purchased by the Zimmerman's. They went before Conservation and received an Order of Conditions to pave the rear portion of the property. They put in a very expensive ground water infiltration system. The paving is approximately 20 feet from the wetlands. From the rear portion of the building back will be a wholesale storage area. He stated his client buys 30-40 cars at a time and they will be put in the storage area until they are ready for sale. Attorney Creedon stated that is a gated area and will not be open to the public. He stated that the entrance/exit to the property is a little over 35 feet wide. There are five customer spaces up front as well as one handicapped space which is the closest to the entrance of the building.

Lieut. Bonanca stated that Officer Uhlman has informed him that they are in compliance and there is no opposition from Officer Uhlman or the Police Department. He asked if the lot will be lined and Mr. Malcolm indicated it will be at some point.

In response to questions from Commissioner Kenney, Mr. Zimmerman indicated they will close the lot at 754 Main Street and it will not be used for storage. Attorney Creedon stated there is a repair license which Mr. Veracka held at the location.

Chairman McDuffy asked if they had stated a specific number of spaces and Attorney Creedon said they had not. The Chairman then asked what is the number of spaces for used cars. Mr. Zimmerman and Attorney Creedon both stated that their license is unlimited. Attorney Creedon stated it has been unlimited since he has held the license and he is grandfathered. Ms. Tucker stated that Mr. Zimmerman's license at 754 Main Street was unlimited because it was such an old license and that when it was issued, the Commission didn't put a stipulation on the number of vehicles. She explained that they are going into a new location and if it is approved it will be according to the plan that has been submitted by Mr. Zimmerman. In response to further questions, Attorney Creedon stated there are 118 spaces for used cars on the plan. He stated that Officer Uhlman told them they can put the extra vehicles which are not yet ready for sale in the storage area. He stated it is a huge area that is gated and not open to the public.

Chairman McDuffy stated he drives by fairly often and commended them on the amount of work they have put into the property. He stated it will be a benefit for the business and for the City.

A motion was made by Commissioner Sullivan to approve the transfer of the location of the license. The motion was seconded by Commissioner Kenney.

Attorney Feodoroff then suggested where it is a new location, they specify the number of cars. In response to Commissioner Kenney's question as to whether this is a new license, Attorney Feodoroff stated the location is being transferred and they are coming into compliance at this point. She indicated the grandfather protection has to do with the old lot and location so it would be done based on the plan which shows 118 spaces for used car display. Both Attorney Creedon and Mr. Malcolm agreed but stated that there is the wholesale storage area which doesn't have a number. Attorney Creedon stated the 118 would only be for the displayed vehicles and both Attorney Creedon and Attorney Feodoroff agreed that a number would not be placed on the wholesale area.

It was agreed that the motion to approve would be according to the plan. A vote was then taken and with all members voting in the affirmative, the motion carried.

11. Hearing on the request from Henrique Fernandes dba Reliable Auto Sales, to transfer the location of the Class II Used Car Dealer license from 65 Court Street to 1854 Main Street.

Present was Henrique Fernandes, 25 Walton Avenue, Hyannis.

Mr. Fernandes stated he has been at his current location for eight years and is requesting to transfer his license to the new location which is the former Nilsson-Stewart Fence Co. at 1854 Main Street.

Lieut. Bonanca stated that Officer Uhlman had informed him there was no plan submitted. (A plan had been submitted) Lieut. Bonanca reviewed the plan and stated the lot would have to be lined as the plan depicts and an inspection will be required before the license is issued.

Ms. Tucker stated the Commission could approve the transfer pending a final inspection of the location. Mr. Fernandes stated the lot contains 2.4 acres and he is going to use the front for 47 vehicles and the back will be for wholesale storage only.

In response to questions from the Chairman, Mr. Fernandes stated there is no conservation land in the rear. It is all fenced and he stated it is a sanded lot. Attorney Feodoroff advised Mr. Fernandes to check with the Conservation Commission and she explained that the concern with the storage is whether there might be gasoline or oil leaking from the vehicles and the sand won't protect the pollutants from getting in to the water table.

