



Licensing Board

September 22, 2014 – 7:00 PM – **Minutes**
City Hall, 133 William Street, Room 314

LICENSING BOARD MEETING

-MINUTES-

Monday, September 22, 2014
Room 314 – 7:00 p.m.

PRESENT Steven A. Beaugard, Chairman

Marcelino “Sonny” G. Almeida, Commissioner

Edmund F. Craig, Jr., Commissioner

Atty. John Flor, Asst. City Solicitor

Capt. Steven Vicente, Police Department Liaison to the Lic. Bd.

Nick Nanopoulos, Director

MOTION TO ACCEPT THE MEETING MINUTES OF JUNE 30, 2014 - Unanimous

APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Transfer, Altering of Premises, & Pledge of License – Trans. #189 – Plot # 17A--103

Salty Cod, LLC, Luis Martins, Manager of LLC, license formerly exercised on premises located at 1500 Cove Road, who is petitioning to transfer a Common Victualler (Restaurant) Wine and Malt Only Beverages License to DeSouza Enterprises, LLC d/b/a Cove Surf & Turf, along with a request for a Change of Description to include an adjacent room; and a Pledge of the Common Victualler (Restaurant) Wine & Malt License to Salty Cod, LLC, 17 Bertrand Way, Acushnet MA. as security to authorize and execute a promissory note in the amount of Forty Thousand Dollars (\$40,000.00), pursuant to Massachusetts General Laws Ch.138 s.23.

Upon approval, Deborah L. DeSouza will be a Co-Member and the Sole Manager of the LLC, as well as a 50% Interest Holder of the LLC, and Jessie J. DeSouza will be a Co-Member and a 50% Interest Holder of the LLC. Deborah L. DeSouza is also the Proposed Manager of the Liquor License. The new proposed licensed premises consists of one (1) room for dining, with seating for twenty-three (23) patrons, along with a kitchen area, takeout /cashier area, and one (1) restroom in an area approximately 800 sq. ft.. on the first floor of a one-story building, with alcohol being stored and served from two (2) stand alone coolers located in the kitchen area; with additional storage in an adjacent room approximately 1,209 sq. ft. which will be used for storage purposes only. There is also an outside patio area approximately 336 sq. ft., which is contiguous to the dining room and has seating for Sixteen (16) patrons, which is enclosed with a 40" high wooden fence that has an entrance/exit into the main dining area only.

The premise is situated at the intersection of Cove Road and Padanaram Avenue, with One (1) entrance/exit in the front of the building, and two emergency exits located in an adjacent storage area located through the kitchen area, and is **numbered 1500-1502 Cove Road. (License was previously approved with a Midnight (12:00 a.m.) Closing along with the stipulation that only plastic cups are to be used in the outdoor patio area.)**

Final approval will require a signed ‘**Fire & Building Certificate**’ as required under the Chapter 304 Fire Acts Compliance and a copy of ‘**Proof of Liquor Liability**’.

Approved By ABCC –09/02/14

VOTED: To accept the approval from the ABCC. – **Unanimous**

Change of Location & Pledge of License - Trans. #025 – Plot # 28--140

Olivia Anne, Inc. d/b/a The Bar, 1669 Acushnet Avenue, Robert A. Faria, Jr. President, who is petitioning for a Change of Location of a Common Victualler (Restaurant) All Alcoholic Beverages License. The applicant is requesting a Change of Location from 1669 Acushnet Avenue to 266-268 Dartmouth Street; the applicant is also requesting approval of a Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License to Bristol County Savings Bank as security to authorize and execute a promissory note in the amount of One Hundred and Thirty Thousand Dollars, (\$130,000.00), pursuant to Massachusetts General Laws Ch.138 s.23. The description of the proposed new location, which was previously licensed as an all alcohol restaurant until the license was transferred to a

new location, will be as follows: The new licensed premises consists of an area approximately 4,800 sq. ft., which will consist of two rooms with a bar area and dining area, a kitchen, and two (2) restrooms on the first floor of a two-story building; with stock on the first floor and in the basement. There is a main entrance/exit onto Dartmouth Street, and two emergency exits onto Rivet Street, and is **numbered 266-268 Dartmouth Street.**

Final approval will require a **‘Certificate of Inspection’** from the Building Department, a **‘Food Permit’** from the Health Department, and a signed **‘Fire & Building Certificate’** as required under the Chapter 304 Fire Acts Compliance; along with a copy of **‘Proof of Liquor Liability’**.

Approved By ABCC –09/04/14

VOTED: To accept the approval from the ABCC. – **Unanimous**

DISAPPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Transfer - Trans. #083 – Plot #53—198A

Pi-Zans, Inc., Jason P. Lanagan, President, who is petitioning to **transfer a Common Victualler (Restaurant) Wine & Malt Only Beverages License** to **Cultivator Shoals, Inc. d/b/a Cultivator**. Upon approval, Jason P. Lanagan will be the President, Secretary, a Co-Director, and a Co-Shareholder (50%); and Howard I. Mallows, IV will be the Treasurer, a Co-Director, and a Co-Shareholder (50%); and Jason P. Lanagan is also the **Proposed New Manager**. The previously approved premise consists of an area approximately 918 sq. ft. on the first floor of a three story building, which includes one (1) dining room with table seating for approximately 52 patrons, an open kitchen with stock area, which has a food service counter, and two (2) handicapped restrooms. There is one entrance/exit in the front of the building onto Union Street, with an additional exit in the rear of the building, and one handicapped accessible entrance/exit on the west side of the building. Premise is located on the north side of Union Street between Front and Water Streets. Premises will remain the same at **29 Union Street.**

Application has been advertised; Abutters have been notified.

Final approval will require a **‘Certificate of Inspection’** from the Building Department, a **‘Food Permit’** from the Health Department, and a signed **‘Fire & Building Certificate’** as required under the Chapter 304 Fire Acts Compliance; along with a copy of **‘Proof of Liquor Liability’**.

