

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARING

LICENSE COMMISSION BOARD MEMBERS:

Michael Gardner, Commissioner
Robert Haas, Police Commissioner
Gerald R. Reardon, Fire Chief

STAFF: Elizabeth Y. Lint, Executive Officer

AT: Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts 02139

DATE: Tuesday, March 29, 2011

TIME: 6:00 p.m.

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P R O C E E D I N G S

ELIZABETH LINT: Before we get started, if anyone has a cell phone on, please turn it off.

License Commission General Hearing, Tuesday, March 29, 2011. It's 6:00 p.m. We're at the Michael J. Lombardi Municipal Building, 831 Mass Ave, Basement Conference Room.

Before you are the Commissioners, Chairman Michael Gardner, Commissioner Robert Haas, Chief Gerald Reardon.

If anyone is here for the John Harvard's Brew House, that's been continued to April 12.

And if anyone is here for Conga's, that is also continued to April 12.

We're going to go a little out of order.

CHAIRMAN MICHAEL GARDNER: Just before we begin, Ms. Lint, I have been advised by a member of the press that he intends to audiotape a portion of this evening's hearing, so anybody who

is here can be aware of that.

ELIZABETH LINT: Thank you.

APPLICATION: THETA DEUTERON HOUSE CORPORATION

Application Theta Deuteron House Corporation, Nicholas Hahn, resident manager, holder of a Lodging House license at 372 Memorial Drive has applied for a change of resident manager from Nicholas Hahn to Alberto Mena at said address.

CHAIRMAN MICHAEL GARDNER: Good evening. Thanks very much for coming. Could you just please state your names for the record and your affiliations?

LAUREN WOJTKUN: I'm Lauren Wojtkun. I spelled my name earlier, W-O-J-T-K-U-N. I'm the Assistant Director of Fraternity Sororities at MIT.

ALBERTO MENA: My name is Alberto Mena and I'm applying to be the resident manager at Theta Dueteron House at 372 Memorial Drive.

CHAIRMAN MICHAEL GARDNER: Before you begin, would you just describe the premises and its purpose and some history about it, please?

ALBERTO MENA: It's a five-story house located on MIT property, it's a fraternity house that currently houses about 30 young men that all undergraduates at MIT, between their second and fourth year.

CHAIRMAN MICHAEL GARDNER: And the nature of the change you're proposing?

ALBERTO MENA: I am currently the resident advisor as per MIT policy at MIT and I manage it.

LAUREN WOJTKUN: So to be approved you have to have the -- all the FSLGs, Fraternities and Sororities Living Groups have to have a resident advisor who lives there full-time and is trained by our office. And, you know, as people graduate or as from grad school or move on to other studies, the RA is changed. So Alberto is

the new RA and so we want him to be the new present manager.

CHAIRMAN MICHAEL GARDNER: How long have you been performing as the RA?

ALBERTO MENA: I have been there since August of this year -- I mean, this past year.

CHAIRMAN MICHAEL GARDNER: Is this your first experience as an RA?

ALBERTO MENA: Correct.

CHAIRMAN MICHAEL GARDNER: And how has it been so far?

ALBERTO MENA: It's been fine.

I'm making sure that they are there for the right reasons, the academics and making sure that I contribute to their well-being at the institute.

CHAIRMAN MICHAEL GARDNER: Could you briefly describe some of the training you have received from the MIT or elsewhere to help you in this function?

ALBERTO MENA: Sure. We -- every -- at the end of every summer before the fall semester starts, there's one-day training that's given by MIT -- MIT and there's a second day that's also given for first-time RAs.

I took part in two days of training that included a variety of different speakers speaking about risk management regarding alcohol and drugs and other issues of that sort, as well as mental issues and making sure that we could help out with that in any case and then just finding out about the different offices at MIT that can help out students with any issues that may arise.

CHAIRMAN MICHAEL GARDNER: And any other affiliation with the school? Are you a student or faculty or...?

ALBERTO MENA: I was a former student and graduated in summer of 2009.

CHAIRMAN MICHAEL GARDNER: Is this an assignment that is likely to continue into the

next academic year as well, or are these typically one year?

ALBERTO MENA: I'm currently scheduled to be the resident advisor as well for the next academic year.

CHAIRMAN MICHAEL GARDNER: Thank you.

POLICE COMMISSIONER ROBERT HAAS: No questions.

CHIEF GERALD REARDON: No questions.

CHAIRMAN MICHAEL GARDNER: A motion would be in order.

POLICE COMMISSIONER ROBERT HAAS: Do you want to say anything?

AUDIENCE MEMBER: Thank you. We will have three more, so we appreciate your patience.

POLICE COMMISSIONER ROBERT HAAS: Okay.

CHAIRMAN MICHAEL GARDNER: Any other members of the audience who wish to be heard on this particular application?

None.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to approve the application for the resident manager.

CHIEF GERALD REARDON: Seconded.

CHAIRMAN MICHAEL GARDNER: Motion made and seconded.

All those in favor, please signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS:

Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed.

You have been there for awhile, I guess, but continued good luck.

ALBERTO MENA: Thank you very much.

APPLICATION: RHO ALPHA CHAPTER OF ZETA PSI, INC.

ELIZABETH LINT: Application: RHO Alpha Chapter of Zeta PSI, Inc., Christopher Watson, resident manager, holder of a Lodging House license at 233 Massachusetts Avenue has applied

for a change of resident manager from Christopher Watson to Joseph Fernandez.

CHAIRMAN MICHAEL GARDNER: Hello. Just please state your name for the record and identify your affiliation.

JOSEPH FERNANDEZ: Hi. My name is Joseph Fernandez and I'm applying to be the resident manager of the Zeta Psi at 233 Mass Ave.

CHAIRMAN MICHAEL GARDNER: Could you just describe that facility for us, please?

JOSEPH FERNANDEZ: It's a men's fraternity at MIT, housing people from years two to four, undergraduates.

CHAIRMAN MICHAEL GARDNER: With what capacity?

JOSEPH FERNANDEZ: I think around 40.

CHAIRMAN MICHAEL GARDNER: And what are you currently doing?

Are you the resident --

JOSEPH FERNANDEZ: Yes, I'm also the

resident advisor, and by MIT policy it also lies on that person to be the resident manager.

CHAIRMAN MICHAEL GARDNER: And how long have you been performing that function?

JOSEPH FERNANDEZ: Since last fall, say around September.

CHAIRMAN MICHAEL GARDNER: Any issues so far?

JOSEPH FERNANDEZ: None yet.

CHAIRMAN MICHAEL GARDNER: You were present to hear the evidence or testimony in the prior matter that we just heard?

JOSEPH FERNANDEZ: Yeah, yeah.

CHAIRMAN MICHAEL GARDNER: Could you describe your training or preparation for this job that are different in any way from the prior applicant?

JOSEPH FERNANDEZ: Yeah, about the same training. We had multiple sessions throughout the fall term and one just recently about hazing,

so the ones in the fall were about like risk management and conflict resolution and, you know, understanding and allowing to figure out how 40 guys can co-exist with each other.

CHAIRMAN MICHAEL GARDNER: Any other affiliation with the school besides this position?

JOSEPH FERNANDEZ: Also alumni. I was an electrical engineering computer science, Class of 2000.

CHAIRMAN MICHAEL GARDNER: And any expectation with respect to continuing into the next academic year?

JOSEPH FERNANDEZ: Yeah, definitively. I plan to stay at least one more year.

CHAIRMAN MICHAEL GARDNER: No questions.

CHIEF GERALD REARDON: No questions.

CHAIRMAN MICHAEL GARDNER: Members of the audience who would like to be heard on this matter?

Seeing none...

POLICE COMMISSIONER ROBERT HAAS: Make a motion to accept the application for resident manager.

CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

Congratulations, good luck. We wish you well.

APPLICATION: FRIENDS OF THE LAMBDA PHI OF THE ALPHA DELTA PHI

ELIZABETH LINT: Application: Friends of the Lambda Phi of the Alpha Delta Phi, Jose Medrano, resident manager, holder of a Lodging House license at 351 Mass Ave has applied for a

change of resident manager from Jose Medrano to Warren Rudder.

CHAIRMAN MICHAEL GARDNER: Could you just please state your name for the record and identify your affiliation?

WARREN RUDER: My name is Warren Ruder I'm the resident advisor to the Alpha Delta Phi, Friends of Lambda Phi of Alpha Delta Phi.

CHAIRMAN MICHAEL GARDNER: Could you just describe the facility?

WARREN RUDER: Sure. It's a fraternity house on 351 Massachusetts Avenue, it's a shared building with another MIT living group, and it has students, undergraduate members of the fraternity from Years 2 through 4. We have a few graduate students who also live there who are members of the fraternity and on our upper two floors we have graduate students of MIT who also live there. They're not affiliated with us. There are 57 -- I think we have 57 members as

part of our license and we were usually at capacity.

CHAIRMAN MICHAEL GARDNER: Have you been performing in this function since when?

WARREN RUDER: August of 2010.

CHAIRMAN MICHAEL GARDNER: Would you describe the training that you have received for the job?

WARREN RUDER: I received the same training at the same time as the two previous applicants. I thought it was quite extensive. It consisted of interactions with people from -- who supported counseling at MIT as well as mental health services, and a vast number of other people who provide student support with the idea that we could guide students who might have the beginnings of trouble with academics and personal life matters toward these resources and be aware of them.

CHAIRMAN MICHAEL GARDNER: Any particular

issues or problems in your tenure so far?

WARREN RUDER: You know, I think I have had a couple students who academically had some rough times, and I have a student who is dealing with some personal life issues. Nothing, just the usually sadness of life kind of things that I get to talk with him about, those types of things.

CHAIRMAN MICHAEL GARDNER: Questions?

CHIEF GERALD REARDON: No.

POLICE COMMISSIONER ROBERT HAAS: So you talk about the fact it's kind've a shared facility, and do any of these shared facilities have any access to your common areas within -- under your purview?

WARREN RUDER: The Women's Group that shares the building is separated by a stairwell. They don't cross over. And the graduate students on the upper floors are not -- we are not supposed to there and they are not supposed to be

interacting with us.

POLICE COMMISSIONER ROBERT HAAS: How has the relationship been so far?

WARREN RUDER: I think it's pretty good. They have a separate entrance to the upper floors, and they have separate kitchens, separate laundry machines and things like that.

We have appointed -- the undergraduates appointed a member who interacts with them to make sure their lives are relatively okay.

CHAIRMAN MICHAEL GARDNER: Is it your plan to stay on beyond this academic year?

WARREN RUDER: Yes, sir.

CHAIRMAN MICHAEL GARDNER: Are there any questions or comments from the audience?

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve the application for resident manager.

CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: There's been a

motion made and seconded to approve the application for resident manager, all those in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed. The ayes have it.

Good luck, wish you well.

APPLICATION: WOMEN'S INDEPENDENT LIVING GROUP

ELIZABETH LINT: Women's Independent Living Group, Laura Taranto, resident manager, holder of a Lodging House license at 355 Mass Ave has applied for a change of resident manager from Laura Taranto to Farah Alibay.

CHAIRMAN MICHAEL GARDNER: Good evening. If you could just state your name for the record, please, and your affiliation?

FARAH ALIBAY: Yeah. My name is Farah Alibay and I'm the resident advisor for the Women's Independent Living Group.

CHAIRMAN MICHAEL GARDNER: Describe the facility, please.

FARAH ALIBAY: Yes. It's at 355 Mass Ave. It's actually the building adjacent to 351 and so it's a five-story building and we have about 30 undergraduate students.

