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October 27, 2015

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: Chairperson Silvia Guzman, Commissioners Ken Umemba, Mark Rossi, and Mike McAteer. Absent: Commissioner Roy Avellaneda. Also present: City Clerk Deborah Clayman and Captain Keith Houghton of the Chelsea Police Department.

Minutes of Licensing Commission meeting of September 29, 2015 were unanimously accepted and filed.

Minutes of Licensing Commission meeting of October 20, 2015 were unanimously accepted and filed.

Public hearing commenced re Rooming House License application of Alek Vienneau and Mike Vienneau d/b/a The Diranian House of 255 Chestnut St. Guzman read public hearing notice. Alek stated that he would like to update the Commission re the status of the application. He stated that they have met with the city re the taxes and outstanding fees and they now know the amount due. The first version of the purchase and sale agreement has been drafted and they need time to run through it. They are not prepared to proceed tonight but they want the Commission to know that they are going in the right direction and should be ready to proceed for the next meeting. Umemba made motion to continue public hearing; seconded by McAteer. On the motion: McAteer – yes; Rossi – yes; Umemba – yes; Guzman – yes.

Public hearing commenced re Rancho Las Pupusas of 36 Second St. re disciplinary action re police reports #15-206-OF and 15-2330-OF. Guzman read public hearing notice. Attorney Lawrence Christopher appeared with Gustavo Serna on behalf of Rancho Las Pupusas and stated that Nancy Serna is ill and that Gustavo runs the day to day operation of the business.

Captain Houghton stated that the police officers involved re the police reports were unavailable this evening. Guzman questioned Christopher re whether or not he would be willing to proceed without having the ability to question the officers and translated to Gustavo in Spanish so he would understand that the police were not available. She explained further that she questioned his attorney whether or not he wanted to proceed without questioning the officers. Gustavo stated that he is in agreement with the police reports. Christopher stated that the reports are not in dispute. Guzman stated that she wants to make sure their rights are preserved.

Guzman stated that procurement of alcohol on the night of the snow storm is an issue. Christopher stated that re the snow storm issue, there is no evidence that Nancy or Gustavo were involved or had anything to do with procuring the alcohol.

Houghton read police reports #15-206-OF and 15-2330-OF.

Upon Christopher's questioning re report #15-206-OF, Houghton testified that Nancy and Gustavo were not present; no evidence that they were aware of the alcohol purchase; and there have been no calls to the establishment since the incident. Re report #15-2330-OF, Houghton

testified that Nancy and Gustavo were not present; Gustavo left earlier; and reports mentions open bottles, not sales.

Leonor Perez of 10 Forsyth St., Chelsea appeared as a translator for Attorney Christopher.

Ivette Davila of 64 Washington Ave., Chelsea, appeared and stated she has known Gustavo for years and he is a very nice guy. She goes to the restaurant and never sees any trouble; they have great food and it is very nice and clean.

Douglas Vasquez of 168 Oliver St., Malden, appeared and stated he works for the radio station 1330 in Boston. He advertises him in the radio station. The times he has gone there everything is in excellent condition and order. Several times he has been there around closing time and they usually leave about 15 minutes before closing.

Ruben Orellana of 99 Bellingham St., Chelsea, appeared and stated he has known Gustavo for several years. He is a client of Rancho Las Pupusas and the food is very good. He knows they sell beer and wine. The most important thing is that he employs a lot of people and he is a very respectful man.

Ricardo Pineda of 12 Bassett St., Chelsea, appeared and stated he has known Gustavo since 1997. He previously lived on the second floor at 36 Second St. They usually close at the time they're supposed to close. There were no problems in the building when he lived there. It is a nice place to go with your family.

Josue Palma of 71 Clinton St., Chelsea, appeared and stated he has known Gustavo since 1997 and he used to work for him as well. He is an excellent person and employer. He is always paying attention to the business, keeping it clean and keeping his licenses up to date. If something is going wrong, it is because he is not there. He usually gets everyone out on time. When he is there, everything is nice and quiet. If he sees something wrong, he gets people out right away.

Denise Ramirez of 34 Second St., Chelsea, appeared and stated she has known Gustavo for 10 years and has lived there for a while. He is a respectful guy and always makes sure things are running good. He is clean and is hands on. She has never had to go downstairs and complain about noise. They close very early and she has never seen any police there for problems. He is a great guy and is always there. Everything is always in great condition and it is very clean.

