



City of Chelsea
LICENSING COMMISSION
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City Clerk

NOTICE

There will be a meeting of the Chelsea Licensing Commission on Tuesday, July 15, 2014, at 6:00 p.m., at the Chelsea Public Library Auditorium, 569 Broadway, Chelsea, MA.

REVISED AGENDA

- 1) Minutes of Licensing Commission meeting of June 17, 2014
- 2) New Business (reading of new communications)
- 3) Shop N Go
354 Washington Ave. (public hearing re police report)
- 4) Las Pupusas del Chino
92 Washington Ave. (public hearing re police reports)
- 5) Carlos Martinez d/b/a Colchas Primor y Mas
383-385 Broadway (public hearing re Old Gold application)
- 6) Cesar Fernandez d/b/a Fernandez Brothers Liquors
79 Williams St. (public hearing re application for pledge of Retail Package Goods Store/All Alcoholic Beverages License)
- 7) Fatima Washington Deli
373 Washington Ave. (public hearing re application for Amusement/Entertainment License)
- 8) License Fees (public hearing re Farmers Series Pouring Permit)

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July 15, 2014

Meeting of the Chelsea Licensing Commission commenced on this date at 6:00 p.m. at the Chelsea Public Library Auditorium, 569 Broadway, Chelsea, MA. Present: Chairman Jim Dwyer, Commissioners Joe Cooney, Roy Avellaneda, Silvia Guzman and Ken Umemba. Also Present: Captain Keith Houghton of the Chelsea Police Department and City Clerk Deborah Clayman.

Licensing Commission minutes of June 17, 2014 were unanimously accepted and filed.

New Business:

- Application for transfer of stock, 7-day all alcoholic beverages license and request to change hours re Fifth Avenue Steak House, d/b/a Floramo's, from Attorney John P. Connell, dated 6/25/14, was submitted. Public hearing will be scheduled.
- ABCC communication, dated July 1, 2014, re Los Amigos Corporation, d/b/a Restaurant Los Amigos of 339 Broadway, was accepted and filed.
- ABCC communication, dated July 1, 2014, re Taqueria Eucalipto Corp., d/b/a Las Vegas, of 388 Broadway, was accepted and filed.
- Communication, stamped July 15, 2014, from Joseph Butler re AG Associates was submitted; motion to waive reading and accept and file communication made by Cooney; seconded by Avellaneda, unanimously passed.
- Communication dated July 15, 2014 from Daniel J. Shanahan of Behman Hambelton re King Arthur's was submitted; motion to waive reading and accept and file communication made by Cooney; seconded by Avellaneda, unanimously passed.

Public hearing commenced re Shop N Go of 354 Washington Ave. in connection with Chelsea Police Report #14-610-OF. Attorney Ann Delyani appeared with Muhammed Saleem on behalf of Shop N Go.

Captain Houghton and Officer Roger DiGaetano appeared in connection with the police report. Houghton stated that at the conference there had been a question re fire and police response; he submitted a report from Cataldo Ambulance of 7/15/14 and stated that at the last conference the gentleman stated that no police or fire responded and this verifies that an intoxicated person was taken to the hospital.

Officer Roger DiGaetano read police report #14-610-OF and stated that he did speak to Muhammed Saleem inside the store and he told him he did not know how to run the surveillance but told him he could view it.

Guzman stated that she believes that a part noted in the police report is a client of hers and she is therefore recusing herself.

Houghton stated we do not keep alcoholic beverages for as evidence; they destroy it.

No one appeared to speak during the public speaking portion of the hearing. The public speaking portion of the hearing was closed.

Attorney Delyani stated that they are located at 354 Washington Ave. and 372 is going toward Prattville Park and Hancock St. She stated that she had previously noted that her client does not recall having served alcohol to this individual. He stated he did not remember an ambulance being outside his place of business and it seems to her now that it makes sense since it was about one block up the street. He did cooperate with the police and offered to allow them to view the security surveillance. He was not aware that he would have to prove himself and questions why the officer didn't keep the surveillance if he intended to file a complaint re this matter. If he did serve this individual, he is sorry and has no intent to serve anyone who is intoxicated. He has never been before this Commission before and is willing to do whatever the Commission suggests for him to do going forward. He is alcohol aware certified.

