



BOARD OF LICENSE COMMISSIONERS

City Clerk's Office, 166 Boulder Drive

Fitchburg MA 01420

(978) 829-1820

Daniel Sarefield, Chair

Glenn Fossa

Richard Boscardin

MINUTES OF MEETING

The regular meeting of the Board of License Commissioners was held on September 16, 2019 in the Fitchburg Fire Dept. Community Room, 33 North Street and called to order by Commissioner Sarefield at 6:00 PM. Commissioners Fossa and Boscardin and FPD liaison Lieutenant Howe were present.

The agenda consisted of the following:

I. REVIEW AND ACCEPTANCE OF MINUTES FROM PREVIOUS MEETING

Minutes of the previous meeting were reviewed, accepted and signed.

II. APPLICATIONS

Solicitor:

Anita Saini, 66 Leyte Rd. – selling and leasing solar systems for 1st Light Energy.

Ms. Saini was not present. However, the FPD reviewed her criminal history background, found no history and recommended in favor of granting the application.

Approved 3/0

Taxi Driver:

Fernando Antonio Cuevas – City Cab

Commissioner Fossa recused himself.

Mr. Cuevas was present.

Approved 2/0

Dwayne Douglas Sefton – City Cab

Commissioner Fossa recused himself.

Mr. Sefton was present.

Approved 2/0

Licensed liquor establishment application:

970 South, Inc. dba Partner's Pub, 970 South St., Walter Kirby Manager for Transfer of Annual, Restaurant, All Alcoholic Beverages license to South Fitchburg Beverage, Inc. dba Partner's Pub, 970 South St., Jonathan Dickhaut Manager.

Commissioner Fossa recused himself from this and the following two matters pertaining to Partner's Pub.

Mr. Dickhaut and his attorney, Priya Gandbhir, Esq., were present. Application was reviewed, accepted and sent to a public hearing on October 7, 2019 2/0

Automatic Amusement Device:

Partner's Pub, 970 South St. for One (1) Video, One (1) Juke Box, Two (2) poll tables – A-Z Vending

Continued to October 7, 2019 to be heard with transfer application 2/0

Late Closing Permit:

Partner's Pub, 970 South St. for 2AM Late Closing Sunday through Saturday.

Continued to October 7, 2019 to be heard with transfer application 2/0

Special One Day License to sell/serve alcohol:

Jacqueline Cullen for Special One Day Wine and Malt beverages license for a Food Truck Festival from 4:30PM to 9PM on October 18, 2019 for 500 people in the River Styx parking lot at 166 Boulder Drive.

Ms. Cullen was present. Application approved 3/0

III. SUMMONS HEARING

Beemer's Pub, 310 Main St. – Peter Cote, Manager

Disturbance on premise allegation:

On Saturday, August 24th at approximately 12:52 am Fitchburg Police dispatch received a call reporting a fight between 4 or 5 people located in the upstairs bar area of Beemers. Officer Hyvarinen arrived to the front door area of Beemers and observed people on the sidewalk. He also observed people in the establishment. He went to enter the establishment to investigate the reported fight but the door was locked. An employee did let him inside. The head bouncer of Beemers told Officer Hyvarinen that they were closing early because of the fight.

The patrons that were in the upstairs area of the establishment were asked to vacate the area utilizing the rear entrance. While patrons were leaving the officer observed 100 or more patrons located at the downstairs dance floor. A fight erupted on the dance floor between two females. Officer Velazquez arrived to assist Officer Hyvarinen. For safety reasons the officers on scene decided to not make an arrest and had everyone exit the bar, while also separating the two females that were fighting.

While the officers were dealing with the two females fighting they encountered a person outside who was refusing to leave the area. At the same time a fight erupted across the street between 4-6 people and another 30-40 people watching. The officer identified the people involved to be from Beemers. Another fight broke out with one of the females that was fighting earlier at the dance floor of Beemers. During this time the Fitchburg Police did not have enough officers to handle the disturbances that were happening in rapid succession of each other. Officers were not able to stop the many disturbances and began to be surrounded by the crowd that was turning hostile to the police.

While Officers tried to make arrests they were assaulted. An unknown female jumped on the back of Officer Hyvarinen interfering with his official duties. Officer Lamkin was attempting to make an arrest but a crowd of people was pulling at the officer trying to pull him away from the female he was trying to arrest. Officer Lamkin was then punched with a closed fist in the jaw causing him to release the female he was trying to arrest and focus on the male that hit him.