POLICE COMMISSIONER ROBERT HAAS: How many?

FARAH ALIBAY: About 30 at the moment, so we're not at capacity. And that's from Year 2 to 4 again.

CHAIRMAN MICHAEL GARDNER: And the license is for how many, if you know?

LAUREN WOJTKUN: 52.

CHAIRMAN MICHAEL GARDNER: Any reason that you are under capacity?

FARAH ALIBAY: We lost a lot of seniors last year. We have been having issues recruiting and our freshman can't move in just yet. So we tend to usually be more around the 30, 40 border

anyway. It's never full capacity.

CHAIRMAN MICHAEL GARDNER: And could you describe the training that you have received training for the position?

FARAH ALIBAY: It's pretty much been the same training as everybody else received for the two days in August, and we get continuing training during the year, and we can also contact whoever -- we have a lot of support at MIT who we can contact.

CHAIRMAN MICHAEL GARDNER: Do you have any additional affiliation with the school besides this job?

FARAH ALIBAY: Yeah, I'm a graduate student in the Space Systems Laboratory.

CHAIRMAN MICHAEL GARDNER: So being able to both be a graduate student and fulfill these responsibilities works out all right?

FARAH ALIBAY: It's not been too bad. Being a graduate student is easier, you sorta

have more regular hours than undergraduates do.
It's about a five-minute walk from my lab, so
it's easy for me to come home if there's
something going on.

CHAIRMAN MICHAEL GARDNER: Any particular
issues or difficulties in the job so far?

FARAH ALIBAY: No.

CHAIRMAN MICHAEL GARDNER: You have been
there since the beginning of the fall term?

FARAH ALIBAY: Yes.

CHAIRMAN MICHAEL GARDNER: Any
expectation about continuing beyond this year?

FARAH ALIBAY: Yes, I will be carrying on
for at least one year.

CHAIRMAN MICHAEL GARDNER: Thank you.

POLICE COMMISSIONER ROBERT HAAS: No
questions.

CHIEF GERALD REARDON: No questions.

CHAIRMAN MICHAEL GARDNER: Any comments
from members of the audience?

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approval the application for resident manager.

CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: There's been a motion made and seconded to approve the application for resident manager, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

Best of luck to you.

Thank you.

FARAH ALIBAY: Thank you very much.

ELIZABETH LINT: It might make sense to do the others because they should be very quick.

CHAIRMAN MICHAEL GARDNER: Without objection, we'll proceed through the remainder of the published agenda from where we left off and

hold the earlier matters until we're finished.

APPLICATION: CARDULLO'S, INC.

ELIZABETH LINT: Application:

Cardullo's, Incorporated. Donez Tavilla,

Co-Administrator of the estate of Frances R.

Cardullo, holder of a wine and malt beverages as

a package store license at 6 Brattle Street has

applied for a change of manager from Frances R.

Cardullo to Donez Tavilla, new

officers/directors, and a transfer of stock of

said corporation.

CHAIRMAN MICHAEL GARDNER: Thank you for

coming. Just appreciate your stating your names

and affiliations for the record, please.

KEVIN CRANE: My name is Kevin Crane, 104

Mount Auburn Street, Cambridge. I'm the attorney

for the petitioner.

DONEZ CARDULLO TAVILLA: Donez Cardullo

Tavilla, Cardullo's Gourmet Shop, co-owner.

KEVIN CRANE: Mr. Chairman, members of

the Board, this is a petition for change of offices and a change of stockholders and a change of managers.

Donez's father passed away about two years ago and she and her sister have been appointed administrators of her estate finally. And she and her sister Franchesca and her brother Frances are the three owners of the stock, and Donez, who works the store on a daily basis, as well her sister Franchesca, have applied to clarify the records. Donez would be the appointed manager.

CHAIRMAN MICHAEL GARDNER: So do our records show that the deceased, Mr. Cardullo, had been the manager of record --

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: -- up until now?

ELIZABETH LINT: Yes. Actually, I think more correctly, I believe they had been in to be

recognized given the circumstances and that was done.

CHAIRMAN MICHAEL GARDNER: Okay. And so now we are at a formal change?

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: It would be helpful if you could just describe your experience in this business or any similar businesses?

DONEZ TAVILLA: Absolutely. I had the pleasure of working with my dad for ten years learning the business literally from the bottom up, and I left to pursue my undergraduate degree at Boston College and have a baby, and so with his passing, he wanted the family tradition to carry on into the third generation, which my sister and myself and my stepbrother gladly, you know, handled that. I was appointed the president of the business because of my prior experience with my dad. And the recognition of

the retail industry and the food knowledge far surpassed my brother and sister's, and it was nice because we all brought something different to the table. My brother Frances is savvy with the computers. My sister does all the displays in the shop and is just wonderful on the floor and I'm sort've working a little bit more now behind the scenes sort've trudging along.

We had our best in 61 years last year, so we're doing something right we feel.

CHAIRMAN MICHAEL GARDNER: Could you just briefly describe the business?

DONEZ TAVILLA: Sure. It's a family-owned and operated business, it opened under my grandfather's direction, Frank Cardullo, in 1950, April 1, 1950. It's a retail store. It -- we have over 3,000 items from around the world, including beer, wine, champagne, gourmet foods and a delicatessen.

CHAIRMAN MICHAEL GARDNER: Any food

prepared on premises for consumption off
premises?

DONEZ TAVILLA: We make our own turkeys
in the oven in the kitchen, we do some stuffed
shells, some lasagna. We put together the
chicken salad. Sort've, minimum, but, yes.

CHAIRMAN MICHAEL GARDNER: And that is
also work you had done previously with your
father?

DONEZ TAVILLA: I did not, no. I did
not. I cook at home, I don't cook in the shop.
However, we do have safe-serve employees onboard,
obviously.

CHAIRMAN MICHAEL GARDNER: Thank you.

Any particular training that is required
here?

ELIZABETH LINT: 21 Proof, which I
believe they have already done.

DONEZ TAVILLA: Yes, we already did that.

POLICE COMMISSIONER ROBERT HAAS: No

questions.

CHIEF GERALD REARDON: The new officers and directors is all family-owned?

DONEZ TAVILLA: Yes, sir.

CHIEF GERALD REARDON: So there's no transfer to outside entities.

DONEZ TAVILLA: No, sir. We hope to carry on to the fourth generation as well. That's why we're working so hard.

CHAIRMAN MICHAEL GARDNER: Before opening as to public comment, anything you would like to add, Mr. Crane?

KEVIN CRANE: No, Mr. Gardner.

CHAIRMAN MICHAEL GARDNER: Any comment from members of the public?

Hearing none...

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve the transfer of manager and the transfer of officers and stockholders.

CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: The motion has been made and seconded for the transfer of managers and stock, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed.

Wish you well.

DONEZ TAVILLA: Thank you very much.

KEVIN CRANE: Thank you.

APPLICATION: DON QUIJOTE TOURS

ELIZABETH LINT: Application: Don Quijote Tours, which operates a sightseeing tour has applied to amend their existing route through Cambridge. The proposed route is available for review at the License Commission.

CHAIRMAN MICHAEL GARDNER: Good evening. If you could just you state your name and affiliation for the record, please?

RAFAEL TORRES: Mr. Chairman, Board

members, my name is Rafael Torres. I'm the person and owner of Don Quijote Tours. We operate a tour operator company located in Quincy, Massachusetts and we have been operator for 20 years.

CHAIRMAN MICHAEL GARDNER: And you have been operating in Cambridge for how long?

RAFAEL TORRES: 20 years.

CHAIRMAN MICHAEL GARDNER: Just briefly describe what it is you do in Cambridge.

RAFAEL TORRES: Yes. What we do is, like I say, we operator a tour company, we receive people from different countries, in particular from the Spanish speaking country, Latin America, Spain, Italy, and what we do is we do a sightseeing in Cambridge, in particular, Harvard Square and the neighborhood of MIT.

CHAIRMAN MICHAEL GARDNER: And so does the tour busses stop and then the occupants go walk and do tours?

RAFAEL TORRES: That's correct. We walk around Harvard Square or MIT, that neighborhood. That's correct.

CHAIRMAN MICHAEL GARDNER: How are you proposing to change your routes or the business here?

RAFAEL TORRES: Just make it a little bit simpler for our route. It's just entering through the Massachusetts Harbor Bridge, go all the way straight ahead to Harvard Square and then loop around through Harvard Square, go to Mount Auburn Street, drop off people in that end, and then go to Harvard Square, walk around and visit all the shops, visit Harvard University and go back to the vehicles and go back to Boston through Cambridge Street.

CHAIRMAN MICHAEL GARDNER: How is that different than what you are doing now?

RAFAEL TORRES: We went through lots of loops around and in the smaller streets, which

took a lot of turns around. I can give you the streets if you like.

We cover all the smaller streets, such as the Wolf Street and Bauer Street, going through Mount Auburn Street, so we eliminate those smaller streets and so instead of loop around behind that, we just go straight ahead Massachusetts Avenue, Harvard Square, go to Mount Auburn Street, and so it's just one huge one and go back and that would be all.

CHAIRMAN MICHAEL GARDNER: So it essentially simplifies the route?

RAFAEL TORRES: That's correct, yes.

We had to simply because we used to stop on Mass Ave next to Harvard Square, but the parking space is limited and today, it's not allowed, so we had to redesign for the benefit of the group and benefit of the tour.

CHAIRMAN MICHAEL GARDNER: And where is the new parking expected to be?

RAFAEL TORRES: We stop -- it's not really a parking match, but it's just a stop on Mount Auburn Street next to the Harvard property.

CHAIRMAN MICHAEL GARDNER: So what happens to the bus while the occupants are out walking around?

RAFAEL TORRES: We just again go Mount Auburn Street, walk up to Massachusetts Avenue, and it takes about 25 minutes and they go back to the bus.

CHAIRMAN MICHAEL GARDNER: And does the bus just idling some place?

RAFAEL TORRES: No, no, it's off.

POLICE COMMISSIONER ROBERT HAAS: So where is it parked? Where do you park the vehicle while that 25 minutes is taking place?

RAFAEL TORRES: On Mount Auburn Street. I don't have exactly the number in front of what, but...

POLICE COMMISSIONER ROBERT HAAS: What

kind of space are you parked in?

RAFAEL TORRES: It's a bus, sightseeing bus stop right there.

POLICE COMMISSIONER ROBERT HAAS: It's designated for sightseeing buses?

RAFAEL TORRES: Yes, it is.

CHAIRMAN MICHAEL GARDNER: Any are there other approvals required or reviews by Traffic and Parking, others?

ELIZABETH LINT: Yes. I have approval from Traffic and Parking Department with certain stipulations. There are no illegal turns to be done, changing of directions should be conducted as indicated in the routing plan. No operations on narrow residential streets, no stopping in the travel lane or blocking through traffic, and no operations in Cambridge before 9:00 a.m. or after 5:00 p.m., but they have indicated that there two tours are operated 9:00 a.m. and 1:00 p.m.

RAFAEL TORRES: That's correct.

CHAIRMAN MICHAEL GARDNER: And have you already implemented this change or is this still proposed?

RAFAEL TORRES: It's still proposed. We like to do it as soon as possible to make things easier.

CHAIRMAN MICHAEL GARDNER: Is this a seasonal business or do you operate all year-round?

RAFAEL TORRES: We'd love to operate all year-round, and during the summer season, it's obviously much busier, but we do operate every single day, seven days a week.

CHAIRMAN MICHAEL GARDNER: And you've had this license to operate here for 20 years?