Dwyer suggested that they do new training for himself and his three employees. Delyani stated that he is running a good, well-lit, clean business and he now knows how to run the video system.

Umemba stated it seems to him that everyone is giving him the benefit of the doubt. We want to make sure that people don't come here frequently. You should be TIPS certified and know how to run the surveillance system. Next time his is going to give more weight to what the police officer has to say.

Avellaneda stated that he was not present at the prior conference and therefore questioned Captain Houghton re whether or not there had been any prior incidents reported; Captain Houghton responded no. This is their first offense and he respects the work of Officer Roger DiGaetano. We are a community of limited resources and public safety response extended to this incident is something that he is concerned with. We want businesses that are making contributions to the City.

Dwyer stated that he would like to see alcohol awareness training.

Cooney made motion to take no action and close public hearing; seconded by Avellaneda. On the motion: Cooney – yes; Avellaneda – yes; Umemba – yes; Dwyer – yes.

Public hearing commenced re Old Gold License application of Carlos Martinez d/b/a Colchas Primor y Mas, 383-385 Broadway. Attorney Miryam Cissero appeared with Carlos Martinez on behalf of Colchas Primor y Mas and stated that Mr. Martinez owns a retail store at 385 Broadway. He has done business here for a number of years and has lived in Chelsea for about seven years. He is looking to meet a demand. Many of his customers are asking him to take their jewelry. He does not sell any gold right now. She has a petition with 150 signatures of individuals who come to the store and support the application. He has a certificate of occupancy and has never had a violation and is a US citizen. He is an asset for the City.

No one appeared to speak during the public speaking portion of the hearing. The public speaking portion of the hearing was closed.

Guzman stated that she may have represented Colchas Primor y Mas in the past. Mr. Martinez stated that he remembers her a little from the past. Guzman stated that if in fact she did represent him in the past, she wanted to disclose it.

Umemba stated that he has no issues with the application.

Guzman asked Martinez what old gold means to him. Martinez stated that he would buy the gold from customers and sell it to a company that melts it down. He has a certificate of occupancy for sale of jewelry/gold. He does not currently do repairs but is thinking of hiring someone to do repairs.

Avellaneda asked what steps he will be taking if someone gives him a piece of jewelry that they no longer want and wants to sell it to him; what steps does he take to make sure that the gold was actually theirs to sell. Martinez stated that he would ask for identification and take a photocopy of the ID and pay the individual for the jewelry at market price. Avellaneda stated he is looking for Martinez to take a picture of the ID and of the item and keep a log of the items purchased.

Guzman made motion to approve the Old Gold License application with the following conditions:

- All items must be held for 45 days
- Keep log book with picture ID of the purchaser and colored photo of item purchased for weekly submission to the police department
- Make sure cameras are working at all times both inside and outside establishment

Dwyer noted his concern re whether or not the motion was more restrictive on what the requirements are for other current Old Gold License holders. Captain Houghton stated that there is a 30 day hold requirement for pawnshops. If he is purchasing gold at a certain price and has to hold it longer and then the gold price drops, he is now losing money.

Avellaneda stated that he would like to amend Guzman's motion as follows:

- Strike the 45 day hold period and change the hold period to 7 days
- Strike the requirement for camera requirement inside and outside establishment and require cameras inside establishment only
- Keep log book with copy of picture ID of purchaser and copy of item purchased for weekly submission to the police department

Cooney seconded Avellaneda's amendment. On the amendment: Umemba – yes; Cooney – yes; Avellaneda – yes; Guzman – no; Dwyer – yes.

Public hearing commenced re Las Pupusas del Chino in connection with police reports submitted by the Chelsea Police Department. Attorney Ann Delyani appeared with Gustavo Serna (owner), Lucia Lopez (manager), and Alison Saramiento (bartender) on behalf of Las Pupusas del Chino.

Captain Houghton stated that Officer Paul McCarthy is present re police report #14-183-OF and that Officer Joe Capistran is present re police report #14-447-AR.