Jose Hernandez of 361 Crescent Ave., Chelsea, appeared and stated that he has worked at the building in front of Rancho Las Pupusas for 15 years. He has known Gustavo for more than 30 years. He is a serious person and is hard working and a man of his word. Whoever lives in the area has never complained. In the building he manages, the 12 people who live there have never complained about Rancho Las Pupusas. Gustavo gives jobs to many people and he is a humble man.

Melvin Duarte of 116 Chestnut St., Chelsea, appeared and stated that he and his wife live in front of Rancho Las Pupusas. He worked for him in 2002 for four years. He is a good person and a

good boss. Every morning he talks to him out front and he is always cleaning. He always goes there to eat as well.

Ilicia Linareas of 116 Chestnut St., Chelsea, appeared and stated she has known Gustavo for about eight years. He is a good person. She always sees him cleaning and never had any issues with the restaurant. She always goes to both his restaurants with her family and children and has never had any issues.

Joel Deleon of 1055 Saratoga St., E. Boston, appeared and stated he is a client of Gustavo. He likes to go there to drink beer and it is always nice and calm in there.

Wilfredo Portillo of 71 Clinton St., Chelsea, stated the reason he is here is because he is a client of Rancho Las Pupusas. He has always gone to eat in there and it is always clean. He likes to drink a few beers in there because it is always calm and there has never been a problem in there.

Public speaking portion of the hearing was closed.

Umemba stated there is no doubt that Gustavo is a decent man who employs a lot of people but there is no oversight. In the five years he has been on the Commission, he sees him on an average of two times a year before this Commission. The law says you cannot transport alcoholic beverages from one place to another. He left the establishment 20 minutes earlier when he knew he had to close down. He sees no accountability here.

Rossi questioned steps taken since these incidents re management. Attorney Christopher stated that Carmen Ruiz, who purchased the alcohol, was let go. Ms. Carmona was also fired. He now has cameras in his house so if he is not at the establishment, he knows what is going on. Rossi stated that firing employees doesn't remedy the problems. Gustavo stated that he is no longer working in the scrap metal business and only works at the restaurants now. He now has more time to spend at both businesses and is managing them himself. He is always at Rancho Las Pupusas in the morning and then goes to Las Pupusas del Chino as well. He closes both of them and also has people he trusts to assist him. One restaurant closes at 11:00 p.m. and the other closes at 1:00 a.m. He promises there will be no more trouble.

Gustavo responded to Umemba's questioning re TIPS certification and stated that he had been TIPS certified five years ago but will make an appointment to do it again. All other employees are TIPS certified.

Guzman stated there is a systemic failure that has led to these failures. Alcoholic beverages purchased outside of a purveyor is a big problem she has here. The translator translated to Gustavo what Guzman had stated. That is one of the number one rules of having a liquor establishment is to never do that. Gustavo stated it was not him and she did that behind his back and that is why he fired her. Guzman stated that the fact that an employee felt it was okay to do this is evidence of systemic failure. She assumes that the employee didn't purchase the alcohol with her own money but took money from the draw. Gustavo stated there is not enough money in the cash register for her to do that and she must have bought it with her own money. He has no receipts. He was in Lowell and when he found out what happened he went to the restaurant.

Houghton stated that they have receipts from the liquor store but he doesn't know whether it was paid by credit card or cash. Gustavo stated that the employee paid by cash and she did not ask him to reimburse her.

Guzman stated that there were a lot of people inside the establishment after closing time. Gustavo stated when he left the establishment there was only the waitresses and four of the boyfriends who were waiting for them to leave. It is possible that she opened the door for more people. Guzman stated they should have been waiting outside. At the moment he left, there were still waitresses there and there was still alcohol on the counters where the men were sitting. It is systemic failure and it constantly happens.

Rossi stated the issue is that he left while people were inside the bar who should not have been in the bar. Gustavo stated they were not drinking. Rossi stated they should not have been inside.

Attorney Christopher asks that the license not be suspended or revoked. He has taken measures to try to assure this will not reoccur. He understands the problem and he has rectified the problem and now has cameras in his house to monitor what occurs at the establishment and has total control of the premises now.