RAFAEL TORRES: 20 years, that's right.

CHAIRMAN MICHAEL GARDNER: Any complaints in the record?

ELIZABETH LINT: Not that I'm aware of.

POLICE COMMISSIONER ROBERT HAAS: Where

is your point of origin? Where did you pick up your passengers initially?

RAFAEL TORRES: In the Boston area, Back Bay neighborhood.

POLICE COMMISSIONER ROBERT HAAS: So it's all in Boston?

RAFAEL TORRES: All in Boston, that's right. And the tour includes Boston and Cambridge because it's natural for our clients they mostly come from overseas, international, they love to stop at the harbor, they dreamed to be in Harvard Square and MIT. So we do the tour in Boston, come to Cambridge and then go back to Boston.

POLICE COMMISSIONER ROBERT HAAS: Do you stop at the MIT site at all for the tour or you just drive through?

RAFAEL TORRES: We just drive through.

POLICE COMMISSIONER ROBERT HAAS: So there's no stopping --

RAFAEL TORRES: No, Mass Ave is really not much, except when it's a really particular route that citizens doing the Har -- the MIT neighborhood, then we stop but there's not much place to stop. And we just stay in the bus while the people go and take a picture maybe across the street or the main entrance.

POLICE COMMISSIONER ROBERT HAAS: When you stop, where do you stop for that?

RAFAEL TORRES: Right a little bit after the main entrance of MIT. The smallest space there which is bus stop. There's a public bus stop and then there's a small other space for buses no larger -- or buses, 14-passenger buses.

POLICE COMMISSIONER ROBERT HAAS: We have been having problems of buses stopping in front of the MIT property, are you one of those buses?

RAFAEL TORRES: We haven't had any problem with anyone so far that I know.

POLICE COMMISSIONER ROBERT HAAS: Buses are stacking up. When you are there, are there other tour buses there as well?

RAFAEL TORRES: Not really because there's not much space in there.

POLICE COMMISSIONER ROBERT HAAS: That's the problem, there's not a lot of space and parking there.

Do you understand the stipulations of Traffic and Parking with respect to your operations?

RAFAEL TORRES: I sure do.

POLICE COMMISSIONER ROBERT HAAS: You agree with all of them?

RAFAEL TORRES: We had that discussion, yes.

POLICE COMMISSIONER ROBERT HAAS: No other questions.

CHIEF GERALD REARDON: Getting them off some of the side streets is a plus in terms of

negotiating the streets, especially with construction.

CHAIRMAN MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none...

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve the application.

ELIZABETH LINT: We have to recommend approval to the City Manager and to the City Council.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to recommend to the City Manager with the stipulations that are imposed by Traffic and Parking as stated.

In other words, you are agreeing to the stipulations that --

RAFAEL TORRES: Yes, definitely.

CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: There's been a

motion made and seconded that this change in operations with the conditions placed on it by Traffic and Parking be recommended to the City Manager for further consideration by the City Council, all those in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

Wish you well with this, sir.

RAFAEL TORRES: Thank you. Thank you very much.

APPLICATION: SILVA LUNA CAFFE, INC.

ELIZABETH LINT: Application: Silva Luna Caffe, Inc., doing business as Sola, Matthew Haymer, manager, has applied for a common victualer license to be exercised at 350 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to

be sold, served, and consumed on said premises with a seating capacity of 60 (52 seats inside and 8 seasonal seats on the public sidewalk). The hours of operation will be 7:00 a.m. to 10:00 p.m. seven days per week.

CHAIRMAN MICHAEL GARDNER: Please come forward and state your names and affiliations for the record, please.

MATTHEW HAYMER: Matt Haymer. Silva Luna Caffe d/b/a Sola Corporation.

SAM SCHWARTZ: Sam Schwartz, manager.

CHAIRMAN MICHAEL GARDNER: Would describe your plans?

MATTHEW HAYMER: Sure. We're taking over essentially a coffee shop which went out of business after, I believe, about nine months ago. It was named Central Brew.

Although the street address is 350 Mass Ave, it's actually on Sidney Street between the Asgard and the main building at 350.

I also own Cafe Luna which is across the street at 403 Mass Ave and operate that business.

We are going to operate it as a cafe, although, the hours are going to be geared more towards morning coffee business as well as, we hope, a vibrant lunch business as opposed to just a standard cafe where people would come in and get coffee.

That particular location has not done well, quite frankly, over the years and it has been vacant for a very long time, but a lot of our customers are down Sidney Street, so it's an expansion for us.

It has about half again the space that the current cafe does, so for us it's -- Caffe Luna is 1,000 and this is about 1,500, give or take, square feet, so the additional space will work very well for us.

We are essentially going to be operating a breakfast and lunch location.

CHAIRMAN MICHAEL GARDNER: The reason for staying open until 10:00 p.m.?

MATTHEW HAYMER: In the event that the business supports it. Again, nothing has worked there. Luna has been successful in our business, evening business, and we would like to grow into that.

So that's the ultimate plan, ultimate meaning ideally within a month or two to be able to extend the business to those hours.

It's obviously a different -- because it's not right on Mass Ave, you don't have the same traffic flow.

POLICE COMMISSIONER ROBERT HAAS: If your stated hours are 10:00, you have to say open to 10:00, and if you have to change your hours, you have to come back and let us know.

MATTHEW HAYMER: Oh, sure.

POLICE COMMISSIONER ROBERT HAAS: So you can't be doing an experiment and shutting --

MATTHEW HAYMER: No, no, no. I'm just saying in order to make the business viable, we have to keep open those hours.

POLICE COMMISSIONER ROBERT HAAS: If you decide not to stay open till 10:00 p.m., you need to come back to the Commission.

MATTHEW HAYMER: I understand.

CHAIRMAN MICHAEL GARDNER: How will the menu and ambience, the tray be different than the current establishment?

MATTHEW HAYMER: It's going to be very similar in the sense of the ambience. I mean, it's going to be a very -- the look of the cafe is going to be Mediterranean, soft colors and the like. And it's going to be a -- where someone comes up to a counter and orders food and the food is delivered to them based on the order, very similar. I mean, really no different than all the other cafes that operate in that area in that regard.

CHAIRMAN MICHAEL GARDNER: The one you currently have, does it have an outdoor license as well?

MATTHEW HAYMER: It does. The current cafe which I realize is not what we are here for, that has alcohol, this has not.

I also did want to state, just so you know, the original application I wrote on there entertainment license also because at the time, quite frankly, I was under the misconception that in order to run a TV or radio that I needed a license and I subsequently found out that that's not necessarily.

ELIZABETH LINT: You do need a license, you don't have to necessarily have a TV or a radio approved by the full Commission, but you do need a license.

CHAIRMAN MICHAEL GARDNER: You need an entertainment license to operate a TV and radio.

MATTHEW HAYMER: It doesn't have to go

before the Commission is what I was advised.

ELIZABETH LINT: Yeah, we can approve that.

CHAIRMAN MICHAEL GARDNER: Well, I did not know that.

MATTHEW HAYMER: I didn't know it at the time I filled it out, but I was pleased to hear because of the cost associated with it.

CHIEF GERALD REARDON: Is this going to be much a retrofit since that place has been empty for so long?

MATTHEW HAYMER: No, in fact, it's one of the benefits, quite frankly, for us. The prior owner got out in a hurry, and so, there's a lot of equipment is left there. There's a gelato machine that we need to dispose of and there's one, without exaggerating, maybe five-foot section that we need to get some plywood, seal it off and that it's ready to go. It's because of the type of building, it's state-of-the-art.

Everything is ready to go.

CHIEF GERALD REARDON: You don't have to enhance cooking facilities, you are going to be using hoods or fryolators or anything like that?

MATTHEW HAYMER: No, we don't do that at all. I have no need for that.

CHAIRMAN MICHAEL GARDNER: And so could you describe your experience in the business, sir? You will be the manager on site?

MATTHEW HAYMER: I have ten years in the cafe and restaurant experience going back to Rochester, New York, and three years here in Boston. I'm currently the manager of the Caffè Luna Caffè. I have been doing that about a year now.

CHAIRMAN MICHAEL GARDNER: So how will -- will you continue at Caffè Luna or how will you handle the additional location?

MATTHEW HAYMER: I'll be primarily at the new location.

CHAIRMAN MICHAEL GARDNER: You have plans to have someone else cover for him?

MATTHEW HAYMER: We already do, yeah.

Yes, we have other managers and I, for better or worse, will be at new location 24 hours a day, I think.

CHAIRMAN MICHAEL GARDNER: Any history of disciplinary or other issues with the current operation?

ELIZABETH LINT: None whatsoever. I do have a letter in support from the Salvation Army, which is basically nearby.

CHAIRMAN MICHAEL GARDNER: You mentioned the space had been empty for quite some time. Did the coffee shop just recently close, so it had been empty before that and then we have a coffee shop that was there for about nine months, is that the scenario?

MATTHEW HAYMER: Yes. My understanding is that there was a cafe in Back Bay, I don't

recall the name, although it will come to me, that actually has leased that property, Four City, is the landlord, for years, upwards of eight or nine years, somewhere in that range, paid the rent and never occupied it.

And it's been a difficult space to fill, and somebody came with some restaurant experience, I gather, and essentially tried to make a go of it.

And so, it was vacant for all that period of time. In fact, the last four years of Luna, no one was there. It was just an empty space. They went up one day and they were gone.

CHAIRMAN MICHAEL GARDNER: And you expect you will be successful in this difficult space because?

MATTHEW HAYMER: Well, if I didn't think I would be successful, I wouldn't be there, of course. The restaurant business is such, you have to have a positive attitude, but we have a

loyal following of customers. We have a successful brunch business as well as at other times of the day.

And we are trying a new concept in terms of different types of food.

And we received before even going into this space, feelers out quite a bit, and have tremendous positive feedback. A number of our customers are from the 350, which is the main tower right next to it, at the cafe at any time it's with those individuals, and it is literally a two-second walk once they walk out the door to the cafe. So we're working it in a sense that we have a built-in customer base as opposed to starting from scratch.

CHAIRMAN MICHAEL GARDNER: Thank you very much.

Any other questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

CHAIRMAN MICHAEL GARDNER: Any members of the audience who would like to be heard on this matter?

Hearing none ...

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve the CV license application.

CHIEF GERALD REARDON: Seconded.

POLICE COMMISSIONER ROBERT HAAS: Make a motion.

CHAIRMAN MICHAEL GARDNER: A motion has been made and seconded to approve the license, all those in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So good luck with that.

Did you have something else?

CHIEF GERALD REARDON: Make a motion to approve the application for manager.

CHAIRMAN MICHAEL GARDNER: There's been a motion to approve the manager.

CHIEF GERALD REARDON: Seconded.

CHAIRMAN MICHAEL GARDNER: That's been seconded.

All those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed.

Wish you well and good luck.

DISCIPLINARY: WHITNEY'S CAFE, INC.

ELIZABETH LINT: Disciplinary matter: Whitney's Cafe, Incorporated, John Henaghan, manager, holder of an all alcoholic beverages as a restaurant license at 37 JFK Street due to a police report alleging that patrons were inside the restaurant after allowable hours.

JOHN HENAGHAN: I'm John Henaghan, owner of Whitney's cafe.

CHAIRMAN MICHAEL GARDNER: Okay. I'd appreciate it if we could just ask everyone here to identify themselves and state their affiliations for the record.

Ms. Boyer?

ANDREA BOYER: Andrea Boyer, DOIR Chief Licensing Investigator, City of Cambridge, Licensing Commission.

