

**TAPED**

The License Commission held a Special Meeting on Wednesday, May 28, 2014, at 6:30 p.m. in the G.A.R. Room at City Hall. Present were Chairman Scott H. McDuffy; Commissioners Paul D. Sullivan, Bruce G. Dansby and Henry Tartaglia. Also present were Asst. City Solicitor Kate Feodoroff; License Agent Lieuts. Ken LeGrice and Paul Bonanca; and Administrative Assistant Bonnie Tucker.

1. Requests for Special One-day Permits

- (a) **All Alcoholic Beverages** – Cardinal Spellman High School – Ellen Rota, Manager, for a VIP Reception to be held at the School Gym on Friday, June 6, 2014, from 9:00 p.m. to 11:30 p.m.

Present was Jane Westerland, 152 Cashman Road, who was present on behalf of Cardinal Spellman High School. Mrs. Westerland stated there will be a musical held at the School on June 6<sup>th</sup> and the permit is being requested for a VIP reception which will take place in the gym after the show. They do not anticipate over 50 people and there will be a bartender on duty.

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

- (b) **Wine and Malt Beverages** - Joseph and Debra Sawaya dba Joseph Sawaya Enterprise - D.W. Field Golf Course – 331 Oak Street from May 28, 2014 thru October 31, 2014 on Monday thru Saturday from 8:00 a.m. to 8:00 p.m. and on Sunday from 11:00 a.m. to 8:00 p.m.

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

Attorney Creedon reviewed that this request is being made in conjunction with a contract between Mr. Sawaya and the City to operate the snack bar at D.W. Golf Course. A Common Victualer license has been issued. The contract requires that the Sawaya's obtain a beer and wine license for the golf course and they are applying for Special licenses from now through October 31<sup>st</sup> to be issued to sell the beer and wine. To the best of his knowledge, there has been no beer and wine sold at the golf course and the Mayor has indicated that studies have shown that not enough members of the public want to go to D.W. Golf Course because there is no beer and wine served.

Attorney Creedon stated there will be no bar and the beer and wine will only be served from the clubhouse. The beer and wine will be allowed to be consumed throughout the entire eighteen hole golf course. The hours will be from 8:00 a.m. to 8:00 p.m. There will only be plastic cups allowed and no drinking will be permitted in the parking lots. Mr. and Mrs.

Sawaya have many years experience in the serving of alcoholic beverages and understand all of the rules and regulations. Attorney Creedon stated this is a test year and the Commission has the ability to set the fee for the license. He suggested that in the interest of fairness, the fee charged be no more than \$800 which is half of the annual beer and wine restaurant license fee. With no bar, it will not be a hangout and it will just provide the golfers an opportunity to have a beer or glass of wine. The alcohol will be stored in the locked room located across from the locker room and also in the refrigerator which is located behind the service bar.

Chairman McDuffy questioned whether the Commission has the authority to set the fee. Ms. Tucker reviewed that at last month's meeting, the board had established the fee for the Special Beer and Wine Permit at D.W. Golf to be the same as the fee for an annual wine and malt restaurant license which is currently \$1,600.

Mr. Sawaya stated that Tim Carpenter told him that the fee could be prorated and is negotiable. Ms. Tucker indicated there has been no communication from Mr. Carpenter. Mr. Sawaya indicated he was just recently given this information. He does not want the beer and wine license because it is a full liability for the entire golf course. He stated that for 40 years people have been bringing their own beverages to the golf course and he is going to have to police everyone. He stated he is not going to sell beer and wine on Monday through Friday. On Saturday and Sunday, people are going to leave and not hang around where there is no bar. He indicated everyone will be gone by 6:30 p.m. He stated his hours are very limited.

Attorney Creedon asked the Commission to consider voting to lower the fee to \$800. Mr. Sawaya stated he has agreed to take this on and is honoring his contract but he is trying to make it more economically feasible. He stated he is not willing to pay a full year license for 150 days.