Officer McCarthy read for the record police report #14-183-OF. Officer Capistran stated there is an open case regarding this matter and he will redact the names in report #14-447-AR. Officer Capistran read for the record police report #14-447-AR.

No one appeared to speak during the public speaking portion of the hearing. The public speaking portion of the hearing was closed.

Attorney Delyani stated that when they were last before the Commission some of the issues had been addressed and she provided proof of age regarding individuals who turned out to be 25 and 21 regarding report #14-183-OF. There is conclusive evidence that they were not under age. There is an accusation and Alison can speak as to how much alcohol was served. She stated that 2 ½ to 3 beers is what they consumed there. She doesn't know whether or not they had cocaine but there is a sense that had cocaine been in the picture, that might be why they didn't cooperate and show identification to the police. She previously submitted a medical report re Gustavo Serna which noted that alcoholic beverage consumption would kill him. Mr. Serna contends that there was no altercation inside the establishment and if there was physical contact between them, it occurred outside the establishment.

Umemba questioned whether or not the employees were TIPS certified. Delyani stated that Alison submitted her certification at the last meeting when they were before the Commission. He wants to come to terms with the issue re the identification, stated Umemba. Delyani stated she asked them for identification which they produced. She has not had the opportunity to speak to the two individuals; however, when the police officers asked them for IDs, they refused to give them and she can only speculate that it may have had to do with immigration status, outstanding warrants, or for whatever reason they decided not to give them to the police. Umemba asked Alison if she asked them for identification and they gave them to her. Alison responded yes.

Delyani stated that Alison asked them for identification; saw them; and served them three beers. There was no under age service. She served them three beers and they drank about 2 ½ of them. She is saying that she saw passport IDs from both of them.

Guzman questioned Alison in Spanish to which Alison stated on that date she did not ask either one of them for identification. The reason why she didn't ask them that night was because they are regulars and she previously had asked them and saw their IDs and knows their ages.

Avellaneda questioned when and how it was clarified that these two individuals were of legal age. Delyani stated that she brought proof at the last Commission meeting.

Captain Houghton stated that Alison started working at the establishment in January and this incident occurred on January 14, 2014. The security officer at the establishment stated that the fight started inside the establishment. The confine of the license is not just inside. It is a

neighborhood issue and a nuisance establishment. He is asking the Commission to consider all the evidence, the history, and the officers' testimony.

Cooney stated that he is concerned regarding the over-serving of alcohol and the issue that the owner stated not to call the police.

Dwyer asked Alison how often she worked at the establishment. Avellaneda questioned Alison in Spanish regarding Dwyer's question and stated that she worked six days a week: Mondays from 5 to 11; Wed., Thurs., Fri. from 5 to 11; Saturday from 10 to 11 and Sunday from 5 to 11, from January to date.

Guzman stated that she doesn't have much on the police report regarding under age drinking. She is more concerned with the April 18 report. It is stated that the altercation started inside and they didn't call the police. The first call to the police should come from the establishment. If this had been an issue that was more serious and someone had incurred serious bodily injury, death, overdose, etc., and someone else with a cell phone had to call the police, it is wrong and ridiculous that this happens when the licensee should know the rules and regulations. This establishment has had its hours of operation modified in the past. Once again, the establishment did not make the phone call. It was stated that the altercation occurred inside and was then taken outside. She agrees with Attorney Delyani that the allegation that the owner was drinking was not an issue. The bigger issue is the pattern of them not calling the police; trying to cover this up, and having an excuse every time. It can't continue like this. She would love to hear what his defense is as to why he didn't telephone the police.

Captain Houghton stated no calls were called in from the establishment. She would like to know what protocol they have when something happens, even if it is not a fight, but when they believe something could occur in there, stated Guzman.

Gustavo Serna stated when people start to speak loud, he tells them to go. He puts people out by asking them to leave. Once they leave, he stays inside because people are relaxed. He stated that people starting arguing inside and security called police.

Umemba stated that based on the two police reports, he will make a motion to take no action and close these matters with hope that Attorney Delyani works with them and advises them to do a better job. Avellaneda stated that he does not support the motion.