SERGEANT DAVID BROWN: Sergeant David Brown, Cambridge Police.

SERGEANT EDWARD FRAMMARTINO: Sergeant Edward Frammartino, Cambridge Police.

MICHAEL DAY: Good evening. Michael Day here representing Whitney's Cafe and the owner, John Henaghan.

JOHN HENAGHAN: John Henaghan, owner/manager of Whitney's.

CHAIRMAN MICHAEL GARDNER: Thank you.

POLICE COMMISSIONER ROBERT HAAS:
Mr. Chair, I'll be recusing myself from this

portion of the hearing.

CHAIRMAN MICHAEL GARDNER: Ms. Boyer, I think I would like to start with you if you could just describe your involvement and findings with respect to this matter.

ANDREA BOYER: Yes, sir.

Our office received a police report submitted to our office pertaining to a motor vehicle accident that occurred outside of Whitney's located at 37 JFK Street. The incident took place on February 3, 2011 at approximately 2:31 a.m.

The motor vehicle accident involved a driver backing up over a victim who was standing next to the car.

Review of the police report showed that individuals involved in the accident were previously at Whitney's.

The police reports and CAD report were there were possibly patrons on premises after

closing hour and possibly over-serving of a patron.

I had previously sent you a packet, including those police reports and the CAD report.

Some of the findings were based on the story that were given by the bartender who is Jessie Klein.

On the night in question he told the officers that while he was on premise, the owner-operator of the vehicle left the bar alone and a few minutes later the victim exited the bar and ran quickly across the street towards the rear of the operator's vehicle. He then observed pink snowboots under the vehicle on the passenger side of the operator's vehicle.

There were much more to these reports that the officers will give. And also some of the statements that I am further going to speak about, but I'm just trying to give some of the

more important parts.

Jessie Klein, the next day, made a verbal statement to the owner, which is also attached to the report, the following morning at approximately 9:00 a.m., and the owner wrote up a summary of the conversation and sent it to me.

The bartender stated that the owner-operator of the vehicle was visiting him, Jessie, earlier that evening and agreed to give him a ride home because he did not have a car.

The owner-operator of the vehicle left to get something to eat while he performed his clean-up duties, and as he was cleaning the floor, that's when he saw the operator of the vehicle pull out and -- out of the spot and then saw what he thought were the women's feet under the car. He asked for the driver to stop. Since he was inside the establishment, the driver of the vehicle did not hear him. After the investigation on the premises of Whitney's,

Jessie locked up and took a cab home.

And then in a written statement to us, which was also attached, it was submitted by the owner to me, that he had finished closing at 2:15 and the victim was waiting for him to give him a ride home. He locked them out and went to the back, checked the backdoor, it was locked. Then he went back to the front, which where the alarm is located, he saw the victim's boots, he did not have his keys in the hands, so he could not open up the door. Then he called the operator of the vehicle on his cell phone, and then the operator for 911 for the city.

The police report states that the owner of the vehicle was not intoxicated, but he was shaken up, and it was determined that Jessie Klein would give him a ride home.

And in a supplemental report which was also submitted to you, Sergeant Frammartino, he specifically stated he observed the vehicle later

to be the bartender's parked in front of Whitney's. When the bartender and the owner-operator of the vehicle was then involved in the motor vehicle left, he entered the bartender's vehicle and left the location.

Based on the victim possibly being intoxicated, there's still a toxicology report that is pending. I have not received that yet. We're trying to determine if the bartender was having people on previous shifts after hours, and I inquired of the owner of the business, Mr. Henaghan. He had documents showing that the establishment was closed on evenings and other evenings. He submitted the cash register receipts to the establishment, which was also part of the packet, showing the time at the bottom of the register which is Z'd out. There was a date discrepancy in the week of the submitted receipts which the owner stated happened with the register previously. He also

submitted more weeks of reports to show that that is a continual problem.

CHIEF GERALD REARDON: Could you tell us what time closing time is?

ANDREA BOYER: On some of the -- on that specific night, which was given to you, on the third -- we have two receipts on the package I sent to you. And there's two nights that are actually dated the 3rd of February.

And it says 12:38 at the bottom of the first one and then it says 1:23.

CHIEF GERALD REARDON: Their closing time officially is...?

ANDREA BOYER: 1:00.

CHIEF GERALD REARDON: 1:00 a.m.

ANDREA BOYER: And they do have -- which I was going to explain, they do have one-half hour to get everybody off premise, patrons and so forth.

It seems like based on -- I actually

asked to see if there was a possibility to be able if the owner could give me any sort of information about when the alarms are set at night to see if there's a pattern of his bartender possibly staying after hours, or anybody else staying after hours, and the owner explained that the ADT program that he has, does not give a printout and that would cost extra money, which he did not have added to his contract at the time.

Basically based on the discrepancy of each version of the bartender's explanation, which is pretty thorough, and the people were on premise after the allowable time to give him a ride home, and it was documented that he had his own vehicle, that's why we are here to kinda have this in front of the Board.

CHIEF GERALD REARDON: We are talking about an accident that happened approximately 02:31.

ANDREA BOYER: That's when it was called in, 02:31, correct. And the officers will be able to give more information on the part of the incident.

CHAIRMAN MICHAEL GARDNER: All right. For the police sergeants, could you each, in turn, describe your involvement and knowledge and findings on the matter?

MICHAEL DAY: I'm sorry to interrupt you, but do I have an opportunity to question individuals?

CHAIRMAN MICHAEL GARDNER: You will. After we get a chance to hear from them.

MICHAEL DAY: Sure. I just didn't know what the format was.

CHAIRMAN MICHAEL GARDNER: We'll give you a chance.

MICHAEL DAY: Great.

SERGEANT EDWARD FRAMMARTINO: I was working Car 19 that night, that's up around the

North Cambridge area. I received a call approximately 2:30 a.m. of a pedestrian struck in front of 37 JFK Street.

I proceeded down there with the other units as protocol.

And I arrived on scene. When I arrived on scene, medical was attending to a victim that had been run over by a vehicle. I questioned the operator. And he stated to me that they were inside the car waiting for the bartender to close and he was going to give him a ride home.

CHAIRMAN MICHAEL GARDNER: The pronouns are getting me a little confused. He, the bartender, was going to give the patron and the driver of the vehicle a ride home?

SERGEANT EDWARD FRAMMARTINO: No.

CHAIRMAN MICHAEL GARDNER: It's the other way.

SERGEANT EDWARD FRAMMARTINO: The driver of the vehicle that struck the pedestrian was in

the bar after hours due to the fact that he was going to drive the bartender home.

CHAIRMAN MICHAEL GARDNER: Thank you.

SERGEANT EDWARD FRAMMARTINO: Basically our investigation went further. The victim was taken to the hospital, Beth Israel Hospital.

Myself and Sergeant Brown we went in the bar. We interviewed the operator who had struck the victim, and I spoke with the bartender and we did our investigation in regards to the accident. And my questions come about as to why were people in this bar at 2:30 in the morning when the closing is 1:00. And the bartender stated to me "They were waiting for me to clean up and they were going to give me a ride home."

Further on after our investigation, I didn't want the operator to drive the vehicle because he was so shaken up over the accident, I observed him get in the bartender's car that was parked right out front and the bartender drove

him home.

After we cleared that scene, I went over to the hospital, and I interviewed the victim.

Basically an accident, but my estimation, the victim was intoxicated, very intoxicated. My 18 plus years of being a police officer, she was very impaired. That's why we are here today.

CHAIRMAN MICHAEL GARDNER: And, Sergeant Brown, your involvement?

SARGENT BROWN: Yes. I also monitored the same broadcast Sergeant Frammartino did. I recognized it was part of my area of responsibility also as well, so I proceeded to the scene. I was the last one to arrive. Sergeant Frammartino and other patrol units as well as the ambulance were already on scene.

I didn't have any conversation at all with the victim. I only saw her in the stretcher being loaded into the ambulance.

Myself and Sergeant Frammartino entered

the bar, as he stated, we conducted our investigation.

I listened Sergeant Frammartino to ask several questions of the operator of the motor vehicle and also the bartender specifically.

He did, as he stated, ask the bartender why are there patrons inside this establishment at 2:30. He relayed that they were waiting for him to clean up.

I don't have any knowledge of any motor vehicle Mr. Klein may or may not have at the scene. I didn't make any observation of that.

When I left, Sergeant Frammartino was still on scene. I left first. Short of that, I'm not sure what else I can add.

CHAIRMAN MICHAEL GARDNER: Okay.

I guess I would ask any of the three city employees, did either the driver of the vehicle or the bartender indicate when the driver of the vehicle left the premises?

Did you get any time estimates on that at all?

ANDREA BOYER: I do actually, sir.

Basically, I was allowed to watch a video that was the filming from the garage that's right across the street and the timing on that is very consistent with the 2:31 a.m. that -- from what it shows, that you can see that they're crossing the street together from -- you can't see Whitney's, but you can see them crossing the street right up to the vehicle.

CHAIRMAN MICHAEL GARDNER: My understanding from the written documentation that we have reviewed is a claim made by someone that the driver of the vehicle had, in fact, left earlier to get something to eat. Any of you illuminate where that -- if either I'm correct in that or what illuminate from that came from?

SERGEANT EDWARD FRAMMARTINO: I was never aware of that and it was never brought to my

attention.

SARGENT BROWN: Nor was it brought to my attention.

ANDREA BOYER: It was just stated in one of the statements, I think, from Jessie to the owner the next morning, or it was in one of the things he had written as part of the package.

CHIEF GERALD REARDON: Sergeant Frammartino, you indicated that after meeting with the victim at the hospital, in your opinion, it appeared as she was impaired.

SERGEANT EDWARD FRAMMARTINO: Very intoxicated.

CHIEF GERALD REARDON: Was there any assertion as to the operator of the vehicle at the scene as to whether or not he was impaired?

SERGEANT EDWARD FRAMMARTINO: On scene I had asked how much he had to drink. He told me he had three or four drinks over the course of a few hours. I then asked the bartender how much

he had to drink, and he told me the same. Over the course of a few hours, three or four drinks.

I gave him the field sobriety tests and, in my opinion, he passed. He was not impaired, not intoxicated.

CHIEF GERALD REARDON: Thank you.

SERGEANT EDWARD FRAMMARTINO: There's a lot of holes in the story in terms of forthcoming on all parties.

CHAIRMAN MICHAEL GARDNER: Did the bartender indicate the last time that he served either of these two patrons?

SERGEANT EDWARD FRAMMARTINO: He did not.

CHIEF GERALD REARDON: In his story, it seems to be that this disconnect between 12:30, starting to get people out of the place and closing by 1:00, at 2:31 sometime, this is all waiting to be cleaned up, I mean, in terms of what you can gather from his story, the bartender's, for this huge gap of time?

SERGEANT EDWARD FRAMMARTINO: Right. I questioned him. I may have raised my voice to him. I said, "Why are there people in this establishment at 2:30 in the morning?"

And he stated, "I was cleaning up and they were waiting for me." That was his story. That was the operator of the vehicle that struck the pedestrian that was his story. "We were waiting for him."

I didn't see any empty bottles. I didn't see any empty glasses on the bar.

I can only go with what I'm told.

CHIEF GERALD REARDON: Did he kinda understand your questioning because of it's not 15 or 20 minutes, it's a large amount of time.

SERGEANT EDWARD FRAMMARTINO: We iterated to him that -- "Do you see what happens when we don't follow the rules? Something always happens."

CHAIRMAN MICHAEL GARDNER: Did the

bartender give you an indication of why he was getting a ride home from the driver, the other driver?