Mutual Aid from the surrounding areas was needed to contain and control this disturbance, Fitchburg Police Department (8 officers), Fitchburg State University (1 officer), Lunenburg Police (1 officer), Leominster Police (3 officers), and Massachusetts State Police (3 troopers).

Once the disturbance was contained Officer Hyvarinen spoke with Peter Cote who is the owner of Beemers Pub. Mr. Cote told him that patrons from Tryst lounge tried to get into his establishment so he locked the front door. Cote stated the fight took place upstairs because people were opening the side door to sneak people in and they were confronted and that was why the fight started. Video was asked to be preserved which Mr. Cote agreed to. Officer Hyvarinen asked to see the video footage of the individuals sneaking in the side doors but Mr. Cote stated cameras do not point at the doors. Officer Minichiello spoke to the owner of Tryst identified as Heather. She stated when the fight broke out at Beemers she only had a few people in her establishment. As the crowd was leaving Beemers she locked her doors to keep the disturbance from entering Tryst. She will provide video also. Officer Hyvarinen will review video of the incident.

The following Officers have information concerning this incident.

Officer Nathan Lamkin, Officer Eldred Wright, Officer Barry Hyvarinen Jr., Detective Tabitha Pepple, Officer Daniel Minichiello, Officer Hiram Velazquez, Officer Mark Kaddy, Sgt. Derek Sullivan

Mr. Peter Cote, Mr. Anthony Ledesma and Attorney Roy Pastor were present. FPD Officers Lamkin, Wright, Hyvarinen, Pepple, Minichiello, Velazquez, Kaddy and Sgt. Sullivan were present. Lt. Howe read the allegation. A video of the upstairs fight was shown on screen. Following the video, Atty. Pastor stated he couldn't believe it was the same incident described in the allegation. He stated one of the aggressors in the fight is a DJ at Tryst; he, and three others, were downstairs not drinking, came upstairs and started a fight with a targeted individual. He states they have reviewed other video and can't find the fight between the two females. Officer Hyvarinen stated: the fight did look like it was directed at one individual; the female's fight was on another video. Upon inquiry during the hearing Mr. Cote stated he would like to press charges. Commissioner Fossa stated the fight involving assaults on police officers took place in the Santander bank lot. Mr. Cote said they had a verbal agreement with Santander to use the parking lot. Commissioner Fossa suggested the bank may have video of the parking lot which would show the fight; he stated Mr. Cote is just considering now to press charges and did not approach the police at the time to press charges. Atty. Pastor stated those making the assaults on the FPD were not the 4-5 aggressors in the upstairs fight. Mr. Cote stated the 4-5 aggressors were not regular customers-they don't know them but one is a DJ at Tryst; he called the FPD to report him outside Tryst the following day; the victim is a regular patron of Beemers and refuses to talk. Officer Hyvarinen stated they didn't know how bad the fight was until they viewed the video. Lt. Howe asked if anyone from Beemers made mention of a pool stick or shod foot being used in the fight and Officer Hyvarinen replied no. Mr. Ledesma said: there wasn't time to report exactly what happened at the time of the incident; they cleared the melee in 2 ½"; some of his security people were hit; Peter Cote closed the building. Commissioner Fossa: Did any employee tell you the details of the assault so that evidence could be collected and preserved? Officer Hyvarinen – No. Peter Cote – there was no time to talk it was like a terrorist attack. Commissioner Sarefield: Did you have adequate staff? Peter Cote – yes there were five bouncers and myself. Commissioner Fossa: the licensee is responsible for what happens in their establishment. Officer Hyvarinen stated he spoke with Mr. Cote after it was all over and Mr. Cote told him it happened because people were trying to sneak in from Tryst. Officer Hyvarinen stated none of the 4 aggressors were in the Tryst video. Sgt. Sullivan stated they responded initially upstairs; he asked staff what was going on and no one wanted to talk; he did not see and was not made aware of the seriousness of the incident; none of it was brought to his attention e.g. "terrorist attack". Lt. Howe stated he was very disturbed by the incident as the mutual assistance presence left surrounding communities unprotected. Commissioner Fossa asked the 8 police officers, "Did anyone come up to the FPD to report a felony assault, a melee so that evidence could be collected". All 8 officers answered no. Lt. Howe stated they would have collected the pool sticks for blood evidence. Attorney Pastor stated Mr. Cote made calls the next day to the FPD but no one came. Commissioner Fossa stated there is an inability to manage the establishment. Commissioner Sarefield: concerned evidence was not gathered; things were out of control and it's not the first time. Atty. Pastor: can't anticipate a criminal attack; it had no nexus to Beemer's. Commissioner Sarefield; after the assault there were more fights downstairs and outside – there were multiple incidents. Mr. Ledesma: we had no incidents from April to August; we have new security measures – we have a female bouncer. Commissioner Sarefield: there have been other calls during the year for mutual aid – it is a serious pattern; not willing to wait until someone dies. Commissioner Fossa: the Commission has a duty to ensure that the licensee has a safe environment and it must be taken seriously. Commissioner Sarefield: Beemer's staff should have been more forthcoming; it was a melee indoors and outside and they could have done more; does Beemer's have any plans to do anything differently? Mr. Cote, in reply, asked how he could have anticipated it. Commissioner Fossa: Mr. Cote misled the PD by saying the aggressors came in from Tryst and there is no such evidence.

