

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, April 17, 2014, in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy; Commissioners Paul D. Sullivan, Bruce G. Dansby, Kathy A. Kenney, Henry Tartaglia and Alternate Catherine Holbrook. Also present were Asst. City Solicitor Kate Feodoroff; License Agent Lieut. Paul Bonanca; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission meeting of March 20, 2014.

A motion was made by Commissioner Sullivan to approve the minutes of the March 20, 2014 meeting which 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 May, 2014: Lieuts. Paul Bonanca and Kenneth LeGrice; Sgts. George Khoury, Frank Vardaro, Michael Powers and Bryan Maker; Dets. Thomas Hyland, Nazaire Paul, Matthew Graham, Eric Clark, Santiago Cirino, Tim Donahue, Jackie Congdon and Chris McDermott; 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 May, 2014. The motion was seconded by Commissioner Kenney. 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.

4. Hearing (postponed from meeting of March 20, 2014) on the request from Maria and Manuel Rodrigues dba Cristal Restaurant, holders of an All Alcoholic Restaurant license at 250 Main Street, to extend the closing hour to 2:00 a.m. on Thursdays, Fridays, Saturdays and eves of legal holidays.

Attorney Creedon requested this matter be held until later in the meeting in order for his client, Maria Rodrigues, to arrive. (It was taken up after agenda item 14.)

Present were Attorney John F. Creedon, 71 Legion Parkway and Maria Rodrigues, 95 Fairview Avenue.

Attorney Creedon reviewed that Mrs. Rodrigues has held this license since 2003. It is a family run business and is located downtown on Main Street and is an anchor with Joe Angelo's bar and Tamboo Restaurant. The last violation that occurred was in April, 2013 and the Commission rolled the hours back from 2:00 a.m. to 1:00 a.m. The Commission's decision indicated that the licensee could petition for an extension of the hours at the end of six months. It has now been close to a year since the hours were rolled back. Attorney Creedon reviewed

the prior violations some of which involved overcrowding incidents. Mrs. Rodrigues is aware of all the local and state regulations. It is a secure area and there are police who patrol the area at closing time. Attorney Creedon stated that from a business point of view, it is time for her to be allowed to be open until 2:00 a.m. The roll back has hurt her business for over a year. Both Joe Angelo's and Tamboo have 2:00 licenses as well as Cardoso's, Gigi's and the Alamo which are all in the area. He asked the Commission to consider giving her the 2:00 license back.

Lieut. Bonanca stated there has only been one call in the past several months. There have been an assortment of calls to the area but they cannot be put on any one particular establishment.

Chairman McDuffy stated that a report from Det. Paul requests the license be denied until at least an inspection is completed at the establishment. When Det. Paul had attempted to make an inspection, the establishment was closed. The Chairman then indicated that whatever the decision of the Commission is, it should be held until the inspection is completed.

Mrs. Rodrigues stated that someone had called her and they had gone there today for an inspection.

Commissioner Kenney stated she has concerns based on the history of this licensee and feels they should not get their hours back because of the history of trouble there. Most recently they were found guilty of transporting alcohol without a permit and she was given a letter of reprimand. Commissioner Kenney reviewed that there have been three other rollbacks since 2007. It doesn't seem to matter what the hours are because when the closing hour was 1:00 a.m., it was rolled back to 12:00. She expressed concern that this licensee is not ready to have a 2:00 a.m. license.

In response to questions from Commissioner Tartaglia, Attorney Creedon stated they were told that they could come back to ask for the 2:00 a.m. license after six months. There have been no major violations within the year. Commissioner Tartaglia indicated that he would be in favor of giving back the 2:00 a.m. closing and if something happens, she will be in trouble. It is his opinion that she should be given a chance especially because the other places around her close at 2:00 a.m. He cautioned Mrs. Rodrigues that if she does get the 2:00 a.m. license back she must be very careful.

Commissioner Holbrook indicated that although she shares Commissioner Kenney's concerns, she believes she is in a difficult position with everyone around her being open until 2 a.m. At this point, she is not sure what can happen to assure the board that there will not be other issues. She would be supportive of this request but stated she would be very concerned if there were more violations.

