



BOARD OF LICENSE COMMISSIONERS

City Hall, 718 Main Street
Fitchburg MA 01420
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FITCHBURG CITY CLERK

2020 AUG -4 AM 8:39

Daniel Sarefield, Chairman
Richard Boscardin

MINUTES OF MEETING

A meeting of the Board of License Commissioners was held on May 18, 2020 over the Zoom meeting platform, and called to order by Commissioner Sarefield at 6:00 P.M. Commissioner Boscardin was also present. FPD Liaison Lieutenant Howe was present, along with Sergeant Thomas Leger, and Officers Barry Hyvarinen and Daniel Minichiello. Also present were Mary Jo Bohart, Director of Economic Development, Stephanie Holinko, Board of Health Food Inspector, and City Councilor Samantha Squailia.

I. REVIEW AND ACCEPTANCE OF MINUTES FROM PREVIOUS MEETING

Minutes from the previous meeting of May 4, 2020 were held until a meeting in person may take place.

II. APPLICATIONS

Application for a Change of DBA, On Premises, Restaurant, All Alcoholic Beverages License
South Fitch Beverage Inc. dba Pinehurst Pub (formerly Partners Pub)
Continue to Meeting of June 1, 2020 Roll Call Vote 2/0

III. PUBLIC HEARING

Application for a Transfer of License, On Premises, Restaurant, All Alcoholic Beverages License
Dios Incorporated dba Espresso Pizza, 584 Main Street

David Nickless, Attorney and Juan Reinoso-Luna, applicant were in attendance at the meeting.

Public Hearing opened. Commissioner Sarefield inquired regarding the plans for Espresso Pizza. Attorney Nickless noted that the business would continue to operate as usual. There should be no significant changes. Commissioner Sarefield expressed that as this was a landmark business in Fitchburg, it was nice to see that new owners would be continuing it.

Mary Jo Bohart, Director of Economic Development, spoke in favor of the applicant and the transfer. She mentioned that it was wonderful to have someone take over a legacy business that had experience working with it.

No one spoke in opposition of the application.

Approved by Roll Call Vote 2/0

IV. PUBLIC HEARING

Application for a Transfer of License, Off Premises, Package Store, Wine and Malt Beverages License

Kathan Patel, Inc. dba Fitchburg Variety, 938 Water Street

Govindbhai Patel, applicant and Chirag Patel, were in attendance at the meeting.

Public Hearing opened. Commissioner Sarefield noted that there would be a change of manager on the application, as well. Commissioner Sarefield questioned Mr. Patel regarding his background as a manager of a business that sold alcohol. Mr. Patel explained his experience and that he planned to be in the business at least 35 hours a week. Commissioner Sarefield expressed that it would be helpful to understand the State and local regulations regarding sales, especially concerning checking identification. Commissioner Sarefield noted that seriousness of this due to the responsibility to the public. He also stated that anyone working at the cash register must also abide by and be familiar with the regulations, and that they should also be posted at the register.

Lieutenant Howe mentioned that it would be helpful if the windows were cleared so that the Police would be able to see into the establishment. Mr. Patel agreed that he would do so.

Commissioner Sarefield noted that local regulation 6.16 that this was necessary for not only the Police Department, but for the safety of the employees, as well.

No one spoke in favor or opposition of the application.

Approved by Roll Call Vote 2/0

V. SUMMONS HEARING

Majors Cafe, 149 Lunenburg Street

For incident on Thursday, April 23, 2020, at approximately 9:52 PM

Attorney Timothy Murphy and Ellen Griffin, Manager, were in attendance at the meeting.

Lieutenant Jeffrey Howe gave the report of the incident of Thursday, April 23rd, 2020.

Lieutenant Howe noted that he is the Police Department liaison for the License Commission, and as such, had been notified of the incident. It was alleged that people were in the establishment when they were not supposed to be there due to the State of Emergency Governor's Order, which ordered all license establishments to be closed. Police arrived on scene and could hear music, but could not see inside as there was a covering over the windows. Officers knocked, but did not gain admittance. One officer heard the back door open and they went around back. They were able to look in window but lights were out at that time. Sergeant Leger arrived and they tried to call the owner, Ms. Griffin, multiple times. She did answer on the third time and the officers were admitted. They noted that there appeared to have been drinking taking place. Ms. Griffin stated that any alcohol consumed had been brought in from the outside. The officers observed pool cues and the evidence of a pool game being played. They did see some construction supplies, such as paint, but it was not opened, and the paint brush was clean. When asked why she had not opened the door, Ms. Griffin stated that she had been scared to do so as she wasn't sure who was at the door.

Officer Barry Hyvarinen stated that he had responded to a call due to music coming from the establishment. On arrival, he could not see in the windows and did knock a few times. The music shut off and they heard the back door open up. Going around back, he could see beer cans, bottles, jackets draped over bar stools and the evidence of a pool game taking place. He used a flashlight and didn't see anyone. Knocked a few more times, and when there was no answer, he called Sergeant Leger.