FINDING

In violation of the following regulation:

3.17 In the event that a disturbance or breach of the peace occurs on the licensed premise, its exterior or involving any of their patrons or physical injury to any person, the licensee or responsible person shall promptly notify the police department and shall take any and all reasonable steps to assist such injured person and shall cooperate with the police investigation.

Licensee failed to fully cooperate with the Fitchburg Police Department;

Licensee did not provide all of the information to the FPD pertinent to an indoor disturbance on premise that was later stated to be the precipitating factor to the outdoor disturbance cited in the allegation; Eight FPD Officers in attendance at the hearing affirmed that the licensee was not forthcoming to the FPD regarding the seriousness of the upstairs melee (felony assault) thereby preventing the FPD from collecting and preserving evidence at the time of the assault.

DECISION

Communicated verbally to Mr. Cote at Hearing on September 16, 2019 and delivered in hand to Mr. Cote on September 19, 2019.

By vote of 3 in favor and 0 opposed with 3 members present, Board consists of 3 members:

Three day license suspension to be served November 20, 21, and 22, 2019.

IV. CONTINUED MATTERS

Continued from June 2017

Lodging House licensing procedure – comments from Commissioners regarding draft form presented by Liz Murphy at last meeting

Commissioners stated that they had expressed general approval of the draft regs with some comments regarding ensuring proof of insurance and notification of any police calls at the last meeting when Liz Murphy was present. They have no further comments or recommendations on the draft regulations.

The draft will continue to be reviewed by the Community Development office and be presented to the Board for final approval at a future date.

No further action at this time 3/0

Continued from July 15, 2019

Discussion: Issuance of temporary liquor license to coincide with a temporary building inspection.

ABCC advice is necessary to determine how it would work.

Commissioners Sarefield and Fossa stated that they posed this question to ABCC Executive Director at a recent conference and he stated that temporary liquor licenses cannot be issued.

No further action.

V. OTHER

Discussion: Temporary taxi driver permit being granted by a taxi company during License Commission meeting summer hiatus or other time periods when License Commission does not meet.

Commissioner Fossa stated that he is working on a draft template and process to be used by taxi companies to grant temporary taxi driver permits. He stated that the taxi companies can check CORI, driver history and sex offender status. Discussion to be continued.

Motion by Commissioner Fossa to continue the investigation regarding the video from Beemer's discussed in the last meeting as follows: During viewing of a video, provided by Beemer's to the FPD, to investigate an unrelated matter, a possible, unrelated felony assault was seen on the video. Commissioner Fossa would like the video to be seen and introduced as a possible matter for a summons hearing at a later date.

Approved 3/0

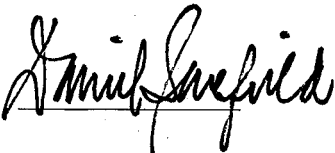
The meeting adjourned at 8:25 PM

Respectfully submitted,

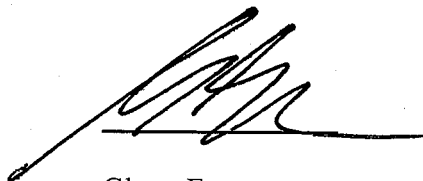

Anna M. Farrell

City Clerk

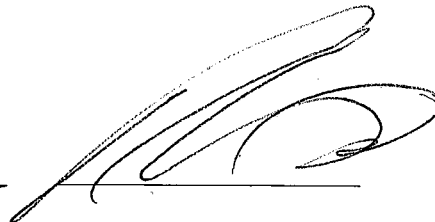
Approved:



Daniel Sarefield



Glenn Fossa



Richard Boscardin