Attorney Creedon stated this is their entire family investment and they have purchased Sweeney's next door. They have a lot of money involved and if they mess up, it is their problem. Commissioner Tartaglia warned the licensee that if she gets the opportunity, she has to be careful to protect it.

Commissioner Dansby stated that in looking at the violations, they seem to be more systemic in terms of laziness in following compliance. He indicated he understands it is a fast paced business and from his perspective, he would be willing to provide them with another opportunity. He reminded them that a 2:00 license is a privilege and with that privilege they need to be a responsible licensee and handle their business appropriately.

Commissioner Dansby then made a motion to approve the 2:00 a.m. license pending an inspection. The motion was seconded by Commissioner Tartaglia. With Commissioners Dansby and Tartaglia voting in the affirmative and Commissioners McDuffy, Sullivan and Kenney voting opposed, the request was denied by vote of 3 to 2.

Chairman McDuffy then suggested that they operate through the summer and reapply at the beginning of the year. He reminded the licensee that the 2:00 closing is a privilege that needs to be earned.

The next item taken up by the Commissioner was 16a.

5. Hearing on the request from Brockton FG, Inc. dba Five Guys Burgers and Fries for a Common Victualer license at 27 Westgate Drive.

Present was Richard Valanoti, 4 Whistler Lane, Southborough, who stated he is one of the owners of the Five Guys Burgers restaurant that will be opening in Brockton. They currently operate five restaurants. They sell only hamburgers, hotdogs and french fries. The location was reviewed and Mr. Valanoti stated the building had been auctioned off several months ago. They will use half of the building for the restaurant. They are currently in the process of getting their architect designs and it has to be built in accordance with the Five Guy franchise requirements. They are hoping to open in mid-July. The water pipes going into the building have to be enlarged. The Adm. Asst. reviewed that all of the required documents have been submitted with the exception of the final inspections.

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

6. Hearing on the request from Long Dai, Inc. dba Pho A Dong to transfer the Common Victualer license at 379 Belmont Street to John Good Time, Inc. dba John Good Time Asian Cuisine.

Present was Attorney Chris Coleman, 128 Lincoln Street, Boston and his client, John Ruan, 55 Adele Road, Quincy.

Attorney Coleman stated the restaurant at 379 Belmont Street has a 42 seat capacity and his client will make some cosmetic improvements. Hours of operation will be from 11:00 a.m. to 11:00 p.m. on Monday through Saturday and on Sunday from 12:00 noon to 11:00 p.m. Mr.

Ruan has been a chef for four years at Kims Garden Restaurant and is currently the owner of the Ruby Thai Kitchen which is located in the Natick Mall.

Chairman McDuffy asked if there was anyone in attendance either in favor or opposed and no one came forward.

In response to questions, Attorney Coleman stated that the inspections will be completed upon closing on the restaurant. He was informed that the license cannot be issued until the inspections are completed and approved.

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

7. Hearing on the request from Beatrice Blue dba Soul Blue for a Common Victualer license at 1753 Main Street.

Present was Beatrice Blue, 161 Sinclair Road, who stated she is in the process of opening her first restaurant which will be soul food/country food. She has lived in Brockton for over thirty years and she has experience from her grandmother and her extended family who are all great cooks. Ms. Blue stated she is not quite ready to have the inspections done.

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

8. Hearing on the request from Joseph and Debra Sawaya dba Joseph Sawaya Enterprises for a Common Victualer license at D.W. Golf Course – 331 Oak Street.

Present were Attorney John Creedon, 71 Legion Parkway and his client, Joseph Sawaya, 39 Belcher Avenue.

Attorney Creedon reviewed that this is the annual Common Victualer license for D.W. Field Golf Course. Mr. Sawaya and his wife have operated the concession in the past. The contract for this year is signed and they have the required insurance. Attorney Creedon submitted the inspection approvals. He reviewed that Mr. Sawaya ran The Pub on Centre Street for years as well as the Westside Pub at the mall. They have never had a violation. Attorney Creedon stated they will be immediately filing the application for a Beer and Wine license and it will be the first time for a beer and wine license at the golf course. This was a request of the City and Attorney Creedon stated he will be filing the application by the following Tuesday.