Upon Sgt. Leger's arrival, dispatch then called the owner, Ms. Griffin. The door was finally opened and they entered the premises. They saw five others hiding and said they had been painting, although the brushes were dry. Spoke with Ms. Griffin that they came down to paint and stayed after and they had brought the drinks with them. Everyone was advised to leave, and people took personal pool sticks with them.

Officer Minichiello then added that they had knocked for about 5 minutes. There were obvious drink cups on the bar. Ice was still in the drinks along with empty nip bottles on the bar. Everyone was identified and there was one person who was underage, Ms. Griffin's daughter.

Sgt. Leger then noted that he had been called because there had been no answer at the door. He continued to knock on the front door and asked dispatch to call the owner. She did come to the door to open it after a few calls. He noted that she said she didn't hear them knocking. His observations of the location were similar to the other Officers. It seemed obvious that they had been working previously as the bar was refinished.

Lt. Howe noted that even though there may have been work being done, he was concerned with outside alcohol being brought into the establishment.

Attorney Murphy spoke to Officer Hyvarinen and confirmed that although he thought he heard the back door, it could have been the bathroom door and that there were a total of eight (8) people in the establishment. He also noted that it appeared that the intent was to play pool. He asked whether there was any evidence of cash being exchanged. Officer Hyvarinen replied that there had not been. Attorney Murphy questioned Lt. Leger as to whether there was evidence of repair work having been done, and he confirmed this.

Ms. Griffin then stated that the four pictures had been submitted were of the following:
1 and 2 – back of bar showing fixing of broken tile and shovel/bucket for men's room touchup
Bottles on the shelf were from a prior time, but had not been returned.
3 – Front door mats for bar, between wall and floor baseboard being repaired
4 – Plans for repairs and someone had brought a sleeve of nips

She stated the bar had been worked on since the 19th, and the cardboard was placed in order to avert customers disrupting them while they were using epoxy on the bar. She noted that she did not conduct business with the persons in the bar, but had come in around 9PM with her daughter to check the work and bring an aux board for the speakers to check the sound system. She stated that she had checked the progress in the men's room – although they heard something, they weren't sure due to the music. She originally thought it was a customer trying to gain access. She could not answer the phone as she was originally unsure where she had put it down. She then answered the door when dispatch reached her. She noted that the people were told to stay in the back of the room. When asked whether they were hiding, she stated that they were not – but that they were just trying to stay out of the way. Regarding the lights being turned out, she stated that there was a rope light and that it had been taken down while painting. They were on a pull cord and not turned out until they left.

Lt. Howe mentioned that he a couple of concerns regarding Ms. Griffin's statements. Namely, that when the officers asked why people were hiding, she did not have an answer. When police knock on door, there is an obligation under the regulations to open the door. If she was concerned regarding safety, she could have called the Police Department to verify, especially as she was not alone at the time of the incident.

Commissioner Sarefield noted that he was concerned regarding the many things that appear to have been happening at the establishment that were in violation of the regulations, especially in light of the Governor suspending liquor establishments from being open and the number of people in the bar at the time of the incident, including alcohol, darts, pool playing and liquor being consumed. In particular, the fact that there were people in the bar that were drinking with the doors locked, windows covered. Several possible violations including the doors locked while patrons were inside, windows covered, and people drinking while the bar was closed. These activities are prohibited by local provisions. Although some of the items may be explained through Ms. Griffin's comments, he still had concerns and was glad the Police Department had brought it to their attention.

Commissioner Boscardin noted that while he understands that was being done, drinking being done while the bar is supposed to be closed down due to the coronavirus, and especially that the alcohol was from the outside.

Commissioner Sarefield noted that this was in direct violation of the local regulations.

Attorney Murphy noted that there is no evidence that Ms. Griffin brought the alcohol, but rather the workers had brought it with them. No evidence business being done at the bar. He noted that the Governor's order prohibits more than 10 people and there were 8. And that the bar was not open for business. He also noted that at the start of their working on the bar, Ms. Griffin had alerted the police that they would be doing so, but had not on the night of the incident.

Commissioner Sarefield noted that Ms. Griffin has made great strides to improve the business and the relationship with the Police Department and turned things around.

Motion to find the bar in violation of local regulation 6.8 that alcohol was served and consumed in a closed liquor establishment and one-day suspension, held in abeyance for two years. Approved by Roll Call Vote 2/0.

VI. CORRESPONDENCE

*Email: Timothy W. Murphy, Esq. for Client Ellen Griffin, Majors Café
Placed on file at the Clerk's Office.*

DISCUSSION:

*Common victual license renewals – deadline (currently July 1, 2020)
A brief discussion took place. The City Solicitor will be contacted for advice regarding the legality of extending the deadline.*

VII. NEW BUSINESS - None

The meeting adjourned at 7:28 P.M.

Respectfully submitted,

Mary de Alderete, City Clerk

Approved:



Daniel Sarefield, Chair



Richard Boscardin