



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 October 15, 2018 in the Fitchburg Fire Department Community Room, 33 North St., Fitchburg, and called to order by Commissioner Sarefield at 6:02PM. Commissioner Pawlak was present. FPD liaison Lieutenant Howe was present. Commissioner Fossa was absent.

The agenda consisted of the following:

I. REVIEW AND ACCEPTANCE OF MINUTES FROM PREVIOUS MEETING

II. APPLICATIONS

Taxi Driver six month review

John Travis Hycner – City Cab

Mr. Hycner was not present. No action taken 2/0

Henry Parkinson for Fitchburg State University for Special One Day wine and malt beverages license for a Holiday Party from 3:30P – 5:30P on December 13, 2018 for 300-400 people in the Hammond Street lobby.

Mr. Parkinson was present. Application approved 2/0

Hollis Hills Farm, 340 Marshall Rd, for Alteration of premises – approval of outdoor permanent serving area.

(Note: Description of premises on this application was left blank. Licensee must complete the application prior to the hearing moving forward)

No one was present on behalf of the application.

Continued to November 7, 2018 2/0

Cumberland Farms, Electric Ave., for Common Victualler license

Approved 2/0

III. CONTINUED MATTERS

Proposed change to License Commission regulation 3.12 Compliance Checks: "Notice of Violation" form.

(Continued from May 7, 2018)

Continued to November 7, 2018 2/0

SACF, Inc. dba Beemers Pub and Grill, 310 Main St., Peter C. Cote-Manager for Transfer of License to Peter C. Cote and Alteration of Premises to expand the outdoor seating to include the parking lot in the rear of the building (approx.5000 sq.ft.)

Note: this application is awaiting letter from the Building Commissioner regarding the proposed outdoor seating alteration.

Mr. Peter Cote was present and requested a continuance to December 3, 2018.

Continued to December 3, 2018 2/0

IV. HEARING

Zapata Mexican Cocina, Inc., 23 Lunenburg St., Krista Collins Manager for New, Annual, On Premise, All Alcoholic beverages restaurant license.

The owner and his attorney were present. Question posed: where will the bar be located in the premises? Attorney answered that the bar area has not yet been constructed and that they understand an Alteration of Premises will be

necessary in the future. Question posed: will the Manager of Record be on site in compliance with the License Commission regulations. Attorney answered yes.

Public comment:

1. Mary Jo Bohart, Fitchburg Economic Development Director spoke in support of the application.
2. Mike Lamkin, owner of Moran Square Realty questioned if the addition of a bar would impact parking in the area. He questioned how many seats would be at the bar and the attorney answered "6" and that the rest of the alcohol service would be handled at the tables while people are eating a meal. Mr. Lamkin stated that he is in favor of the application and asked that the establishment post a sign to say where parking is permissible.

FPD Lt. Howe reported that they have had no issues with the establishment since it has been open.
Application approved 2/0

V. SUMMONS HEARINGS

Mill City Pub, Jessica Lagoy-Manager for alleged unlawful institution of Happy Hour

Ms. Jessica Lagoy and her husband were present. Lt. Howe showed the Lagoy's the Facebook page advertising drink specials. Ms. Lagoy stated that a 22 oz. PBR is always \$3.50 and they were not advertising a special price.

Commissioner Pawlak asked the Lagoy's to submit proof of regular PBR pricing before the next meeting.

The Lagoy's asked if "buckets of beer" are legal. Commission Pawlak stated that she would look in to it and said that she believes they must have at least two people to receive a bucket of beer.

Commissioner Sarefield stated that the Commission had received an anonymous phone call stating that Jessica is not the real manager of the establishment. Mr. Lagoy stated that "Jessica is there a lot" but that they are going to submit an application changing the manager to himself. He stated that they intend to have the application submitted for the November 7, 2018 meeting.

FINDING: No violation pending submission of evidence that the price of a PBR has been consistent for the past two months. 2/0

Partner's Pub, Walter Kirby- Manager re: FPD report #18-22797-OF

Note: Communication from Attorney John Dombrowski, on behalf of Mr. Kirby, demanding that Commissioner Fossa recuse himself and abstain from participating in this hearing.

Mr. Walter Kirby and his attorney were present. Also present was the bartender on duty Mr. Kevin Michaud. Mr. Michaud stated he remembers the assailant and the victim coming in to the bar, a brief commotion after which he ran outside to look and that both parties had left. He said it did not look like a fight but instead looked like people horsing around. Attorney stated that he has spoken to the victim and the criminal case has been dismissed and that Mr. Kirby has since instructed all bartenders to call the police for any disturbance.

Also present was another bartender, Ms. Brienne Morey. She stated that there was a subsequent incident with two men fighting and she did call the police. She stated that the responding FPD officer made her feel like she had called them for no reason and was wasting their time.

Commissioner Pawlak asked if videos from cameras were submitted. Lt. Howe stated that Partner's surveillance equipment is still in the possession of the police department related to a separate issue. He further stated that there is no reason not to call the police and that in the future the bartender should note the names of the responding officers so that any issues can be addressed.

FINDING: No violation. 2/0

VI. PUBLIC HEARING – BYOB

Noted for the record: Samantha Squailia recording video and audio.

Commissioner Sarefield reviewed basic regulations and gave background on the draft document for BYOB. He stated that the License Commission will ultimately make a recommendation on BYOB policy and the City Council will make the final decision and vote.

