



CITY OF TAUNTON

LICENSE COMMISSION MEETING

MINUTES OF THE MEETING

July 16, 2014

7:00 p.m.

PRESENT:

Chairman Peter Lamb

Commissioner Brendan Mullen

Commissioner Bruce Thomas

For the Police Department:

Detective Lt. Daniel McCabe

Detective Dennis Smith

Chief Edward Walsh

Meeting was called to order at 7:10 p.m. by Chairman Lamb.

1. Minutes of the meetings from June 18, 2014. Motion made by Commissioner Mullen to accept the minutes. Motion was seconded by Commissioner Thomas. Motion passed unanimously.
2. **Store 44** – Appearing before the Board on behalf of Store 44 was a representative from ANL Vending in Peabody. Chairman Lamb asked if he was putting the machines in the store. Yes. Chairman Lamb asked what is the payoff on the skill machine. Nick (representative) stated that it is a redemption machine without pay, but that they redeem tickets. Detective McCabe asked where they redeem the tickets. In front of the store where the prizes are kept. Chairman Lamb asked if the redeemer was only allowed to get prizes or cash. Nick stated just prizes. Detective Lt. McCabe stated that he thought he would need to view the machine as it may not pass the City ordinance. Nick stated that the machine is stored in the warehouse in Newton. Detective Lt. McCabe stated that the crane machine was fine. Chairman Lamb stated that one machine could be approved but maybe not both of them at this time. Commissioner Thomas made a motion to approve the license for one machine.

Commissioner Mullen seconded the motion. Chairman Lamb stated that the Board will leave it to Detective Lt. McCabe's determination as to whether or not another appearance will be necessary at the next meeting. Motion passes unanimously.

3. **J. Lopez Enterprises, Inc.** – No one appeared before the Board for the Entertainment License application. Commissioner Mullen made a motion to continue to the matter to the August 20th meeting. Commissioner Thomas seconded the motion. Motion passed unanimously.
4. **99 West – Change of Director.** This matter has been approved by the ABCC on a statewide basis and just needs approval of the Local Licensing Board. Commissioner Mullen made a motion to approve the Change of Director. Commissioner Thomas seconded the motion. Motion passed unanimously.
5. **Lone, Inc., Lafayette** – Appearing before the Board on behalf of Lone, Inc. was Lori Martin. Ms. Martin stated that the corporate paperwork was rejected by the Secretary of State's office due to the DOR missing paperwork. She stated that he filed the appropriate paperwork today (July 16th). Chairman Lamb stated that the corporation is still in limbo. Ms. Martin replied "Yes". Chairman Lamb inquired with regard to the issues with the DOR. Ms. Martin stated that she was not sure. Detective Lt. McCabe asked if all of the tax filings been filed. Ms. Martin stated "yes, well, most of them." Ms. Martin further stated that Mr. Paul Veradt had spoken to a lady at the DOR. Chief Walsh asked about the Entertainment License. He further stated that the council had been commenting about the noise. Commissioner Mullen asked what type of entertainment. Ms. Martin stated musical bands. Commissioner Mullen asked what time does the entertainment end. Usually about 7:00 p.m. Chairman Lamb asked where the entertainment set up was located within the pine grove. Ms. Martin stated a structure with three sides. The Board reviewed the map from 2008. Commissioner Thomas questioned if there were trees or did the structure abut someone's backyard. Ms. Martin stated yes, there were trees. Chairman Lamb inquired as to what time the bands started playing and the answer was 3:00 p.m. Chairman Lamb reviewed the minutes and stated that he doesn't recall the discussion about entertainment. If there was entertainment, it was occasional entertainment for the bike runs, etc. Chairman Lamb asked Chief Walsh what his thoughts were on the entertainment license. Chief Walsh stated that the Board can review it and discuss it next month. Ms. Martin asked if the Board wanted them to change the entertainment outside. Chairman Lamb stated that they should be proactive. Detective Smith suggested that maybe they should consider starting at 2:00 p.m. and ending at 6:00 p.m. Detective Lt. McCabe questioned the site map; felt that there may have been an alteration of premise issue. Commissioner Mullen made a motion to continue the discussion to the August 20th meeting. Commissioner Thomas seconded the motion. Motion passed unanimously.
6. **Softball Leagues** - Appearing before the Board is Dustin Arruda and Jason Torres. Mr. Torres stated that he could give the Board an update on our corporation status. He stated that the league had hired an attorney – Attorney de Abreu. Detective Lt.

McCabe asked if the individuals who are on the current applications were given a Special Permit last year. No. Chairman Lamb stated that he was hesitant to do anything without the individuals present. I don't mind having them appear before Detective Lt. McCabe. Commissioner Thomas stated that he knew both of these people, but he had to side with the Chairman. Serving alcohol is a responsible business. Commissioner Mullen made a motion to approve the 3 applications pending the pickup of the applications from Detective Lt. McCabe so he can prove their identity and the payment of \$150 for each application. Commissioner Thomas seconded the application. Motion passed unanimously.