Chairman McDuffy advised the applicant that if the transfer is approved it will be pending verification from the Conservation Commission and the recommendations of Lieut. Bonanca. Ms. Tucker explained to Mr. Fernandes that he cannot move his location until he has complied with everything and the license for the new location is issued. Mr. Fernandes stated he is more interested in getting the front of the business going as soon as possible and can wait if there are issues with Conservation.

Attorney Feodoroff then suggested that where Mr. Fernandes is only asking for the front portion of the property at this time where there is already paving and that the Commission could approve the front portion subject to Officer Uhlman's inspection. Mr. Fernandes could come back before the Commission at a later date with a new plan if he wishes.

A motion was made by Commissioner Dansby to approve the transfer of the location of the license pending a final inspection from Officer Uhlman. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

12. Hearing on the request from Mass Imports, Inc. – 610 Main Street, to amend the stipulation on the license by increasing the number vehicles allowed on the lot from 20 to 35.

Present was Hamed Pishdadian, 158 East Main Street, Norton, the president of Mass Imports, Inc. Mr. Pishdadian stated that Officer Uhlman had been to his business that day and told him they cannot have 35 vehicles because a portion of the property is residential. Officer Uhlman told him he could have 26 for sale, 2 employee and 1 customer. He was told to leave the fence in the rear as it is. Mr. Pishdadian indicated the location of the handicapped space is difficult as it appears on the plan and he would like to move it to where customer parking space #31 is located.

Lieut. Bonanca stated a new plan showing parking for 26 vehicles for sale would have to be submitted. Mr. Pishdadian stated that Officer Uhlman told him he could have 26 and to forget the vehicles behind the fence (32-35). By eliminating those vehicles it would bring the number to 26.

Chairman McDuffy informed Mr. Pishdadian that they have to go by the plan he submitted. As far as the handicapped space, he suggested that he speak with Officer Uhlman. The Chairman advised Mr. Pishdadian that the plan before them this evening is what he submitted and that is what must be followed. He asked if Mr. Pishdadian would like for the Commission to table this and have Officer Uhlman deal with it and he could come back next month or they could accept the plan as submitted and vote on it this evening. Mr. Pishdadian stated he would like to go forward with the plan as is.

A motion was made by Commissioner Kenney to approve the amendment to the stipulation pending Officer Uhlman's final inspection. The motion was seconded by Commissioner Wood. All members voting in the affirmative, the motion carried.

13. Hearing on the request from Brockton Phalanx, Inc. dba Pisces Lounge – Alexander Strangis, Manager, 816-818-820 Main Street, to amend the Entertainment license to include an Orch (4) pieces, Vocalists (4), Dancing by Patrons, Disc Jockey and Karaoke and Jukebox, seven days from 8:00 p.m. to 12:30 a.m. (Currently licensed for Orch (2) pieces, Dancing by Patrons, Singers, seven days from 8:00 p.m. to 12:30 a.m. and television, radio and jukebox from 8:00 a.m. to 12:45 a.m.)

Present was Alex Strangis, 30 Homesite Road, who stated he is requesting to have his license amended to include a disc jockey in order to be able to compete with other establishments. He stated he has held the license for 34 years and he is trying to correct the issues that were brought to his attention. Mr. Strangis stated they are not requesting 4 singers and the most they will have is 1 or 2. He explained that they have a Cape Verdean orchestra on occasion which has a couple of guitars, a keyboard or mandolin and maybe 2 or 3 singers. He stated that his current license limits him to only 2 pieces. Mr. Strangis stated he also has a vocal pro system which allows for two people singing with the karaoke machine.

