



BOARD OF LICENSE COMMISSIONERS

City Clerk's Office, 166 Boulder Drive

Fitchburg MA 01420

(978) 829-1820

Daniel Sarefield, Chair

Donna Pawlak

Glenn Fossa

MINUTES OF MEETING

The regular meeting of the Board of License Commissioners was held on March 18, 2019 in the Fitchburg Fire Department Community Room, 33 North St., Fitchburg, and called to order by Commissioner Sarefield at 6:01PM. Commissioner Fossa was present. FPD liaison Captain Lemay arrived at 6:03PM. Commissioner Pawlak arrived at 6:06PM.

The agenda consisted of the following:

I. REVIEW AND ACCEPTANCE OF MINUTES FROM PREVIOUS MEETING

II. APPLICATIONS

Solicitor:

Jared Hitrys – Deregulation Energy Consultants

Mr. Hitrys was present.

Approved 2/0

Special One Day All Alcoholic Beverages:

Fitchburg Lions Club, 14 Wallace Ave., for a Fundraiser from 4P – 10P on April 27, 2019 for 150 people in O'Neill Hall.

Mr. Schaff was present.

Approved 3/0

Special One Day Wine and Malt Beverages:

Fitchburg State University for a dinner/reception on March 22 from 5PM – 9PM and March 23 from 11AM – 9PM for 150 people at each event to be held in the Hammond street level lobby

Commissioner Sarefield recused himself from this matter and left the room.

Representative from FSU stated that, in order to ensure persons under the age of 21 will not be served alcohol, they will issue wristbands to those who are under 21. Captain Lemay asked what would prevent an underage person from removing their wristband to appear eligible to purchase alcohol.

FSU representative agreed this was an issue and stated they will instead issue wristbands to persons who are over the age of 21 to show that they are eligible to purchase alcohol.

Approved 2/0

Commissioner Sarefield returned to the room.

The Fay Club, Inc., 658 Main St. for Alteration of Premises – extending the licensed premise to encompass the entire premises including the parking lot, front lawn as well as the exterior porches for a total exterior space of 23, 803 square feet +/- . This is in addition to the interior of the club building which is currently licensed.

Commissioner Pawlak recused herself from this matter and left the room.

Mr. Steven Duvarney was present and answered some questions about the application and their plans for the use of the outdoor area.

Application was accepted and sent to a public hearing to be held on April 1, 2019 2/0

Commissioner Pawlak returned to the room.

III. HEARING

Hungry Scholar dba DoughBoys on Main, 150A Main St., Heather Furtado, Manager for New, Annual, On Premise, All Alcoholic beverages restaurant license. Premises description: pizza, sandwich shop on the first floor with patio dining during the summer.

Owner Shane Egan and proposed Manager of Record, Heather Furtado, were present.

Mr. Egan stated that they plan to have six draught lines of locally brewed beer and some wines. He referenced earlier communication with the Clerk stating that, due to the fact he has not completed final plans for the outdoor seating area, he is seeking approval tonight of only the indoor premises and will return at a later date with an Alteration of Premises application for the outdoor patio.

Noted for the record was a letter in support of the application from Mary Jo Bohart, Economic Development Director (see attached)

No one spoke in favor of or in opposition to the application.

Hearing closed and application approved 3/0 for the indoor portion of the described premises only and pending communication from FPD Lt. Howe that the CORI check on Ms. Furtado was satisfactory.

IV. SUMMONS HEARING

SACF, Inc. dba Beemer's Pub and Grill c/o Peter Cote, Manager

Regarding the following three Fitchburg Police Department reports regarding disturbances on premise:

1. FPD report #19-4186 on 02/02/2019. Report of intoxicated male leaving Beemer's Pub stumbling and falling as he exited establishment. Arrest was made.
2. FPD report #19-5192 on 02/10/2019. Report of two males involved in an altercation inside Beemer's Pub. Arrest was made.
3. FPD report #19-7007 on 02/24/2019. Report of large disturbance over 50 people. Mutual aid needed from FSU Police, Leominster Police, Lunenburg Police, State Police. Arrests made.