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

9. Hearing on the request from Brockton Country Club – 265 Samuel Avenue to appoint Pluton Verra as the manager.

Present was Pluton Verra, 42 Taft Avenue, who stated he is being appointed as the manager of the Brockton Country Club to replace Steve Stathis. He will be running the food and beverage facility including the lounge. He stated his all staff and bartenders are all tips certified.

A motion was made by Commissioner Sullivan to approve Pluton Verra as the manager. The motion was seconded by Commissioner Tartaglia. All members voting in the affirmative, the motion carried.

10. Hearing on the request from Hanuman Corp. dba Rose's Discount Liquors – 186 Oak Street, to appoint Anil Patel as the manager.

Present was Anil Patel, 120 Bergeron Way, Stoughton, who stated he is tips certified. This is a family business and everyone who works at the store is tips certified.

Chairman McDuffy stated it is an important issue that the individuals working at liquor establishments are tips certified.

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

11. Hearing on the request from Nagoya Fusion, Inc. – Shi Na Ou, Manager, holder of an All Alcoholic Restaurant license at 793 Crescent Street, to extend the closing hour from 11:00 p.m. to 1:00 a.m., seven days.

Present was Shi Na Ou, 94 Glover Avenue, Quincy, the manager of the restaurant.

Ms. Glover stated that the current hours of operation are from 11:00 a.m. to 11:00 p.m. on weekdays and from 11:00 a.m. to 10:00 p.m. on Sunday. Many of her customers have asked her to open later.

Det. Nazaire Paul stated he went to the establishment at about 5:30 p.m. yesterday to do an inspection and found the front area to be in good condition but the kitchen area was very dirty. He reported that there were several containers of raw meat left out and there was a large container of raw meat on the floor next to the bathroom which was also dirty.

In response to the observations reported by Det. Paul, Ms. Ou stated they threw the meat away. She has not had violations in the past. She stated the chef was new and she fired him.

Commissioner Dansby reviewed Det. Paul's report which indicated he recommended the request be denied at this time due to the possible health hazards. He had gone for the inspection last evening and has not been in contact with the Board of Health.

In response to Commissioner Tartaglia, Det. Paul indicated he would recommend the Board of Health be asked to make a re-inspection.

Commissioner Tartaglia then made a motion to extend the hours to 1:00 a.m. pending a favorable inspection report from the Board of Health. The motion was seconded by Commissioner Sullivan. With Commissioners McDuffy, Sullivan, Dansby and Tartaglia voting in the affirmative and Commissioner Kenney opposed, the motion carried.

12. Hearing on the request from Domingas Tavares dba Restaurant Luanda – 453 Centre Street to amend the Automatic Amusement Device license (1 pool table) by adding one coin-operated foosball game.

Present was Domingas Tavares, 50 Temple Street, Somerville and Jorge Goncalves, 81 Pomona Drive, who explained that foosball is a table version of a soccer game and is something that is very traditional in countries such as Portugal, Angola and Cape Verde. They would like to put it in place to satisfy their customers requests. It is a legal game.

A motion was made by Commissioner Sullivan which motion was seconded by Commissioner Holbrook.

Commissioner Kenney asked if the placement of the machine will need to replace tables or have any impact on the capacity.

Det. Paul stated he had gone to the restaurant yesterday and the game is going to be placed in front of the pool table and will not interfere with the seating. He indicated he would have no objection to the request.

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

13. Hearing on the request from Kaival Management Corp. dba Subway for a Common Victualer license at 666 Oak Street.

Present was Jenish Patel, 24 Stonegate Drive, East Bridgewater and Maulik Patel, 12 Mechanical Street, No. Easton, the manager of the restaurant.

Mr. Patel stated this is his third Subway restaurant and he currently operates one in Halifax and one in the Westgate Mall. He indicated they are still working the problems out in the design and he has opened for take out only. It was reviewed that this application was scheduled at the Commission's meetings last November and December, however, the applicant did not show up

for the hearing. Mr. Patel stated that in February there had been water damage and everything had to be ripped up.

In response to questions, Mr. Patel stated the Wire Inspector has inspected and approved the location and will be sending back the written inspection form.

A motion was made by Commissioner Dansby to approve the license pending the inspection approval from the Wire Department. The motion was seconded by Commissioner Kenney. All members voting in the affirmative.