7. **Prestige Car Wash** – Chairman Lamb asked if anyone was present for the hearing. Chairman Lamb stated that the Board did receive a communication late today (July 16, 2014) asking for a continuance. Commissioner Thomas made a motion to continue the hearing until August 20th. Commissioner Mullen seconded the motion. Motion passed unanimously.
8. **New Weir Pizza** – Appearing before the Board is Chris Karageorgos, manager and Ioannis Karageorgos, owner. Detective Lt. McCabe stated that he had received a complaint about tables and chairs on the sidewalk in the front of the building. He went to the restaurant and spoke with Chris Karageorgos and informed him that the tables did not belong on the sidewalk and needed to be moved right away. Detective Lt. McCabe went back to the restaurant a few hours later and the tables were still on the sidewalk. Mr. Karageorgos stated that he was waiting for the rush hour to end; that he would have done it sooner if possible. The tables are there for the people to smoke. He has tried to get them to smoke out back, but they don't. Detective Lt. McCabe stated there were no ashtrays on the tables. Mr. Karageorgos stated that people steal them. Commissioner Thomas stated he had only a comment for Mr. Karageorgos: that if one of us goes into your business and asks you to do something, you need to take it seriously. Mr. Karageorgos stated that he understood. Chairman Lamb stated that the Board was not trying to be picky; just consistent. We don't want to give an advantage to you over your competitors. Chairman Lamb stated that the Board will just place a note in the file with a copy of the report.
9. **B&DW, Inc.** – Appearing before the Board is Attorney Wayne Berube, Miledys A. Valentin, Francisco Novo and Officer Arsenio Chaves. Officer Chaves gives a narrative from the report. He stated that people were in the building after 1:00 a.m.; he didn't write it up every single time he noticed it. Officer Chaves stated that he spoke with one of the employees and told him people could not be in the building after 1:00 a.m. He had witnessed people leaving the building who were clearly not employees. Attorney Berube stated that the first report is not a criminal one in nature and that perhaps Officer Chaves was giving them a warning. He stated that he did speak with his clients about the incident and there may have been some patrons in the building. Chairman Lamb asked if Attorney Berube agreed with the portions of the report. Attorney Berube stated that he may agree with some of the portions. He further stated that he had gone over the rules and regulations with his clients, that they run a tight ship. They had made a mistake. It shouldn't have happened. They have

security people there. Attorney Berube stated that this issue can be resolved by just doing the right thing: following the rules – everyone out by 12:00 a.m. His clients want to do whatever is necessary and they are asking for consideration; maybe put a letter in the file. Chairman Lamb asked Attorney Berube if he was present last August when the licensee appeared on another violation. Attorney Berube stated he was not aware of a previous violation. Chairman Lamb stated that he had the decision in front of him; that it was in August and involved a compliance check, that there was a hearing in which preventive measures were put in place and some disciplinary actions as well. Chairman Lamb stated that as far as he was concerned, it is the same license holder. Attorney Berube stated that did not get this decision. Chairman Lamb stated that he understood that but it is the same license holder. I do not see this as being a first time offense. Attorney Berube stated that this was a different manager with a new d/b/a. Chairman Lamb stated that if the Board entertained that, then every time you had an offense you could just change the name. Attorney Berube stated that he couldn't speak to this; he did not know about it. Chairman Lamb stated that he could not speak as to whether Attorney Berube's clients did their due diligence when they took over this business. As far as I see it, the first pass has already been used. Commissioner Mullen asked if there was a police report with the compliance check. Yes. Detective Lt. McCabe asked Mr. Berube if he represented B&DW, Inc. and Mr. Berube replied "Yes – I do now. I can tell you that even though it is the same corporation, there are different players now." Detective Lt. McCabe stated that the officers and directors are the same as they were back in August 2013. They only thing that has changed was the manager. Detective Lt. McCabe asked if a chain restaurant changed the manager, would we treat that as a new license. The Board had a discussion regarding the previous discipline – 3 days. Chairman Lamb asked that since there was a repeated pattern, what was the plan to resolve this problem. Attorney Berube stated to make sure it doesn't happen again. Chairman Lamb asked Officer Chaves how often he worked that route. Every night. Chairman Lamb asked Officer Chaves other than the 2 reported incidents, has this happened more than those 2 times and Officer Chaves replied that he did. Francisco Novo stated that the officer never spoke to him, he only pointed at his watch. There was a dishwasher, waiter and a DJ. Maybe 3 or 4 people who leave at the same time. Commissioner Thomas stated that he didn't think we are arguing that employees are leaving late or even one or two patrons. I think the issue is that you realized that something was wrong when you acknowledged that he pointed to his watch. Officer Chaves stated that Mr. Novo came over to his cruiser. Mr. Novo argued directly to Officer Chaves saying "No. it was the security guard." Officer Chaves stated no sir – it was you. Mr. Novo responded that it wasn't. Officer Chaves stated that he disagreed. Commissioner Thomas stated that he appreciated that you recognized the problem with this, but you needed to enforce it; it should have been done the very next night. Attorney Berube stated that he was going to represent to the Board that they are going to do their best to make sure that this doesn't happen again. Chairman Lamb stated that what bothered him now is that when you came before us to change the manager, you represented to us that they had managerial experience. Mr. Berube replied that they do. The Chairman stated "Well, when closing hour happens, they should know that everyone should be out." Chairman Lamb stated that he wanted to