SERGEANT EDWARD FRAMMARTINO: No. No indication at all. He just stated that they were waiting for him.

And I took it upon myself to stand by and wait until all parties were gone when I observed him get his own vehicle. I believe it was a Mercedes parked out front.

CHAIRMAN MICHAEL GARDNER: But when he indicated that they were waiting for him, was it clear that they were waiting for him in order for the driver to give him a ride home?

SERGEANT EDWARD FRAMMARTINO: That's correct.

CHIEF GERALD REARDON: Sergeant, did you happen to run the plate or anything to find out whether or not that, in fact, was -- obviously, he drove off in it and it had keys to it?

SERGEANT EDWARD FRAMMARTINO: Yes. I did not run the plate.

CHIEF GERALD REARDON: He was alone in the car when he left, so...

SERGEANT EDWARD FRAMMARTINO: No, no. He was with the operator that struck the pedestrian. The operator that struck the pedestrian was the passenger.

CHIEF GERALD REARDON: So they were the only two people in the car when you saw it leave?

SERGEANT EDWARD FRAMMARTINO: Yes.

CHIEF GERALD REARDON: That would clearly indicate that was his car or the car was in his control by someone?

SERGEANT EDWARD FRAMMARTINO: Absolutely.

CHIEF GERALD REARDON: Okay. Thank you.

CHAIRMAN MICHAEL GARDNER: Counsel, I'll give you a chance to ask any questions. I think it would, in fact, be helpful to us if we would hear an opening statement or brief comments from

you before you do that.

MICHAEL DAY: Sure. Thank you.

My name's Michael Day. I'm here representing the owner, the sole owner and operator of Whitney's Cafe, John Henaghan.

John has been the owner of Whitney's 18 years in April, close to 20 years working at Whitney's.

There's been one infraction at Whitney's in his ownership that was more than, I believe, 12 or 13 years ago. There have been no complaints about Whitney's over-service, noise violations, late operation of the bar or any other complaints, to our knowledge, made regarding Whitney's.

It's his only business. He's the father of four young children at home. He runs a clean operation. Trains his bartenders in the rules and regulations of this Commission.

And I would just ask some questions now

to clarify some of the time lines that you've heard. I think there's some discrepancies there.

And I also point out that there's no evidence of after hours service, and no evidence of anyone driving or leaving the bar intending to drive while intoxicated.

And the question I have for the Commission is that we were notified that we're here for after hours service, a complaint about after hours service of the bar, not of over-service or anything else. I just wanted to clarify or question the Commission, if that's the case.

ELIZABETH LINT: No. In fact, what it says is that the police report alleging patrons were inside the restaurant after allowable hours.

MICHAEL DAY: Okay. So it's not regarding over-service or anything of that sort?

ELIZABETH LINT: Nope.

MICHAEL DAY: Okay. With that, I would

just want to clarify some questions or ask some questions clearly, again, the timeline and exactly what happened that night.

I suppose I'd like to start with Ms. Boyer of the investigation, if that's okay?

Ms. Boyer, you testified that you took --

POLICE COMMISSIONER ROBERT HAAS:

Customarily the questions come before the Chair.

MICHAEL DAY: I'm sorry?

CHAIRMAN MICHAEL GARDNER: I guess procedurally the way we do it is you ask the questions through me.

MICHAEL DAY: Sure. Okay. Thank you.

I guess the question would be: When was this police report first received by the Commission?

MS. BOYER: I would have to check exactly when the email -- but I printed it on the -- I'd have to look at the police report.

CHAIRMAN MICHAEL GARDNER: I guess the

relevance of the question, Mr. Day?

MICHAEL DAY: Well, the investigation involved an off-duty officer, and the initial contact with Whitney's from the Police Department was from -- I'm not sure of the name of the department now, but it's Internal Affairs, as I recognize it.

And one of the statements that was made to Mr. Henaghan, who cooperated fully with both this Commission and the Cambridge Police Department, was after three or four returns to Mr. Henaghan requesting more information from the investigator, Lieutenant Sabbey. Mr. Henaghan advised Lieutenant Sabbey to contact me as counsel for Whitney's. And at that stage he was told, "Well, if that's the way it's going to go, then we'll see you at the Commission." So I'm just curious as to when --

ANDREA BOYER: February 8th I was notified and contacted by the Cambridge Police.

MICHAEL DAY: I'm wondering if Ms. Boyer ever spoke to Mr. Klein to resolve the apparent discrepancies that lead us here today?

CHAIRMAN MICHAEL GARDNER: Ms. Boyer?

MS. BOYER: No, I did not. I spoke with the owner.

MICHAEL DAY: Was there any resistance from the owner?

MS. BOYER: No, there was not.

MICHAEL DAY: Full cooperation?

MS. BOYER: Yes, he cooperated.

MICHAEL DAY: The owner actually sent a summary; is that correct?

MS. BOYER: Yes, it is.

MICHAEL DAY: And Mr. Klein had sent a summary previously to the Police Department?

MS. BOYER: I'm not aware of that. I don't know that answer.

MICHAEL DAY: The license allows for service of alcohol up until 1:00 a.m.; is that

correct?

MS. BOYER: Yes.

MICHAEL DAY: And pursuant to the rules of Commission, the patrons have to finish that beverage and be off the premises by 1:30; is that correct?

MS. BOYER: One-half hour past closing hour.

MICHAEL DAY: That's 1:30?

ANDREA BOYER: And cleaned up, yes.

MICHAEL DAY: Employees are allowed to stay on premises to continue cleaning and prepare for the next day's opening?

MS. BOYER: Yes. The law says it's one hour. You're supposed to call the Police Department or -- to let them know if you're still on premise, but that's not something that's necessarily regulated on a consistent basis.

CHAIRMAN MICHAEL GARDNER: One hour meaning 2:00?

ANDREA BOYER: Yes, sir.

MICHAEL DAY: The Commission rules actually state that you can remain on premises after the one hour to continue cleaning, Item 5 on the Commission's rules?

MS. BOYER: Yeah. Like most people do stay for as long as they need to.

MICHAEL DAY: This is a one-person operation, meaning there's no other bartenders on duty, there's no general managers on duty. The bartender is, in fact, the general manager for the evening.

CHAIRMAN MICHAEL GARDNER: Who does ID checks?

MICHAEL DAY: He does.

The structure, I don't know if you're familiar with it, it's a long narrow bar with seats at the bar and a few seats on the wall and to get into the bar, the bar essentially, you meet the patrons coming in at the end of the bar

and that's where the IDs are checked coming in. They refuse entry at that stage if they don't provide an ID.

I just lost my train of thought on that.

I'm sorry.

So the individual is responsible for cleaning up and preparing for the next day and counting the till, Z'ing out, as you heard, so that's -- they're often there for quite a bit of time cleaning up from that night, cleaning the bathrooms, cleaning the floors, taking down the bottles and glasses, washing. It takes some time for that to occur. I really -- that's the only questions I had for Ms. Boyer.

CHAIRMAN MICHAEL GARDNER: Do you have any questions for the sergeants?

MICHAEL DAY: I do. I've got a few and I suppose just --

CHAIRMAN MICHAEL GARDNER: Please do them through me.

MICHAEL DAY: Sure. Sure.

The call was received at 2:30?

CHAIRMAN MICHAEL GARDNER: 2:30, 2:31?

SERGEANT EDWARD FRAMMARTINO: Yes.

MICHAEL DAY: By the time the officers arrived on scene, the ambulance was already there?

CHAIRMAN MICHAEL GARDNER: If you know, Sergeant?

SERGEANT EDWARD FRAMMARTINO: Yes.

MICHAEL DAY: So it's fair to say that the accident occurred before 2:30?

SERGEANT EDWARD FRAMMARTINO: I received a call at 2:31. Whatever time it took me to get from Concord Avenue, I was up by Professional Ambulance doing my monthly stats. Whatever time it took me to get from there to there, the ambulance was already on scene.

CHIEF GERALD REARDON: It should be noted that other cars were there prior to the

sergeant's.

MICHAEL DAY: Right. But I'm just saying that the call came in at 2:30 and the accident obviously occurred prior to 2:30.

So I guess when the statements were made that there are people in the bar being in the bar at 2:30. I'm just establishing a timeline that it was prior to 2:30 that they were -- you heard evidence that the bar was locked up.

CHAIRMAN MICHAEL GARDNER: What is your position about when the patrons left the bar?

MICHAEL DAY: Well, from what we were told, they were escorted out at 1:30 and went to get food, came back to meet Mr. Klein for whatever plans they had that evening. Mr. Klein was going to leave with them. But for this accident, he would have done so.

And I guess the questions, again, that I would have for the Commission for the officers are: Were any statements or anything asked about

the plans for that evening, but for this accident? Is it possible that they would have left, in fact, in the officer's car but for this accident?

CHAIRMAN MICHAEL GARDNER: All right. Is it your position that what happened was these people left the bar at 1:30, and then came back and re-entered the bar?

MICHAEL DAY: What happened, from my understanding, is that service was stopped, there was no after-hour service, there was no evidence of an after-hour service, there may have been some bottles on the bar, no evidence of alcohol on the breath of Mr. Klein, certainly, or of the driver of the vehicle, which would be indicated in the report had that occurred.

So everything is consistent with a 1:30 departure from the bar.

The only thing you got for evidence, I would submit, is that there's a suggestion that

because there's a discrepancy between Mr. Klein's statement to the owner that he took a cab back, and the fact that he got into his car and drove back is why we are here today.

There's no evidence that they were seen leaving Whitney's after hours, or that, you know, certainly there's no evidence of service after hours.

So I would submit that it is consistent that they were there, left at 1:30, went to get food, came back to pick up and rendezvous with Mr. Klein who had locked up and was leaving and that's when this accident occurred.

CHAIRMAN MICHAEL GARDNER: Do you have any more questions for Sergeant Frammartino or Sergeant Brown?

MICHAEL DAY: Just regarding the -- I just -- if I could just have one second to make sure?

I guess I would inquire as to why the

fact that Mr. Klein did not drive the officer home was included -- was not included in the report, but was included only in the supplemental report filed over a month after the initial report was the filed, if there's a discrepancy and he found it odd that that were to occur.

There were statements made to the officer on the scene that they were waiting for Mr. Klein, and the question would be: Why wouldn't that be included in the initial report, not until a supplemental report a month afterwards.

CHAIRMAN MICHAEL GARDNER: I will allow that question.

Who are you directing it to?

MICHAEL DAY: I guess to you to direct to the sergeant.

SERGEANT EDWARD FRAMMARTINO: I was requested about a month later to file that report.

I just didn't -- inadvertently, I just

didn't put it in my initial report.

MS. BOYER: I can add something to that, sir, if you...

CHAIRMAN MICHAEL GARDNER: Sure.

MS. BOYER: Through my investigation of the information that I had collected, when I had gone to see the video, it had come up that Jessie had driven home, and by reading all of the information that I had received from the owner and from Jessie, it led me to inquire with Detective Sabby, if the sergeant could supplement another report with more information pertaining to that situation, it would explain to me why was anybody waiting for a ride home when there was a car available?

CHAIRMAN MICHAEL GARDNER: Any other questions you have, Mr. Day?

MICHAEL DAY: No thank you, Commissioner.

CHAIRMAN MICHAEL GARDNER: Have you brought Mr. Klein this evening?

MICHAEL DAY: No, sir.

CHAIRMAN MICHAEL GARDNER: Is he still an
the employee of the bar?

MICHAEL DAY: He is not.

CHAIRMAN MICHAEL GARDNER: What happened?