Speaking on the matter:

1. Stacey Sparrow, 83 Alice Ave. and owner of Art on the Rocks. Stated that she and her family moved here six years ago and were given permission from the License Commission to operate BYOB at their business. She stated that 72% of their customers are from out of town. If food service becomes a BYOB requirement she will be put out of business. If time limits (e.g. only after 5PM) become a BYOB requirement she will lose \$20,000 a year. She has had no alcohol related incidents since opening her business.
2. Lori Sparrow, 19 Upton St. and mother of Stacey Sparrow. Supports her daughter's business; would be a huge mistake to limit BYOB; her business promotes a family atmosphere.
3. Leighann Orsalock, 12 Bertha Ave., Gardner. In support of Art on the Rocks. Finds it relaxing, never witnessed an alcohol related problem there.

4. Amy Merriam, 245 River St. Supports Art on the Rocks and Putnam Street Bowling Alley. Has medical issues, can bring her own food and drink and fully participate in socialization. Time restrictions would be negative – supports afternoon activities with BYOB.
5. Marcus DiNatale, 471 Mt. Elam Rd. Opposed to any requirement for food service and afternoon time restrictions. At minimum supports grand-fathering existing BYOB establishments.
6. Tim Pryor from Buffalo Wild Wings. Stated he had some questions but deferred further comment.
7. Gary Therrien, 14 Putnam St. Has had BYOB for years at the bowling alley. He is there all day every day, checks ID's for everyone and has never had an issue. BYOB restrictions would result in financial hardship and loss of business.
8. Bob Pooler, 167 Blossom St. Likens a BYOB fee to a punishment for supplying a glass. Opposes having a food requirement, states BYOB patrons conduct controlled drinking.
9. Tracey Shorter, 26 St. Martin St. In support of Art on the Rocks. Restrictions would put her out of business.
10. Keith Hartinen, 56 Brittany Lane. Questioned the proposed fee – what would the fee be used for. Requiring TIPS and other fees would put establishments out of business.
11. Kelly Johnson, Gardner resident. Asked who was opposed to BYOB regs in the audience – several raised their hands. Supports grand-fathering existing businesses but feels BYOB restrictions would be restrictive to new businesses coming in. Opposed to time restrictions.
12. Samantha Squailia. Noted papers to be submitted for the record (attached): petitions from Art on the Rocks and Putnam Place bowling alley, two versions of the draft regs with different dates, Boston vs. Fitchburg regs, related FPD incidents. Requested that the Board accept the noted documents, vote no on draft regs and discontinue further discussion on the matter.
13. Jane Cook, 32 Acorn Ave. Opposed to restrictions. City should be business friendly. Questioned why regulations are being considered all of a sudden.
14. Laura, 30 Linden St. In support of Art on the Rocks. Opposed to mandatory food requirement.
15. Linda Byrne, 546 Blossom St. Stated BYOB has not been a problem. As President of Saima Park, BYOB functions are common and an appealing use of their site. Non-profits, such as Saima, are not addressed in the draft regulations.
16. Sarah Sparrow, 19 Upton St. In support of her sister, owner of Art on the Rocks.
17. Mary Jo Bohart, Fitchburg Economic Development Director. Noted that restrictions on hours would pose difficulty for weekend brunch; noted beauty spas offering BYOB wine would be negatively affected by required food service. Suggested some type of regulation that would provide some structure but not be burdensome on businesses.
18. Peter Cote, owner of Beemer's Pub. Suggested that there could be a list of BYOB businesses to keep police informed without instituting any regulations that would potentially hurt businesses.
19. Josiah Richards, 199 Fisher Rd. There should not be any associated fees and requirement for liability insurance would be a huge financial burden.
20. Neil Zaney, 74 Granite St. Leominster. He hopes to expand his business in to Fitchburg but his investors state that if BYOB regulations are instituted they will back out.
21. FPD Chief Martineau. Has no objection to BYOB and supports business development in the city. Urged the Board not to penalize businesses and suggested a registration system to ensure police knowledge of such businesses.
22. Vincent Pusateri, Fitchburg City Solicitor. Stated that his office is looking in to the liability issue and that such requirement may be mitigated.
23. Javier Alvarez. Stated he is in support of Putnam Street Bowling Alley and Art on the Rocks.
24. Michael Lamkin, Ashburnham St. Stated that people in the city do not want BYOB regulations.

The public hearing was closed at 8:07PM.

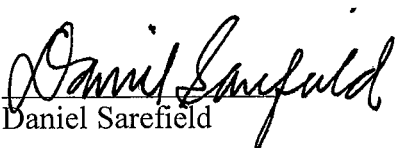
Commissioner Sarefield stated that the Commission will consider the comments made as they continue to develop their recommendations.

The meeting adjourned at 8:26 PM

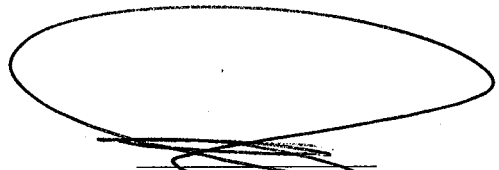
Respectfully submitted,

Anna M. Farrell
City Clerk

Approved:


Daniel Sarefield

ABSENT
Glenn Fossa


Donna Pawlak