close the discussion on this topic and move over to the discipline. Commissioner Thomas stated that it definitely had to be the one day held in abeyance from last year's violation. Chairman Lamb asked the Board if they wanted anything additional, if the other commissioners wanted to hold anything in abeyance. Attorney Berube asked if they could continue holding that day in abeyance. Commissioner Mullen asked the clients how long had been running this current establishment. Mr. Berube "6 or 7 months." Chairman Lamb stated that he was tempted to hold another day in abeyance. Detective Lt. McCabe- stated that both violations were on a Saturday. Commissioner Thomas stated that he did not want to do a Saturday and suggested a Tuesday. Commissioner Mullen stated that Tuesday is what we have done in the past. Chairman Lamb added with an additional day held in abeyance. Commissioner Thomas made a motion for one day to be served on Tuesday July 29th and two days held in abeyance for one year. Commissioner Mullen seconded the motion. Motion passed unanimously. Mr. Novo questioned if they can close the restaurant that day. Commissioner Thomas stated yes for cleaning – just send us a letter. We are here to help you, but we need to be consistent. Attorney Berube asked if there would be a closed notice sent to us. Detective Lt. McCabe stated yes; he would come by on the 28th with signs.

10. **Ward 5 Athletic Club** – Appearing before the Board is Attorney P. Burke Fountain and the manager Reinaldo Barbosa. Detective Lt. McCabe goes over the report. Attorney Fountain stipulated to the facts of the report. Chairman Lamb asked what happened. Attorney Fountain stated that the basement is a bar frequented by mostly older Portuguese gentlemen. Upstairs is a function hall. Bartender did not speak very good English. Attractive young woman came in and the bartender was flustered. She asked for a beer and he gave her one. Chairman Lamb asked if the gentleman still worked for you. Yes. Chairman Lamb stated that we had done compliance checks before and we have asked the license holders to add an educational element. We want to see that you have standards in place and you have participated in a certification class. Chairman Lamb suggested one day served, one day held in abeyance until corrective measures are in place and one day held in abeyance for one year. Attorney Fountain asked if the Board knew anyone who could do the certification program in Portuguese. Commissioner Thomas stated that was a question he had. He wanted to know how a Portuguese bartender who doesn't speak English communicated with the public. Attorney Fountain stated that the bartender spoke very little English. Detective Lt. McCabe stated that STOP and TIPS are approved programs. Chairman Lamb stated that Tuesday would be an acceptable day. Detective Smith suggested giving Ward 5 a 60 day abeyance so they can get the certification. Commissioner Mullen made a motion for a 3 day suspension; one day to be served on Tuesday August 5, one day to be held in abeyance until September 17 and provided that the proper training has been completed then one day will be held in abeyance for one calendar year. If at the September 17 meeting, the Commission is not satisfied with the corrective measures, then two days will be held in abeyance for once calendar year. Commissioner Thomas seconded the motion. Motion passed unanimously. Detective Lt. McCabe stated that this educational class is for all the employees, not just the bartender. Attorney Fountain agreed – yes, all employees.