JOHN HENAGHAN: He's been suspended until
this hearing.

CHIEF GERALD REARDON: Is Mr. Klein a
long-term employee?

JOHN HENAGHAN: He was not. He's worked
for me for several years, but just to fill in.
That particular night he was working my shift. I
had children at home. I'm like I say, I am there
primarily full-time, but I am also home with my
children during the day. So that particular
night, he had worked for me.

CHAIRMAN MICHAEL GARDNER: This being
your establishment and this being a matter which
is potentially quite serious, everybody's lucky
that the nature of this accident didn't result in

a fatality --

JOHN HENAGHAN: Yes.

CHAIRMAN MICHAEL GARDNER: -- outside of your premises.

JOHN HENAGHAN: Of course.

CHAIRMAN MICHAEL GARDNER: I take it that you have reviewed this matter as thoroughly as you can?

JOHN HENAGHAN: Of course. Yes, sir.

CHAIRMAN MICHAEL GARDNER: What do you say happened?

JOHN HENAGHAN: You know, the information provided to me from my employee, I believe that to be true. It's not uncommon for these guys -- I see them nightly. I see Carl Pilgrim, I have known Carl for several years. Carl comes into the bar. It's not uncommon for those guys to leave my 1:00 bar to go to the 2:00 bars and to go to Bickford's.

The following morning when Jessie

explained it to me, I found him plausible and very believable. The guys left the bar, came back, realized Jessie was still in and Jessie let them in. I believe that -- you know, I wish he hadn't let them back in, but I don't believe that they were in there after hours. I don't believe that.

As per the alarm that Andrea spoke of, the alarm company only notifies me when the alarm is set. It's not on my policy. It's considerable more monies to notify me when it's set in the morning and set in the evening, and I have never had an issue in my 18 years of being there.

So I believe that's all I have to add.

CHAIRMAN MICHAEL GARDNER: So your understanding from the bartender is that the operator of the vehicle and the person who was the victim of the accident left the bar?

JOHN HENAGHAN: That's what he told me,

correct.

CHAIRMAN MICHAEL GARDNER: At what time?

JOHN HENAGHAN: At 1:30.

CHAIRMAN MICHAEL GARDNER: Did you establish when he said they returned?

JOHN HENAGHAN: He did not. He said they came back sometime after 2:00. They went down to Bickford's, I believe, or IHOP, whatever that is, on Church Street or down the bottom there.

CHAIRMAN MICHAEL GARDNER: Both of them went?

JOHN HENAGHAN: Correct.

CHAIRMAN MICHAEL GARDNER: He admitted letting them back in the bar?

JOHN HENAGHAN: He did.

CHAIRMAN MICHAEL GARDNER: In your view, is that a violation of your license?

JOHN HENAGHAN: I believe it is, yes. Everybody should be out by -- patrons should be out by 2:00, yes.

I've had people come to the door to use the restroom, you know, after I'm in there cleaning up, you know, at 2:00, and I don't permit it. And I have policy not to let anyone in, but, like I said, I was not there and I can't speak to that.

CHIEF GERALD REARDON: What time would the alarm be set finally when he left?

JOHN HENAGHAN: He said he was about to set the alarm 2:15, you know, 2:15-ish I think that was his time frame.

CHAIRMAN MICHAEL GARDNER: Did you question your bartender about the discrepancy in the story with respect to whether he had a car with him?

JOHN HENAGHAN: I did. I did.

CHAIRMAN MICHAEL GARDNER: What did he say?

JOHN HENAGHAN: He had mentioned to me, that --again he mentioned to me someone was

moving into his house, he lives in Cambridge. He had a tenant moving in, with moving trucks in the morning. He said he was leaving his car in Harvard Square that evening.

CHAIRMAN MICHAEL GARDNER: But in the report that you submitted, dated February 14, what I see is that the individual who was the driver of the vehicle in the accident had visited with Jessie and agreed to give Jessie a ride home because Jessie did not have his car with him and there was a heavy snowstorm that evening. This is dated February 14, 2011.

Do you know now that statement not to be correct?

JOHN HENAGHAN: At the time that's the statement he told me, correct.

CHAIRMAN MICHAEL GARDNER: When did you learn that the statement was not correct?

JOHN HENAGHAN: Last Friday when this report came out to Whitney's.

CHIEF GERALD REARDON: Sergeant Frammartino, do you remember when you saw them leave with Mr. Klein's car, was that in a metered spot or a...?

SERGEANT EDWARD FRAMMARTINO: Yes, it was, it was parked right in front in a metered spot.

CHIEF GERALD REARDON: It would be highly unlikely that the car would not get towed if it stayed there in that spot all night?

SERGEANT EDWARD FRAMMARTINO: It wouldn't get towed, it would have got ticketed the next morning after parking 8:00 a.m.

CHIEF GERALD REARDON: Okay. Thanks.

CHAIRMAN MICHAEL GARDNER: No snow emergency that evening?

SERGEANT EDWARD FRAMMARTINO: It hadn't snowed that night. I think previously it had snowed a couple days earlier.

CHAIRMAN MICHAEL GARDNER: I see. All

right. Thanks. Thank you.

It's your understanding, sir, that the driver of the vehicle is a friend of the bartender's and is frequently visiting with him after the closing of the bar?

JOHN HENAGHAN: To my knowledge, no. He he's friendly Carl Pilgrim, yes. To my knowledge, no, he would not be in there after hours.

CHAIRMAN MICHAEL GARDNER: I thought I understood you to say that there's a pattern of this friend leaving at your closing time going to a later closing establishment or going to get something to eat and then coming back, did I misunderstand that?

JOHN HENAGHAN: No. That's not what I said. I said it's customary for these young guys, not like me, they leave my bar and go to the later bars is what I think I said, and usually after the later bars, they eat. I think

that's what I said or I intended to say.

CHAIRMAN MICHAEL GARDNER: Do we have any authority to summons or subpoena the bartender here?

ELIZABETH LINT: I believe that you can.

CHAIRMAN MICHAEL GARDNER: Is there anything else you would like to add, Mr. Day or Mr. Henaghan?

MICHAEL DAY: No. Again, I would like to thank the Commission for the opportunity to appear here today and just reiterate the fact that Mr. Henaghan had cooperated fully and took what, I believe, to be appropriate measures suspending this bartender until the investigation is flushed out.

I believe the evidence shows no evidence of after-hour service, no evidence of after-hours operation of the premises, and at the most, the evidence that he allowed the two individuals back in as they were -- as he was exiting the bar

after cleanup.

You have full cooperation again from Mr. Henaghan and Mr. Klein who provided a statement to the police the next morning. So I would ask for a finding of no fault for this incident.

CHAIRMAN MICHAEL GARDNER: Well, your client admitted to violating our rules by the bartender letting the patrons back in after 1:30, how can there be a finding of no fault with that admission?

MICHAEL DAY: Well, my understanding is again, that the summons here is for after-hours drinking at the establishment.

CHAIRMAN MICHAEL GARDNER: Ms. Lint was very clear with you.

Why don't you state again, Ms. Lint, what the notice was for?

ELIZABETH LINT: Being inside the establishment after allowable hours.

MICHAEL DAY: Okay. I'm just quoting from what the notice was received was.

ELIZABETH LINT: I'm reading right off of the agenda.

CHAIRMAN MICHAEL GARDNER: Well, there's a discrepancy, I regret that, our agenda is an indication of after-hours occupancy by patrons.

MICHAEL DAY: Okay.

ELIZABETH LINT: I would also suggest to the Chair that Sergeant Frammartino's statement that the victim was highly intoxicated would support that there was after-hours drinking.

MICHAEL DAY: I, obviously, take issue with that inference. Given the fact that there was no alcohol observed off the off-duty officer's breath, there was no evidence of any drinking after hours, no bottles out on the bar or anything of that sort.

ANDREA BOYER: The officer wasn't the victim.

CHAIRMAN MICHAEL GARDNER: Sergeant Frammartino spoke about the operator of the vehicle --

MICHAEL DAY: Yes.

CHAIRMAN MICHAEL GARDNER: -- deciding he passed a field sobriety test. Sergeant Frammartino also spoke of his assessment of the victim of the accident as being substantially impaired.

Do we have any indication of when a toxicology report might be available?

MS. BOYER: I do not know at this time, but I can check and see when that may be available.

CHIEF GERALD REARDON: Ms. Boyer, the tape evidence you saw, does that go back far enough to see any activity leaving the premises earlier or...?

MS. BOYER: I could inquire, but basically what it shows -- you can't see all the

way across the street. It's just two people walking side by side towards the vehicle.

That's another thing of the discrepancies of the bartender stating that the operator had left first without her, and then she left afterwards, after it was locked, and it shows specifically on the video that they left together and they were walking across together.

CHIEF GERALD REARDON: Does it specifically show the entrance doorway that you could go back to a 1:00 time frame and see?

ANDREA BOYER: Not at Whitney's.

MICHAEL DAY: Just to clarify, I believe it's a security camera for the garage next door or the Christy's next door, so it's angled that way, away from -- Whitney's is across the street, so it's angled, I believe, down JFK.

CHAIRMAN MICHAEL GARDNER: Thank you.

Ms. Boyer, Sergeants, any additional information that you think it would be helpful

for us to have now?

MS. BOYER: I'll check on the toxicology report and submit that.

SERGEANT EDWARD FRAMMARTINO: Just in terms of the forthcoming, we were told that Pilgrim left by himself, then the victim moments later ran out. I was further told he was already in his car when she ran out, and that proved not to be the case, and that came from Pilgrim as well as the bartender.

So there wasn't much forthcoming during our investigation here.

MICHAEL DAY: Just if I may on that one point. He wouldn't necessarily had to have been in the car beforehand to hit her.

CHAIRMAN MICHAEL GARDNER: Well, at some point we would agree he was in the car and she wasn't. We would agree with that.

ANDREA BOYER: I think what the sergeant is trying to point out is the fact that the

bartender stated that they weren't together. So, obviously, for her to be hit, they were together also, so there's just a couple different stories based on what the bartender had been stating.

CHIEF GERALD REARDON: I believe based on the facts that I want to take this under advisement.

CHAIRMAN MICHAEL GARDNER: Well, I think would -- I'm not sure I got the language right here, but we just continue this matter pending the submission of the toxicology report, and I think a request to the owner, through you, Mr. Day, indicate whether or not Mr. Klein will voluntarily appear.

MICHAEL DAY: Okay. And, Commissioner, do you have a timeline on when you would want him to appear if he's going to appear?

CHAIRMAN MICHAEL GARDNER: After we get the toxicology report, I think.

MICHAEL DAY: Okay. And would that be

provided to us as well?

CHAIRMAN MICHAEL GARDNER: Oh, yes, we'll give you notice, absolutely.

Have I done anything wrong here --

MS. LINT: Not yet --

CHAIRMAN MICHAEL GARDNER: -- in terms of continuing the matter?

ELIZABETH LINT: No.

My question would be, though, obviously we don't know dates that we are going to get that, so we could either continue it indefinitely until we have it and then I'll set the date. Our next date for a decision is April 7 and then the next hearing after that is April 12th. I don't know if that's soon.

CHAIRMAN MICHAEL GARDNER: I think my preference would be to continue it indefinitely pending the obtaining of this information. I don't know, Chief, if --

CHIEF GERALD REARDON: We need to get the

remaining information. It could be contingent on getting some of this additional information.

CHAIRMAN MICHAEL GARDNER: And, you know, we'll give you plenty of notice in terms of being able to be there.

