



CITY OF TAUNTON
LICENSE COMMISSION MEETING
MINUTES OF THE MEETING

June 24, 2015
7:00 p.m.

PRESENT:

Chairman Peter Lamb
Commissioner Brendan Mullen
Commissioner Bruce Thomas

For the Police Department:
Detective Lieutenant Daniel McCabe

Meeting was called to order by Chairman Lamb at 7:00 p.m.

1. Minutes of the meeting from May 20, 2015. Motion made by Commissioner Mullen to approve the minutes. Motion was seconded by Commissioner Thomas. Motion passed unanimously.
2. Applause Academy, MA. Inc. – Application for a Special Permit. Appearing before the Board was Heidi Stipetic, President. Ms. Stipetic indicated that the renovations had been completed and she would like to be able to serve beer and wine to parents during the upcoming shows. Ms. Stipetic indicated that she had spoken with the Alcoholic Beverages Control Commission (ABCC) and they informed her that she could apply for a special permit and that she could have up to 30 different dates in one calendar year. She presented a list of the dates that she would like to serve beer and wine for the year 2015, she would be the responsible person. Chairman Lamb asked if there were any issues. Detective Lieutenant McCabe stated no. Commissioner Mullen made a motion to approve the application for the special permit and read the requested dates into the record. Commissioner Thomas seconded the motion. Motion passed unanimously.
3. BaHa Brothers Pub & Restaurant, Inc. d/b/a BaHa Brothers Sandbar Grill – Status update. Appearing before the Board was Peter Hebert, Bill Strojny and Joe O’Connell. Chairman Lamb asked the gentlemen to bring the Board up to date with

regards to the outside area. Mr. Hebert stated that nothing was going on. He had been in contact with the ABCC and found out that they need to reapply. Chairman Lamb asked when they intended to do that and Mr. Hebert stated at the July meeting. Chairman Lamb advised the Sandbar Grill that the application needed to be typed and in compliance with the requirements for the alteration of premises and asked if they had any questions, there were none. Commissioner Thomas stated that this discussion had come up during the January, 2014 meeting wherein the Board had advised them that there was no application on file for the alteration of premise. Mr. Hebert stated that they did not know about it. Commissioner Thomas stated that yes, they did. Mr. Hebert stated that he thought that it was the withdrawing of a building permit. Commissioner Thomas discusses the January, 2014 meeting. Mr. Hebert stated that in 2012, the lawsuit forced them to withdraw the application. Mr. Hebert asked if the application would be forwarded up to Boston after the July 15, 2015 hearing. Chairman Lamb replied it would go to Boston if it was approved by this Board. He further asked Mr. Hebert asked what the seating capacity would be for outside, which Mr. Hebert stated thirty seats. Chairman Lamb asked if the alterations to the outside had been inspected by the City. Mr. O'Connell stated that the inspection was still in process but that they had the go ahead by the Building Inspector. Commissioner Thomas stated that when they pulled their application from the ABCC, they also withdrew the building permit. Mr. O'Connell stated that he thought they were all set because the Building Inspector had been out. Commissioner Thomas reminded Mr. Hebert of the January, 2014, meeting, wherein they were informed that they would have reapply. Mr. Hebert stated that he knows about the meeting and that when the Board mentioned that to them, he honestly thought it was the building permit they would have to apply for. Commissioner Mullen asked if there was a current building permit and Mr. Hebert said yes. Commissioner Mullen stated that if they were referring to the 2012 permit, then that would have expired. Mr. Hebert stated no, that they did in fact get another permit. He further added that the Board had a copy of the new permit. Commissioner Thomas stated that Mr. Hebert did not come before the Board before he got the December, 2013 permit. Mr. Hebert stated that this was all new to him. Detective Lieutenant McCabe explained that in December, 2013, they had pulled a building permit to complete the Tiki Room and the outside patio area. When the discussion was brought up at the January, 2014, License Commission meeting, Mr. Hebert was specifically informed that he would have to reapply. At that time, Mr. Hebert asked the Board if he would have to pay the fees again and he was informed yes, he would. Detective Lieutenant McCabe stated that after all that, he had a hard time understanding that Mr. Hebert was not aware that he needed to come before the Board to reapply. Mr. Hebert stated that he must have been confused. Commissioner Mullen asked if the Building Department was okay with the current permit and Mr. Hebert stated yes. Commissioner Thomas asked the Board if the licensee could use the outside patio before the hearing. Chairman Lamb said no, nothing should be going on out there; no smoking, nothing. Mr. Hebert stated that they had smoking out there. Detective Lieutenant McCabe stated that right now they had an unauthorized alteration of their premises and were in violation of their liquor license. Mr. Hebert stated that the space for the smoking area

