

TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, September 15, 2016, in the G.A.R. Room at City Hall. Present were Chairman Henry Tartaglia; Commissioners Joao DeAndrade and Paul Merian; License Agent Kenneth LeGrice; and Administrative Assistant Bonnie Tucker

1. Approval of the Minutes of the License Commission meeting of August 18, 2016 and the Special Meeting of September 8, 2016.

A motion was made by Commissioner DeAndrade to approve the minutes of both meetings which motion was seconded by Commissioner Merian and made unanimous by vote of Chairman Tartaglia.

2. Approval of the following police officers as license agents for the month of October, 2016: Lieuts. Kenneth LeGrice and Paul Bonanca; Sgts. George Khoury, Frank Vardaro and Michael Dennehy; Dets. Thomas Hyland, Nazaire Paul, Eric Clark, Santiago Cirino, Jackie Congdon, Chris McDermott, Michael Bunker, Michael Cesarini, Patrick Donahue and Erin Cummings.

A motion was made by Commissioner DeAndrade to approve the police officers as listed as license agents for the month of September which motion was seconded by Commissioner Merian. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:
 - (a) **All Alcoholic Beverages** – St. Theresa Maronite Church – Rev. Joseph Daiif, Manager, for the Annual Lebanese Food Festival on Friday, September 23rd from Noon to Midnight; on Saturday, September 24th from 11:00 a.m. to 1:00 a.m.; and on Sunday, September 25th from Noon to 7:00 p.m.

Present were Myrna Habib, 343 North Main Street and Rev. Joseph Daiif.

Ms. Habib stated this is their annual festival which they have held for a number of years now and they would like to be able to serve alcoholic beverages at. She introduced Father Joseph who is new to the parish and stated this will be his first festival. They expect 1,000 people in and out over the weekend. They have arranged for a police detail. There have been no problems in the past.

A motion was made by Commissioner DeAndrade to approve the permits requested which motion was seconded by Commissioner Merian and made unanimous by vote of Chairman Tartaglia.

Councillor Beauregard from Ward 5 stated it is a well organized event and she supports the request.

- (b) **All Alcoholic Beverages** – Brockton Firefighters Local 144 – William Hill, Manager, for a fundraiser to be held at 80 Perkins Avenue, on Sunday, September 18, 2016 from noon to 11:00 p.m.

Present was Archie Gormley, president of the Brockton Firefighters Union who stated Bill Hill was working this evening and could not be present.

Mr. Gormley stated this is a one day license for a Motorcycle Run event which they haven't held for a few years and want to get it started up again. It helps them raise money for different organizations and charities. After the ride, everyone will go back to the Union Hall.

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

4. Hearing on the request from Santana Restaurant and Function LLC – Joao V. Lopes, Manager, 684 Crescent Street, to extend the closing hour from Midnight to 2:00 a.m. on Thursdays, Fridays, Saturdays and on eves of legal holidays.

Present was Attorney John Creedon, 71 Legion Parkway and Joao Lopes, 878 Randolph Street, Canton.

Attorney Creedon reviewed the request and stated the establishment is primarily used as a function hall. Recently a function was held there for the President of Cape Verde who was visiting the area. The location is the former Maple Alleys. Attorney Creedon stated he went to the Zoning Board of Appeals in February, 2016 to extend the hours as well as increase the occupancy. Both requests were granted by the ZBA. Tonight they are before the board for the increase in hours only.

Attorney Creedon stated the ZBA decision was appealed by the owners of the front part of the plaza because of parking. It was taken into land court and was subsequently dismissed. It resulted in a long term lease for Mr. Lopes to have extra parking spaces for his function facility.

Attorney Creedon stated he had the opportunity prior to the hearing to speak with the nearby residents who are present in opposition. They told him there were problems when Mr. Barrett operated at the location and now the problems have started again since the opening of this establishment. The neighbors have indicated there is night time noise and they have noticed it after 1 a.m. Attorney Creedon stated Mr. Lopes currently has only a midnight closing. He is unaware of any formal complaints. The neighbors have shown them that there is some type of soundproofing system that can be installed that will minimize or eliminate any noise. He stated Mr. Lopes would be willing to install some type of soundproofing if the cost is within reason.

Chairman Tartaglia asked Lieut. LeGrice for his opinion and he stated he can only go by what has been documented at the Police Dept. Since 2016, there have been three disturbance calls to the location, two occurring on one day at midnight and at 11:30 p.m. for loud music. He indicated that the midnight call was unfounded but he would assume that is because they close at midnight and the establishment would have been closed by the time the police arrived. The other report filed by a police officer states he spoke to the complainant. He was inside the house of the complainant and he agreed the noise from the bass was annoying inside the home. The officer then went to the Club and asked them to turn down the bass which they agreed to do. Lieut. LeGrice provided the printout along with the report. Lieut. LeGrice stated he has visited the establishment on about four occasions because of the complaints but each time found about twelve people inside. He has learned that they run special functions with bands every once in a while. Attorney Creedon stated the bands are brought in by the people renting the hall.