Chairman McDuffy indicated the Commission could approve this after some type of communication from Mr. Carpenter and then it could be adjusted.

Attorney Feodoroff stated it is not within Mr. Carpenter's authority to decide the fee and it is set at the Commission's discretion. If Mr. Carpenter is in favor of it, as is with any Councillor who comes in to support an application, the board can take this into consideration in making it's decision. The fact that he supports it may impact their decision on setting the fee but they should not rely on him to set the price. She indicated it is totally within their purview to decide what the fee should be.

Commissioner Tartaglia then made a motion to approve the special permit with the fee being set at \$800. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

Attorney Feodoroff suggested that they make the motion more detailed that based on the facts presented that the permit is being sought later in the year and there was less opportunity to attract business for the full golf year, there is a hardship on the applicant in paying the full license fee.

Commissioner Tartaglia agreed to amend his motion to include the wording suggested by Attorney Feodoroff. Commissioner Sullivan seconded it. With all members voting in the affirmative, the amended motion carried.

2. Hearing (postponed from meeting of May 15, 2014) on the request from Blazin Wings, Inc. dba Buffalo Wild Wings – 500 Westgate Drive, to appoint Jamie Pereira as the manager.

Present was Jamie Pereira, 111 Covell Street, Fall River, who stated this is strictly a change in manager and there will be no change to the operation of the restaurant.

Paperwork being in order, a motion was made by Commissioner Dansby to approve the request which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

4. Hearing on the request from Entertainment Management Complex, LLC for a Special One-day Permit to sell wines and malt beverages on Friday, June 13, 2014, from 5:00 p.m. to 11:00 p.m. and to amend the Entertainment license to include a Concert on the same date.

Chairman McDuffy stated this request was submitted late and is being added to the agenda.

Present was Michael Canina, 227 Linwood Street, who stated this is a request to sell wine and malt beverages at a concert to be held on June 13<sup>th</sup>. They are planning to open the doors at 6:00 p.m., the show starts at 7:00 p.m. and will end at 11:00 p.m. He stated that the concert will be for a local singer from Hanson, Kristen Merlin, who was recently on The Voice.

In response to questions from Lieut. LeGrice, Mr. Canina stated they are hoping for 8,000 people maximum but will know closer to the date of the event. Realistically they would anticipate between 3,500 and 5,000. Lieut. LeGrice asked Mr. Canina to keep in touch as far as ticket sales. Mr. Canina stated that attendance exceeding 3,500 will have to be opened up as a general admission which involves egress issues and he will work closely with the police and fire departments.

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

5. Hearing on the following proposed amendment to the Brockton License Commission Rules and Regulations with regard to “Video Surveillance Requirement for Alcoholic Beverage Establishments.”
- a. Any holder of an “All Alcoholic Restaurant” license, a “Wine and Malt Restaurant” license, an “All Alcoholic Hotel” license, or an “All Alcoholic General On-Premise” license, expressly excluding an “All Alcoholic Club” license, which permits the sale of alcoholic beverages after 12:00AM (midnight) (“Affected Licensees”) shall install and maintain security cameras which shall monitor and record the interior, entrances, exits, exterior perimeter and parking lot of the licensed establishment. The “interior” as defined shall include all areas accessible by patrons of said premises; provided however, restroom interiors shall be expressly excluded from video monitoring.
  - b. The security camera(s) shall be operational twenty-four (24) hours a day, seven (7) days a week. The recordings contained therein shall be made available for inspection to sworn officers of the Brockton Police Department, Brockton’s License Commission agent(s), Code Enforcement officers, and/or State and Federal officials for any/and all investigation(s) of activity(ies) at the licensed establishment or within the surrounding neighborhood.
  - c. If any or all of the security cameras and/or recording equipment should become inoperable for any reason, the Affected Licensee immediately shall notify the License Commission office and shall thereafter repair said security cameras and/or recording equipment within five (5) business days for subsequent inspection by a License Commission agent.
  - d. All recordings shall be maintained for a minimum of sixty (60) days unless directed otherwise and shall be made available for inspection immediately upon request to sworn officers of the Brockton Police Department, Brockton’s License Commission agent(s), Code Enforcement officers, and/or State and Federal officials to aid in the investigation of criminal activity or license violations occurring at the establishment or within the surrounding neighborhood. Failure to make said recordings available for immediate inspection shall be deemed a violation of this regulation.
  - e. Any Affected Licensee not currently possessing a security camera system as described in letter (a), shall have sixty (60) days from the passage of this regulation by the Brockton License Commission to obtain said system. Failure to comply with any part or provision of this regulation shall result in an automatic rollback of hours to 12:00AM (midnight), subject to the notice and public hearing requirements set forth in G.L. c. 138, § 12. Requests for