Disapproved By ABCC – 09/04/14 - Failure to Comply With Mass Tax Laws (DUA) – 1st Attempt

Application to be sent back to the ABCC “For Reconsideration”,

VOTED: To accept the disapproval from the ABCC, and to re-submit application to the ABCC “for reconsideration”, only upon notification from the Applicant or the DUA, that all outstanding issues have been resolved. – **Unanimous**

*****NEXT TWO ITEMS ARE RELATED*****

Transfer & Pledge - Trans. #031 – Plot # 23—9

Calypso Hospitality, LLC d/b/a Fernando’s Grille & Bar, Gregory Kulpinski, Manager of LLC, who is petitioning to **transfer a Common Victualler (Restaurant) All Alcoholic Beverages License** to **161 Highland Avenue, Inc. d/b/a Trio Restaurant**; the applicant is also requesting approval of a **Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License** to **Goulart Square Realty, LLC**, as security to **authorize and execute a promissory note in the amount of Ninety-Seven Thousand and Nine Hundred Dollars, (\$97,900.00), pursuant to Massachusetts General Laws Ch.138 s.23.** Upon approval, Sandra S. Rodrigues will be the President, Treasurer, Secretary, Sole Director, and Sole-Shareholder (100%); and **Katie C. Stephenson** is the **Proposed Manager**. The previously approved premises is located on the street level of a Three (3) story building, which includes One (1) dining room approximately 2,000 sq. ft. with a bar, Two (2) Handicapped Restrooms, and seating for approximately Eighty (80) people, a pastry shop, approximately 350 sq. ft., with seating for approximately Ten (10) people; there is also a full kitchen, approximately 650 sq. ft., with the storage of liquor in the basement. There are two (2) main entrances/exits; one (1) into the dining room from Rivet St. and one(1) into the Pastry Shop/Kitchen from Bolton St., and two (2) additional rear exits. The licensed premises also includes a **‘Seasonal Outdoor Patio Area’** approximately 430 sq. ft. (10’ x 43’) to be used as a **‘Sidewalk Café’**, which is enclosed by a 4 ft. high resin fence with a decorative lattice panel design, and is to be used for **seated dining purposes only**. The enclosed area includes Ten (10) tables for the seating of Thirty – Two (32) patrons for dining only, as well as a Hostess Station; and is located on the east side of the building, which is contiguous to the licensed premises. The outdoor area is **only accessible** by way of an entrance/exit off the main entrance ramp located in the front of the building, and is accessible by **‘Hostess Seating’** only; the area will also be monitored by the hostess and wait staff at all times.

The hours of operation are **daily from 11:00 a.m. until 10:00 p.m., at which time all outdoor activity must cease, and shall be in effect from May 1ST through October 30th**, in accordance, and as specified in the City of New Bedford Sidewalk Café Permit Ordinance.

“Return No Action” – 08/29/14

The ABCC is requesting that documents be submitted for a “new” manager to complete the application.

****Application being re-submitted for approval with a “New Manager” – See Item #1****

VOTED: To accept the disapproval from the ABCC, and to re-submit application to the ABCC “for reconsideration”, only upon receipt of an amended application reflecting a change (new) in manager. – **Unanimous**

Transfer & Pledge - Trans. #031 – Plot # 23—9

Calypso Hospitality, LLC d/b/a Fernando’s Grille & Bar, Gregory Kulpinski, Manager of LLC who is petitioning to transfer a **Common Victualler (Restaurant) All Alcoholic Beverages License to 161 Highland Avenue, Inc. d/b/a Trio Restaurant**; the applicant is also requesting approval of a **Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License to Goulart Square Realty, LLC, as security to authorize and execute a promissory note in the amount of Ninety-Seven Thousand and Nine Hundred Dollars, (\$97,900.00), pursuant to Massachusetts General Laws Ch.138 s.23.** Upon approval, Sandra S. Rodrigues will be the President, Treasurer, Secretary, Sole Director, and Sole-Shareholder (100%); and **Katie C. Stephenson** is the **Proposed Manager**.

The previously approved premises is located on the street level of a Three (3) story building, which includes One (1) dining room approximately 2,000 sq. ft. with a bar, Two (2) Handicapped Restrooms, and seating for approximately Eighty (80) people, a pastry shop, approximately 350 sq. ft., with seating for approximately Ten (10) people; there is also a full kitchen, approximately 650 sq. ft., with the storage of liquor in the basement. There are two (2) main entrances/exits; one (1) into the dining room from Rivet St. and one(1) into the Pastry Shop/Kitchen from Bolton St., and two (2) additional rear exits. The licensed premises also includes a ‘Seasonal Outdoor Patio Area’ approximately 430 sq. ft. (10’ x 43’) to be used as a ‘Sidewalk Café’, which is enclosed by a 4 ft. high resin fence with a decorative lattice panel design, and is to be used for **seated dining purposes only**. The enclosed area includes Ten (10) tables for the seating of Thirty – Two (32) patrons for dining only, as well as a Hostess Station; and is located on the east side of the building, which is contiguous to the licensed premises. The outdoor area is **only accessible** by way of an entrance/exit off the main entrance ramp located in the front of the building, and is accessible by ‘Hostess Seating’ only; the area will also be monitored by the hostess and wait staff at all times.

The hours of operation are **daily from 11:00 a.m. until 10:00 p.m., at which time all outdoor activity must cease, and shall be in effect from May 1ST through October 30th**, in accordance, and as specified in the City of New Bedford Sidewalk Café Permit Ordinance.

Disapproved By ABCC – 09/10/14 - Failure to Comply With Mass Tax Laws (DUA) – 1st Attempt

****Application being re-submitted for approval – See Item #1****

VOTED: To accept the disapproval from the ABCC, and to re-submit application to the ABCC “for reconsideration”, only upon notification from the Applicant or the DUA, that all outstanding issues have been resolved. – **Unanimous**

1. PETITION - Trans. #031 – Plot # 23—9—“FOR RECONSIDERATION W/A NEW PROPOSED MANAGER”

Calypso Hospitality, LLC d/b/a Fernando’s Grille & Bar, Gregory Kulpinski, Manager of LLC who is petitioning to transfer a **Common Victualler (Restaurant) All Alcoholic Beverages License to 161 Highland Avenue, Inc. d/b/a Trio Restaurant**; the applicant is also requesting approval of a **Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License to Goulart Square Realty, LLC, as security to authorize and execute a promissory note in the amount of Ninety-Seven Thousand and Nine Hundred Dollars, (\$97,900.00), pursuant to Massachusetts General Laws Ch.138 s.23.** Upon approval, Sandra S. Rodrigues will be the President, Treasurer, Secretary, Sole Director, and Sole-Shareholder (100%); and **Nevin Benjamin** is the **Proposed Manager**.

The previously approved premises is located on the street level of a Three (3) story building, which includes One (1) dining room approximately 2,000 sq. ft. with a bar, Two (2) Handicapped Restrooms, and seating for approximately Eighty (80) people, a pastry shop, approximately 350 sq. ft., with seating for approximately Ten (10) people; there is also a full kitchen, approximately 650 sq. ft., with the storage of liquor in the basement. There are two (2) main entrances/exits; one (1) into the dining room from Rivet St. and one(1) into the Pastry Shop/Kitchen from Bolton St., and two (2) additional rear exits. The licensed premises also includes a ‘Seasonal Outdoor Patio Area’ approximately 430 sq. ft. (10’ x 43’) to be used as a ‘Sidewalk Café’, which is enclosed by a 4 ft. high resin fence with a decorative lattice panel design, and is to be used for **seated dining purposes only**. The enclosed area includes Ten (10) tables for the seating of Thirty – Two (32) patrons for dining only, as well as a Hostess Station; and is located on the east side of the building, which is contiguous to the licensed premises. The outdoor area is **only accessible** by way of an entrance/exit off the main entrance ramp located in the front of the building, and is accessible by ‘Hostess Seating’ only; the area will also be monitored by the hostess and wait staff at all times.