Lieut. Bonanca stated he had sent Officer Uhlman to the establishment at 2:40 p.m. today and he found the front and rear doors to the business were open. A violation will be submitted. Mr. Strangis stated his manager usually cleans at that time but only his cleaning person was there. The business was not open. He indicated that Officer Uhlman has told him he could open the back door. Lieut. Bonanca also stated that Officer Uhlman had found there were locked rooms which he could not gain access to. He asked if the orchestra pieces would be in the locked rooms. Mr. Strangis then reviewed the plan for the Commission and pointed out that he keeps

his office locked all the time. The door to the cellar is also always locked. The keys are kept in the register behind the bar. There is a storage area adjacent to the ladies room and the kitchen is not being utilized. There is a musician's stage and a small dance floor. There will be no equipment obstructing doorways. Lieut. Bonanca stated there was a problem communicating with the person who was there at the time of the inspection and Officer Uhlman was unable to perform a thorough inspection. Mr. Strangis said the business is no usually open until about 4 or 5:00 p.m.

Chairman McDuffy then stated that if the request is approved, he would recommend that an inspection be done by Officer Uhlman before this can take effect. Mr. Strangis stated he would contact Officer Uhlman at the station to set something up.

A motion was made by Commissioner Dansby to approve the modification pending an inspection by Officer Uhlman. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

14. Hearing on the request from EJ Auto Sales, Inc. dba Nissan 24 – 1016 Belmont Street and K & S Auto Sales, Inc. dba Chrysler Dodge Jeep Ram 24 – 1020 Belmont Street, to amend both licenses to expand the display and storage of vehicles for both of the dealerships as follows:

- Chrysler Dodge Jeep Ram 24 will use 97 Manley Street for additional display of 68 new vehicles; and
- Nissan 24 will use the areas to the west and south of the building at 97 Manley Street for gated storage of no more than 600 Nissan vehicles.

Present were Attorney Kevin Reilly, 19 South Main Street, Ed Kardon, Norse Pines Drive, East Sandwich, a principal in both corporations, and Hank Tuoeay.

Attorney Reilly reviewed that in 2011, the original license on the premise was granted to the Nissan dealership. Last November, approval was granted to the Chrysler Jeep dealership which was being relocated from Randolph. The site was divided to allow for the inclusion of both dealerships. Subsequent to that, there was an acquisition of the premises at 97 Manley Street which was the old Grossman's building and is currently used primarily for service of the Chrysler vehicles. With that came the display of some Chrysler Jeep vehicles out in front of that building on the Belmont Street side together with the additional storage of vehicles behind the gated area. Attorney Reilly stated that as everything has evolved it has become necessary to amend the licenses to allow for the display of vehicles in the front of the 97 Manley Street building and for the storage in the rear.

Chairman McDuffy asked if there are Nissans also displayed at 97 Manley Street and Attorney Reilly stated they are not. It was agreed that there are Jeeps displayed in the gated area and it was pointed out that the application should state this. Attorney Reilly then reviewed that in the front there will only be Chrysler Jeep vehicles and behind the gated storage will be vehicles from both dealerships.

Ms. Tucker stated that both licenses must be amended to include the area for storage of vehicles. Mr. Tuoeuy stated it was his understanding that they were interested in what was out front, where the cars were going to be and have the parking plot plan for the board. He stated that is what Officer Uhlman told them to do.

Lieut. Bonanca stated that Officer Uhlman had done an inspection and at the present time, there is no license at 97 Manley Street. He stated there are currently vehicles at 97 Manley Street for sale but there is no license. Mr. Tuoeuy stated that the vehicles are on display but have to be taken up to the primary dealership for customers. Ms. Tucker informed him that the location must be included on the license even if the vehicles are just displayed or stored at a location.

Attorney Feodoroff ask if the Belmont Street parcel is contiguous to Manley Street and it was stated it is not and that Paramount Rug is located in between. Ms. Tucker stated that the only two addresses on the licenses are the 1020 Belmont and 1016 Belmont.

Chairman McDuffy stated that back in December, he had inquired about what was being done and was told it would be taken care of right away. In reply to questions, Ms. Tucker stated that there is nothing in the law to prevent a second location on a license but the license must specifically state all locations being used whether they are for sale, display or storage.