Owner Peter Cote, security guard Antonio and Attorney Roy Pastor were present. Present on behalf of the FPD and in response to summons were Officers Daniella Lopez, Hiram Velazquez, Mark Kaddy, Mei-Ling Polanco-Diaz, Nathan Lamkin and Sgt. Mark Jackson.

Attorney Pastor voiced concern with lack of due process because he and his client were denied access to the referenced police reports, do not know what the allegations are and were not able to prepare a defense. Captain Lemay stated that anyone can look at the daily police log for a particular date upon request. Commissioner Pawlak stated that they would read each police report aloud and make the reports a part of the record. She stated further that they would hold the hearing in two parts – the first part would be tonight for the reading of the police reports and the second part would be at a later date to allow the Attorney to prepare a defense and cross-examine stating that the police officers can come back for a second hearing. Captain Lemay confirmed that the police officers here this evening can come back for a second hearing if the Attorney makes such request at least a week in advance.. Attorney Pastor voiced further concern that everyone at the table except for him was reading along with a written police report. Upon questioning, the Clerk responded that she does not release police reports per instruction from the FPD even if they are part of the licensee file.

Report #19-4186 was read aloud in its entirety by FPD Officer Daniella Lopez.

Discussion:

FPD reported that no call was received from Beemer's regarding this incident. Attorney Pastor again voiced objection to the process of reading the reports aloud and stated his continuous objection for the record. The FPD did not request video footage. Attorney asked if there was any attempt to inquire if the person was served alcohol at Beemers – FPD responded "no". Attorney stated the person in question was turned away from Beemer's door – FPD responded they had no knowledge of that. Mr. Cote said he called the police about the incident from his cell phone. Attorney stated he is assuming the patron turned away at the door is the same as the person referenced in the police report.

Commissioner Fossa questioned the number of people inside the premises – Security guard responded "about 75 downstairs". FPD Capt. Lemay stated he would pull the FPD phone history to confirm that Mr. Cote did call to report the incident. Attorney stated that video tapes are kept for one week and that no one requested they be kept.

Continued to April 17, 2019 3/0

Report #19-5192 was read aloud in its entirety by FPD Officer Hiram Velazquez.

Discussion:

Commissioner Pawlak asked who called who. FPD responded "Beemers called and I was dispatched". Mr. Cote said he has 16 cameras but none at the site of the incident. Attorney asked if there was any indication that the patron was over-served, FPD responded "no". Commissioner Pawlak asked what about the other person involved and FPD responded "yes". Security guard stated the person was in line, they were closing up the bar. The incident originated with two women arguing over a mutual boyfriend and then developed in to a fight between two men.

Continued to April 17, 2019 3/0

Report #19-7007 was read aloud by FPD Officers Kaddy, Lamkin, Polanco-Diaz and Sgt. Jackson

Discussion:

Security states person present in bar for 1.5 hours prior to closing. He was trying to get them out the door when he was slapped from the side and then again from the back. He states subject did not appear inebriated. He restrained them and this created a bottle-neck with others trying to exit. Police were already in the area. Security states someone said the subject had a gun and the crowd surrounded the subject and wouldn't let him leave. FPD Sgt. Jackson stated that one State Police, two FSU Police and one Lunenburg Police were called in for mutual aid due to the size of the crowd. Commissioner Pawlak asked Mr. Cote if he preserved the video, he answered no. She asked further how he could say he did not know what happened when he was there. Commissioner Sarefield stated that it is the obligation of the License Commission to determine what happened. Attorney noted due process issue that they were denied access to the police reports and do not have an allegation to defend against. Commissioner Fossa stated that there are not currently any allegations, that the Board called them in for a hearing to determine if there are any allegations and that it is a discussion at this point. Commissioner Pawlak asked Mr. Cote why he didn't save the video particularly because his employee was injured. Mr. Cote stated that he didn't even think of it but that there are not any cameras in the vicinity of the incident anyway.