The hours of operation are **daily from 11:00 a.m. until 10:00 p.m., at which time all outdoor activity must cease, and shall be in effect from May 1ST through October 30th**, in accordance, and as specified in the City of New Bedford Sidewalk Café Permit Ordinance. (Ord. Ch. 15, Article VI, sec. 15-100 (B) (Item #'s 8 & 15), and requires yearly approval from the City of New Bedford. The premise is situated on the corner of Rivet & Bolton Streets **and will remain the same at 418-420 Rivet Street.**

Final approval will require a '**Certificate of Inspection**' from the Building Department, a '**Food Permit**' from the Health Department, and a signed '**Fire & Building Certificate**' as required under the Chapter 304 Fire Acts Compliance; along with a copy of '**Proof of Liquor Liability**'.

Application was previously advertised on 07/18/14; Abutters were also previously notified.

Present: Sandra Rodrigues, Owner along with Nevin Benjamin, Proposed New Manager and Tony Rodrigues, Owner's Husband

Mr. Nanopoulos informed the Board that the application that was now before them was previously approved and sent to the ABCC for approval, and was returned with a request that a new manager be submitted for approval. Mr. Nanopoulos also informed the Board that all DUA issues have been resolved.

Responding to questions from Chairman Beauregard, Mr. Benjamin stated that he previously worked for Trio Restaurant in Dartmouth for eight years since I was 15 years old, and helped open up their Dartmouth location with them; and that he also worked at their Fall River location; and that he also managed another restaurant in Rhode Island for a while. He further stated that he was T.I.P.S. Certified.

Voted: Commissioner Almeida made a motion to approve the petition as presented, and to forward the application to the Alcoholic Beverages Control Commission for their approval; with the stipulation that Mr. Benjamin submit a copy of his T.I.P.S. Certification to the Licensing Board office within thirty (30) days of receiving final approval or prior; and that all his servers be 'certified' as well, with copies of their certifications to be kept on file for review, if needed. – **Unanimous**

Voted: Commissioner Almeida made a motion to remove item # 2 from the table, and to take the matter up at this time. – **Unanimous**

Tabled at 06/30/14

2. Hearing: Giraldo's Restaurant, Inc. d/b/a

Adriana's Mexican Restaurant

Mr. Fernando Giraldo, President/Co-Owner

1262 Acushnet Avenue

Approved by ABCC – 02/07/13

Your presence is respectfully requested at a hearing to be held in this office to determine the status of your annual liquor license for the year **2014**.

Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77,.....Cancellation of license upon cessation of licensed business; the hearing is being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2013 prior to this Board considering approval of your 2014 renewal application.

Minutes of 06/30/14 Meeting

Present: Fernando Giraldo, Co-Owner along with Martha Gonzalez, Manager (Requested letter was submitted)

Mr. Nanopoulos informed the Board that the licensee had some parking issues with regard to the adjacent parking lot, and that Jill Mclean, who's the City Planner, came by the office and stated that her office was going to issue a temporary variance, so that the parking lot could be used the way it is, in order for the licensee to open up; which would allow the licensee to raise some funds to complete the renovations that are required on the parking lot.

Ms. Gonzalez submitted a letter outlining the current status of the work being done and the plan is moving forward, which was unanimously received and placed on file by the Board.

When asked by Chairman Beauregard as to what their time frame was now, Ms. Gonzalez responded, it really depends on whether we are going to be able to get the parking issue resolved ... first we have to put the property (an income property) to be sold because we don't have the \$70,000.00 it will take to get the work done ... so as soon as that's sold ... the money will be put into the parking lot.

Chairman Beauregard responded by asking, is this a surprise ... why wasn't this already included in the plans and design when you started?

Mr. Gonzalez responded, because of the cost of the opening of the restaurant ... I ran out of money ... and I can't get money from anywhere now except to sell the house to have money to fix the parking lot according to the Building Department's requirements.

When asked by Chairman Beauregard, didn't you know in the beginning that the parking lot had to be done?

Mr. Gonzalez responded, yeah, I knew that ... and I was working really hard on that but ... everything comes with

expenses and money pours out like crazy ... then I ran out of money ... so, that's the issues we have now ... we have Worker's Comp & Insurance that we've been paying for two months ... so I just came to the city to ask if they would give me a temporary permit for handicap parking ... and that's what we're working on right now ... and I told them that I don't have money to fix the lot the way they want it ... the cost is \$70,000.00 ... I'm not a big business man ... I'm just a local person ... it's a small business ... I'm spending more money on the parking lot than on everything else.

Mr. Gonzalez added, the restaurant only seats 50 people ... and it's a big parking lot ... and we've been talking to different companies to see who could do it for a cheaper cost ... but it has to be done well ... so it doesn't crack and it lasts ... and that's going to cost a lot of money ... we just never imagined that it would cost that amount of money.

Mr. Nanopoulos stated to both Mr. Giraldo and Ms. Gonzalez, I spoke to Jill McLean a few days ago, and she told me that they were going to authorize a temporary variance so that you could open ... so the parking isn't a hold up at this point.

Mr. Giraldo responded, they haven't given us anything yet ... they're going to authorize that ... as soon as they say that the parking is okay ...

When asked by Mr. Nanopoulos, if they authorize the parking in 10 days, when would you open, Mrs. Gonzalez responded, as soon as we get that authorization ... all I have to do is call the Health Department to get their permit ... because we've already set up our accounts with our liquor and food distributors.

When asked by Mr. Nanopoulos, so if we can expedite the temporary permit for you, then there are no other roadblocks for you to open ... right?

Mr. Gonzalez responded, no, nothing! ... Everything is done!

Atty. Markey instructed Mr. Giraldo to call him tomorrow so that he could set up a conference call with Jill McLean to find out what it is she feels she needs, and to talk to Danny Romanowicz who's with the Building Department to see if he has issues, and added, Building and Planning should be helping you at this stage with regard to the parking lot.

Voted: Commissioner Almeida made a motion to follow Mr. Nanopoulos's recommendation, to **table the matter to the Board's September meeting. – Unanimous**

07/11/14 - Mr. Giraldo as a holder of an inactive license was notified in writing that he has **until September 1, 2014 to be open and operating at the current location;** and failure to be operational by this date, will require him to appear before this Board once again, at which time the Board may consider revoking his license for non-use.

Present: *No one was required to attend.*

Mr. Nanopoulos informed the Board that the licensee had picked up her license on September 18th and that they were in the process of obtaining final approval from the Health Department in order for them to start to prepare for their planned opening on October 6th. Mr. Nanopoulos informed the Board that no further action was required by the Board.

