

Taped

The License Commission held its regular monthly meeting at 6:00pm on Thursday, September 12, 2019 in the G.A.R. Room at City Hall. Present was Chairman Henry Tartaglia; Commissioners Paul Merian, Dave Teixeira and Eugene Marrow; License Agent Lt. Legrice and standing in for License Administrative Assistant Synthia Olivier. Note that Commissioner Jeffrey Charnel was late to the meeting.

1. Approval of Minutes of the License Commission regular meeting of August 15, 2019 and Special License meeting August 20, 2019.

A motion was made by Commissioner Marrow to approve the minutes of the before said meeting which motion was second by Commissioner Merian and made unanimous by vote of the members present.

2. Approval of the following police officers as license agents for the month of September, 2019; Lieuts. Kenneth LeGrice and Paul Bonnanca; Sgts. George Khoury, and Michael Dennehy; Dets. Thomas Hyland, Nazaire Paul, Eric Clark, Santiago Cirino, Jackie Congdon, Michael Bunker, Michael Cesarini, Patrick Donahue and Erin Cummings.

A motion was made by Commissioner Marrow to approve the license agents as listed for the month of September, 2019. The motion was seconded by Commissioner Merian and made unanimous by vote of the members present.

- 3.(a) Hearing on a request from the Wheelchair Strong Foundation for a Special One-Day Permit to Sell All Alcoholic Beverages at a Fundraising Event to be held on September 21, 2019 from 7:00 p.m. to 11:00 p.m. at the War Memorial Building-156 West Elm Street, Brockton, MA.

Present were Mark Chupetta and Frank Brack. There is an annual event to be held at the War Memorial expecting to have between 200-300 guests. Mr. Frank Brack of Bracks Tap & Grille will be handling the bar. It was stated by Lt. Legrice to have police detail on site.

A motion was made by Commissioner Merian to approve the Special One-Day Permit to Sell All Alcoholic Beverages at the Fundraising Event. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

- (b) Hearing on a request from APCSM for a Special One-Day Permit to Sell All Alcoholic Beverages at a "Dogtober Fest" Fundraiser to be held on October 19, 2019 from 3:00 p.m. to 6:00 p.m. at 1300 West Elm Street Extension, Brockton, MA expecting about 100 guests.

Present was Patricia Souse of 10 Exchange, RI hosting a fundraiser for an organization promoting local brewers, expecting to have about 100 guests. In the past they have had about 80-90 people show up. They

would like to serve alcohol on premise, no police detail is needed. Lt. Legrice stated they can have All Alcohol permit because they are registered with the state.

A motion was made by Commissioner Marrow to approve the Special One-Day Permit to Sell All Alcoholic Beverages at the “Dogtober Fest” Fundraiser. The motion was seconded by Commissioner Merian and made unanimous by vote of the members present.

4.(a) Hearing on a request for a Special Events Permit from Entertainment Management Complex, LLC for a Wrestling Event to be held on September 14, 2019 from 5:00 p.m. to 10:45 p.m. at Campanelli Stadium-1 Feinberg Way, Brockton, MA.

Present was Tom Tracy of Hanson, MA. This wrestling event is held every year and they are hoping to have about 80-100 people. Police detail is needed for this event Lt. Legrice stated.

A motion was made by Commissioner Merian to approve the Special Event Permit from Entertainment Management Complex, LLC. The motion was seconded by Commissioner Marrow and made unanimous by vote of the members present.

(b) Hearing on a request for a Special Events Permit from Floripa Producoés Inc. for a Brazilian Concert to be held on September 29, 2019 from 10:00 a.m. to 8:00 p.m. at the Brockton Fairgrounds-600 Belmont Street, Brockton, MA.

Present were Marelo Malcher of 4334 Scott Mill Court, Saugus and George Carney, owner of Brockton Fairgrounds, to have a repeating event, but only the concert, no rodeo. They plan on having the main event at 5 p.m. and everyone out by 8 p.m. They plan on working with the police chief for police detail and was told they will be in place. Commissioner Merian wanted to know why the concert is done on Sunday instead of Saturday. Mr. Malcher stated a lot of the people attending work on Saturdays. Lt. Legrice asked why the gate is opening at 10 a.m. if music doesn’t start till 1 p.m. This will only cause tailgating and disruption before the event even begins. Mr. Malcher stated he prefers to have cars that are coming from out of state to be there early to avoid traffic. Lt. Legrice suggested opening at 12 noon. Mr. Malcher stated he is willing to do whatever is asked of him to accommodate everyone. Lt. Legrice stated to put into a motion to have event open at 11 a.m. and music to start at 1 p.m. and end at 8 p.m.

