



CITY OF TAUNTON

LICENSE COMMISSION MEETING

MINUTES OF THE MEETING

February 19, 2014

7:00 p.m.

PRESENT:

Chairman Peter Lamb

Commissioner Brendan Mullen

Commissioner Bruce Thomas

For the Police Department:

Detective Lieutenant Daniel McCabe

Detective Dennis Smith

Meeting was called to order at 7:02 p.m. by Chairman Lamb.

1. **Minutes of the meetings from January 15, 2014.** Motion made by Commissioner Mullen to accept the minutes. Motion was seconded by Commissioner Thomas. Motion passed unanimously.
2. **Yamato Japanese Steakhouse – Request to Change the Hours.** Appearing before the Commission was the Manager, Hong Zhi Yang. Chairman Lamb read the letter into the record, which indicated that the establishment is closed on Mondays now, but would like to open on Mondays. The establishment had previously requested to be closed on Mondays due to lack of business. Commissioner Thomas made a motion to revise the license to add Mondays. Commissioner Mullen seconded the motion. Motion passed unanimously.
3. **Ruby Tuesday – Communication regarding the Resignation of a Board Member.** Chairman Lamb read the letter into the record. Note to place the communication in the file.

4. **Taunton Boat Club, Inc. - Application for a Special Permit.** Albert Andrade appeared before the Board. Detective Lt. McCabe stated that the application had been reviewed. Chairman Lamb inquired as to the limit of events. Detective Lt. McCabe stated that they can have a license for 30 days. Chairman Lamb asked if we could amend the application. Detective Lt. McCabe stated yes. Commissioner Mullen asked if there was a record of any issues. Detective Lt. McCabe stated no. The Board could issue one permit listing 3 special events. Commissioner Mullen made a motion to approve the dates. Commissioner Thomas seconded the motion. Motion passed unanimously

5. **B&DW, Inc. –** Appearing before the Board was Attorney John White who represents B&DW, Inc., and Attorney Wayne Berube who represents Mama King. Chairman Lamb asked the parties to give the Board an overview. Attorney Berube stated that the Wilburs are selling Pub 76 and that the license is still in the name of B&DW Inc. My clients have entered into a lease to purchase agreement with the Wilburs; hoping for an option to extend but they do need to close. Right now it is a lease. Miledys A. Valentin is the proposed new manager. She has restaurant experience. Francisco Nova is her friend and advisor and also does cooking at the restaurant. The idea is to make her manager because she is there 7 days a week. We also want to change the d/b/a to Mama King's Restaurant Inc. The food will be Spanish and American. There is a lease to purchase. Mr. Berube further stated that there was a question from the License Commission about the Meals Tax Certificate. Chairman Lamb stated that the lease to purchase is irrelevant for a change of manager and a change of a d/b/a. Attorney Berube disagreed and stated that it is relevant because she is leasing the premises now. Chairman Lamb stated that she doesn't own the license. Attorney Berube stated she wasn't leasing the license. Chairman Lamb asked who was in charge of the meal receipts, etc. Attorney Berube stated that B&DW was in charge, that they were responsible for all the taxes and that they held the EIN number. Chairman Lamb asked as the Lessee, who was collecting the money. Attorney Berube stated the money comes in but it is BD&W's receipt. Detective Lt. McCabe asked who was profiting from this business. Attorney Berube stated that both parties were. The rent is going to B&DW, the taxes are paid by B&DW. Chairman Lamb asked if Ms. Valentin was an employee of BD&W. Attorney Berube answered yes, she will be the manager. Chairman Lamb asked again if Ms. Valentin was going to be a statutory employee. Attorney Berube stated yes. Detective Lt. McCabe stated that she has been in there since November. That Mr. Wilbur told Detective Lt. McCabe that when he did the inspection and he was unable to open the liquor cabinet - that "he was out". At that time Detective Lt. McCabe told him that he could not do that without the Board's approval. Detective Lt. McCabe further stated that he felt that this was a transfer of beneficial interest without approval and violates Chapter 138, Section 23. Attorney Berube stated that it certainly was not. That Mr. Wilbur is currently the manager. Attorney White added that the Wilburs owned all the stock of B&DW. Detective Lt. McCabe stated that there was also a change of officers that did not come before the Board for approval. Chairman Lamb stated that he was unclear as to why this is a leasing situation and not a transfer of beneficial interest. Attorney Berube stated that in many instances businesses will lease a building for purposes of