Attorney Feodoroff reviewed that they could consider a second location but they would have to amend their application to include the secondary location. She indicated it is resolvable but it wasn't presented that way. Attorney Reilly stated they will make that motion to amend the application to allow both businesses to use the 97 Manley Street. The Chrysler dealership will use it for display and storage and the Nissan dealership for storage only. Attorney Feodoroff then referred to the plan labeled Exhibit "B". Attorney Reilly explained that north of the building is for the display of 68 Chrysler and Dodge vehicles (yellowed spaces are for customers and service) and the area to the south and west of the building is for storage of vehicles by both dealerships.

Commissioner Dansby asked the licensee how they came up with a number of 600 vehicles for storage. Mr. Kardon stated it is the basic business demand as it has developed with the two dealerships and what they will need to keep them stocked in order to be a thriving business and there is enough room for that. He stated that when Officer Uhlman was there they walked around and made sure there was enough room and storage doesn't require the same amount of space as displaying vehicles. Mr. Kardon stated the entire property is 5.5 acres and there is about 3 acres behind the fenced area. In reply to Commissioner Dansby, Mr. Kardon stated that Officer Uhlman had told him he could store as many cars as he could fit back there. Attorney Reilly indicated that Officer Uhlman was not as concerned with what was behind the fence but what was out front and also what was along the street in the areas where there was crushed stone. Officer Uhlman told them the vehicles could not be displayed there and they have been removed. The display area at 97 Manley Street is lined as are the lots at 1016 and 1020 Belmont Street.

A motion was made by Commissioner Wood to approve the amendments to both licenses subject to the oral motion made by counsel (This was to allow an annex for storage and display at 97 Manley Street for the Chrysler Dodge dealership in accordance with the plan and to allow for an

annex for storage only at 97 Manley Street for the Nissan 24 dealership). The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

15. Hearing on the request from RJA Corporation dba Joe Angelo's Café – Joseph R. Angelo, Manager, 216 Main and 11 Crescent Streets, to extend the closing hour to 2:00 a.m. on Thursdays, Fridays, Saturdays and eves of legal holidays.

Present was Attorney Louis Cassis, 18 Russell Park, Quincy and Joseph Angelo, 10 Arborview Terrace, West Bridgewater.

Attorney Cassis reviewed the request and stated he looked back on the history of violations for the licensee. He stated that on April 30, 2011, the hours were reduced from 2:00 a.m. to 1:00 a.m. There was another violation several months later and on June 16, 2011, a finding was made and part of the disposition was that the rollback was to remain in effect for one year from June 26, 2011. Attorney Cassis stated Mr. Angelo told him that prior to June 26, 2012 a letter was sent in requesting an extension but that did not make the agenda because of a subsequent violation where a three day closing was imposed but has been appealed to the ABCC. He stated that his hours have been reduced for two years, from April 2011 until the present time. In addition, there have been no further incidents at Joe Angelo's with the exception of the one that is currently under appeal.

Attorney Cassis stated that the 2:00 hour is important for a number of reasons. He indicated that business is tough and the competitors who have a 2:00 license have an advantage over those that only have a 1:00 license. He stated it is not only the one hour but when people realize an establishment has a 1:00 closing hour, they would rather go to a place with a 2:00 closing time than to leave a place with a 1:00 a.m. closing and try to get to another place that closes at 2. Being limited to 1:00 a.m. closing has been a real handicap for two years and continues to be so. Where things have gone pretty well, Attorney Cassis asked the Commission to consider restoring the hour.

Chairman McDuffy asked if the appeal was still pending on the three day closing and Attorney Cassis stated it was. Attorney Feodoroff stated that Attorney Leach was handling that case for the City. Attorney Cassis stated he had been unable to make the first hearing date and then there have been a couple of dates that the City Solicitor hasn't been able to appear at. Attorney Cassis stated it has nothing to do with this request because there was a finding and a 3 day closing. He stated the hours are an independent event and he reviewed that the incident which resulted in the three day closing occurred at 10:00 p.m. and had nothing to do with the closing hour.

Attorney Cassis stated that if a board is going to affect the closing hour, it should be rationally related to something that occurred at the closing hour.

