

## TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Wednesday, August 20, 2014, in the G.A.R. Room at City Hall. Present were Chairman Henry Tartaglia; Commissioners Paul D. Sullivan, Scott H. McDuffy, Kathy Kenney and Paul Merian. Also present were Lieut. Ken LeGrice, Officer Scott Uhlman and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission meeting of July 23, 2014 and the Special Meeting of August 7, 2014.

A motion was made by Commissioner McDuffy to approve the minutes of the meeting of July 23, 2014 which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

A motion was made by Commissioner Sullivan to approve the minutes of the Special Meeting of August 7, 2014. The motion was seconded by Commissioner Merian. With Commissioners Sullivan, Merian and Tartaglia voting in the affirmative and Commissioners Kenney and McDuffy abstaining, the motion carried by vote of 3 to 0.

2. Approval of the following police officers as license agents for the month of September, 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, Chris McDermott and Michael Bunker; 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 September which motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:
  - (a) **All Alcoholic Beverages (3 Permits)** – St. Theresa Church – Rev. Tony Mouanes, Manager, for a three day festival to be held on Friday, September 26<sup>th</sup> from 5:00 p.m. to 12:00 midnight; on Saturday, September 27<sup>th</sup> from 12:00 noon to 12:00 midnight; and on Sunday, September 28<sup>th</sup> from 12:00 noon to 3:00 p.m.

Representing St. Theresa Church was Michelle Nessralla, who asked that the time of the event be changed to Friday, from noon to midnight; Saturday from 11:00 a.m. to 1:00 a.m.; and on Sunday from 11:30 a.m. to 7:00 pm.

A motion was made by Commissioner Sullivan to approve the permits with amended hours. The motion was seconded by Commissioner Kenney. All members present voting in the affirmative, the motion carried.

- (b) **All Alcoholic Beverages** – Brockton Firefighters Union Local 144 – William Hill, Manager, for a fundraiser to be held at the Union Hall – 80 Perkins avenue on Saturday, September 20, 2014, from 11:00 a.m. to 11:00 p.m.

Present was James Young, 10 Egypt Road, Carver, who stated he is Vice President of the Union Local 144 and is present on behalf of Bill Hill who could not be present. He stated this is the twelfth annual motorcycle ride. The money that is raised is given back to local charities.

Lieut. LeGrice asked about the route and Mr. Young stated they start at Campanelli Stadium behind Fire Station #6 and end at the Union Hall at 80 Perkins Avenue. The ride will be approximately two hours long depending on the weather but they usually get back to the hall at about 12-12:30 p.m. The event is usually wrapped up by 7:00 p.m.

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

- 4. Hearing on the request from Ames Street Pub, LLC dba The Lit to transfer the All Alcohol Restaurant license at 128-132 Ames Street to JA CRUZ, Inc. dba Nose Casa.

JA CRUZ, Inc. dba Nossa Casa requests the following:

- (a) To appoint Jose Cruz as the manager;
- (b) Hours of operation from 8:00 a.m. to 1:00 a.m.;
- (c) An Entertainment license for Orchestra (5) pcs, Vocalists, Dancing by Patrons, Disc Jockey, Karaoke, Jukebox, Television, Recorded Music/Radio, on Monday through Saturday from 8:00 a.m. to 12:45 a.m. and on Sunday from 12:00 noon to 12:45 a.m.

Present were Attorney Richard Lawton, 157 Belmont Street and his client Jose Cruz, 928 Warren Avenue. Also present was the current owner, Gary Lawcewicz, 23 Lawton Avenue.

The following letter dated August 20, 2014 from Ward 6 Councillor Michelle DuBois was read into the record by the Administrative Assistant:

Dear Members of the License Commission:

I am sorry that I will be unable to attend the License Commission meeting on August 20th; I have a previous commitment that I cannot change. Please except this letter as my official input as the Ward Six City Councilor and representative for the district in which this business

is to be located. These requests to the License Commission are on behalf of the residents of Ward 6 and this neighborhood, in relation to the transfer of the license at the Lit Bar on Ames Street.