Voted: Commissioner Almeida made a motion that no further action be taken regarding this matter at this time. – **Unanimous**

3. Hearing: The Sky Room, Inc.

d/b/a The Sky Room

Ms. Audrey Carter, Manager/Owner

651 Orchard Street

Your presence is requested at an Emergency Hearing of the New Bedford Licensing Board to determine whether you have violated certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules & Regulations. This hearing will focus on certain changes that were filed with the Secretary of State on your latest Corporate Annual Report filed on June 3, 2014. These changes reflect changes in the corporation (The Sky Room, Inc.) that is the legal holder of the liquor license issued for 651 Orchard Street, which have not been approved by the local licensing authority and the Alcoholic Beverages Control Commission. Based on their findings, the Licensing Board may take action to modify, suspend, revoke, or cancel your license.

M.G.L. Chapter 138, sec. 12,12A, 15A, & 64-

An application must be filed to obtain approval from the local licensing authority and the ABCC for a Change of Officers, Directors, New Stockholders, Manager, and Transfer of Stock.

The licensing authorities after notice to the licensee and reasonable opportunity to him to be heard by them, may modify, suspend, revoke or cancel his license upon satisfactory proof that he has violated or permitted any condition thereof (Chapter 138), or any law of the commonwealth.

Alcoholic Beverages Control Commission Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulations No.1 & 6-

Licenses may not be transferred or surrendered without permission of the Board; each Corporate Licensee shall appoint a manager who shall have full authority and control of the premises and who shall be satisfactory to the Board, and who shall be a United States citizen. Immediate notice of the appointment must be made to the Board in writing.

Violation Summary

New Management – All management changes need to be approved by the local Licensing Board and the ABCC. No management changes have been submitted for approval.

Present: Atty. Greg Koldys along with Audrey Carter, Owner along with Georgia Macomber, Proposed New Bar Manager

Chairman Beauregard opened the hearing by asking Atty. Koldys to tell the Board as to what's going on with regard to ownership issues that the Board has recently been made aware of.

In response, Atty. Koldys stated, the ownership has not changed ... there has not been any transfer of stock ... what has changed ... and we do recognize that it was not done properly ... we should have come to the Board before it was done ... but there was a change of the officers and the directors of the company ... but the manager is Ms. Carter ... the stock ownership is still held by Ms. Carter ... we are prepared to file the paperwork that we need to change the officers and directors ... and also to appoint a new manager going forward ... we're just awaiting getting the Certificate of Good Standing from the DOR ... in order to do that filing ... we've got everything else basically in place.

In response, Chairman Beauregard asked, so, what is the plan?

Atty. Koldys responded, the plan, at least initially is to put a new manager in place ... apply for the change of officers and directors for the company ... ultimately, the plan may be to transfer ownership of the stock ... but that's not yet happened. In response, Chairman Beauregard asked, how are you changing all the officers, directors, and manager, and not changing ownership? ... Explain to me what's going on.

Atty. Koldys responded that the shareholders elected a new president, secretary, treasurer, and a new director.

Ms. Carter also responded by stating, due to some health issues ... I was forced to call Mr. Koldys to appoint new officers to continue to run the place I'm being treated for a heart condition ... and was told to stay away from the stress ... so I had to make this decision, so I'm stepping back ... so, there's going to be a new manager ... so, she's going to be the bar manager ... and they'll be another office manager there.

When asked by Chairman Beauregard, so you're going to retain ownership, Atty. Koldys responded, at least initially ... but I think at some point in the future ... it's likely that will change ... again, due to personal circumstances or whatever ... but at least for now .. the stock ownership is not changing ... we're doing this in stages ... so we're going to be coming in here as soon as we get the certificate from the DOR with the paperwork to change the officers, directors, and to appoint a new manager ... and then subsequently, if there is a transfer of ownership ... we'll have to come in with that paperwork to deal with that.

When asked by Chairman Beauregard, so what is the role of the new officers and directors, Atty. Koldys responded, the role of the new officers would be the same as what you would typically see in any corporate officer ... they would oversee the operation and make the day to day decisions, subject obviously to the shareholders' approval.

When asked by Chairman Beauregard, as to whom the current shareholders were, Atty. Koldys stated that Ms. Carter was sole –shareholder (100%).

When asked by Chairman Beauregard as to when they would be prepared to file the application relative to the changes that were discussed, Atty. Koldys responded, as soon as we get the Certificate of Good Standing from the DOR ... we've pretty much got the rest of the application put together.

When asked by Chairman Beauregard, are there any outstanding tax issues with the DOR or DUA? Atty. Koldys responded, not that I'm aware of.

In response, Chairman Beauregard asked, so what is causing the delay in getting the certificate from the DOR? Atty. Koldys responded nothing ... just that it was recently requested.

When asked by Chairman Beauregard as to who made the request for a change of officers and directors with the Secretary of State? Atty. Koldys responded that his office filed a new annual report.

In response, Chairman Beauregard asked, nobody thought to come here? Atty. Koldys responded I didn't think to come here, only because there were some issues as to who the officers were going to be ... but I'll take responsibility for that oversight ... because we were certainly responsible for making that change on the annual report before coming in before the Board.

With no further questions from the Board regarding this matter, Mr. Nanopoulos presented Ms. Carter once again with the proper forms to be used when booking any event at the Sky Room, which in turn must be forwarded to the Licensing Board office. Mr. Nanopoulos informed the Board that the licensee was not submitting the proper forms as well as not filling them out complete.

Chairman Beauregard informed Ms. Carter that the proper forms must be used, and that they must be filled out complete for all events at the Sky Room, and that they must be forwarded to the Licensing Board office in a timely manner.

Voted: Commissioner Almeida made a motion that no further action be taken regarding this matter at this time. – **Unanimous**

4. Hearing: United Fisherman’s Club, Inc.

Jack Custodio, Manager
639 Orchard Street

As a result of your application for a Change of Officers, Directors, and Manager to your ‘General on Premise’ liquor license being **disapproved by the ABCC on July 8, 2014, based on your failure to comply with Mass Tax Laws (DUA)**, which is a violation of M.G. L. Ch. 138, sec.64 (Failure to Comply with Laws of the Commonwealth), and your failure to resolve this matter in a timely manner, please be advised of the following:

Your presence and that of **Mark Custodio, Proposed New Manager**, is requested at a hearing to discuss your plans to resolve this matter, which is required in order for your pending application to be considered by the ABCC for approval. Based on their findings, the Licensing Board may take action to suspend your license until such a time that this matter is resolved.

You were served with written notice of this denial in hand on July 15, 2014, at which time it was strongly recommended that this matter be resolved as soon as possible and that you notify this office, once all outstanding issues have been resolved, so that your application may be re-submitted to the ABCC “For Reconsideration”. As of this date, this office has not received notification from you or the DUA that this matter has been resolved.

Present: *No one was required to attend*

Mr. Nanopoulos informed the Board that he received a copy of the settlement that was reached between the United Fisherman Club and the DUA, which resolved all outstanding DUA issues; and that application would be re-submitted to the ABCC to be for approval, and that no further action was required by the Board.