Attorney stated that there was no indication of intoxication, that the PD did not request the video and therefore why should his client save it.

Captain Lemay stated there have been multiple weekends involving multiple officers for multiple incidents. It is a problem for the FPD when they must anticipate a disturbance at closing time and have a majority of the 11-7 shift there on weekends leaving the rest of the city unprotected. Attorney stated that his client called the PD for a potential disturbance, the subject was refused and escorted out and that two individuals were arrested – there was no need for 4 police departments to handle that – two officers could have done it.

Commissioner Fossa asked to clear the record about the questioned firearm – there was no firearm. The subject was arrested. There has been no allegation made or attempt to shut down the licensee as claimed. The License Commission is on a fact finding mission. A seasoned FPD Sergeant took appropriate action to quell the scene. Upon questioning, FPD Officers Diaz and Kaddy stated that if Beemers is on their route they go there. Attorney questioned if Tryst patrons are in the same parking lot creating disturbances and that Beemers is being singled out for all blame.

Sgt. Jackson stated that Beemers is a hot spot and that officers are assigned proactively and that to assign six police officers to one site indicates something is wrong. Officer Polanco-Diaz stated she did a walk-through of both Beemers and Tryst that night (logged in at dispatch) and when she was at Beemers she questioned the capacity. Security said they monitor occupancy with wristbands – they were having a special event that night. Sgt. Jackson noted it would be helpful if PD was notified in advance when an event is planned. He questioned the risk/reward of high attendance events.

Discussion continued to April 17, 2019 3/0 Noted to Attorney that if he wants the police officers to return on April 17, 2019 he must notify the Clerk at least a week in advance.

V. CONTINUED MATTERS

1. Proposed change to License Commission regulation 3.12 Compliance Checks: "Notice of Violation" form. (Continued from April 18, 2018)

Police Department reiterated that the form should be one page and in triplicate so Officers will be able to quickly fill it out and provide one copy to the licensee, one copy to the License

Commission and one copy to the PD. The Clerk offered to revise the form to a one-page version and send to the printer.

The Board voted to approve the form to be created by the Clerk and place it in to use 3/0

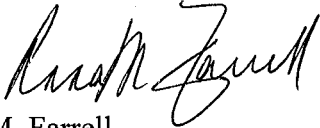
2. Proposed amendment to Taxi Regulations: Requiring the taxi companies to notify the Commission if a taxi driver is let go due to unsafe driving practices.
(Continued from September 17, 2018)
Continued to April 1, 2018 3/0
3. Lodging House licensing procedure
(Continued from June 2017)
Commissioner Pawlak to send final version to the Clerk, incorporating all department comments, for approval by the Board at the next meeting.
Continued to April 1, 2019 3/0
4. BYOB Regulations
(Continued from April 2016)
Tabled indefinitely for further study 3/0

VI. CORRESPONDENCE

1. From City Cab Co., Inc. regarding taxi vehicle accident report
Received and reviewed. No action 3/0
2. FPD Report #19-8537 on March 8, 2019 regarding disturbance inside Tryst Lounge. Owner uncooperative and refused to cooperate with police investigation.
Received and reviewed. The Clerk was instructed to summons in the licensee for a hearing on April 1, 2019 citing above referenced police report lack of cooperation with police investigation 3/0
3. FPD Report #19-8814 on March 10, 2019 regarding 25-35 people inside establishment after 0200 hours.
Received and reviewed. The Clerk was instructed to summons in the licensee for a hearing on April 17, 2019 3/0

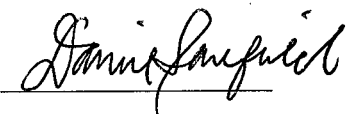
The meeting adjourned at 8:52 PM

Respectfully submitted,



Anna M. Farrell
City Clerk

Approved:



Daniel Sarefield



Glenn Fossa



Donna Pawlak