The area that this license will be placed is almost completely residential in use and zone. The site maybe zoned C1 but it directly abuts residents on two sides and a third across the street. Currently, this area has the most single-family home development in the City. Looking to the future we must plan for this area to move forward and become more residential. There will be no shoe factories coming back to this area and we must plan for the family-focused neighborhood this area has become.

**I support the transfer of this license with the following stipulations.**

The following list of stipulations are much less restrictive than the majority of residents would like but I believe the following changes to the licenses be fair - both the resident tax payers, and the business. I have placed a header for each area to make this simpler to understand.

**1. Hour of Opening**

If the Commission allows an 8 a.m. open, the residents and I request that a stipulation be placed on the license that no beer, wine or liquor be sold until 10 a.m. at the earliest. This is not the Wild West and there is no need for this establishment to sell liquor at 8 a.m. in a residential neighborhood.

**2. Closing Time**

The residents and I request that the closing time be set at 11:00 p.m. or earlier. This is a residential area and with the rather recent violent-crime in this building the residents would like to see what type of establishment Mr. Cruz is running prior to the issuance of a 12 or 1 a.m. license. We request at least a 6 or 12 month 11:00 p.m. closing time.

**3. Entertainment License**

The residents and I request that the Entertainment License time be altered to the following:  
Monday to Thursday 10 a.m. to 9 p.m.  
Friday and Saturday from 10 a.m. to 10 p.m.  
Sunday from 12 p.m. to 10 p.m.

As stated earlier this establishment abuts residential property on three sides and loud music after 10:00 p.m. would infringe on the resident's rights to quiet enjoyment of their homes.

**4. Fencing**

The residents and I request that the fencing be replaced. We request that a new fence (that cannot be seen through) be placed at the property line along 128 Ames Street, where the property abuts a residential use, including the parking lot.

This request is being made per the City of Brockton's Ordinances. Please place this as a stipulation on the license.

Per the City of Brockton's ordinances, the maintenance of the fence is the responsibility of

the COMMERCIAL use. Please see the actual ordinance.

Currently the fence is falling down and it needs to be replaced. The previous bar had patrons that on more than one occasion offered the young girl who lives behind the bar drugs as she played in her own back yard because there was not a fence (it was falling down with holes).

4. People other than staff hanging out behind the bar.

The residents and I request that patrons be restricted from hanging out behind the bar at any time.

I wish the new owner, Mr. Jose Cruz, luck and prosperity in his new business. I hope and pray that his statements to me and in the press come to fruition. There are very good and wonderful people that live in this area that have the financial means to go out and enjoy themselves in a safe, clean and well run establishment. I hope that it is the area residents that this new restaurant/ bar will attract. If this is the case, Mr. Cruz will have a long-lived and prosperous business that will rise as the residential nature of the area expands.

The letter ended with Councillor DuBois thanking the Commission members for their volunteerism, dedication to the City, and help with this matter.

Chairman Tartaglia asked if there was anyone present who wished to speak in opposition to this request.

John Drusinkas, 15 Faxton Street, stated he is not in opposition but asked Mr. Cruz how he can call this a family restaurant when he is applying for a license until 12:45 a.m. It is his opinion that the late hours would be more for a night club rather than a family restaurant.

Attorney Lawton asked if he could address the Commission and then take all questions. He stated that Jose Cruz is 47 years old and he immigrated to Brockton at 22 years old. He has lived in Brockton every since and in 2006, he opened a breakfast restaurant at 1110 Main Street. He then added lunches and dinners and has now added a beer and wine license. Attorney Lawton submitted the menu for the Sunset Café for review. Mr. Cruz currently leases the property at the corner of Main Street and Perkins Avenue. It is not a bar but he has cultivated a following.