Voted: Commissioner Almeida made a motion that no further action be taken regarding this matter at this time. – **Unanimous**

5. APPLICATION, “Representation Required”

Marion Institute, Brooke Baptiste, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for their ‘10th Annual Connecting for a Change Event/CD Release Party’, to be held in the ‘Whalen Parking Lot’, located on **Purchase Street**; and to be held on **Saturday, October 25, 2014 from 6:00 p.m. until 10:45 p.m.**

Present: *Brooke Baptiste, Applicant*

Responding to questions from Chairman Beauregard, Ms. Baptiste stated that the event would be taking place in the parking lot behind the Zeiterion Theatre, and that they would be having a CD Release Party in conjunction with the Connecting for a Change event, which will include local musicians and that it would be a small event that would be part of our big conference.

When asked by Chairman Beauregard as to how many people she expected at this event, Ms. Baptiste responded, I don’t expect more than 200.

When asked by Chairman Beauregard to explain how the area will be set as not to have any issues with Euphoria Lounge, Ms. Baptiste stated that the parking lot would be closed off, and would be used exclusively for this event; and that there would be one main entrance into the tent, and that all those wishing to enter would have to have a conference badge to be allowed into the event.

Ms. Baptiste also stated that Freitas package Store would be providing the alcohol, and that they would be doing the I.D. checks, and that there would be two police details at the event, as well as Statewide Security, who will be manning the parking lot.

VOTED: Commissioner Almeida made a motion to approve the application as presented – **Unanimous**

6. APPLICATION, “Representation Required”

Ribeiro Brothers, LLC d/b/a Pour Farm Tavern & Grille, Noah Griffith, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a ‘Great Pumpkin Beer Fest’ to be held **within Wing’s Court**, and to be held on **Sunday, October 12, 2014, from 12:00 p.m. until 6:00 p.m.**

Present: Noah Griffith, Manager

Responding to questions from Chairman Beauregard, Mr. Griffith stated that this was the 3rd year that they will be holding this event, and that unlike their other events, this event doesn't take up all of Wing's Court; and that they would be using only the area that directly abuts the Pour Farm; and that the bands would face out onto Purchase Street away from the condos.

Mr. Griffith further stated that this event was basically their version of Oktoberfest, and that they would be serving several types of beers outside, and that they would have 3 or 4 live bands, and that the hours would only be from 12 p.m. until 6 p.m.

He also stated that they would have doorman stationed at both entrances/exits, and at both Pour Farm doors.

He also stated that they would have 2 police details, and there would not be any bottles or glassware allowed outside, and that they would be issuing wristbands to those twenty-one and older.

VOTED: Commissioner Almeida made a motion to approve the application as presented – **Unanimous**

VOTED: Commissioner Almeida made a motion to take up **Item #'s 7 - 18** at one time; waive reading; and approve the applications as presented – **Unanimous**

7. APPLICATION, (No Representation Required)

Andrews-Dahill Post #1531, Patrick M. Flinn, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a 'Memorial Fundraiser Dinner' to be held in the 'Club' Parking Lot, located at **477 Park Street**, and to be held on **Thursday, August 28, 2014, from 5:30 p.m. until 8:30 p.m.**

8. APPLICATION, (No Representation Required)

Committee to Benefit St. Jude's Hospital, Joseph Pereira, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'St. Jude's Fundraiser', to be held at the **Madeira Field – Main Pavilion**, located on **Madeira Avenue**; and to be held on **Saturday, September 6, 2014 from 6:00 p.m. until 11:45 p.m.**

9. APPLICATION, (No Representation Required)

Group Folkloric Madeirense, Michael Canastra, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Fundraiser Dinner', to be held at the **Madeira Field – Main Pavilion**, located on **Madeira Avenue**; and to be held on **Sunday, September 14, 2014 from 6:00 p.m. until 11:45 p.m.**

10. APPLICATION, (No Representation Required)

Zeiterion Theatre, Inc., Justin LaCroix, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a 'VIP Lounge Fundraiser' to be held in the "**Penler Space**", located at **686 Purchase Street**, and to be held on **Sunday, September 14, 2014, from 7:00 p.m. until 11:45 p.m.**

11. APPLICATION, (No Representation Required)

Zeiterion Theatre, Inc., Justin LaCroix, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a 'NBSO Reception' to be held in the "**Penler Space**", located at **686 Purchase Street**, and to be held on **Saturday, September 20, 2014, from 6:30 p.m. until 11:00 p.m.**

12. APPLICATION, (No Representation Required)

N.B. Art Museum/Art Works!, Lindsay Mis, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for an 'Art Opening Reception', to be held at the **N.B. Art Museum/Artworks!**, located at **608 Pleasant Street**; and to be held on **Friday, September 26, 2014 from 6:00 p.m. until 8:00 p.m.**

13. APPLICATION, (No Representation Required)

Working Waterfront Festival Committee, Jaime Kelly, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Private Party', to be held on **Pier 3**; and to be held on **Saturday, September 27, 2014 from 7:00 p.m. until 10:00 p.m.**

14. APPLICATION, (No Representation Required)

Zeiterion Theatre, Inc., Justin LaCroix, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a 'VIP Lounge Fundraiser' to be held in the "**Penler Space**", located at **686 Purchase Street**, and to be held on **Saturday, September 27, 2014, from 7:00 p.m. until 11:45 p.m.**

15. APPLICATION, (No Representation Required)

Fort Taber/Fort Rodman Historical Association, Joseph Langlois, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Fundraiser Dinner', to be held at the **Fort Taber Community Center**, , located within **Fort Taber Park**; and to be held on **Saturday, October 11, 2014** from 5:00 p.m. until 8:00 p.m.

16. APPLICATION, (No Representation Required) – "LATE FILE"

Irmandade Do Divino Espirito Santo Do Pico Club, Jose Matos, Treasurer, requesting approval of an application for a **Special One-Day All Alcoholic Beverage License** for a 'Scholarship Dinner Fundraiser', to be held at the **Irmandade Do Divino Espirito Santo Do Pico Club**, located at **2056 Acushnet Avenue.**; and to be held on **Saturday, October 11, 2014**, from 6:00 p.m. until 11:00 p.m.

17. APPLICATION, (No Representation Required)

Spinner Publications, Inc., Joseph Thomas, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a their '33rd Anniversary Fundraiser ', to be held at the **Fort Taber Community Center**, located within **Fort Taber Park**; and to be held on **Saturday, October 18, 2014** from 6:00 p.m. until 10:00 p.m.

18. APPLICATION, (No Representation Required) – "LATE FILE"

Irmandade Do Divino Espirito Santo Do Pico Club, Jose Matos, Treasurer, requesting approval of an application for a **Special One-Day All Alcoholic Beverage License** for a 'Halloween Party/Members', to be held at the **Irmandade Do Divino Espirito Santo Do Pico Club**, located at **2056 Acushnet Avenue**; and to be held on **Saturday, October 25, 2014**, from 6:00 p.m. until 11:00 p.m.