The Chairman reminded Mr. Patel that until he is issued the license, there can be no sit down at the location.

14. Hearing on the request from Enrique A. Fernandes dba Reliable Auto Sales to transfer the Class II Motor Vehicle Dealer license at 369 Court Street to 5 Corner Auto Sales, Inc.

Present was Enrique Fernandes, 25 Walton Avenue, Hyannis, who stated he has been in business in Brockton since 2005. He recently purchased the property at 369 Court Street and had been approved at last month's meeting to transfer his license from 65 Court Street. He has now incorporated his business and would like to have the license transferred from him as a sole proprietor to the corporation. Paperwork is in order and it is the same plan as the one approved at last month's meeting. At the present time, there are about 12 cars on the lot. He was approved for a total of 20 cars with no more than 17 for sale.

Paperwork being in order, a motion was made by Commissioner Kenney to approve the transfer of the license to 5 Corner Auto Sales, Inc. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

15. Communications

16. Any other business to properly come before the Commission

- (a) Hearing on the charge against Ames Street Pub, LLC dba The Lit -128-132 Ames 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 therefor whether present or not."

Present were Attorney Andrew Schwartz, 11 Vanderbilt Avenue, Norwood and his client Gary Lawcewicz, 23 Lawton Avenue.

Attorney Feodoroff advised the Commission that an evidentiary hearing is not needed and she has been in touch with Attorney Schwartz who has advised her that the owner of The Lit has agreed to voluntarily close. Mr. Lawcewicz is currently in the process of selling the property

and the business and there is currently a Purchase and Sale Agreement which has been executed. They are hoping that the sale will go forward quickly. The individual who is purchasing the location is going to make this into a family restaurant as opposed to a bar. They want to make sure the Commission is aware that they are closing so that they will not be cited for failing to do business and the license will still be active. If the sale falls through or a new owner comes forward they will have to come before the Commission to either do a transfer or notify the Commission that they will be reopening.

In response to questions, Attorney Feodoroff stated there needs to be no vote but they can take public comments or comments from Attorney Schwartz.

Attorney Schwartz stated they do have an agreement with a buyer who is represented by Attorney Richard Lawton who was unable to attend tonight's hearing but authorized him to represent on his behalf that the parties are finalizing a transfer and he will be submitting the transfer documents shortly. He stated that Mr. Lawcewicz is very upset and unhappy that the incident happened at his premise and extends his condolences to the family of Mr. Miranda. They are hoping to reach a resolution and he has owned the premise since January, 2013. His father was the prior owner and operator and his father passed away. Mr. Lawcewicz stated he is running the business for his mother who is 81. Mr. Lawcewicz is in agreement to remain closed for the time being in hopes of getting the sale through in a short amount of time.

Chairman McDuffy stated that it will be an understanding with the new owner that whatever license he has now will be the transfer.

Chairman McDuffy then asked for public comment.

Councillor Michelle Dubois reviewed that when Gary's dad came before the board for a 2:00 a.m. license, she spoke on his behalf. At the time, his track record was good in running the bar across the street. She indicated that typically she is not a fan of 2:00 licenses but at the time felt like it was in safe hands. Since that time, there have been three murders at this location. She then cautioned the board that she hopes they remember what happened to the bar across the street which was formerly the Sandara Club. She stated there was a murder and a new owner was found who mortgaged the building from the previous owner. There was then another murder and the title was transferred a second time and then there was a third murder. She hopes this is not going to happen at this establishment. She stated that everything being presented this evening sounds fine. The place has been there a long time. If they are going to start selling food again and not allowing rift raft in there, that would be great. She indicated she wants to stress how difficult this has been for the neighborhood. She has walked the neighborhood this past weekend and again last night to meet with the community. They are very disturbed at what they have had to live with over the past three years and she knows there has been a lot of discussion that the people who have been murdered are a bad element. Councillor Dubois stated she does not agree with that and knows the Bishop family whose son got murdered in the parking lot a couple of years ago and the bad element were the people who were in the bar. As it turned out, 25 people witnessed that murder and no one stepped in

to help him. She stated she hopes the new owner will clean it up and turn it into the nice place that she remembers from when she was a child.