Attorney Lawton explained that Mr. Cruz has an opportunity to purchase The Lit and wants to operate a family owned restaurant. The application reflects the hours that The Lit currently has which are from 8 a.m. to 1 a.m. Mr. Cruz currently opens up for breakfast at the Sunset Café at 6:00 a.m. His intention is to move into 128-132 Ames Street and to expand the kitchen in order to have his chefs be able to prepare the same items which are on his menu at The Sunset Café. There will also be a larger space to hold functions and gatherings which his location cannot accommodate.

In response to questions from Mr. Drusinkas, Attorney Lawton stated the building will not be expanded, however, the kitchen is now 14 feet by 10 feet. It wasn't designed to be a restaurant but a bar serving pizza and limited items. As far as Councillor DuBois' reference to the "Wild Wild West", it seems there is an assumption that Mr. Cruz is going to operate as the prior establishment did. Mr. Cruz wants to run a restaurant with alcohol. This will give him the opportunity to operate his own restaurant. Mr. Drusinkas stated that another of his concerns is whether the same clientele will be coming back to The Lit. In response, Attorney Lawton stated that Mr. Cruz wants to take the glass out from the front of the building and put in regular windows so that people can see inside and outside. Attorney Lawton indicated that he represents Tom Doyle who has a 2 a.m. closing and operates a successful business which has a bar but it is mainly a restaurant. Jose wants to bring a restaurant with a Cape Verdean flair to the City. He has filed a dba for Nossa Casa which means "My Home". He wants it to be a place where people can come with their families and enjoy themselves. Attorney Lawton stated he wants it to be clear to everyone that this will not be a barroom that serves pizza. He has discussed the fencing issue with Mr. Cruz and he is agreeable to taking down the fence and planting a dense row of shrubs to make it look nice. He is willing to make improvements and there is a need to change The Lit into a family restaurant which is what he is applying to do.

Chairman Tartaglia asked if there was anyone else in opposition or in favor wishing to speak at this time. No one came forward. The Chairman then asked for comments from the Commissioners.

Commissioner McDuffy asked about the morning hours and Mr. Cruz stated he would like to be able to do breakfast on weekends. It would be logical to stipulate the hours for alcohol to later in the day. Attorney Lawton indicated Mr. Cruz is willing to go along with 10:00 a.m. for alcohol service. He stated this is a very competitive business and the hours are important. With an 11:00 closing time, it is extremely difficult to book functions and would be too restrictive for his business.

Commissioner McDuffy indicated that Mr. Cruz does a great job at his current location but it will be a different challenge at the new location. If he can make some adjustments and control the group that may come in early, he feels that he can do a good job there and he is in favor and wished Mr. Cruz the best.

Commissioner Kenney stated she understands Mr. Cruz's excitement in opening the business but she also understands that the location of Tommy Doyle's is mostly commercial and this is located in a mostly residential area. She indicated she understands where the Councillor is very concerned and trying to protect her residents. Commissioner Kenney stated she would be opposed to a 2:00 a.m. closing at that location.

Attorney Lawton stated they are not asking for a 2:00 a.m. closing. He drew the analogy of popular restaurants in the City which include the Cape Cod Café and George's Cafe which both abut residential neighborhoods. He is asking for a 1:00 a.m. closing and would be

serving the last alcoholic beverages by 12:45 a.m. His aspiration is to have a cultural restaurant.

Commissioner McDuffy commented that the live Entertainment being requested would have to stop at 12:30 a.m. which gives the people 30 minutes to finish their drink and leave. Chairman Tartaglia agreed that this is a competitive business and he feels the Commission should provide the applicant with the opportunity to succeed with his new restaurant. He recommended the license be granted with the 1:00 a.m. closing hour and 12:30 on the entertainment. If there is a problem, the board can always have him come back in.

A motion was made by Commissioner Merian to approve the transfer of the license with the stipulation that the hours be amended to start alcohol service at 10:00 a.m. and noon on Sundays. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

Commissioner McDuffy indicated he feels the items on the agenda should be considered separately because of the modifications.