Lieut. LeGrice requested that Mr. Lopes inform the police department on the nights he is planning a live band and he will have a license agent go down. If there is a problem the agent can go inside to tell them to turn it down. He indicated that he has had the agents there but if there is no function, there is nothing to report.

Chairman Tartaglia asked if there was anyone present wishing to speak against this request.

Richard Cahoon, 78 Brockton Avenue, stated he owns the house directly behind Santana. When the former owner was operating and they had this problem, the City Councillor got them to bring in a company that measures sound levels. At the time, they brought all of their equipment into his bedroom. They were told that the bass comes up through the ground which is why the other neighbors might not hear it. It goes from the establishment straight up into his house. The company proposed a soundproofing solution.

Chairman Tartaglia recalled that Mr. Barrett used to have hard rock band playing and the music being played at the Santana isn't hard rock. He was told that the bass is still the same.

Mrs. Cahoon stated the last two Saturday nights, the music was going until 1:00 a.m. and the banging goes right through the bedrooms of her home. She cannot hear the television because of it. Her daughter also lives there and can verify the time. She hasn't called because she gets so exasperated by the whole situation. Everytime she calls the police she is told that they will take care of it.

Mr. Cahoon asked why they would allow the extension of the closing time to 2:00 a.m. when the owner is ignoring the 12:00 permit

The Chairman indicated he has not received any complaints for after hours and asked Lieut. LeGrice if there have been any complaints. He stated there have been no complaints of after hours.

In response to questions from Lieut. LeGrice, both Mr. and Mrs. Calhoun stated it is not an every night occurrence but it occurs when there is a function taking place. Mrs. Calhoun was told to call if there is a problem.

Mr. Calhoun stated that if they can take care of the bass coming through, then there really is not a problem. Lieut. LeGrice provided Mr. Calhoun with his cell phone number and told him to call him direct if there is any problem.

Ms. Tucker stated that in addition to Councillor Beauregard who is present, there is a letter from Councillor Farwell in opposition to the request.

Councillor Beauregard stated this is a solvable problem but if there is a constant problem that police have to respond to, they have other more pressing matters than responding to a noise problem. The establishment has been open for approximately six months. She submitted a petition signed by other people in the neighborhood. Some of these people have lived in their homes for over twenty years and should be able to sleep at night. She indicated she hopes the business is successful but they have to respond to the residents' concerns.

The Adm. Asst. read a letter from Councillor at Large Win Farwell dated September 14th. In his letter he requested his opposition to granting this request be recorded. Based on his professional experience and judgment the extension of the closing hour to 2 a.m. would unnecessarily present public safety issues for the Brockton Police Department and could diminish the quality of life in neighborhoods surrounding the licensed premise.

Chairman Tartaglia asked if there was anyone else present who is opposed and no one came forward.

He then asked for any present in favor of the license and the following individuals came forward:

Alex Cassagna, 83 Brockton Avenue
Raol Lopes, 185 Newbury Street
Valdir Alves – 514 Warren Avenue

Commissioner Merian asked whether the soundproofing is a suggestion or if it is going to happen. Attorney Creedon stated if the Commission makes it a condition, they are willing to do it in addition to notifying the police department that a function is scheduled ahead of time. Attorney Creedon indicated he thinks the soundproofing is done with flooring material.

In response to questions from Commissioner DeAndrade, Mr. Lopes stated the size of the functions can be somewhere between 150 to 180. Ms. Tucker asked what the capacity is being increased to when they come back before the board and Attorney Creedon

indicated they will be asking for 350. The ZBA has approved them for that and Ms. Tucker stated she has not received the zoning decision yet. Attorney Creedon stated for functions that large they will have to hire a police detail. When people rent for a function, they hire the band and Mr. Lopes realizes he must be responsible for this through the rental.

Chairman Tartaglia indicated he doesn't feel this is a big problem to resolve. He has been there to functions and he didn't think it was loud. He stated he has been on Brockton Ave. but has not been inside the Calhoun's home. He told them that if the 2 a.m. license is granted, he should call Lieut. LeGrice and have a license agent go there immediately. The Chairman indicated there is only one neighbor who is complaining. If a complaint is received, he should be able to tell the band to turn it down or have the officers check outside. Attorney Creedon stated if there is a violation, the remedy is to bring the licensee back in for a hearing.

Commissioner Merian stated that noise is noise and there needs to be a balance between what is excessive and what is acceptable. He asked if a code enforcement officer could go into the property owner's house and experience what the residents are living with. He stated he wants the residents to be happy but it has to be determined what the definition of balance is. If the code enforcement finds it is excessive it is the Commission's right to roll back the license. However, he feels it is up to the code enforcement to determine the threshold of excessive noise verses noise. It seems the licensee is attempting to address it by agreeing to the soundproofing.

Commissioner DeAndrade stated he has been to at least three events at Santana and the crowd they attract are older generation and not young kids. He is more concerned with the crowd around 1:00 a.m. when they are outside. If it is granted they should impose some conditions.