extension of hours shall not be considered by the License Commission for at least 12 months from the date of the violation.

After reading the proposal into the record, Lieut. Bonanca stated that when putting the proposal forward, there was an incident that occurred on April 19<sup>th</sup>. A preliminary investigation determined that the victim had been at the Morabeza on Main Street. He stated that unfortunately, police had difficulty in identifying potential witnesses. In looking at this proposal from a police standpoint, they are looking to the prevent of crime. He stated that in the right situation, cameras do have some crime prevention capacity and the primary preventive utility is in changing the perception of the potential offender. It would depend on the merchant as to whether they wish to advertise the fact that they have cameras but if the offender believes that if he commits a crime, he will be caught, it may result in the reduction in offending. Lieut. Bonanca stated that in order for that to occur, the offenders must believe that with the cameras present, there is a risk of being captured. The second point is that the cameras would assist the police in the arrest of the offenders.

Lieut. Bonanca stated it could also be important to the merchant by reducing the likelihood of burglary, vandalism and even assisting in employee theft. In addition, he stated that if the people who go to the bars know there are video cameras monitoring the premise, they may feel safer and there may be more customers going to the establishment.

Lieut. Bonanca indicated another point would be for general location management and with 24 hour surveillance, it would be helpful to police in the investigation of incidents involving fights, hit and runs, lost children, etc. He stated that over the years, the cost of these systems have been reduced significantly. He feels it will benefit both the City and the merchants with regard to the video surveillance requirements if the Commission decides in favor of this proposal.

Chairman McDuffy indicated that he knows some of the older systems are not able to save the videos for 60 days and he suggested a shorter period of time for the videos to be kept. Lieut. Bonanca stated he has heard concerns from some of the merchants that they have older systems which only have a 30 day retention capability. He indicated the police department does not have an objection to reducing the time from 60 days to 30 days.

Attorney Feodoroff stated that the Law Department would have no problem with that provided it doesn't interfere with a police investigation. She indicated she spoke with the Mayor today and he has made a couple of amendments to the proposal. One amendment is to reduce the 60 day requirement to a 30 day requirement because he was also concerned with the existing businesses which have the security systems in place. He felt it would not impede on the intent of the rule. The other possible amendment for the board to consider is the penalty following failure to comply. She stated the Mayor feels the length of time should be reduced and that it be made a progressive discipline, i.e., the first violation – a 7 day rollback, second violation – 15 day rollback; 3<sup>rd</sup> and subsequent violation a 30 day rollback. He has also has canvassed some of the affected bars and felt this would be a

reasonable compromise so as not to deviate from what the purpose is which is to prevent crime and capture criminals but yet to be sensitive to the business needs.

Commissioner Tartaglia indicated he feels that cameras will help but he has a problem with not asking the clubs to have the cameras. He stated that the Clubs have entertainment and parties as well as being open until 2:00 a.m. They are exempt from certain requirements such as the smoking laws. He expressed concern that it is not a fair playing field with the Clubs not being included. He asked Lieut. Bonanca if he could explain why the Clubs are exempt from the proposal.

