

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, February 19, 2015, in the G.A.R. Room at City Hall. Present were Chairman Henry Tartaglia, Commissioners Scott McDuffy and Paul Merian; License Agent Lieut. Ken LeGrice; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meetings of November 13, 2014 and December 10, 2014, January 19, 2015 and the Special Meetings of January 22 and 26, 2015.

A motion was made by Commissioner McDuffy to approve the minutes of the aforesaid meetings. The motion was seconded by Commissioner Merian. All members voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of March, 2015: Lieuts. Kenneth LeGrice and Paul Bonanca; Sgts. George Khoury and Frank Vardaro; Dets. Thomas Hyland, Nazaire Paul, Eric Clark, Santiago Cirino, Jackie Congdon, Chris McDermott, Michael Bunker, Michael Cesarini and Patrick Donahue.

A motion was made by Commissioner McDuffy to approve the police officers as License Agents which motion was seconded by Commissioner Merian and made unanimous by vote of Chairman Tartaglia.

3. Requests for Special One-day Permits:
 - (a) All Alcoholic Beverages - Brockton Firefighters Local 144 – William E. Hill, Manager, for the Strand Memorial Service to be held at 80 Perkins Avenue on Tuesday, March 10, 2015, from 12:00 noon to 8:00 p.m.

Present was Archie Gormley, 53 Rockland Drive, the President of the Firefighters Local 144, who stated that this is the Annual Strand Memorial Service. This will be the 74th anniversary of the fire. There will be a ceremony at City Hall and they will then proceed to the Union Hall where breakfast and beverages will be served.

A motion was made by Commissioner Merian to approve the permit which motion was seconded by Commissioner McDuffy and made unanimous by vote of Chairman Tartaglia.

- (b) Wine and Malt Beverages – Brockton 21st Century Corp. – Gary E. Leonard, Manager, for a Black Tie Gala to be held at 156 West Elm Street on Saturday, February 28, 2015, from 4:00 p.m. to 12:00 midnight.

Present was Gary Leonard, 72 Brian Drive, who stated this Gala is for the Downtown Brockton Association in conjunction with the 21st Century Corp. where all the members of the Parade Committee get together to honor Claire Appling who was the Grand Marshall for the Parade. This is their second annual event which is being held at the War Memorial Building.

Lieut. LeGrice indicated he sees no need for a police detail at this event. Mr. Leonard stated he has already hired a detail. It was pointed out that with all of the snow, there will be no on street parking. He suggested that Mr. Leonard speak with someone from the Plymouth County Commissioners' office to make arrangements to use their parking lot.

Mr. Leonard stated the event will begin with a Treasure Hunt for children between the ages of 2 and 10 years old. That will take place from 4:00 p.m. to 6:00 p.m. From 6:00 p.m. to 11:00 p.m., the ball will be held.

A motion was made by Commissioner Merian to approve the Special One-day Permit which motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

4. Hearing on the request from Sydco II Donuts Inc. dba Honey Dew Donuts for a Common Victualer license at 541 Pleasant Street.

This matter was taken up at the end of the meeting.

Present was Carlos Mota, 129 Main Street, Acushnet.

Ms. Tucker reviewed that this license was not renewed but that ownership has changed and Mr. Mota is applying as a new license.

In response to questions, Mr. Mota stated the previous owner went bankrupt and Honey Dew took over the operation. His company took over last June. It was pointed out that the old license expired on December 31st and he has been operating unlicensed since the beginning of this year. Mr. Mota stated that he thought because Honey Dew took over it was okay to operate under the old license and that when the renewal came up he would apply for the license. He stated he has been in touch with the Board of Health who have done their inspections.

It was reviewed that Mr. Mota submitted his application after Lieut. LeGrice had gone there on January 20th to tell him the license was not renewed and he was operating unlicensed.

Mr. Mota stated he has four other Honey Dew operations. Ms. Tucker stated he was scheduled to come before the Commission at the Special Meeting on January 26th but did not as a result of the weather conditions.

The Chairman reminded Mr. Mota that it is his responsibility to make sure he is in compliance. In response to questions, it was determined that the only inspection done was the Board of Health. The Fire Dept. was there but he has to replace batteries in the exit lights. Before the license can be issued, inspection approvals are needed from the Building, Wire and Fire Department.

A motion was made by Commissioner McDuffy to approve the license with the stipulation that all inspections be approved and turned into the License Commission office.