I guess I will ask if there are any members of the audience who have any information which may be relevant to this matter that they would like to come forward and share with the Commission?

Hearing none, we'll continue the matter indefinitely subject to a notice to you as to our next proceedings.

MICHAEL DAY: Thank you.

CHAIRMAN MICHAEL GARDNER: Thank you.

Do we need to take a vote on that?

MS. LINT: Yes, we do.

CHAIRMAN MICHAEL GARDNER: Oh, we do.

CHIEF GERALD REARDON: I will make the motion we continue the findings on this

particular case until we get other relevant information in and at such time an additional hearing will be held.

CHAIRMAN MICHAEL GARDNER: I'll second that motion.

And all those in favor, please signify by saying aye.

Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Unopposed?

And with Commissioner Haas's abstention.

Thank you very much.

MICHAEL DAY: Thank you.

DISCIPLINARY: EL COLOSO MARKET

ELIZABETH LINT: Disciplinary matter: El Coloso Market, Mohhmmad Aktsf, owner, at 102 Columbia Street due to complaints received by the License Commission alleging that you are in violation of the Cambridge City Noise Ordinance.

CHAIRMAN MICHAEL GARDNER: Anyone here to

respond to this agenda item?

PHILLIP LUEDI: I'm not an owner, I'm a neighbor. This isn't time for me to speak, but whenever it's appropriate.

ANDREA BOYER: Yeah, one second.

The gentleman from the market doesn't seem to be here. For anyone to speak, we need to have a representative for that, obviously.

CHAIRMAN MICHAEL GARDNER: How did the Commission handle this sort of matter in the past?

ELIZABETH LINT: Because the complaining resident is here, we would hear from him, so as not to inconvenience him and have him come back, we would call the owner of the establishment, find out why he didn't appear and then take appropriate action either to put it on for another date or...

CHAIRMAN MICHAEL GARDNER: All right. Okay. So then anyone with information relevant

to this complaint, please come forward.

So, Ms. Boyer, have you investigated this matter?

MS. BOYER: Yes, I have.

CHAIRMAN MICHAEL GARDNER: Why don't we begin with you and ask you to summarize the complaint and what you found.

MS. BOYER: Thank you very much.

September 8, 2010 I had performed a noise reading from the next door neighbor at 9698 Columbia Street, which is right next door to the convenience store El Coloso.

The cooler units on the roof show from a second floor living area a 63.2 to 63.4 dba violation, which is a violation of the daytime and the nighttime ordinance allowable levels.

50 during the daytime, that's between 7:00 a.m. and 6:00 p.m. and between 6:00 p.m. and 7:00 a.m. It cannot be over 50.

CHAIRMAN MICHAEL GARDNER: I'm sorry. I

thought I heard 50 -- up to 50 during the day.

MS. BOYER: I apologize. Cannot be over 60 during the daytime, which is between 7:00 a.m. and 6:00 p.m. and then not over 50 between 6:00 p.m. and 7:00 a.m. I'm sorry if I said that incorrectly.

CHAIRMAN MICHAEL GARDNER: He scored 62 decibels?

MS. BOYER: Yes, it was -- on the 9th -- on the 8th it was 63.2 to 63.4.

A letter was sent to the establishment owner on the 24th of September, specifically stating what the violation was, the levels, and I spoke -- actually, while I was at the location and he explained to me that the electrician stated that everything was running fine and that all units make the same noise in Cambridge. I explained to him that that's not necessarily true.

And I had stated some solutions that he

may be able to use. Make a box around the units with some sound board material inside to absorb and deflect the sound towards the neighbors.

But I did note that I wasn't an acoustical engineer and that these were just recommendations and actually have someone look at the noise and compressors on the rooftop.

When we have a complaint, if there's no action taken within a three-month period, then -- and no response from the owners, then we would have a hearing, and this is why we are here today.

In January, the neighbors had contacted me and said that no work had been done. They were still hearing the same levels.

I did perform another reading on the 27th of January, it was cooler outside, obviously, but I was also not on the second floor, I was on the first level and those levels were 58.3 to 58.7.

And I believe that to be lower based on

where I was standing. I think if I was on the second floor, it could still be in the 63 decibel limit.

POLICE COMMISSIONER ROBERT HAAS: It's still in violation of nighttime.

MS. BOYER: Correct. The letter was sent on February 10 about the noise violation still in effect, the previous readings and what the readings are now and we are here based on the three-month period.

The residents definitely don't want to hear this in the springtime when the windows are open again. It's loud now with the windows closed.

CHIEF GERALD REARDON: These rooftop units are for refrigeration for the store?

MS. BOYER: From what I can tell it's from refrigeration for the units that are down below, yes.

I'm sure in the summertime and maybe that

was another reason, it was a little bit lower in the summertime, I am sure the air conditioning unit may add to those as a cumulative noise, but it is on as a constant year-round.

CHIEF GERALD REARDON: Being on in this time of year, one would assume it's the refrigeration units versus a cooling unit.

MS. BOYER: Yes, sir.

POLICE COMMISSIONER ROBERT HAAS: The last reading you took was when?

MS. BOYER: January 27, 2011.

CHAIRMAN MICHAEL GARDNER: This would have been daytime.

MS. BOYER: I have it at 5:30 p.m.

POLICE COMMISSIONER ROBERT HAAS: Nighttime starts at what?

MS. BOYER: 6:00. Basically I tried to perform readings when there's no traffic coming down or anything like that and there wasn't at that time frame.

CHAIRMAN MICHAEL GARDNER: We have two other people here at the table, if you would please identify yourselves and state your relationship to this issue?

MATTHEW DYLAN: My name is Matthew Dylan (phonetic). I live at 81 Pine Street and I represent the 81 Pine Street Condo Association. We are essentially one street over from Washington, so we abut the rear of the El Coloso Market. And it's primarily a concern of all of us in the building that this noise be remedied at some point.

As Andrea said, it's very obvious during the day, and at night, if you ever even try to open your window, that machine kicking off and on and off and on cycling throughout the course of the night is really very disruptive and about in the fall last year, we kinda unified as a neighborhood, myself and Megan Shaw, also in my condominium, approached the person who was

working at the market to try and ask him if there's anything he could do to help tenuate the sounds.

The man working there claimed not to be the owner, and nothing was done, and that's when we contacted Andrea and we, at that point, talked to the neighbors. Phillip being the most approximate to this location, essentially his windows are directly looking at the unit. It's on Washington Street.

PHILLIP LUEDI: Columbia Street.

MATTHEW DYLAN: I'm sorry, Columbia Street.

And I'm just trying to see if there are other people in the neighborhood who had -- who were having similar concerns about the noise coming through.

POLICE COMMISSIONER ROBERT HAAS: How many units does the condominium association represent?

MATTHEW DYLAN: Six. We also observed that during the three-month period when we had filed the complaint that there was an actual lessening of the sound and upon inspection of the store inside, we noticed that he had taken all the merchandise out of the open cooler that is cooled by this rooftop unit, and it he wasn't keeping anything in there.

When we went back in and checked after the time period was up, he had refilled all the coolers and that was his way of temporarily remedying the situation.

CHAIRMAN MICHAEL GARDNER: And if you could just state your name for the record, sir, and your relationship to this matter sure.

PHILLIP LUEDI: Sure. My name is Phillip Luedi, L-U-E-D-I. My wife Alice Googleman and I own Unit 2 of 9698 Columbia Street. We are immediately next to the El Coloso Market and our unit is up on the second and third floor, and we

are maybe four meters away from the units, and as Matthew explained, they're very loud, in particular, as they go through their cooling cycle, and we have a young child, and we are not pleased with the noise situation.

POLICE COMMISSIONER ROBERT HAAS: How long have you lived there?

PHILLIP LUEDI: We lived on the ground floor since September 2009 and we purchased this unit in February of 2010.

CHIEF GERALD REARDON: Ms. Boyer, did you get a chance to observe the rooftop units in terms of age or ascertain anything from a distance on them?

MS. BOYER: Not really. It's hard for me to tell really how old the refrigeration units are themselves. It's definitely wide open. I mean, even if something had been done, it may help.

I think it's going to take a little bit

more than some absorption material, but I thought it was nice at least a try to deflect the noise away from the neighbors to go out maybe towards Columbia Street or something like that, a less expensive way for a mom-and-pop store not to get into too many acoustical engineer pricing and so forth.

But it's just so open to the elements. I mean, there's nothing covering these compressors at all, so...

CHIEF GERALD REARDON: How many compressors are there, do you think? Is it more than one?

MS. BOYER: There's a substantial -- three pretty good-sized ones.

Also, I got an email from Matthew that there's a sign on the door of the establishment that says he's gone on vacation until April 30.

POLICE COMMISSIONER ROBERT HAAS: Is the store closed or...?

MS. BOYER: The store is closed right now. But it seems he was just open recently and then we are having the hearing and now he's on vacation.

CHIEF GERALD REARDON: Are the rooftop units still running now, the compressors, during this time?

PHILLIP LUEDI: Yes, sir.

If I may comment, they look like they're from a third world country. They are God knows how old. It's a bunch of machinery and it looks like a little wooden board on top of it and nothing surrounding it. I mean, it's not just the noise source, it's also a visual eyesore.

CHAIRMAN MICHAEL GARDNER: Where did you take the readings from Ms. Boyer?

MS. BOYER: The first time I took them from the second floor which would be --

CHAIRMAN MICHAEL GARDNER: They are four meters away?

MS. BOYER: There's basically a sidewalk in between them, and then the second time, I just wanted to get kind of an idea of where we were, if there was any change at all, and I just stood down on the landing to go up to the stairs.

CHIEF GERALD REARDON: At that point, it's still in violation, but it would be nothing but worse if you went back up to the horizontal level?

MS. BOYER: Correct.

CHAIRMAN MICHAEL GARDNER: How long has this problem been going on? I'm not sure as to how long people have been in your condominium association or been aware of it. Did this store opened recently or is this a new phenomenon?

MATTHEW DYLAN: We have been there for two years in March and it's running all the time.

PHILLIP LUEDI: Similarly since we moved there in 2009, it has been a burden.

CHIEF GERALD REARDON: I believe that has

been a storefront for many, many, many years.

MS. BOYER: This is the first time it has been brought up to the License Commission.

PHILLIP LUEDI: If I may comment, maybe one reason why it hasn't been brought up before as the previous owner of our premises was, I understand, sentenced for drug abuse offenses and maybe he wasn't the kind of person to bring it to official attention.

CHAIRMAN MICHAEL GARDNER: We won't speculate about that.

PHILLIP LUEDI: We won't speculate about that.

CHAIRMAN MICHAEL GARDNER: Any other questions?

CHIEF GERALD REARDON: No.

POLICE COMMISSIONER ROBERT HAAS: No.

CHAIRMAN MICHAEL GARDNER: Any members of the audience who would like to be heard on this matter?

Well, I'm sorry for your inconvenience in having to come when the owner didn't appear. I take it we will have to continue this matter --

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: -- for a new date? Did you say vacation until April 3rd?

MS. BOYER: 30th.

MATTHEW DYLAN: Can I ask a question? What is the typical procedure if he's found out of violation or in violation?

MS. BOYER: A fine up to \$300 per day for the violation.

CHAIRMAN MICHAEL GARDNER: We often seek to try to get remediation of the matter, but ultimately the defining authority is what we got as a capacity to try to get compliance.

Did I say that fairly?

POLICE COMMISSIONER ROBERT HAAS: Yes.

CHIEF GERALD REARDON: Yes.

MATTHEW DYLAN: Thank you.