19. Hearing: Barbosa and Raposo, Inc.

d/b/a Tilia's Café & Restaurant

Mr. Jose Barbosa, Manager/Co-Owner

1615-1623 Acushnet Avenue

Your presence is requested at a hearing to determine whether you have violated certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations as reported by the City of New Bedford Police Department. Based on their findings, the Licensing Board may take action to modify, suspend, revoke, or cancel your license; and if warranted, a roll back of hours may be considered.

This hearing will focus on the control and operations of the licensed premises, and the facts surrounding two separate incidents that occurred at your establishment; the first incident occurred on the Saturday, August 2, 2014, (Madeira Feast Weekend), which resulted in a highly intoxicated patron being assaulted within your licensed premises by two other patrons; and a second incident that occurred on Saturday, August 23, 2014, which also resulted in a patron being assaulted within your licensed premises by two male patrons.

The Licensing Board is troubled about both of these events including the fact that the first patron assaulted was highly intoxicated as well as the fact that both these incidents occurred within a three week period resulting in two patrons being assaulted by other patrons. This is in contravention to your legal duties. By failing to maintain the licensed premises in a safe manner and by failing to maintain complete control of the licensed premises, you made a conscious decision to place your license at risk.

Incident # 1 - Date and time of alleged violations: Saturday, August 2, 2014 @ approximately 1:30 a.m.

Police Report #14-9658-OF – 08/02/14

Incident # 2 - Date and time of alleged violations: Saturday, August 23, 2014 @ approximately 1:01 a.m.

Police Report #14-10669-OF – 08/23/14

The potential violations are as follows:

M.G.L. Chapter 138, sections 69-

No alcoholic beverages shall be sold or delivered to an intoxicated person on any licensed premise.

ABCC Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulations No. 10, 11, 12, 36-

Alcoholic beverages shall not be served to a person who is or appears to be intoxicated; Objectionable persons shall not be permitted on or about the premises, it's the responsibility of the licensee to enforce this rule; Premises must at all times be kept safe; Licenses are subject to suspension, revocation, or forfeiture after hearing for breach of any of the listed regulations or any other law of the Commonwealth.

Present: Atty. Christopher Saunders along with Jose Barbosa, Owner/Manager and Sandra Estrella, Owner's Daughter; Capt. Steven Vicente, Liaison to the Licensing Board along with Officer Daniel Victoria, the Reporting Officer

Chairman Beauregard informed the licensee that the reporting officers were present to read, summarize, or give testimony to what was contained in their report; and at the conclusion of their testimony, the Board would then ask any questions they may have, and then he would be given an opportunity to respond to the testimony presented, and address the Board before they make their decision.

Chairman Beauregard opened the hearing by asking Officer Victoria to either summarize or read his report regarding the incident that occurred on August 2, 2014.

Officer Victoria proceeded to give his testimony to what was documented in his Police Report regarding this incident, as noted and summarized in the 'Incident Summary #1'.

When asked by Chairman Beauregard if he had anything he wanted to ask of the Officer or present as a defense regarding this first report, Atty. Saunders stated that he did not.

Chairman Beauregard stated that he had one question for the Officer before they moved on to the 2nd report, and asked. Do you know how the victim ended up outside of the establishment, and why he was not inside the establishment where the incident occurred, and if he seemed to be highly intoxicated?

Officer Victoria responded, I believe that his girlfriend was trying to get him out of the establishment, and was literally sitting up right in front of the establishment; and that he appeared and sounded highly intoxicated when I attempted to speak to him.

Based on the Officer's response to Chairman Beauregard's questions, Atty. Saunders asked if he could question the officer.

Responding to questions from Atty. Saunders, Officer Victoria stated that he's been an Officer for two years, and that he completed the standard Police Academy Training, and that he had received training relative to DUI detection; and that he was taught to prepare a detail narrative, which should include all the important aspects of the incident in the report.

Atty. Saunders questioned Officer Victoria as to why he did not include any specific details in his report with regard to his statement in the report that the victim showed signs of intoxication.

Atty. Saunders then asked Officer Victoria, if it would be fair to say ... and we're not minimizing head injuries ... and we're not disputing the fact that an assault occurred ... but when an assault occurs ... and someone is struck in the head with a cue stick or a beer bottle ... one could suffer a concussion ... or head injury ... that would affect your ability not only to maintain your balance but also to speak clearly ... correct?

Officer Victoria agreed in his response.

When asked by Atty. Saunders if the signs of intoxication could sometimes be confused with the signs of a concussion.

Officer Victoria agreed in his response.

Atty. Saunders then summarized the testimony contained in Det. Pacheco's highly detailed police report regarding what he observed on the security video of the incident that he reviewed, by stating, the report states that there's no indication in the video of the person Officer Victoria observed of being highly intoxicated, of him ordering or holding any drinks in his hand; and that he's only seen at the bar talking to other people; and that the only person seen ordering and holding drinks in his hand is the perpetrator. He went on to state that there's nothing in Det. Pacheco's report of the video, that indicates or shows the victim unsteady on his feet or holding multiple beers ... or even holding one drink ... and given the in depth report ... it would be in this ... and it's not in this ... and I would suggest that it's not in this because there's no allegation in the report that he was even served at this establishment ... he's only seen at the bar talking to other people ... but more importantly ... he leaves the bar area after forty minutes and he goes over to the pool table where he begins playing pool ... I would strongly suggest that if he was highly intoxicated ... he wouldn't be able to play pool ... or he would play pool in a fashion ... that Det. Pacheco would see the victim showing signs of intoxication unfold ... and it's not in this ... so on the issue of intoxication or serving an intoxicated person ... I would say there's no basis for a violation ... because the detailed report that Det. Pacheco filed ... is more in line with someone who is not intoxicated ... who is not observed drinking alcohol in this establishment ... who's observed playing pool and walking around the establishment ... and the only mention of anyone drinking alcoholic beverages is of the suspects ... and I would suggest that those signs of intoxication were the result of a concussion ... and not the result of the victim being served at this establishment.

When asked by Chairman Beauregard if the victim's blood was checked at the hospital for an alcohol level, Capt. Vicente stated that it wasn't, and normally, the victim's blood is not always checked for alcohol.

Chairman Beauregard questioned if the person had entered the bar already intoxicated, to which Atty. Saunders responded, the incident occurred on one of the nights of the feast and the bar has a policy of not allowing anyone in after midnight on the night of the feast; Chairman Beauregard responded, but there's nothing to say that he didn't arrive before midnight already intoxicated, from either the feast or some establishment.

Atty. Saunders concluded his remarks by stating, so I would suggest, that on the basis of serving an intoxicated person, theirs is not enough reliable evidence to find a violation.

Chairman Beauregard then asked Officer Victoria to either summarize or read his report regarding the incident that occurred on August 23, 2014.