Lieut. Bonanca stated the Police Department is opposed to all current and all those reapplying for 2:00 a.m. licenses on the basis that at various times there are incidents that can draw upon the Police Department's resources in a negative way which in turn can negatively impact the City, meaning coverage for the entire City.

Attorney Cassis asked Lieut. Bonanca if it is fair to say there have been no service calls in the last year or so. Lieut. Bonanca stated they have not had any complaints against the establishment going back about a year.

Commissioner Wood asked Lieut. Bonanca if there are any reasons specifically tailored to this establishment other than the general policy of the Police Department. Lieut. Bonanca stated it is their general policy. They have incidents at various establishments and they have no way to tell what is going to happen but it is their general position that they do not like to have 2:00 a.m. licenses. Not focusing on any single establishment, their position is that it draws upon their resources when they do have a situation and it would be unfair to the other residents of the City to have valuable resources drawn to one particular location. Lieut. Bonanca stated this also applies to the next agenda item.

In response to questions from Chairman McDuffy, Mr. Angelo stated he is not intending to have anything close to the First Friday events he previously held. Mr. Angelo stated they have no plans to have large crowds like they did in the past. He stated he hopes to have 100 people and has no intent to have large events. He indicated he just wants to stay competitive with the bars that have 2:00 licenses. He stated if the Commission decides to roll everyone back, he will go along with it. He indicated he is at a disadvantage where there are 2:00 licenses available and so are his employees. Mr. Angelo stated that if anything happens like it did before, he will gladly be the first one to turn in his license.

Chairman McDuffy indicated he does not know what the board will do but he cautioned Mr. Angelo that if there is another violation, he will be back in before the board. He stated it hurts the reputation of the City as well as the patrons. Mr. Angelo stated he was in business for 18 years and never had a violation. He acknowledged that things did get out of hand it was a lesson learned by him and he will not have the kinds of functions he had in the past.

Commissioner Dansby asked Lieut. Bonanca if they are cooperating as far as the prior issues which were brought up such as the management, being cooperative in providing videos, etc. Mr. Angelo stated an inspection was done today. Lieut. Bonanca stated Officer Uhlman had been to the location and there was an exit light out but no other problems were found.

With no further information presented, a motion was made by Commissioner Kenney to approve the reinstatement of the 2:00 a.m. license for a period of three months to see how things go.

Commissioner Wood asked if she meant there would be a three month review and she stated she would like to see that all of the past issues have been fixed. She stated she does not want to see anyone put out of business and wants to see City businesses thrive and she is willing to give someone the chance to be competitive to prove they can handle it and make it work.

The motion was seconded by Commissioner Wood.

Attorney Feodoroff suggested that they specify the date of the meeting when it will be reviewed.

Chairman McDuffy stated that he feels in order to get a good outlook on this, the length of time should be extended.

Commissioner Kenney then amended her motion to extend the closing hour to 2:00 a.m. to be reviewed at the October 17th meeting at which time Mr. Angelo would have to appear for the Commission to review and make a decision at that time. The amended motion was seconded by Commissioner Wood. With Commissioners Kenney, Wood and Dansby voting in the affirmative and Commissioners McDuffy and Sullivan opposed, the motion carried.

In response to Attorney Cassis, Ms. Tucker stated that Mr. Angelo could bring his license in the following day for the hours to be amended and to pay the 10% fee for the additional hour.

16. 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.

Present was Carlos Cardoso, 112 North Warren Avenue, who stated that he was before the Commission in October and was told he was on six months probation before he could have his 2:00 license. He stated the six months is over and he has had no violations and he would like his 2:00 a.m. license back.

The Adm. Asst. reviewed that back in October, the Commission had voted that Mr. Cardoso could reapply for the 2:00 a.m. license. She indicated Mr. Cardoso was mistakenly under the impression that he would automatically have his 2:00 a.m. license re-instated after six months.

Lieut. Bonanca stated that the Police Department's position is the same as previously stated in the prior hearing. The problem with this establishment is that Officer Uhlman went to the location two times to make an inspection and it was all locked up on both occasions. He would recommend no action be taken until it is properly inspected.