Ms. Tucker stated there shouldn't be anyone eating on the premises without the Common Victualer license. Commissioner McDuffy stated he is confused since the board members know he is operating without a license but has not been told to close. He pointed out that the business has been operating for almost two months without a license and at this time, Mr. Mota is saying that the building still hasn't been inspected because it is not ready.

In reply to questions, Mr. Mota stated there is a drive-thru. He assured the board that he can get everything done within a week. Commissioner McDuffy stated that if the vote this evening is affirmative, they are giving him permission to operate without a license. Commissioner Merian asked how that would work with liability. Commissioner McDuffy suggested it be drive-thru only.

The Adm. Asst. suggested he be allowed to have take-out only until all of the inspections are approved and submitted and the license is issued. If he chooses to operate in violation, a fine can be issued by the police. Lieut. LeGrice stated the police are constantly on Pleasant Street and can monitor it.

Commissioner McDuffy asked if a time limit should be given and the Adm. Asst. stated that is not necessary because if he is operating, he is operating without a license at the risk of getting a \$300 fine each day. She indicated that he has stated the Board of Health inspection and permits are in order and if so, he can operate as a take-out but until all of the other inspections are in, the Common Victualer license cannot be issued and no one should be eating on the premise.

Mr. Mota stated he does not want to operate as a take-out only and will have the inspections in the following day.

Commissioner McDuffy then made the motion to approve the Common Victualer license with the stipulation that it be take out only until all inspections are submitted and if they are found in violation, that a fine be issued.

Mr. Mota stated he will inform his General Manager of the stipulation immediately.

The motion was then seconded by Commissioner Merian and made unanimous by vote of Chairman Tartaglia.

Ms. Tucker explained to Mr. Mota that all he has to do is bring the approved and signed inspections to the office and the Common Victualer license will be issued.

5. Hearing on the request from T. Doyle's Pub of Brockton, Inc. dba Tommy Doyle's Pub – 225 East Ashland Street, to serve alcoholic beverages at 10:00 a.m. on Sundays in conjunction with brunch being served.

Present were Attorney Richard Lawton, 157 Belmont Street and Tom Doyle, Messina Drive.

Attorney Lawton stated that since Mr. Doyle has taken over at the location, he has expanded the premise and the business which includes holding functions. He would like to add

brunches as part of his business on Sunday mornings and by allowing him to serve alcoholic beverages in conjunction with the brunches 10:00 a.m., it will help him to bring that sort of business to the restaurant operation.

Lieut. LeGrice stated he sees no issues with the request. There is plenty of parking and everything is in compliance.

A motion was made by Commissioner McDuffy to approve the request which motion was seconded by Commissioner Merian and made unanimous by vote of Chairman Tartaglia.

6. Hearing on the request from Kamla Corp. dba Country Food Store – Anil Patel, Manager, for a Wine and Malt Package Store license at 380 North Main Street.

Present were Attorney John McCluskey, 932 Main Street representing Kinjal Patel and Anil Patel, 120 Bergeron Way, Stoughton who are the principals of Kamla Corp.

Attorney McCluskey reviewed the request which is for a beer and wine license at the existing convenience store at 386 North Main Street. He stated that about half the store is used for convenience items and the store lends itself to a beer and wine operation. There is a sufficient amount of parking and the family has operated for about 10 or 15 years at the location. They received a Special Permit from the ZBA to operate as a package store. Anil Patel currently operates Rose's Discount Liquors at 186 Oak Street which is a full liquor package store. His wife, Kinjal, is the owner of the corporation. They currently have a ten year lease at the present location.

Attorney McCluskey indicated the key issue to focus on is the public need. He is aware that there is a full liquor package store right across the street which uses this store's parking lot for its customers. At the ZBA hearing, the owner of the package store did not have any objection to this request and to the best of his knowledge, still has no objection to the license.

Attorney McCluskey stated that his clients have collected over 160 signatures in favor of the beer and wine license at the store. He indicated that although there is an existing package store across the street, many people go to the convenience store and it would be beneficial if they could purchase buy beer and wine at this location. The store consists of 3,120 square feet. It is in a neighborhood with lots of single and multi-family homes. Many of their customers walk to the store. The Patels have a good relationship with the people in the neighborhood and this would be an appropriate use. Attorney McCluskey stated that Christy's had operated a package store at this location many years ago.