Officer Victoria proceeded to give his testimony to what was documented in his Police Report regarding this incident, as noted and summarized in the 'Incident Summary #2'.

Responding to Officer Victoria's testimony, Atty. Saunders asked Officer Victoria if he himself saw the security video of the incident, to which Officer Victoria responded that he had.

Responding to a question regarding the video, Officer Victoria stated the assault occurred inside the establishment near the pool table, and that it was a quick assault.

When asked by Atty. Saunders if he had an opportunity to speak to the establishment's security, Officer Victoria stated that he spoke to "Al" (Alfonso Martinez).

Responding to further questions from Atty. Saunders regarding the actions of Mr. Martinez, Officer Victoria read the section from his report regarding the actions of Mr. Martinez.

When asked by Atty. Saunders if the alleged victim was uncooperative, Officer Victoria responded in the affirmative.

When asked by Atty. Saunders if the owner of the establishment was cooperative during the investigation of both incidents, Officer Victoria stated that he was.

With Atty. Saunders having no further questions regarding this incident, Chairman Beauregard asked Atty. Saunders if he wished to make any closing remarks in defense of his client.

Atty. Saunders indicated that he did and offered the following in closing:

I think I've said all I've needed to say on the issue of serving an intoxicated person, so I'll confine it to the assaults ... so if you look at the history of this establishment ... you'll have to go back to 2005 ... where they had any incidents regarding any assaults ... and at that time ... there was a warning regarding a disturbance and an assault ... with a recommendation to add security to the premises and the parking lot ... the other incidents go back to 2003, during which there were three ... and one incident in 2006 as a result of a 'sting' during which an underage individual was served ... so in the past eight years ... there really has not been an extensive history ... and my client has taken steps ... such as not allowing patrons to enter the premises or allowing re-admittance after 12 a.m. on the feast weekend ... they did have security (Mr. Martinez) ... in this particular assault ... it takes place in a matter of seconds ... and it's over in a minute ... and it really came out of nowhere ... if you read his report ... the individuals were walking around the bar ... there's no verbal arguments going back and forth ... there's some conversation ... one individual says to another ... 'it's good, it's all good' ... but there's no in your face pushing ... which would lead the establishment owners ... to know ... hey, there's an altercation happening ... but what happened is ... one person came over ... the victim puts the cue stick down ... and the other guy in a matter of seconds grabs it and the other guy takes a beer bottle ... and hits him on the side of the head ... and he goes down ... people don't even know this is going on because there are no real screams ... even the girlfriend of the victim didn't see it happen ... she goes over and he's on the ground ... Mr. Barboza went over immediately and rendered aid ... they called the police ... they called EMS ... more importantly ... they co-operated ... not only that night ... but they also co-operated throughout the investigation ... as a result of that co-operation ... two of the three suspects are identified and arrested ... and they are no longer welcome in this establishment ... and in the other incident ... we really don't know what happened ... but it was a quick incident also involving a pool stick ... so as a result of these unfortunate incidents ... more cameras have been installed in this establishment ... I think there were four that night ... I think now they have a total of twelve cameras installed ... to better secure the premises ... and they've also added additional security ... they used to have one security person (Mr. Martinez) ... now they have 3 to 4 working from Tuesday thru Saturday ... and on Saturday ... they hire two police details from 10:30 at night until 2:30 in the morning ... and if they have a function on a Friday night ... they hire a police detail ... they've added security ... we don't dispute that these unfortunate incidents happened ... but they've taken steps to improve security to address those issues ... what they're also doing is ... after 12 o'clock ... there is no playing pool ... all pool sticks and balls are all put away ... you can make a weapon out of anything ... but there's nothing you can use in the bar to be used as a weapon by way of pool sticks or balls after 12 a.m. ... there are no bottles given out ... there are no glasses ... it's all paper cups ... there is no glass.

Atty. Saunders concluded his remarks by stating, so I would suggest, after 12 a.m., this place is secure in terms of breakable objects as any place in the city; therefore, given the fact of their lack of history and the steps they've taken, I would ask that you not take any steps to find them in violation and put them on probation, and certainly not rollback their hours. I would say on their own, granted, as a result of these two incidences, they taken the needed steps to protect their

business as well as the people in their business, and I would ask that no violations be found and that no sanctions be taken against them.

When asked by Commissioner Craig if all their bartenders were T.I.P.S. Certified, Mr. Barbosa stated through his daughter, who was present to interpret for him, that all his staff was certified except for two new hires.

Commissioner Craig recommended that it should be stipulated in the final decision that all staff members must be T.I.P.S. Certified.

Prior to making his motion, Commissioner Almeida stated that he did not feel there was enough evidence to find the licensee in violation at this time.

VOTED: Commissioner Almeida made a motion to receive the reports and place them on file, with no further action at this time; with the stipulation that all employees are required to be T.I.P.S. Certified, and that proof of those certifications be submitted to Licensing Board Office within Forty-Five (45) days of receipt of this notice. – **Unanimous**

NOTE: The Board's written decision to the licensee included the following warning:

Although the Board took no action, please be advised once again of the following ABCC and Licensing Board Regulations:

M.G.L. Chapter 138, sections 69-

No alcoholic beverages shall be sold or delivered to an intoxicated person on any licensed premise.

ABCC Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulations No. 10, 11, & 12-

Alcoholic beverages shall not be served to a person who is or appears to be intoxicated; Objectionable persons shall not be permitted on or about the premises, it's the responsibility of the licensee to enforce this rule; Premises must at all times be kept safe.

As this Board has reminded you in the past, it is a violation to permit any illegality on or about your premises and if your staff feels that they or any of your patrons may be in any danger, they should contact the police immediately.

20. Hearing: Barbosa and Raposo, Inc. d/b/a Tilia's Café & Restaurant

Mr. Jose Barbosa, Manager/Co-Owner
1615-1623 Acushnet Avenue

Your presence is requested at a 'Public Hearing' to determine whether a roll back (decrease) of hours is warranted as a result of violations of certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations, as a result of an incident reported by the New Bedford Police Department; as well as a result of certain changes in the day to day operation of the premises. This roll back (decrease) of hours could affect the hours in which you will be allowed to be open.

The local licensing authority, may after proper notice, hold a hearing to determine whether a roll back of hours is warranted, on the basis of frequency of arrests, disturbances, and incidents requiring police involvement inside or outside the licensed premises; this decision is one that is not appealable to the Alcoholic Beverages Control Commission or to the superior court. (As noted in Chapter 138, sec. 12 -)

Present: None

VOTED: Based on the Board's previous decision, to receive the reports and place them on file; Commissioner Almeida made a motion to take no action regarding the rollback of hours at this time. – **Unanimous**

21. Hearing: Route Six Properties, Inc. d/b/a Temptation

Mr. Steven M. Camara, Manager/Owner
161 Pope's Island

Your presence and that of Jason Gibau, Manager, is requested at a hearing of the New Bedford Licensing Board to determine whether you have violated certain provisions of M.G.L., ABCC Regulations, and/or Licensing Board Rules & Regulations. This hearing will focus on: (a) the control and operations of the licensed premises including the current management that is in place; (b) the facts surrounding an incident that occurred that resulted in the serious assault of a patron by a bouncer employed by Temptations; (c) the hindering or delaying of the investigation by ownership and employees of Temptations, as well as their refusal to provide or to hide information from the police during their investigation; (d) the statement by the alleged assailant, who was also an employee that he was drinking alcohol and taking drugs (snorting cocaine) while on duty as a bouncer on the night of the incident.