A motion was made by Commissioner Merian to approve the Special Events Permit from Floripa Producoés Inc. for a Brazilian Concert contingent upon the fact that gate will open at 11:00 a.m., music to start at 1:00 p.m. and end at 8:00 p.m. The motion was seconded by Chairman Tartaglia and made unanimous by vote of the members present.

*At this moment Commissioner Charnel enters the room to join the License Commission meeting.

5. Hearing on a request from South Side Motors to transfer a Class II Used Car Dealers license located at 491 Main Street, Brockton to Avon Auto Brokers.

Present were Dana Nessen of 24 Marshall Lane, N. Easton, MA and Francois Charduville of 574 Warren Ave, Brockton, MA. Mr. Nessen had tenant, John Thompson, in for 1 month and is looking to transfer the license back into his name to transfer to Marathon Motors. Commissioner asked if it was a purchase. Mr. Nessen stated no, it was leased out and now he is transferring license back into his name. Mr. Nessen provided a notarized letter stating this from Mr. John Thompson. Commissioner asked to see a copy of the lease with current owner. Mr. Charduville was able to provide a copy of his lease with Mr. Nessen. Commissioner Marrow asked if Mr. Charduville had experience which he has for 2 years and he has his tax returns to provide. Lt. Legrice stated Mr. Charduville would be allowed 20 vehicles on the lot with 18 for sale. Mr. Nessen stated the place is going to look really nice with a new roof going on the following week.

A motion was made by Commissioner Merian to approve the transfer of Class II Used Car Dealer License located at 491 Main Street, Brockton to Avon Auto Brokers for 20 vehicles, 18 for sale. The motion was seconded by Commissioner Charnel and made unanimous by vote of the members present.

6. Hearing on a request from Avon Auto Brokers to transfer a Class II Used Car Dealers license located at 491 Main Street, Brockton to Marathon Motors.

Present were Dana Nessen and Francois Charduville looking to have about 10-15 vehicles, but Lt. Legrice stated they could have about 20 vehicles with 18 for sale. The Board had heard their testimony in the previous agenda item above as it is all connected.

A motion was made by Commissioner Merian to approve the transfer of Class II Used Car Dealer License located at 491 Main Street, Brockton to Marathon Motors for 20 vehicles, 18 for sale. The motion was seconded by Commissioner Charnel and made unanimous by vote of the members present.

7. Hearing on a request from Hamad Pishdadian dba Mass Imports Inc. to transfer a Class II Used Car Dealer License located at 610 Main Street to Ramira Araujo dba Tony's Auto Sales, Inc. at 610 Main Street, Brockton MA.

Present was Attorney Creedon of 71 Legion Pkwy, Brockton, Ramira Araujo of 263 West Elm Street, Brockton and Manuel Barros of 399 Montello Street, Brockton. The business is between a father and daughter and they are looking to keep the hours the same and wanting no more than 26 vehicles for sale. The location is zoned in C2 and they will be keeping the same repair situation. Commissioner Charnel asked if the daughter had any experience and she stated she works at Capital Leasing. She will be on site, but it is father who has over 20 years of experience who will mainly be in charge. Lt. Legrice brought up some concerns he had regarding the property such as right of way consistently being blocked by

vehicles, suppose to be 12 ft between rows and only 3 ft. Lt. Legrice did not have a chance to inspect the lot but is well aware of the area and property. The present license states no more than 24 vehicles.

A motion was made by Commissioner Marrow to approve the transfer of Class II Used Car Dealer License located at 610 Main Street to Ramira Araujo and Manuel Barros of Ramira Araujo dba Tony's Auto Sales, Inc. for 24 vehicles on lot, 24 for sale. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

8. Hearing on a request from Norman Berkowitz dba Insurance Collision Center, Inc. to transfer a Class II Used Car Dealer License located at 50 Meadowbrook Road, Unit 7 to Jose Cardoso and Admilson Santos dba ICC Inc. at 50 Meadowbrook Road, Unit 7, Brockton, MA.

Present were Attorney Creedon of 71 Legion Pkwy, Admilson Santos of 8 Cushing Ave, Dorchester, MA, Jose Cardoso of 37 Claremount Ave, Brockton, MA, Norman and Elizabeth Berkowitz of 152 Dean Street, Brockton, MA. Norman has been running the business since 2002 and ready to transfer it over. Deputy Williams has notified owner of minor issues before going to City Council for repair license. Auto repair will be out back of Unit 7. Mr. Cardoso runs a tow company at Station Ave on Perkins Street. Lt. Legrice stated that 50 Meadowbrook has been a nightmare due to the entrance fence consistently being blocked by vehicles. Lt. Legrice stated if they can keep the area clean and clear, there shouldn't be any problems. Lt. Legrice will go back out to do another inspection. They are looking for 13 cars for sale but 25 vehicles on lot.