Lieut. Bonanca stated that it would be up to the Law Department to decide on whether the requirements should be imposed on any other establishments.

Commissioner Tartaglia stated the Clubs do more business than any bar he knows of in the City of Brockton and he feels the Clubs are taking away from a lot of the restaurants and barrooms because they can charge less for the drinks and they are allowed to permit smoking. In his opinion, he feels if this proposal is going to be required, it should also be changed to include the Clubs.

Attorney Feodoroff indicated that to the best of her knowledge, there is no legal impediment to including the Clubs in the requirement.

Commissioner Tartaglia stated that in addition, the restaurant business is way down at this time and he knows a lot of the places are barely hanging on. It is going to cost some of the establishments from \$5,000-\$15,000 to install the systems in order to meet the requirements being proposed. He asked if the City will help finance the installations to help the people who cannot afford the cameras. He feels that many of the businesses would probably like to install them but don't have the money. Commissioner Tartaglia stated it is his opinion that there should be some provision to help the people who want to put the cameras in but do not have the money. He does not want to see someone's hours rolled back because they cannot afford to install a camera system.

Attorney Feodoroff stated the proposal does not include helping with financing and it would run into a whole other list of problems. She indicated it can be a consideration as to whether they want to pass this but the City helping financially could not be an amendment.

Chairman McDuffy stated the cost of the systems is also a concern to him. He indicated that George's Café might be an exception because it has five rooms and a large parking area. He indicated he didn't realize the cost would be so expensive. Commissioner Tartaglia stated he hopes it will be only \$1,000 for a smaller place and for those who cannot afford it. He is concerned when he sees places like Christo's and the Brockton Café closing and stated it is economically difficult for some the smaller places.

In response to questions, Lieut. Bonanca stated that it is not the intention of the police to use this rule as an excuse to go into an establishment and look at videos but specifically for the purpose of investigating criminal activities or license violations or any activity on the exterior that could assist in an investigation. Chairman McDuffy asked that this be made clearer in the written policy.

Commissioner Dansby stated he likes the content and agrees that it will benefit the City overall and asked Lieut. Bonanca if this is modeled after another city or town policy or whether they are setting precedent here.

Lieut. Bonanca stated that this proposal has been looked at by the Law Department but he had taken some of the items from Newark, NJ and Washington DC where they have similar requirements for their alcoholic beverage license holders. He stated that there were items looked at from across the country and everything passes the legal test with the Law Department. He stated he has not seen anything spelled out for Commissions in any other Massachusetts cities or towns, however that is not to say nothing exists.

Commissioner Dansby then asked if there are any statistical models that prove that the implementation of such a system results in a reduction of crime. Lieut. Bonanca stated he did do some research and one of the countries in the United Kingdom has cameras on every block. From the information he has gathered, it has been a great assistance to their police departments in terms of helping to solve crimes as well as crime reduction. He stated that unfortunately, in the United States, there are not many locations where this is a requirement. He stated in terms of what he has read, it has assisted in the detection and arrest of offenders and reduced burglary and vandalisms for businesses.

Lieut. LeGrice stated that in the City of Brockton, two of the last six murders have been caught on tape.

In response to questions, Lieut. Bonanca stated there are some public cameras in the City which have assisted police in some crimes but it is an expense that the City probably doesn't have to put them up on every block.

Chairman McDuffy asked if there was anyone present wishing to speak in favor of the proposal and no one came forward. He then asked if anyone opposed wished to speak.