Councillor Dubois stated she is pessimistic about the whole transfer and the people who live down there are truly concerned. They are extremely scared and many who live close by are scared for their children. They don't let them walk in front of their houses and there are huge fences in front of homes because they are afraid of what happens at this bar. She indicated that she understands the Commission's hands are tied to some extent but they have to know the gravity of what is going on. She stated this is serious and three people have lost their lives and for the family members of the murder victims it seems nothing has been done. She stated she wants the board to know that the people who pay taxes in that area are terrified of what is going on and the bullet that might have been meant for the bad person could have gone anywhere. The people shooting are criminals and next time it could strike a child. She stated she is really glad that Mr. Lawcewicz is selling the bar and she wishes the best for him.

Mike Denapoli, 41 Beacon Park, stated the City has allowed residential housing in the area. As a resident he is very concerned and heard gunshots coming from The Lit this past October. He is concerned that this liquor license will be sold to someone and it is not the area and at this point a bar should be removed from the residential area. A 1:00 or 2:00 a.m. closing time is not acceptable in the area.

Diane Shanks, 5 Arther Street, stated she is sorry to take a business away but at the same time she is glad Mr. Lawcewicz made the decision to close based on the neighborhood. She stated that in 2010 and 2013, she had officers in her yard looking for guns and in one of those instances, the assailant cut through her yard. She stated she bought her house when her child was two so that she would have a house, a yard and a neighborhood where she could grow up in the same way she had growing up in Brockton. She no longer allows her daughter to walk her dog in the neighborhood when it is dark. On one evening at 7:30 p.m. two youths were shooting guns in front of her home. She stated this was not from the bar but there are too many things drawing individuals into the neighborhood. She stated she hopes the person who is buying this establishment truly wants to make it a family restaurant and she does not see why a family restaurant needs a 2:00 a.m. closing.

Emily Firestein stated she currently lives in Bridgewater but lived on East Ashland Street for years. She works at The Lit. She stated she does not think the problem is the bar and she is not afraid to be at the bar. She thinks it is a problem everywhere and there was recently a murder on Green Street and there are problems in the schools. She feels the restaurant owner or the future owner should not be held liable for what happened. She stated she works Friday nights and the oldest patron is 94 years old. There is an older crowd and no one is under 50. The patrons meet there on Friday nights and the bar closes at 10:00 p.m. She has never had a problem there while she was working.

Mike Harvey, 741 No. Montello Street, stated he works at the bar in the mornings. It is very quiet and there are no problems. It is his opinion that it is not Mr. Lawcewicz's fault and the

bar cannot be blamed because someone wants someone dead. He would like to see the bar remain open.

Antonio Mercado, 41 Beacon Park, stated he does not live far from The Lit. He indicated he feels that the business is bringing in a crowd that is endangering everyone else around. There are more and more single family homes being built in the area and there are a lot of families coming back into the community which is what they want. They want a nice peaceful environment to live in and hopefully there will be a family restaurant coming in but he agrees that a family restaurant does not need to be open until 2:00 a.m. or even midnight. He stated that 11:00 is reasonable for the business to close. He stated his concern is that they must look at whether this is really going to be a family restaurant and whether this will be a safe environment for the residents. He stated he has been a Brockton resident for eight years. His friends fear coming to his neighborhood because of The Lit being nearby.

Chairman McDuffy thanked Mr. Lawcewicz for the steps he is taking and feels this will improve the area. He stated he agrees with many of the statements made this evening from both the employees and the neighbors. He indicated a change in the environment would be great and a family restaurant would be a good thing to have there. He stated that there are several other bars in the area at the present time and he is not sure whether the closing of The Lit will move the other people out of the area. In his opinion, more has to be done than closing a single bar. He feels Mr. Lawcewicz has made the right decision especially in view of the fact that he has a purchase a sale.

Chairman McDuffy then thanked everyone for attending and the discussion ended.

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 Dansby. All members voting in the affirmative, the meeting was adjourned.

Respectfully submitted,

Scott H. McDuffy
Chairman

APPROVED:

Paul D. Sullivan, Commissioner

Bruce G. Dansby, Commissioner

Kathy Kenney, Commissioner

Henry Tartaglia, Commissioner

Catherine B. Holbrook
Alternate Commissioner