A motion was made by Commissioner Charnel to approve the transfer of Class II Used Car Dealer License located at 50 Meadowbrook Road, Unit 7 to Jose Cardoso and Admilson Santos dba ICC, for 25 vehicles on lot, 13 for sale. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

9. Hearing on a charge brought by the local police against Mardom Liquors, Inc. dba Shanley's Liquor Store located at 429 Belmont Street for an alleged violation of **ABCC Rule 204 CMR 2.05 (2)**, Permitting an illegality on the licensed premises, to wit: Chapter 138, Section 34, sale or delivery of an alcoholic beverage to a person under twenty-one years of age reported on August 7, 2019.

Present was Maria Vega and Denise Vega. They started off by saying all employees are trained under management and have 3 months to be TIP certified. They also go over the rules and regulations of selling liquor. All employees are TIP certified and have scanners that are up to date. They have since fired the seller and changed policy to state must be TIP certified prior to applying. The Chairman stated manager should be on premise. Ms. Vega stated she and her son are managers of the business and they are sometimes there but cannot be there all day, every day. Commissioner Marrow asked if Maria understands the seriousness of it because they have failed all 3 times that they have been stings. Meaning that Shanley's Liquor has not passed not once every time a sting is conducted. Maria stated she does understand the seriousness of the matter, hence making changes to the policy. Commissioner Charnel

stated all ids should be scanned, no butts. Commissioners urged Maria to do the right thing and take control of her business so as not to have to come before the License Board in the future because there will be more stings.

A motion was made by Commissioner Merian to approve for a 3 day closure, which will fall on a weekend, and will receive notice from secretary of which weekend that will fall on, and to make sure every individual is carded. The motion was seconded by Chairman Tartaglia and made unanimous by vote of the members present.

10. Hearing on a charge brought by the local police against Vicente Liquors and Tropical, located at 689 Main Street for an alleged violation of **ABCC Rule 204 CMR 2.05 (2)**, Permitting an illegality on the licensed premises, to wit: Chapter 138, Section 34, sale or delivery of an alcoholic beverage to a person under twenty-one years of age reported on August 7, 2019.

Present was Attorney Scott Rubin of 71 Legion Pkwy, Brockton, Alino Rodrigues the owner and his partner of Vicente Liquors and Tropical. Mr. Rodrigues stated every individual working at Vicente has to sign liquor policy. The clerk that failed the sting has been at Vicente for 4 years and recently became Head Cashier. She signed policy on February 19, 2019 and on July 19, 2019. Chairman asked how the process of buying liquor at the grocery is handled due to them receiving large sales from the grocery portion. Mr. Rodrigues explained how the process is done if someone is grocery shopping but also looking to purchase alcohol, cashier has to enter in date of birth when prompted by register. On this particular day, that was not done and Head Cashier overrode the transaction. Vicente's at one point sold All Liquor and have scaled down to Beer & Wine. They have been selling liquor since 2003 and have a pretty good track record of passing sting operations. Mr. Rodrigues stated they have Loss Prevention on site and they are looking into getting the same scanning system as Blanchard's. Commissioner Marrow asked what action was taken with the Head Cashier. Mr. Rodrigues stated that they have reassigned her to a different duty in the back not involving registers. Mr. Rodrigues is a firm believer of giving people second chances and he has never had any issues with this particular employee. Due to this being a first offense, it was voted to have a letter placed in their file.

A motion was made by Commissioner Charnel to approve for a letter to be placed in their file for 1st offense. The motion was seconded by Commission Merian and made unanimous by vote of the members present.

11. Hearing on a charge brought by the local police against Fuh's Enterprises, Inc. dba Dylan's Bar & Grill located at 787 Centre Street, Brockton for an alleged violation of **ABCC Rule 2.05(2)**, to wit: "No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premise. The licensee shall be responsible whether present or not." Reported on May 13, 2019 at 0100hrs, 0457hrs and 0515hrs and June 24, 2019 at 0057hrs.

Present was Attorney Jon D. Aieta representing Paul Fuhs, Assistant City Solicitor Aileen Bartlett representing the City, Detective Eric Clark and Detective Nazaire Paul.

Assistant City Solicitor Bartlett began by giving her opening statement that during these incidents a number of violations came up in reviewing the surveillance tapes, including failure to notify the police of the shootings, destroying evidence which was shown on the tape, letting patrons in after the cut off time and self-serving liquor.

Attorney Aieta from McDermott Law Office of 28 State Street, Quincy, MA gave an opening statement stating he is representing Mr. Paul Fuhs and Mr. Fuhs will be the only one testifying.