A second motion was made by Commissioner Kenney to approve the appointment of Jose Cruz as the manager which motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

A third motion was made by Commissioner McDuffy to approve the Entertainment license with the ending hour of 12:30 a.m. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

With regard to the fence, Attorney Lawton stated Mr. Cruz has agreed to take the fence down and plant dense shrubbery along the rear of the property which abuts the residential area.

5. Hearing on the request from Antonia Cardoso dba Malu's Lounge – 23-25 Montello Street, to extend the closing hour to 2:00 a.m. on Thursdays, Fridays, Saturdays; and on eves of legal holidays.

Representing the licensee was Attorney John Creedon, 71 Legion Parkway and his client, Antonia Cardoso, 480 West Elm Street.

Attorney Creedon reviewed that Mrs. Cardoso purchased the establishment in 2010. She operates a restaurant with a predominantly Cape Verdean and Creole menu. She is on premise 95% of the time. Her brother works with her and he is also there. They are looking to get a 2:00 a.m. license. There has been one violation brought before the commission in October, 2012 and it was voted 3 to 2 to file the charge and to dismiss it after six months if there are no problems. It was dismissed. He stated she needs the 2:00 a.m. closing in order to compete with other similar establishments. Another problem Mrs. Cardoso has had to

face is the parking which has been taken because of the construction in the area. Her noon time patrons have been getting tickets. Attorney Creedon stated Mrs. Cardoso has been waiting for two years to get her 2 a.m. closing back.

Ms. Tucker reviewed that Mrs. Cardoso has never had a 2:00 a.m. license and Attorney Creedon agreed she has a 1:00 a.m. closing.

With regard to the parking, Mrs. Cardoso pays the City for four or five spaces but the customers have been bringing her their tickets. Mrs. Cardoso stated her business has gone down fifty percent since they started ticketing her customers' vehicles.

Chairman Tartaglia asked if there was anyone present wishing to speak in opposition or in favor of this request and no one came forward.

Officer Uhlman stated that an inspection will still need to be done, however, Officer Bunker has indicated there have been no calls.

Commissioner McDuffy stated he feels a 2:00 a.m. license is a privilege and should be earned. It is his opinion that if there is a violation, the hours should be rolled back for two years in order to prove they can handle it. It has been almost two years since the violation and depending on what Lieut. LeGrice recommends, he would consider voting in favor of the request. He recalled that when Mrs. Cardoso first came in for the license, she had said she wanted to close at 10. He reminded the licensee that if there is a violation she will be back before the board.

Mrs. Cardoso stated she pays four security people on Saturdays and Sundays and two on Fridays in order to make her place safe. Attorney Creedon stated she does not play hip hop music.

Chairman Tartaglia stated he has asked both police officers present and they have indicated there have been no issues there.

Commissioner Sullivan expressed concern over the limited parking and Mrs. Cardoso stated that at night time the parking is free. In response to questions, Mrs. Cardoso stated that the City has taken over the D'Angelo parking lot also but it is available for the evening business.

Ward Seven Councillor Shirley Asack clarified that it is during the day that it is permit parking only. At night, the parking is free.

A motion was made by Commissioner Merian to approve the extension of the closing hour to 2:00 a.m. The motion was seconded by Commissioner McDuffy. With Commissioners Sullivan, McDuffy, Merian and Tartaglia voting in the affirmative and Commissioner Kenney opposed, the motion carried by vote of 4 to 1.

Chairman Tartaglia reminded Mrs. Cardoso that if she has any problems to be sure and call the police department. Mrs. Cardoso was reminded of the Commission's regulations regarding 2 a.m. licenses which were recently sent out and she indicated she is familiar with the rules.

6. Communications

There were no communications to review.

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

The Commission's next regular meeting is scheduled for September 18, 2014.

Respectfully submitted,

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Henry Tartaglia  
Chairman

APPROVED:

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Paul D. Sullivan, Commissioner

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Scott H. McDuffy, Commissioner

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Bruce G. Dansby, Commissioner

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Kathy Kenney, Commissioner

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Catherine B. Holbrook

Alternate Commissioner

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Paul Merian

Alternate Commissioner