Attorney McCluskey then described the layout of the store and indicated he has outlined the counters and display area. The register will be located by the front door and the clerk running the register has a clear line of sight of everyone in the store. This is a hands on family run operation.

Commissioner Merian stated that within approximately three-quarters of a mile, there are about 6-8 locations which sell beer, wine and liquor and he does not see there being a public

need for an addition package store in this area. He indicated there are many other areas of the City which are less saturated with liquor stores. He understands the importance of having business and commerce in the area but does not see the need for an additional license at this location.

In response, Attorney McCluskey stated that the store abuts a large neighborhood and a store belongs along a commercial thoroughfare and not within the neighborhood. There are certain areas within the City where this type of business belongs and it makes sense to have it in this type of neighborhood. The people signing the petition have stated that they would like for this store to be able to sell beer and wine.

Chairman Tartaglia stated that one of the reasons for granting a license is the public need. He traveled the area and counted about six package stores within a half mile of this location. He feels that North Main Street is being saturated with package stores and he feels there is no public need for an additional package store.

Attorney McCluskey stated that near his office on Main Street, there are more package stores and they are all busy. People buying the product is what drives the public need.

It was reviewed that a package store license not far from this location was denied several months ago because of a lack of public need.

Commissioner McDuffy commented that he feels the same in that there are a sufficient number of package stores in the area and there is not a public need for an additional license.

Chairman Tartaglia pointed out that there are only so many licenses available for the City to issue and it is important for the License Commission to issue the licenses where they are most needed.

With no further information presented, a motion was made by Commissioner McDuffy to deny the application which motion was seconded by Commissioner Merian and made unanimous by vote of Chairman Tartaglia.

7. Hearing on the request from Radhe Ram, Inc. dba Smart Stop – Bharatkumar Patel, Manager, for a Wine and Malt Package Store license at 976 North Main Street.

Present was Attorney Mark Lawton, 157 Belmont Street and his client Bharatkumar Patel, 947 North Main Street.

Attorney Lawton stated that in May, 2014, Mr. Patel purchased the former Cumberland Farms at 976 North Main Street for \$1,000,000. He has been to the ZBA for a Variance to have a Package Store and they have imposed two stipulations; that no singles be sold and that two employees be on premise at all times. Mr. Patel will have his employees become TIPS Certified.

Attorney Lawton stated that they heard the commentary relative to the prior applicant on the agenda and the issue was public need. He stated his client is located near the Avon line

and is a mile from the other applicant. Relative to the public need, this location is not in as congested of a location. The closest competitor, Stop'n Shop is located six-tenths of a mile away.

It was pointed out that there is no beer and wine license at Stop'n Shop.

Chairman Tartaglia stated that if they were to grant this license, it would be the third license located within a one-quarter mile area. He named Celina's Market at 1041 North Main and Rice's Market at 763 North Main Street. He stated he feels there is not a public need for an additional license at this location.

In response to questions from Commissioner Merian, Mr. Patel stated he does not operate any other locations in the City. There is a Pizza restaurant and Tadoo Parlor in his building.

Lieut. LeGrice stated he does not find any issues with the location based on the population in the area. The location doesn't seem to be as congested as the prior application. He found no issues with parking.

Commissioner Merian stated that he feels there is no need to have alcohol available on every corner. He would like to see the licenses more spread out. In the past there seemed to be no plan as to where the licenses were issued and at this time, there is only one license left available. He asked who would enforce the sale of singles. Lieut. LeGrice stated it would be the police.

With no further information provided, a motion was made by Chairman Tartaglia to deny the license for the reason that the area is already saturated with places to obtain alcoholic beverages. The motion was seconded by Commissioner Merian and made unanimous by vote of Commissioner McDuffy.

8. Communications

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

With no further business to come before the Commission, a motion was made by Commissioner McDuffy to adjourn the meeting which motion was seconded by Commissioner Merian and made unanimous by vote of Chairman Tartaglia.

The Commission's next regular meeting will be held on March 19, 2015.

Respectfully submitted,

Henry Tartaglia
Chairman

APPROVED:

Paul D. Sullivan, Commissioner

Bruce G. Dansby, Commissioner

Scott H. McDuffy, Commissioner

Joao DeAndrade, Commissioner

Catherine B. Holbrook
Alternate Commissioner

Paul Merian
Alternate Commissioner