Umemba stated that he likes the measures he has taken and will yield to the Chair.

Guzman stated her stance on purchasing alcohol from a non-purveyor is very strict. She has in the past voted for revocation of a license because alcohol was purchased from a non-purveyor.

Rossi stated that Gustavo is responsible for the actions of his employees. Under the circumstances it is a clear violation re the purchase of alcohol from a non-purveyor. That is the one thing that is so easy to comply with. He believes a punishment is in order but doesn't think it warrants revocation because of the steps taken. Gustavo has stated that everyone is TIPS certified except him. He thinks a short suspension pending TIPS certification would be in order.

McAteer stated he thinks it warrants a two day suspension with any other incident warranting a revocation.

Umemba made motion for four day suspension to be served on a Thursday, Friday and Saturday. No second on the motion. Motion failed.

Rossi made motion for two day suspension with requirement that Gustavo obtain TIPS certification, effective five days from receipt of written decision; seconded by McAteer. On the motion: McAteer – yes; Rossi – yes; Umemba – yes; Guzman – no.

Public hearing commenced re Acapulco Mexican Restaurant of 238 Fifth St. re disciplinary action re police reports #14-5279-OF and 15-2008-OF. Chairman Guzman read public hearing notice. Attorney Michael Ford appeared with Luis Flores, Jr. and Ana Hernandez (security service) on behalf of Acapulco Mexican Restaurant.

Captain Keith Houghton read police report #14-5279-OF regarding an assault involving co-workers and stated that the victim was never found and the matter was discontinued because of lack of witness. Officer David Flibotte testified relative to report #15-2008-OF regarding patrons inside establishment after closing and stated that upon entrance to the establishment Mr. Flores appeared to be drunk, it was a struggle to get Mr. Flores to leave the building, and he didn't observe Flores drive away because the police had other priorities.

Attorney Ford questioned Houghton and Flibotte.

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

Attorney Ford stated he is here to do a mea culpa and explain how they have changed procedures. Mr. Flores has learned from this incident and apologizes to Sgt. Flibotte and realizes he must have absolute cooperation and respect for the police. This is something that can not take place and they have since had meetings with the other employees. Since this has happened, they understand that closing is closing and off the premises means off the premises. It was a shock to see an employee assault and they realize 911 was not called but Ms. Hernandez has gone over matters with the staff to make sure that 911 is called and this won't happen again. He has worked very hard to run a safe business and make sure the patrons and public are safe there.

Umemba stated that he likes the actions they have taken and it is nice to see counsel working with his client. This incident is very unfortunate. There is a lot of stuff at stake here. He hopes he checks people's paperwork before he employs them, ~~we encourage license to employ people with proper documents to work in LA~~. He is supposed to do whatever it takes to protect employees and patrons. Security was non-existent here. It appears that he tampered with a witness. He has an issue with understanding ~~why the license did not open the door when the police officer knocked on the door~~.

Hernandez stated the incident happened within seconds. She realizes she should have called 911 but she never witnessed an incident such as this. She abided by her request not to call anyone. It will never happen again. She would not let her take her to the hospital. Hernandez stated she is there on the weekend because she cares about the location because it is in her city. The incident occurred so fast, no one expected it and it escalated within seconds. They have since taken steps to make certain that doesn't happen again.

Rossi stated he would like to know what steps have been taken and noted that the conduct of Flores is a concern. Hernandez stated that they didn't have protocol before other than if an incident occurred they must call 911. Now all employees are instructed to instantly call 911 the minute anyone gets injured and they have the blurb from the rules and regulations what to do if something occurs. They will provide the Commission with the documentation.

Flores stated that video cameras are in the parking lot and in the front and back door as well as in the dining area. Two cameras are in the dining room; two in the bar area; one in each exit. Three cameras are on the outside: one on exit door in back; one on side of building; and one at the front entrance.

When officers showed up at the premises, Flibotte maintained that Flores was drunk. Flores stated he had two shots of Bacardi. He doesn't normally drink during work hours. Flores apologized to Officer Flibotte for not fully cooperating with him. He was a little nervous. He stated that he did not contact Carmen and never advised her of anything. He has a cousin who is always there with him and he was there that night and was sober. He has four family members who work there with him. He stated that this was an isolated incident and he has never been drunk on the premises previously. Hernandez stated that she was there and was not drinking when Flores had shots. She is the head of security and stays with him when he closes.