11. **Sunny & Dev d/b/a Smart Stop** – Appearing before the Board was Attorney Mark Lawton from Brockton, Denise Berube, Director of Operations and Sunil Patel. Sgt. Matthew Skwarto of the Street Crimes gave a synopsis of the report. Attorney Lawton passed out an outline with some dates. Chairman Lamb asked for a recess for 5 mins to discuss something with Detective Lt. McCabe. The Board went into recess commenced at 8:29 p.m. Commissioner Mullen made a motion to go back into session at 8:42 p.m. Commissioner Thomas seconded the motion. Chairman Lamb stated that the Board had a discussion regarding the paperwork Attorney Lawton provided the Board and stated that he had relationship with one of the judicial parties and must recuse himself. Commissioner Mullen stated that the Board had a good idea of what transpired from the police department, but asked Mr. Patel to give a synopsis of what happened from the enactment of the ordinance and the night that Detective Lt. McCabe and Sgt. Skwarto walked into the business. Mr. Patel stated that they had taken all the synthetic marijuana out of the store and put it in the cooler. He then called the vendor. Commissioner Mullen stated that this was in August and then the police came in November, 3 months later. It appears that we had several tips that you were still selling in that time frame. Mr. Patel stated that he found out afterwards that a clerk was selling it here and there for extra money. Mr. Patel told him to come see him for the extra money. Commissioner Mullen stated that the clerk, Eddie Machado, was in fact selling the marijuana. Mr. Patel stated no, that he gave it to people. Commissioner Mullen confirmed that Mr. Machado sold the marijuana and took money for it. Commissioner Mullen asked what happened to the money. Mr. Patel stated that he did not know. Commissioner Mullen asked how much of it did he sell. Attorney Lawton gave a synopsis of what happened. Mr. Patel should have thrown the marijuana out, but he didn't. Mr. Patel was not sure how much he sold, but the clerk admitted doing it. Mr. Patel decreased Mr. Machado's rent and increased his pay because he needed the money. Commissioner Mullen stated that it sounded like Mr. Patel rewarded someone for putting him in a difficult position. Attorney Lawton stated that Mr. Patel didn't see it as a reward, but that he provided motivation for someone to sell the product. Mr. Patel admitted that he was in possession of the marijuana. This is one of the reasons we hired the business operator. Mr. Patel's father, who doesn't speak English very well, was part of two prior violations. Commissioner Thomas stated that you know that his father was the result of the previous violations and that this now triggers all those other discipline matters. Commissioner Mullen asked Ms. Berube what was her role with the company. She runs the day to day operations of Sunny & Dev. She stated that she comes from a corporate background; she ensures that the assets are protected and that the laws are being followed. Commissioner Mullen stated that the issue is that we have had Smart Stop here three times and there are three days held in abeyance for one issue and six days held in abeyance for the other issue. So this violation triggers all nine days. We understand that there are no criminal charges pending but we are concerned with the municipal violations. Attorney Lawton asked if Mr. Patel could finish his story. Mr. Patel finished explaining what happened; that he had family who worked for him and that they take care of each other. Commissioner Thomas stated that we have to enforce nine days on you tonight. We have to have this stop. You need to be held

responsible for this. The Board understands you want to help your family, but this has to stop. Moving forward, let Ms. Berube be the bad one. Commissioner Thomas suggested a 9 day suspension to be July 22, 23, 24, 29, 30, 31 and August 5, 6, and 7. Three consecutive weeks, three days a week and then three days to be held in abeyance for one year. Commissioner Mullen stated that it was severe but all these days were held in abeyance and the Board didn't enforce them all before. The last thing we want to do is hurt your business so we are trying to spread it out as best we can but keeping it stern. Commissioner Mullen seconded the motion. Motion passed unanimously. Mr. Patel asked if the Board would reconsider to spread the days out through September. Commissioner Thomas stated that the Board just passed the motion and you didn't object. Attorney Lawton asked if the Board would reconsider the motion to have it held over more time. Commissioner Thomas declines and commented that Mr. Patel needed to feel the seriousness of the violations. Commissioner Mullen stated that he would be amenable to skipping every other week. Commissioner Mullen stated that his biggest concern was the penalty but I don't know if the business can handle three days for three weeks straight. Commissioner Thomas made a motion to rescind the previous motion; Commissioner Mullen seconded the motion to rescind. Commissioner Thomas made a motion for the dates served to be July 22, 23, 24, August 5, 6, 7, 19, 20 and 21st. Commissioner Mullen seconded the motion. Motion passed unanimously.

Commissioner Thomas made a motion to allow the Chairman back into the meeting. Commissioner Mullen seconded the motion. Chairman Lamb stated that the last item was a communication from the Holy Ghost looking for some guidance as to the acceptance of their application. Chairman Lamb stated that he would like to speak with Detective Lt. McCabe and see what else needs to be done. Detective Lt. McCabe stated that he sent an email to the ABCC and they responded "okay".

12. **New Business** – Detective Lt. McCabe stated that we needed to include the fees on our webpage and the Board needed to discuss a fee for a seasonal license.

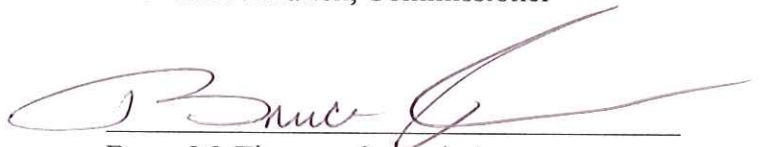
Commissioner Mullen made a motion to adjourn. Commissioner Thomas seconded the motion. Motion passed unanimously. Meeting adjourned 9:13 p.m.



Peter C. Lamb, Chairman



Brendan P. Mullen, Commissioner



Bruce M. Thomas, Commissioner