Sheila Angelo, Arborview Terrace, West Bridgewater, the owner of Joe Angelo's Café came forward and stated that from what she can see, Lieut. Bonanca is putting this requirement on a lot of the bar owners. She asked Lieut. Bonanca if he knew how many murders were committed in the City before 10:00 p.m. since 2013. She then stated that in the last 32 months, 27 murders occurred before 10:00 p.m. She indicated that Joe Angelo's has had cameras for ten years and they are a great tool. She wanted to make the Commission aware that there are times the cameras say they are running but they have found after that the tape was not recording. In addition, they have had the Brockton Police come in on three

occasions and asked to see something in the rear of the establishment because the camera which was put up by the City in the parking lot was not working. She stated that the IT world is not perfect and if they the establishment thinks their cameras are running and it is found they are not working, they should not be punished. Mrs. Angelo indicated that the City is placing the burden on the bar owners and all of the murders are not happening at bars. She asked if they are going to require other places such as CVS, 7-Elevens, gas stations and other businesses that are open after midnight to also install surveillance systems.

In response, Lieut. Bonanca stated that regardless of the homicides happening before or after, he feels if one homicide occurs after 10 p.m., it is too much. The other aspect is in many of the homicides that happen after 10:00 p.m., it seems that those involved had been frequenting the bar rooms in the City. He indicated that the reason this proposal was brought forward was that the victim was located in the bar prior to the actual homicide. There was no video. He stated that what happens is that a group of people from outside the City will go to a bar and engage in entertainment and then leave the City, hence, witnesses leave the City and the police then have problems locating the witnesses. He stated that the majority of the crimes that are solved happen prior to 10:00 p.m. and the ones that are not solved usually happen after 10:00 p.m.

Mrs. Angelo stated she does not agree with this and the stabbings and shooting which have occurred over the past five years did not happen because of the bars.

Chairman McDuffy stated the purpose of the public speaking is to make a statement either for or against, not to be asking questions back and forth.

Mrs. Angelo stated that the murders are happening all over the City and the burden is being placed on the bars.

Maryann Towle, 391 Pearl Street, present on behalf of McMenemy's, stated she feels there is not a person present this evening that doesn't want to help out or to prevent crime. She indicated that the people present want to run their establishments according to the laws that are already engaged. She indicated there are always times when things cannot be prevented. She then asked about the establishments that have closing hours at midnight and asked if they will be required to install the video system.

Attorney Feodoroff stated the rule would only be applicable to the license holders whose license is issued for hours beyond 12:00. The surveillance would have to be operated 24 hours. She referred to section (a) of the policy.

Ms. Towle indicated that if crimes do come from alcohol involvement, there are already laws in place and no one wants to lose their license. She thanked Commissioner Tartaglia for his sensitivity to the issues. She stated there is no money to secure for what is being asked of them. She thought there might be someone present to say there will be companies to assist

them in putting the systems in. She asked the Commission that if this is taken under advisement, they could bring someone in to offer their assistance.

Nicole Keneklis, 419 Howard Street, South Easton, owner of the Colonial Spa at 9 Franklin Street, stated she does not understand the concept of bringing the barrooms in when every business in the City should be held accountable. She indicated it seems that they want the bars to monitor the City for them and she doesn't understand why the barrooms are being singled out and the clubs are not included. She stated she takes offense in that they are being set up as though they are going to have problems. She stated there are a few select bars in the City that have had serious problems but the majority of the establishments have not. Ms. Keneklis stated she cannot remember the last time she has had a call for police to her bar. With regard to the monetary involvement, she stated that business is not good in the City and it is just another expense being placed upon the bar owners. When the Lieutenant spoke about the cameras in the U.K. on every City block, she did not hear anything said about placing them inside every barroom.

Jason Minassian, Abington, representing Westgate Lanes and Westgate Pub stated he is in favor of cameras and feels they are a great tool for business owners. He stated they have caught several thefts during the past ten years. They have not had any big problems in their establishment but there have been minor scuffles. There was recently an arsonist who was lighting fires around the Westgate Mall area and he was on their tape which he had sent to the police. They have 28 cameras and spent close to \$12,000 installing the system which keeps the video for 14 days. They have had an estimate on upgrading to a camera system that would enable them to hold the video for 60 days and in order to comply with the proposal they would have to add technical data and 20 more cameras to cover every entranceway and the cost would be in the tens of thousands of dollars. He stated that in June, July and August, their business is down about sixty percent. He stated he does not know where they will find the money to upgrade as required. He stated that if there are any issues, it is usually within 3 to 4 days that the video is reviewed. He stated if anything did happen and the videos were needed, he would get a call within 30 days. In his opinion, the Mayor's recommendation to reduce the number of days from 60 to 30 is still excessive.