Chairman McDuffy asked Mr. Cardoso why the front door is handicapped entrance only and he stated the back door has stairs. He informed him that he would definitely need an inspection if the Commission approves this.

In response to Commissioner Dansby's question, Mr. Cardoso stated he would like the 2:00 a.m. closing because all of his clients want a 2:00 a.m. license. They leave because they have to be inside other places before 1 a.m. and he wants his patrons to remain at his establishment. It was reviewed that the Regulations don't allow anyone in after 1:00 a.m.

Commissioner Dansby asked if it automatically pushes back the hours on the Entertainment license when the hours are extended and Ms. Tucker stated the live entertainment will be extended to 1:30 a.m. and the non-live type of entertainment such as television can go to 1:45. Mr. Cardoso stated he is aware of the regulations that go along with the later hour and the entertainment.

A motion was made by Commissioner Wood to approve the extension of closing hour to 2:00 a.m. subject to the inspection by Officer Uhlman. The motion was seconded by Commissioner Dansby. With Commissioners Wood, Dansby and Kenney voting in the affirmative and Commissioners McDuffy and Sullivan voting opposed, the motion carried.

17. Hearing on the charge brought against MJ Martins Enterprises, Inc. dba Eastside Market– Maria J. Martins, Manager, 364 Centre Street, of an alleged violation of **M.G.L. Chapter 138, Section 34**, to wit: “. . . whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, on May 29, 2013, at approximately 4:51 p.m.

Present were Maria Martins, 177 Braemoor Road and Adib Elias, 121 East Main Street, Avon.

Attorney Feodoroff stated she has spoken with Ms. Martins and she is not going to contest the fact that this violation did occur and her only goal this evening is to explain how and why it happened. Therefore, there is an admission to the violation by the licensee.

Commissioner Sullivan asked Ms. Martins if all her help is Tips Certified. She indicated that Mr. Elias is and that they had an appointment for a class approximately three months ago but the class had been cancelled. She missed another class a couple of weeks ago because she had to work but she has signed up for another class. She indicated Mr. Elias did take a course on line.

A motion was made by Commissioner Wood to find a violation which motion was seconded by Commissioner Kenney. All members voting in favor, the motion carried.

Ms. Martin stated that they know they made a mistake and her employee Eddie, knows he did not ask the individual for an ID. Mr. Elias stated he always asks for an ID and he thought the person who bought the beer was a regular. She stated that he was not thinking straight because his mother who lives overseas was ill. When the police officer came in, he told him about Steve the person he thought it was. He stated this was a slip up and he could not sleep for a week because of it. Ms. Martin stated he has worked for her for seven years and is a good employee and she is shocked. She stated they have had Health Imperatives come in with the sticker campaign. She stated she is a mother and she wouldn't want her son to go into a place and buy. She also stated they are right on top of this kind of thing and East Side Market is a store that cares about their clients and does not sell to underage kids.

Attorney Feodoroff stated that Det. Donohue from the Brockton Police Department is present. Det. Donohue stated that what has been presented to the board is consistent with the story they were told by Mr. Elias that evening.

A motion was made by Commissioner Sullivan to place a letter in the file because this is their first violation. The motion was seconded by Commissioner Wood.

Commissioner Kenney asked if it should be required that the employees be certified in a server training program.

Ms. Martin stated they paid for the class presented by Ms. Freeman months ago but had been told the class was cancelled because there were not enough people. The Chairman informed her that in the future it is going to be a requirement that the employees be trained.

Det. Donohue stated that they photographed the minor who made the purchase and it is his opinion that he was clearly under age.

A vote was then taken and with all members voting in the affirmative, the motion carried.

18. Hearing on the charge brought against Renu Corp. dba BD Mart – Monzur Khan, Manager, 95 Montello Street, of an alleged violation of **M.G.L. Chapter 138, Section 34**, to wit: “. . . whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, on May 29, 2013, at approximately 5:10 p.m.

Attorney Feodoroff stated she has spoken with Mr. Tanveir who is present on behalf of the licensee and they are willing to admit to the facts that they did in fact sell to an underage person.