Avellaneda made motion for three day suspension, effective August 1, 2, and 3, 2014, based on testimony, over-serving of alcohol, fighting that happened within the establishment and continued out to the street, lack of telephone call to police department by the establishment, and improper management relative to security issues; seconded by Cooney.

Avellaneda stated that this establishment has caused problems in the past. The lack of telephone call by the establishment tells him that they don't have proper management in place. Roll-back of hours hasn't worked and he believes a three day suspension is warranted.

Dwyer stated that he has been on the Commission for three years now and this is the fourth or fifth time he has been here for both his establishments. He believes in giving people a chance but he doesn't think he pays attention to the management of his establishment. He thinks he needs to get help in managing his establishments. He is going to be voting in favor of the motion.

Umemba stated that he made his motion because he thinks there are cases where he wants to try to work with them and help them. Sometimes you have to reach out and work with them to improve matters and assist them regarding compliance of rules and regulations. A call was made from inside the establishment and he will be voting no on the motion.

On Avellaneda's motion: Umemba – no; Cooney – yes; Avellaneda – yes; Guzman – yes; Dwyer – yes.

Public hearing commenced re Cesar Fernandez d/b/a Fernandez Brothers Liquors, 79 Williams St., in connection with his application for pledge of Retail Package Goods Store/All Alcoholic Beverages License. Attorney Ethan Shaff appeared with Cesar Fernandez on behalf of Fernandez Brothers Liquors and stated that Mr. Fernandez took a line of credit from the East Boston Savings Bank and they want collateral. They have a line on the business assets and want a pledge. They agreed post-closing to comply with the bank requirement for a \$100,000 credit line.

No one appeared to speak during the public speaking portion of the hearing. The public speaking portion of the hearing was closed.

Captain Houghton stated there have been no incidents reported and they have passed all compliance checks.

Avellaneda made motion to approve pledge of license application; seconded by Guzman. On the motion: Umemba – yes; Cooney – yes; Avellaneda – yes; Guzman – yes; Dwyer – yes.

Public hearing commenced re Fatima Washington Deli in connection with Amusement/Entertainment License application for three TVs, jukebox; and karaoke. Attorney Ann Delyani appeared with Juan Ingles on behalf of Fatima Washington Deli and stated that they were here in the winter without being licensed and they have since removed them and are now requesting approval. This would enhance business.

Captain Houghton stated that the police department does not want to see this turn into a night club and he is concerned re volume.

No one appeared to speak during the public speaking portion of the hearing. The public speaking portion of the hearing was closed.

Dwyer stated that from personal observation he has had issues in the past with this establishment but has been up that area frequently and it seems very quiet there now. He hopes that they respect the neighborhood.

Guzman stated that she thinks she is in support of the TV but not the karaoke. There were two consecutive issues with this establishment. Delyani stated the issues were concurrent. Guzman stated that she has no object to TV but does to the karaoke because she believes this will bring in a crowd that would drink heavily and be too loud. She has no problem with the jukebox as long as it is for background music and is not loud. Delyani stated that she believes we would have complaints from the neighbors if the volume was too loud.


Guzman made motion to approve Amusement/Entertainment License application for TV and jukebox only; seconded by Cooney. On the motion: Umemba – yes; Cooney – yes; Avellaneda – yes; Guzman – yes; Dwyer – yes.

Public hearing commenced re Farmers Series Pouring Permit license fees. Dwyer stated that the Commission recently approved a Farmers Series Pouring Permit for Malt Beverages Only and the Commission now has to determine the annual license fee.

No one appeared to speak during public speaking portion of hearing. Public speaking portion of hearing was closed.

Guzman made motion that annual license fee for Farmers Series Pouring Permit for Malt Beverages Only and/or Wine Only is \$1800; seconded by Cooney. On the motion: Umemba – yes; Cooney – yes; Avellaneda – yes; Guzman – yes; Dwyer – yes.

Meeting adjourned at 8:50 p.m.


Deborah A. Clayman 9/30/14
City Clerk

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