The Detectives were sworn in by Assistant City Solicitor Aileen Bartlett.

The first testimony came from Det. Clark who gave his testimony on what is going on in the video. Det. Clark stated that Officer Montrond was patrolling the area and Dylan's when he was flagged of an individual spilling drink. This is when Officer Montrond ran into an individual he previously knew, who will later be known as the victim who got shot. Det. Clark then went on to explain what took place in the video and noted that the video time is 4 hours off. Det. Clark stated the fight went on for about 3 minutes where one of the individuals is the one who later was shot, no one contacted the police. He described the layout of the bar and where the doors were in relation. Detective Clark stated he can also see that patrons are self serving at 1:36 a.m., 20 minutes before closing and the bottle of alcohol is still on the counter. The entrances were not properly monitored which caused the aggressor to reenter the establishment.

Detective Paul is called up and asked about the call from Shot spotter. Det. Paul stated the first call came from the area of 311 Quincy Street, Brockton. Det. Paul explained that the call is not always accurate on location. They received a call from the Brockton Hospital stating they had an individual with gunshot wounds that came from Dylan's Bar. That is when they knew the incident originated from Dylan's Bar and headed there. He interviewed the bar tender who stated she did hear the gunshots, but ran inside the walk-in freezer to hide. The acting manager, James Davis, stated he thought the shots were fireworks. Attorney Aieta asked Det. Paul if Mr. Fuhs cooperated with police when asked to see the video footage which Mr. Fuhs did cooperate fully.

Mr. Fuhs is brought up to give his testimony. Mr. Fuhs stated he has lived in Brockton for over 30 years and has owned the bar since 2002. Mr. Fuhs stated he had put two individuals, James Davis and Frank Frederick, in charge that were interested in purchasing the business from Mr. Fuhs. He gave them an opportunity to run the establishment and hire their own staff to get a feel for how it was like to run a bar before purchasing. Chairman stated to Mr. Fuhs that he must be aware that he must come before License Commission to approve change of manager. Mr. Fuhs stated yes he is aware and that was a bad decision on his part. After the second incident was when Mr. Fuhs took back control and fired everyone. He is no longer selling business to the individuals and closed down the business for 15 days. Lt. Legrice stated that the business has a closing of 1:00 a.m. and not 2:00 a.m. Chairman re stated the issues that arose

during the viewing of the surveillance tape which were serving an hour after closing, letting people in after hours and destroying of evidence and that these are all serious violations. Mr. Fuhs was asked if he reviewed the tapes on a regular and even after he had put the two individuals in charge. Mr. Fuhs responded that when he was at the business, he reviewed the tapes every night. But after handing the responsibilities of managing the facility, he stopped reviewing the tapes and that was a lapse of judgment on his part. Commissioner Marrow stated after giving the two individuals the responsibility of running the bar, Mr. Fuhs dropped the ball and did not protect his business.

Assistant City Solicitor Aileen Bartlett went over the facts of the violation in closing and that there were patrons self serving alcohol, there was a fight in the establishment were no one called the Brockton Police Department, concealing of evidence, letting people in after hours which is a clear violation of the ABCC rules and regulations. The City is asking for an automatic roll back from 1:00 a.m. to 12:00 midnight and closure for 30 days.

Attorney Aieta in closing stated Mr. Paul Fuhs made a bad decision which he regrets and has lost clientele due to these incidents. When Mr. Paul Fuhs found out about the incident, he immediately fired all staff and closed the business down. Mr. Fuhs has been totally cooperative with the police in their investigation. Attorney Aieta is asking if the License Board can treat as a 2nd violation.

A motion was made by Commissioner Merian to find Fuhs Enterprises, Inc. dba Dylan's Bar & Grill located at 787 Centre Street, Brockton guilty on violations of **ABCC Rule 2.05(2)**, to wit: "No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premise. The licensee shall be responsible whether present or not." The motion was seconded by Commission Charnel and made unanimous by vote of the members present.

A motion was made by Commissioner Charnel to suspend the license for 45 days and roll back to 12:00 midnight indefinitely, but may return in 1 year for review. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

Attorney Aieta asked if they can stay the closure until an appeal has been made at the ABCC. The board agreed to stay the closure but the roll back starts immediately.

No new business or communication to come before the License Commission.

A motion was made by Commissioner Merian to adjourn the License Meeting scheduled for September 12, 2019. The motion was seconded by Commissioner Charnel and made unanimous by vote of the members present.

Respectfully submitted,

Henry Tartaglia
Chairman

APPROVED:

Jeffrey Charnel, Commissioner

Paul Merian, Commissioner

David Teixeira, Commissioner

Eugene Marrow, Commissioner