Ms. Tucker stated that the person present has nothing to do with the license. Attorney Feodoroff stated he has a Power of Attorney from the owner to appear this evening as a fact witness because the owner is with his father who is dying.

Mr. Tanveir stated the clerk who made the sale wanted to come in but he was not sure if he could speak. He stated they have ordered the equipment that scans IDs. They are starting to send all of their help for training as well. His clerk was very sorry.

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

Det. Donohue stated the clerk was cooperative and at the time had stated he thought the person was of age due to his facial hair. Mr. Tanveir stated he suspended his employee for one week.

It was reviewed that there have been no prior violations.

A motion as made by Commissioner Wood to place a letter in the file. The motion as seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

19. Hearing on the charge brought against Golden Mountain Discount Liquors, Inc. dba Crescent Liquors – Many Chook, Manager, 724 Crescent Street, of an alleged violation of **M.G.L. Chapter 138, Section 34**, to wit: “. . . whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, on May 29, 2013, at approximately 5:33 p.m.

Present was Attorney John Creedon, 71 Legion Parkway. Also present was Many Chook, 24 Beaver Street and Tom Thai.

Attorney Creedon stated they have told Attorney Feodoroff that he will not be arguing the fact that a sale was made and no ID was requested.

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

Commissioner Sullivan asked if the clerks working at the store have attended a server training class. Attorney Creedon stated that three have. It is a family run operation and only three employees who are Many, her husband and Tom. This happened at the shift change and Sam, Many's husband, gets replaced at 5:30 by Tom. Attorney Creedon stated they thought the individual was old enough. There have been two prior violations with warnings issued. One was in 2004 and the second in 2009. He asked for a moderate punishment sanction.

Det. Donohue stated he does not recall them mentioning anything about a shift change. There were two people there, Mrs. Chook and Sam Tith. He added that Mr. Tith was very argumentative with the police when they explained that a violation had occurred. He told them it was the second time it happened and it is very unfair because he has to use his judgment. They explained that they need to ID everyone. Ms. Chook was cooperative.

Attorney Feodoroff stated the City's position is that they were found guilty two times for the same violation in recent history. Because of the fact that he was argumentative and the reality in these situations is to card everyone and there should be no judgment call. She stated in this instance, a letter of reprimand is not sufficient and in recent years they have had similar violations. She stated she reviewed that Hayden's who was found on a second violation was given a two day weekend suspension; CJ Beer and Wine had two priors and were given a one week violation; Golden Rock which had a prior was given a one day, Friday, suspension; and Crescent Variety who had no priors and was cooperative was given a letter of warning.

Attorney Creedon stated that it is his understanding Sam told him he thought the individual was 30 years old and so he didn't ask for an ID. He asked for a one day suspension. Chairman McDuffy cautioned the licensee that they must be more careful and card everyone.

A motion was made by Commissioner Sullivan that the license be suspended for three days. The Adm. Asst. stated they need written notice and the opportunity to file an appeal. Attorney Creedon stated there will be no appeal filed.

Commissioner Sullivan then amended his motion to make the three day suspension on a Friday, Saturday and Sunday.

The motion was seconded by Commissioner Kenney. With Commissioners Sullivan, Kenney and McDuffy voting in the affirmative and Commissioners Dansby and Wood opposed, the motion carried.

20. **(POSTPONED)** Hearing on the charge brought against Golab Corporation dba Fernandez Family Liquors- Harun Ur Rashid, Manager, 127-129 Pleasant Street, of an alleged violation of **M.G.L. Chapter 138, Section 34**, to wit: “. . . whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, on May 29, 2013, at approximately 6:32 p.m.

This matter was postponed at the request of the attorney for the licensee.

21. Communications

The Adm. Asst. reviewed a communication from the ABCC stating the appeal hearing involving Joe Angelo's has been postponed again.

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

Meetings dates were set for July 17 and August 14, 2013.

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 Commissioner Kenney. All members voting in the affirmative, the motion carried.

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