Mr. Lopes stated he has two private security people working when there are bands there. The Chairman suggested that the security be put outside when he is closing.

Mr. Calhoun stated they do not hear the noise when the people are leaving the establishment. The Chairman stated there is a potential for noise at closing and he is trying to nip it in the bud. He then asked if their neighbors are complaining and Mrs. Calhoun stated they are.

Attorney Creedon stated that Mr. Lopes has indicated he walked the neighborhood yesterday to see if any of the neighbors had problems with his place and they said no.

A motion was then made by Commissioner DeAndrade to approve the 2:00 a.m. closing with the conditions that the owner of Santana tries to resolve the noise problem with the installation of the soundproofing and that he notifies the police station or whoever is in charge when there is a major event. In six months, if there is an issue after the soundproofing is installed, they will have to come back before the Commission.

The motion was seconded by Commissioner Tartaglia.

Councillor Beauregard asked that the soundproof be done sooner than six months. She suggested they hold off on their decision until Mr. Lopes has the opportunity to look into the soundproofing.

Mrs. Calhoun asked if she was going to have to listen to the music until 1 a.m. She was instructed to call the police at any hour when the music is bothering them.

Commissioner Merian asked Attorney Creedon if there is a function coming up within the next month that will be jeopardized if this request is continue. Attorney Creedon stated there is not and Commissioner Merian suggested the request be continued until next month's meeting so that the proper decision can be made based on the documentation provided to the Commission with.

Attorney Creedon stated if it is allowed with conditions of soundproofing and police department notification, if there is a violation, the police will say there is too much noise and the board can deal with it.

Commissioner Merian then asked why he can't wait until next month when he comes in to deal with the occupancy.

A vote was then taken and with Commissioners Tartaglia and DeAndrade voting in the affirmative and Commissioner Merian voting opposed, the motion to approve carried.

Commissioner Merian stated he wanted it to be continued in order to give the owner a month to get the sound proofing information together.

Chairman Tartaglia told the residents if there is a problem they should call the police department. He suggested that a sound meter be kept inside the club. He also suggested that someone could go into his house with the sound meter.

Mr. Calhoun stated the sound meter doesn't catch the bass. He stated he can measure it by how much his wall vibrates. Chairman Tartaglia then gave him his telephone number and told him to call if he has a problem and he will come right over.

5. Hearing on the request from Fuhs Enterprises, Inc. dba Dylan's Bar and Grill – Paul Fuhs, Manager to transfer the All Alcoholic Restaurant license at 787 Centre Street to GCAL Family Corp. dba Dylan's Bar and Grill.

GCAL Family Corp. requests the following:

- (a) To appoint Eric W. Ledin as the manager; and

- (b) An Entertainment license for Televisions on Sunday through Saturday from 11:30 a.m. to 1:00 a.m. and Disc Jockey, Karaoke and Jukebox on Wednesday thru Saturday from 9:00 p.m. to 12:30 a.m.

Present were Attorney Megan Bridges, 72 Main Street, Bridgewater and her client Eric Ledin, 35 Sunset Avenue, W. Bridgewater.

Mr. Ledin stated he intends to purchase and operate Dylan's Bar and Grille.

The Adm. Asst. reviewed that there is a pending after hours violation brought against the current owner of Dylan's. She explained that this transfer can be held until the violation is heard or they can file it and proceed with the transfer of the license. Once they approve the transfer of the license, the new owner can't be held responsible.

A copy of the report was given to Attorney Bridges.

Attorney Bridges reviewed the request and stated Mr. Ledin who will be the owner and manager of the establishment and will be working there full time. The business is currently thriving. To her knowledge, aside from this new alleged violation, there has only been one other hearing which Mr. Fuhs was found not responsible for. They are looking for a 1:00 a.m. closing time and there will be security people. Identification will be checked at the door. She stated that the abutters were notified although it was not necessary and she did not receive any calls to her office.

In response to questions, Mr. Ledin stated he has approximately five years experience in the restaurant business. For the past twenty years he has been a chiropractor. Attorney Bridges indicated he has experience in managing his business. He also worked in a restaurant where he was a line cook, manager and alcohol manager.

Commissioner Merian asked about the pending violation and was told that it would be filed with no action if the license is transferred. Lieut. LeGrice stated it is his opinion that the sale of the establishment is more important than the violation.

A motion was made by Commissioner DeAndrade to approve the transfer of the license. The motion was seconded by Commissioner Merian. All members voting in the affirmative, the motion carried.

6. Communications

A communication from the operators of package store at 7-11 on Oak Street has notified the Commission that as of August 25th, they would be closing the beer and wine sales because the franchise agreement with 7-Eleven is ended and the store will be reverting back to the 7-Eleven Corporation. They asked for time to transfer the license. It was agreed that the status will be reviewed at renewal time.

7. Any other business to come before the Commission.

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

Respectfully submitted,

Henry Tartaglia
Chairman

APPROVED:

Paul D. Sullivan, Commissioner

Joao DeAndrade, Commissioner

Harold C. Marrow, Jr., Commissioner

Paul Merian, Commissioner