The Licensing Board is exceptionally troubled about this assault since it's attributed to an employee, as well as to the

actions of ownership and employees immediately following the incident, which indicates a clear attempt to cover-up the incident.

This is in violation of the legal responsibilities of both you and your employees. By failing to maintain the licensed premises in a safe manner and by failing to maintain complete authority and control of the licensed premises, and your failure and that of your staff to co-operate with the police, you made a conscious decision to place your license at risk. If these allegations are proven, the Licensing Board may also take action to modify, suspend, revoke, or cancel your liquor license.

Date and time of alleged violations: Saturday, August 16, 2014 @ approximately 2:11 a.m.

Police Report # 14-2922-OF – 08/16/14

The potential violations are as follows:

Violations: Massachusetts General Laws Chapter 138, Sections 12, 12A, 15A, 63A

An application must be filed to obtain approval from the local authorities and ABCC for a change of manager. It is a violation to hinder or delay or refuse to give information to any authorized agent of the local licensing authorities (Police).

Alcoholic Beverages Control Commission Regulation 204 CMR 2.05: (2)

No licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulations No. 6, 10, 11, 12, 36, 41

Each Corporate Licensee shall appoint a manager who shall have full authority and control of the premises and who shall be satisfactory to the Board, and who shall be a United States citizen (Immediate notice of the appointment must be made to the Board in writing; Alcoholic Beverages shall not be served to a person who is or appears to be intoxicated; Objectionable persons shall not be permitted on or about the premises. It is the responsibility of the licensee to enforce this rule; Premises must at all times be kept safe; Licenses are subject to suspension, revocation or forfeiture after hearing for breach of any of the listed regulations or any other law of the Commonwealth.

Illegal Narcotics

It is a violation to permit any illegality on the premises including the use or sale of illegal narcotics. It is the responsibility of the licensee to contact the local police immediately, if they suspect illegal narcotics use or sales on their premises. Indications of illegal narcotics use include persons making frequent trips in and out of the premises or in and out of restrooms.

Present: None

Mr. Nanopoulos presented the Board a letter that was received by fax earlier in the day from Atty. Matthews, in which he stated that his client had been hospitalized for a surgical procedure, and therefore, he would not be able to attend; and that due to these events, they are requesting a continuance of the hearing.

22. Hearing: Route Six Properties, Inc. d/b/a Temptation

Mr. Steven M. Camara, Manager/Owner

161 Pope's Island

Your presence is requested at a 'Public Hearing' to determine whether a roll back (decrease) of hours is warranted as a result of violations of certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations, as a result of an incident reported by the New Bedford Police Department; as well as a result of certain changes in the day to day operation of the premises. This roll back (decrease) of hours could affect the hours in which you will be allowed to be open.

The local licensing authority, may after proper notice, hold a hearing to determine whether a roll back of hours is warranted, on the basis of frequency of arrests, disturbances, and incidents requiring police involvement inside or outside the licensed premises; this decision is one that is not appealable to the Alcoholic Beverages Control Commission or to the superior court. (As noted in Chapter 138, sec. 12 -)

VOTED: Commissioner Almeida made a motion to receive and place the correspondence on file and to approve the request to table the matter (Item #'s 21 & 22) to the Board's next scheduled meeting date (10/20/14) – **Unanimous**

- **CORRESPONDENCE**

From: City Council
009/09/14

Dated – 08/21/14

Received

WRITTEN MOTION: Requesting that THE MAYOR , THE Licensing Board, and the Police Chief, favorably consider asking all bars and liquor establishment along Acushnet Avenue and Belleville Avenue within an eight block radius, north, south, east, and west of the Feast of the Blessed Sacrament location to close at midnight, on all four nights of the Feast, giving law enforcement the ability to control crowds and provide a safe area for residents and tourists and those visiting the area for this special event.

(To be referred to the Mayor, Committee on Public Safety and Neighborhoods, and the New Bedford Licensing Board.

Brian K. Gomes, Councilor at Large

IN CITY COUNCIL, August 21, 2014

Adopted-
Clerk

Dennis W. Farias, City

Presented to the Mayor for Approval on August 25, 2014
Clerk

Dennis W. Farias, City

RETURNED UNSIGNED September 5, 2014

ACTION TAKEN: Received & Placed on File.

- **COMPLAINTS RECEIVED:**

---NONE--

- **REVIEW POLICE DEPARTMENT INCIDENT REPORTS/ COMPLAINTS**

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
1. Tropicana Bar & Grille	#14-3188 – AR	09/06/14	Disturbance/Fight (Approximate Time of Violation 1:57 a.m.)
2. Tropicana Bar & Grille	#14-11746 – OF	09/14/14	Disturbance/Fight (Approximate Time of Violation 1:35 a.m.)

Decision: Bring In For a Hearing – 10/20/14

3. Temptations	#14-11696 – AR	09/13/14	Operating After Hours/Owner & Patron Intoxicated/Allowing Alcohol to Leave the Premises (Approximate Time of Violation 2:50 a.m.)
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Decision: Bring In For a Hearing – 10/20/14

4. 91 William Street @ 771 Purchase St.	#14-3304 – AR	09/13/14	Intoxicated Person (Approximate Time of Violation 1:57 a.m.)
5. Hibernia Brew Pub	#14-3303 – AR	09/13/14	Intoxicated Male/ Narcotic Possession (Approximate Time of Violation 1:29 a.m.)
6. Hibernia Brew Pub	#14-3302 – AR	09/13/14	Disturbance/Intoxicated Male / Drug Possession (Approximate Time of Violation 1:27 a.m.)
7. Hibernia Brew Pub	#14-3302 – AR	09/13/14	Marijuana Use On The Premises/Intoxicated Male / Drug Possession /Failure to Control the Premises (Approximate Time of Violation 1:27 a.m.)

Decision: Bring In For a Hearing – 10/20/14

8. Southside Annie's	#14-3303 – AR	09/13/14	Bar Manager Intoxicated/ New Bar Manger Not Approved By Board (Approximate Time of Violation 2:30 a.m.)
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“LATE FILE”

Decision: Bring In For a Hearing – 10/20/14

- **NEXT TWO MEETING DATES:** October 20th & November 17th, 2014 both in the Ashley Room (120) @ 7:00 p.m. - **Approved**
- **MEETING ADJOURNED:** 7:55 p.m.