Guzman stated that she thinks most of this has been hashed out. Her issue is that an incident occurred after hours involving police and an incident occurred where people were hurt and 911 was not called. It seems to be repeating itself here. She understands that the incident occurred in a blind spot and that it occurred so fast but a decision was made not to call police. Flores stated that was not a decision made. Guzman stated the moment it happened, he is the manager, and she doesn't understand why the police were not called to have the employee arrested. A person was bleeding from the head, and 911 was not called. Having security doesn't shift his responsibility to manage the establishment. He had an obligation that he did not comply with. Flores stated he has learned from that mistake. Guzman stated that he should have learned from the last time. Flores stated the last incident was in 2008. He was drinking and he should not have been drinking. There were eight people in the establishment and she doesn't understand why alcohol was still there. His cooperation with the police is very important and is required.

Attorney Ford stated he knows they have to call 911 all the time; people must be out at closing and no drinking moving forward. The only thing is that it was an unforeseeable incident and they have now learned from it and realize they should have and must call 911. They come before this Commission and take great pride in this establishment and they will not be before them again and asks the Commission to take this into consideration regarding discipline.

McAteer stated that he is not comfortable with this place being open. McAteer made a motion to revoke the license. No second on the motion. Motion failed.

Umemba made motion to suspend the alcoholic beverages license and amusement/entertainment license for two days to be served on a Friday and Saturday. No second on the motion. Motion failed.

Rossi made motion to suspend alcoholic beverages license and amusement/entertainment license for seven days, Monday through Sunday; seconded by McAteer. On the motion: McAteer – yes; Rossi – yes; Umemba – yes; Guzman – no.

Public hearing commenced re Ergwin Umana d/b/a Solar City re Door to Door Solicitor application. Chairperson Guzman read public hearing notice. Ergwin Umana appeared on behalf of Solar City. Umana stated that they are giving away free solar panels and converting families to cleaner energy and reducing their bills up to 50%. Customers never have to leave their home because they take care of everything. The panels are produced by Zep, a Chinese company.

Maryann Winship of 62 Beacon St., stated that is opposed to door to door sales. She is a supporter of solar energy but thinks it is better to solicit by mail because people are warned against scams and there is no way to look into this if people come to your door.

John Gunning of 62 Beacon St. stated he agrees with what Maryann Winship stated.

The public speaking portion of the hearing was closed.

Rossi stated he agrees with what Winship stated re door to door salesmen who may give misleading information. He had a roommate who had a door to door solicitor issue that was a complete scam.

Umana stated he is not a salesman. How his company operates is that investors put up the cost and there is no cost to the homeowner. The company makes money through their power payments. The panels remain the property of the company. Consumers will never own panels. They require a \$650 minimum payment. It is like the company is renting the roof.

Rossi stated they are not giving away free panels. He wants more information.

McAteer stated Inspectional Services gets complaints from home owners all the time.

Umemba stated he doesn't think he has enough information to grant this request. He would like to see more detailed information re contractual agreement.

Guzman stated she doesn't see how they need door to door sales regarding this. She agrees with what the public speakers have stated. She has been annoyed enough regarding her energy bill. It is not him; she commends him and feels he did a great job regarding his presentation. His application is incomplete. There is no way of understanding who he is talking to and feels the better way to address home owners is through the mail. Door to door solicitation opens the door to crime. She is more inclined not to go forward because she doesn't think it is good for the citizens of the City.

Guzman made motion to deny application for door to door solicitation, noting applicant is free to reapply. If he wishes to go forward, it is not him who should reapply; it is Solar City. Motion seconded by Rossi. On the motion: McAteer – yes; Rossi – yes; Umemba – yes; Guzman – yes.

New Business:

Appeal notice from ABCC, dated September 24, 2015, re Plaza Mexico was accepted and filed.

Fatima Washington Deli, Inc., of 373 Washington Ave., change of manager application was submitted. Conference will be scheduled.

Los Amigo Corporation, of 339 Broadway, change of manager application was submitted. Conference will be scheduled.