running a business. The current licensee is B&DW, Inc. and it still is. Commissioner Thomas stated that as he understood it, B&DW are the main owners of the property. They will be the owners until Mama King can sell the property in the Dominican Republic. So, they don't really have a lease, they are going to work for the Wilburs until they can buy the property. Chairman Lamb asked if there was a lease. Attorney Berube stated that there is a lease because it involves the sale of the business. Attorney Berube further stated that B&DW has the right to request a change of manager; that it happens all the time. Chairman Lamb asked if there was a lease in effect between B&DW and Mama Kings. Attorney Berube stated that there was a purchase and sale agreement. Chairman Lamb asked if there was a lease and Attorney Berube stated no. That there was a P&S with an option to purchase. Chairman Lamb stated that the Board cannot have a lease – that you cannot have two people operating a business under one license. Detective Lt. McCabe brought up an incident that happened at the premises on December 4, 2013 wherein Francisco Nova indicated to the police that he was the owner. Mr. Nova stated that was an assumption made by one of the parties in the incident. Chairman Lamb stated that the Board was only trying to avoid having a problem down the road with a beneficial interest transfer. Detective Lt. McCabe asked if he went to the premises right now, would Mr. Wilbur will be there. Attorney Berube stated that he didn't know; he should be because he is the manager. Commissioner Mullen stated that he was going to assume that Mr. Wilbur was not there and had not been there for some time. Commissioner Thomas stated that now we can hold someone accountable – now we know who the players are. He further stated that whether they did it right or wrong, they should have come here beforehand. Chairman Lamb inquired about the forms the Board had requested. Attorney Berube stated that the taxpayer is B&DW but the accountant does not know what those forms are. Commissioner Mullen stated that from the onset of Mama King moving in there until now the whole situation has not been handled appropriately but that isn't what we are here for now. Commissioner Mullen stated that he would like to hope going forward that things will be done differently. Chairman Lamb redirected the meeting to the application of a change in manager. Commission Mullen asked if there were any issues. Detective Lt. McCabe stated that there have been 3 disturbances since Mama Kings took over and none beforehand. Francisco Nova gave a narrative of the situations; explained that emotions were running high due to the holidays. Chairman Lamb asked if the primary focus is to be a restaurant. Nova said yes. Commissioner Thomas stated that for now on if you have a function in the back, you will hire a detail police officer. Detective Lt. McCabe stated that Mr. Wilbur had divested himself from the board of B&DW. Attorney White stated yes, that Diane Wilbur is the sole officer on the Board. Detective Lt. McCabe stated that Mr. Wilbur had never appeared before the board regarding that change. Commissioner Mullen made a motion to approve the change of manager. Commissioner Thomas seconded the motion. Motion passed unanimously. Commissioner Mullen made a motion to approve the change of the doing business as name to Mama Kings from Pub 76. Commissioner Thomas seconded the motion. Motion passed unanimously. Chairman Lamb cautioned the parties that as they move forward with this transaction, they will need to come before this board.

6. **East Side Pizza** – Appearing before the Board is Attorney John White for Efthimios ("Mike") Georgakakis and Attorney Wayne Berube, who represents James Furtado, one of the principals of East Side Pizza, Inc. Attorney White stated that his client applied for the transfer of the license approximately 3 years ago and while that application was pending, the principals of East Side Pizza filed an objection to the transfer. Since then, the license has been suspended and there is a 30 day appeal period. Attorney White had been in contact with the investigator of the ABCC and they have decided not to appeal the suspension. Mr. Georgakakis has some issues with DOR and he is working out a payment plan. He is before the Board this evening to ask if the Board would entertain an application to transfer the license if Mr. Georgakakis' taxes were not paid in full, but that he was participating in a payment plan with the DOR. Chairman Lamb asked who owned the real estate. Attorney White stated that it is a trust in which Attorney Sherry Costa Hanlon is the Trustee. Chairman Lamb asked who is currently running the business. Mr. Georgakakis, as a sole proprietor. Chairman Lamb asked if the business was East Side Pizza. Attorney White stated that East Side Pizza holds the license. There is no pending application to transfer right now. Chairman Lamb stated that in the past, Mr. Georgakakis had appeared before the Board and represented that he was the licensee. Attorney White stated that East Side Pizza, Inc. is the licensee and that Mr. Georgakakis' daughter is the manager. Chairman Lamb asked if Mr. Georgakakis had a current lease for that property. Attorney White stated yes. Chairman Lamb asked who had the DOR issues. Mr. Georgakakis. Commissioner Mullen stated for his own clarification that the property is owned by 1 Caswell Realty Trust. License is in the name of East Side Pizza but the business is being run by Mr. Georgakakis. Chairman Lamb asked if East Side Pizza was giving up their license. Attorney White stated that no, they were going to transfer it to Mr. Georgakakis. That this transfer began three years ago and that for some reason, Mr. Furtado sent a letter to the Board revoking that transfer. Detective Lt. McCabe offers a timeline from the ABCC records: Mr. Ritchie was the last approved officer/director/manager of East Side Pizza. Sometime in 2005, Mr. John Furtado made himself the officer with the Secretary of State. However, whatever was done in 2005 was never approved by the ABCC. Detective Lt. McCabe continues on with a synopsis of the ABCC investigation and then stated that 6 months or so after the Board received a letter to withdraw the transfer, they received an application to appoint Mr. Georgakakis' daughter as the manger. Commissioner Thomas asked if this establishment had a lease as well. Detective Lt. McCabe stated yes, they submitted a lease when they submitted the paperwork for the transfer. Chairman Lamb asked what type of license is this. Detective Lt. McCabe stated an all alcohol restaurant. Chairman Lamb asked if we had all alcohol restaurant licenses available. Detective Lt. McCabe stated that there are 10. Chairman Lamb stated that East Side Pizza, Inc. does not have a location due to the lease with Mr. Georgakakis. Discussion ensued as to why a transfer was needed when a new license could be applied for. Chairman Lamb stated that Mr. Georgakakis had a valid lease, he is running the business so why don't we do a new license. Attorney White stated because the ABCC did not revoke the license, they did not think the local board would issue one. Commissioner Mullen stated just for clarification, Mr. Furtado and