Mr. Minassian stated that the restaurant business throughout the City is down, the taxes have gone up, food and liquor costs have gone up and the money is not there.

Kevin Gill, 82 Lakeside Avenue, Lakeville, the owner of Owen O'Leary's at 1280 Belmont Street stated he has been in the City of Brockton for 22 years. He indicated that business is tough and he opposes this proposal. He stated if cameras are brought in, he would like it to be on his own terms. He asked for consideration to be given so that people who have been in business in the City for 10, 15 or over 20 years be grandfathered if there have been no real issues. He stated that it seems the restaurant and bar business is being targeted. The people who have 2:00 a.m. licenses cannot let anyone in after 1:00 a.m. He said a person had come in for a sandwich last week and he couldn't let him in to have a serve him food. Mr. Gill stated it seems it is getting harder and harder to make a dollar and now the City

would be forcing him to spend \$10,000 to install a security camera system. He stated he was hoping that there would be something offered to defray the costs such as a reduction in real estate taxes or maybe charge \$500 every time the police want to view their cameras. He stated business is tough and it doesn't seem like the City is trying to work with the restaurant owners. There should be some help to increase the revenues. Mr. Gill stated he is opposed to the proposal.

Augusto Rosa, owner of The Vulcan Bar at 705 North Montello Street, stated it seems they are targeting the bars that open two extra hours. He stated he has a camera system with eight cameras for the outside and inside which holds the video for two weeks. Sometimes when they go back to look at something, they find the camera wasn't working. It is his understanding that the last murder that occurred in a bar happened between noon and 1 p.m. He doesn't understand why only the bars that open after midnight have to have surveillance cameras.

Mr. Minassian stated that he cannot let anyone in on Thursday, Friday and Saturday after 1:00 a.m. so the City has already hurt him financially when the rule was passed a couple years ago. They have bowlers coming in who want to have something to eat and he can't serve anyone or even let them in after 1:00 a.m. He stated if someone comes off the highway wanting something to eat, he has to explain to them why he can't let them in and they take it personal because they don't know Brockton's rules. They think he is just not letting them in and it is not right to go after the bars that have the extra two hours.

With no one else present wishing to speak on the matter, Chairman McDuffy thanked everyone for attending as well as thanked the police department for what they have done. He stated that the Commission is not required to make a decision this evening and with the suggestions for possible changes, he would ask that the City Solicitor's office and the police department work on any possible changes that might want to be considered. He suggested it be held until the Commission's July meeting.

A motion was made by Commissioner Tartaglia to table this until the Commission's July meeting.

Commissioner Tartaglia asked if they could consider the suggestion made regarding grandfathering the establishments that have been in business and require it only for new establishments.

Chairman McDuffy stated he would like to review the minutes of this meeting and then make their own recommendations to Attorney Feodoroff, Ms. Tucker and the Police.

Commissioner Tartaglia repeated his motion to table this to the July meeting. The motion was seconded by Commissioner Dansby. All members present voting in the affirmative, the motion carried.

With no further business to come before the Commission, a motion was made by Commissioner Dansby to adjourn the meeting which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

Respectfully submitted,

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Scott H. McDuffy  
Chairman

APPROVED:

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Paul D. Sullivan, Commissioner

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Bruce G. Dansby, Commissioner

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Kathy Kenney, Commissioner

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Henry Tartaglia, Commissioner

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Catherine B. Holbrook  
Alternate Commissioner