still stands. Detective Lieutenant McCabe stated that they altered the area by expanding the area approximately another 12 feet. Mr. Hebert stated more than that, but couldn't they use the existing area for smoking. Chairman Lamb said no; this issue was the whole reason for this meeting; that they altered their licensed premises without permission. Mr. Hebert stated that the only thing that got altered was another twelve feet out. Chairman Lamb stated that it did not matter that it was only twelve feet. Your license is approved on a certain footnote, a certain layout. When you alter that, whether by one foot or twelve feet, if you are using it, you are using an illegal space. Mr. Hebert stated that the existing space that is there comes with the license. Detective Lieutenant McCabe asked if the low brick wall was taken down. Mr. Hebert said that it was not. Detective Lieutenant McCabe then asked if they had taken down the old fence that blocked the smoking area, and Mr. Hebert said yes. Detective Lieutenant McCabe stated that taking down the fence is an alteration of the premises in and of itself and then building around it is another violation. Chairman Lamb stated that they had pulled a building permit and you wouldn't have needed a building permit if you weren't altering something. Mr. Hebert stated that they only expanded the smoking area; it was eight feet and they went back another twelve feet. Commissioner Thomas stated that in Mr. Hebert's own words, he expanded the area. Mr. Hebert suggested that perhaps the Board should come out and view it. Chairman Lamb stated that he already has. Mr. Hebert stated that there is the existing smoking area, then a wall and then an opening so people will not go in there. Detective Lieutenant McCabe asked why there were tables and chairs in the outside area. Mr. Hebert stated that they are not there; they took them out. Detective Lieutenant McCabe stated that they were there the other day when he drove by. Mr. Hebert reiterated that they have been taken out. Mr. Hebert stated that the Board keeps pushing him and that he "feels like a target." Chairman Lamb said that the Board has tried to work with them, we tried to give you a head's up. The Board sent you a letter a month ago when we noticed construction going on, we didn't wait and try to bag you afterwards. We tried to give you a head's up in January of 2014. We have been down this road before and I take offense that you feel we are going after you. Mr. Hebert stated that "it just feels that way." No, said Chairman Lamb, I think you are wrong. As a Commission, we have tried to give guidance to all of our license holders whenever it is advisable or applicable. I don't think this Commission has ever gone out of its way to intentionally target anybody so I take offense to that. We give as much advice as we can, when we can within the extent that we can. Mr. Hebert then asked "So why can't we just use the smoking area; what is the big deal?" Chairman Lamb stated because you have altered your premises. There are rules and regulations brought down by the State that we are required to follow. A telephone call sixty days ago would have stopped all of this. Mr. Hebert stated "No it wouldn't, because that letter still came down from Boston and that stopped everything." Commissioner Thomas stated that you knew the letter had come down from Boston, but you went and did it anyway. Mr. Hebert said no; when he received the Commission's letter, that is when he realized it. Chairman Lamb stated, "We are not here to run people's businesses, that is why you should have advisors." Mr. Hebert stated that he thought this was nothing but a misunderstanding. That when he received that letter, he did

not know. That is clear stated Chairman Lamb and that is why the letter was sent. Commissioner Mullen stated that the Board tries very hard to prevent problems before them become problems. Mr. Hebert stated he wasn't saying that; perhaps it was the frustration of waiting over five years to do this – over a 30x30 deck, is frustrating. Discussion ensued over the smoking area. Commissioner Mullen suggested blocking the expanded area so that the only area that can be accessed is the original area. Detective Lieutenant McCabe offered to inspect the area after the meeting to ensure compliance. Chairman Lamb stated that there will be no issue if the smoking area is within the parameters of the existing license. Commissioner Mullen, Thomas and Detective Lieutenant McCabe agree.

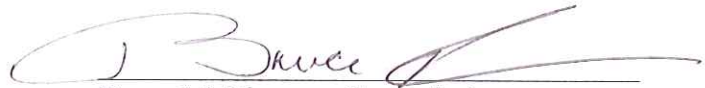
4. New Business – Detective Lieutenant McCabe stated that the Mercado Novo transfer had not been approved. The current licensee had not sold any alcohol in a few months. He suggested to bring them in at the next meeting for a status update. Chairman Lamb inquired about Benjamin's Restaurant. Detective Lieutenant McCabe stated that the Board had granted their ninety day extension request and that would bring us to the end of August 19, 2015.

Chairman Thomas made a motion to adjourn. Commissioner Thomas seconded the motion. Motion passed unanimously. Meeting adjourned at 7:30 p.m.



Peter C. Lamb, Chairman

Brendan P. Mullen, Commissioner



Bruce M. Thomas, Commissioner