East Side Pizza have nothing to do with the running of the business other than the suspended license. Mr. Georgakakis stated no. Chairman Lamb stated he wanted to get back to the DOR issue. Attorney White stated that if they could get an agreement with DOR, the ABCC told him to find out from the local board if they would accept an agreement with DOR for a transfer or a new license. Detective Lt. McCabe stated that if the DOR would issue a Certificate of Good Standing, then there shouldn't be a problem. Chairman Lamb stated no I don't think we would object to that. Commissioner Mullen inquired as to what was the name of the current business. Mr. Georgakakis stated Mukteshwar Corporation. And you are the lease holder with whom? Attorney White responded 1 Caswell Realty Trust with Attorney Sherry Costa Hanlon, Trustee. Detective Lt. McCabe asked where does the money go from the sale of food and alcohol. Mr. Georgakakis stated that they keep it. Detective Lt. McCabe stated that is where the transfer of beneficial interest comes in and got the license suspended. Chairman Lamb stated that he believes that they have answered the question regarding the DOR. He suggested that they apply for a new license; start out nice and clean. Chairman Lamb also indicated that there was issue with the landowner and asked Mr. Georgakakis if that was going to affect him? Attorney White asked if the Chairman was referring to the mortgage. Yes. Attorney White stated that they make payments to the Trustee – what she does with it they do not know. Detective Lt. McCabe stated that as far as the check goes, we should send a written communication that they have 14 days to pay for the 2014 license or the license would be forfeited. Commissioner Thomas confirmed that Mr. Georgakakis would file an application for a new license. Attorney White stated yes.

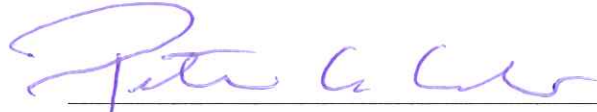
7. **Common Victualler, Entertainment and Amusement Devices presented.** Motion made by Commissioner Mullen to approve the licenses. Commissioner Thomas seconded the motion. Motion passed unanimously.

8. **FY2015 Budget and GeoTMS Permitting** – Chairman Lamb gives a synopsis of the new GeoTMS permitting system that the City will be implementing. Indicates that there is a 4% processing fee applied to each license issued through the new system. Some departments have raised their fees to absorb the 4% processing fee. Detective Lt. McCabe stated that the Building Department has been using this program for about a year. That the City is still trying to work out the kinks. Chairman Lamb stated that one of the features would be that we would be notified if a new business came into the City wherein right now we do not always know. Commissioner Thomas stated that he wasn't sure if this was a good thing or a bad thing, but he would not pay the 4% until all the kinks were worked out. The company is already receiving the fee, so there is no incentive for them to promptly fix the kinks. Commissioner Mullen stated that he felt this was a premature move for the License Commission knowing what he knows about the program. Detective Lt. McCabe added that the License Commission did not have the ability to raise the fees for the Common Victualler and Amusement Device licenses. After discussion, the Board decided to table the issue of the GeoTMS Permitting.

The Board discussed the FY2015 budget. It was agreed that Chairman Lamb would prepare the 2015 budget and submit a letter regarding a request for an increase technology components and part-time seasonal assistance.

9. **New Business** – East Side Pizza. Discussion ensued regarding the check that was tendered and not accepted by the Treasurer’s office. It was agreed that the recording secretary would send a 14 day letter to East Side Pizza. If they failed to respond to the communication, it was requested that they be put on the March 19th agenda.

Commissioner Mullen made a motion to adjourn. Commissioner Thomas seconded the motion. Motion passed unanimously. Meeting adjourned at 8:30 p.m.



Peter C. Lamb, Chairman



Brendan P. Mullen, Commissioner



Bruce M. Thomas, Commissioner