CHAIRMAN MICHAEL GARDNER: Well, a motion would be in order.

ELIZABETH LINT: First hearing in May.

POLICE COMMISSIONER ROBERT HAAS: That sounds wonderful.

CHIEF GERALD REARDON: I mean --

CHAIRMAN MICHAEL GARDNER: Could we suggest, is it too burdensome either from Ms. Boyer for you to do any monitoring of whether the store is open or not, or perhaps for the complainants to let you or Ms. Lint know if there are any signs of activity if it appears to be open?

PHILLIP LUEDI: Certainly. Yes, sir.

CHIEF GERALD REARDON: I guess the ultimate problem is even if there's no activity and the compressors are running around the clock...

PHILLIP LUEDI: Which they are, sir.

CHIEF GERALD REARDON: Do we have the

capacity to --

POLICE COMMISSIONER ROBERT HAAS: This whole time it's closed.

PHILLIP LUEDI: I haven't been inside, but I haven't seen any merchandise being taken out.

CHAIRMAN MICHAEL GARDNER: Does it appear that, in fact, it's closed?

MATTHEW DYLAN: The sign went up on Saturday.

PHILLIP LUEDI: It's been locked ever since.

POLICE COMMISSIONER ROBERT HAAS: When was he noticed?

ELIZABETH LINT: March 14.

MS. BOYER: That the date was changed. He was notified on February 10.

ELIZABETH LINT: I'm sorry, February 10.

MS. BOYER: That he was going to be coming up.

ELIZABETH LINT: And then March 7 he was sent a formal letter.

CHIEF GERALD REARDON: Well, do we have the ability to revoke his license without him -- after a certain date or start a fine after a certain date unless he comes in if this is going to be a procrastinating game of cat and mouse which it potentially could be?

ELIZABETH LINT: Well, to issue the fines, you would have to fine the violation on the specific -- if you were going to fine him everyday, you would have to fine a violation everyday and have a hearing and vote that and all of that or you could revoke it.

MS. BOYER: I'm sorry to interrupt. I don't think we have a license to revoke. It's a grocery store.

ELIZABETH LINT: Oh, that's right.

MS. BOYER: But I do think with the two violations we have, it could be a \$600 pending

fine unless he shows up for the next hearing, so that at least maybe will prompt him to come in.

ELIZABETH LINT: Right. You could do that as well.

ANDREA BOYER: That would at least throw a little -- and the fine can be taken back if he comes forward.

CHIEF GERALD REARDON: We could make a motion to find he's in violation of the Cambridge Noise Ordinance and -- on two dates.

CHAIRMAN MICHAEL GARDNER: I guess I'm no -- I'm a little troubled by the second date if the reading was at 5:30 and it was under 60, at that point, even if it's on the ground, you know, I'm assuming there's not much reason to believe that somehow after 6:00, it would get quieter, but I'm a little worried we don't actually have a four corners violation on this second date.

MS. BOYER: \$300 will still hopefully get him in here.

POLICE COMMISSIONER ROBERT HAAS:

Mr. Chair, I mean, the one thing I find troubling, though, that we haven't -- we are still in process. We haven't completed this process yet, but to levy a fine at this point in time before we can close our hearing, could be problematic.

CHAIRMAN MICHAEL GARDNER: I'd actually wonder about whether it would be helpful for the Commission to know if even if the store appears to not to be open, but the compressors are running for some reason, to know if there are any actual violations now or at some point within, you know, the next couple weeks. I wonder about the advisability of taking a second-story reading on one or more dates prior to April 30th.

MS. BOYER: That absolutely could be done.

CHIEF GERALD REARDON: I believe we have enough evidence for the first measurement that it

violates both day and night.

MS. BOYER: We can update it for the next hearing anyhow, that's always a good thing to do.

POLICE COMMISSIONER ROBERT HAAS: I think you can hold the violations in abeyance to give him an opportunity to testify.

CHIEF GERALD REARDON: The issue is, I think, maybe not prejudging this, but it seems as though we may need a little bit impetus to get the owner in here potentially and not have this drag on for months and months and months before there's any remediation done.

CHAIRMAN MICHAEL GARDNER: We have hearing April 26 and we have a hearing May 10; is that right?

ELIZABETH LINT: Seems right.

CHAIRMAN MICHAEL GARDNER: I think what -- given Commissioner Haas's concerns about taking an action even contingently without the owner being present, I would hope to have for the

May 10 hearing some additional readings.

I take it we don't have any notice from the owner of nonattendance this evening?

ELIZABETH LINT: And the mail didn't come back.

POLICE COMMISSIONER ROBERT HAAS: I mean, the other option, I guess, Mr. Chair, is if he doesn't come to a hearing, at some point you are going to have to close the matter and issue a finding.

CHAIRMAN MICHAEL GARDNER: Sure. I'm wondering about whether a motion would be in order to continue the hearing to May 10, said notice to the owner to include information regarding any readings taken prior to this evening and any readings taken subsequent to this evening with the indication of the potential fines that can be imposed on or after the May 10 hearing.

Am I clear?

CHIEF GERALD REARDON: I'm still in a quandary why the evidence is clear that he was in violation back in January and that we could indicate to him that --

MS. BOYER: Back in September.

CHIEF GERALD REARDON: Back in September.

CHAIRMAN MICHAEL GARDNER: January I'm not so sure about.

CHIEF GERALD REARDON: The first reading. If he was here tonight, that means his testimony is not going to uncorroborate the readings taken by Ms. Boyer. I don't know what he'd offer to refute the incident, but it has happened.

I believe we should at least put the threat that he's in violation for a day and could be subsequent other days, strongly worded that will get his attention to come back him in here.

POLICE COMMISSIONER ROBERT HAAS: I think you could indicate in the notice that we have evidence that reflects that he's in violation and

that failure for him to appear at a certain date would result --

CHIEF GERALD REARDON: Implication of fines, potentially at the rate of \$300 per incident.

ANDREA BOYER: I would also like to point out that that was in the September 24, 2010 letter that if a noise violation continues after three months, a hearing will be held to discuss the issue in front of the License Commission Board which could result in fines of up to \$300 per day for violation. That was in the letter I sent to him letting him know about the violation.

CHAIRMAN MICHAEL GARDNER: I guess I'm a little concerned about actually voting to impose a fine now without giving him an opportunity to be heard on the September reading.

I'm new enough at this. I think this is my first noise violation hearing that I feel a little cautious with respect to that.

MS. BOYER: What I was trying to recommend, and just if he doesn't show up, then the \$300 will go into effect, not to fine him now.

CHIEF GERALD REARDON: Hold him to abeyance and indicate that he may be subject to those previous dates.

POLICE COMMISSIONER ROBERT HAAS: You can do the subsequent readings that the Chairman suggested could be held as evidence as to further violations, and we could actually impose fines on those future violations making sure we are consistently taking them at certain times of the days that reflect both the daytime and/or nighttime violation.

ANDREA BOYER: That has worked in the cases in the past to try to get people in here.

POLICE COMMISSIONER ROBERT HAAS: The Chairman concerning -- maybe two or three readings on a weekly basis, one one week, next

week, depending on the timeline and reflect the fact that we have consistent violations over those dates.

CHAIRMAN MICHAEL GARDNER: If you do. If you don't, you don't.

POLICE COMMISSIONER ROBERT HAAS: I guess the --

ANDREA BOYER: I mean, there's still milk and butter and eggs and all that in the refrigeration.

POLICE COMMISSIONER ROBERT HAAS: If he's going to be gone for --

ANDREA BOYER: I don't think there's going to be too much of a change.

CHAIRMAN MICHAEL GARDNER: And we would be interested if there's any indication of activity, then certainly you're free, Ms. Boyer, to investigate as to whether or not, in fact, the owner's vacation plans changed and he was back sooner.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to continue the matter to May 10 with the stipulation that there be at least two independent readings or two readings in the meantime from the second story adjacent to the air conditioning units.

MS. BOYER: That will be done.

CHAIRMAN MICHAEL GARDNER: And that will be done soon enough so that if there are violations, they can be included in the notice of the May 10 hearing, can we do that?

MS. BOYER: Yes.

CHAIRMAN MICHAEL GARDNER: Is there a second to the motion?

CHIEF GERALD REARDON: Seconded.

CHAIRMAN MICHAEL GARDNER: All those in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

Thank you for your participation this evening, and we wish you well.

Ms. Boyer, thank you.

INFORMATIONAL: TOMMY DOYLE'S PUB & RESTAURANT,
INC.

ELIZABETH LINT: Informational: Tommy Doyle's Pub & Restaurant, Incorporated, Garrett Tingle, manager, holder of an all alcoholic beverages as a restaurant license at 96 Winthrop Street due to recent events that have happened at the restaurant that affect public safety and the well-being of your customers.

CHAIRMAN MICHAEL GARDNER: If you could, please identify yourselves for the record and also indicate your affiliation and relationship to this matter.

GARRETT TINGLE: Sure. Garrett Tingle, I'm general manager of Tommy Doyle's in Harvard Square.

PETER WOODMAN: I'm Peter Woodman, owner of Tommy Doyle's.

CHAIRMAN MICHAEL GARDNER: Well, we have seen some reports on this matter.

Is there a presentation?

MS. BOYER: I would give it kind of a quick -- for the past few months there's been a few incidents. There was a bar fight with a motorcycle club from not necessarily a rental, but a fundraiser. There had also been the security guard that broke up a situation that actually was stabbed on premise, and there was a report of possibly more people on premise than is allowable, but had been handled by the staff. We are here to just make sure that -- to see if there's some changes that may be able to be made for a little bit more public safety at the establishment.

ELIZABETH LINT: Perhaps a security plan is what we have been talking about.

MS. BOYER: Right.

CHAIRMAN MICHAEL GARDNER: So have you a report for us?

GARRETT TINGLE: Yes. Just to clarify how the events -- you know, we've had a rough couple weeks. It was really hard on our staff, you know, as someone that's been working with the Tommy Doyle's group for six years, public safety is our main concern.

We have routinely, on our own accord, hired police details with the Red House and Charlie's. We do every it every summer on Friday nights and different nights during the week.

This was an event -- you know, the first incident, which was the motorcycle club, we do a ton of events at Harvard -- at our Harvard location, we have three floors, private function space, semi-private fundraising space.

One of the things we like to do with in running a restaurant bar is provide space for

people to raise funds for charities.

This kind of blind-sided us. I've transitioned into a larger role in the company, and one of my jobs for the first five years was planning parties, planning events which was one of the main job descriptions that I did. I've since trained someone to take over that role.

In the interim, basically lost a little -- we go -- we do so many events that we had a weekly meeting with my event planner. And this particular event that took place on Saturday evening was something that kinda slipped through the cracks on my end in terms of knowing exactly what was coming in.

We -- in the book it was a bike club fundraiser, and it was a female bike club. And we -- it was one of 20 events for that particular week.

When I found out what exactly it was, it was a motorcycle club event fundraiser that was

inviting a lot of other motorcycle clubs and members, we kinda jumped into action and immediately called for a police detail for the evening, and I know Peter can attest to talking to other policemen that were in the area before the event happened that we were taking precautions to -- in case anything did occur and we wouldn't be putting it completely on our security staff.

I don't know if you wanted to add to that.

PETER WOODMAN: Basically when Garrett and I found out what was happening, it was recorded as a children's fundraiser for a bike club, which we see as a bike club, not a motorcycle club. When we found out what it was, I believe it was a Thursday afternoon. And to say we were shocked would be an understatement and we called for a detail that afternoon and for Saturday.

I met Sergeant Darcy in Harvard Square on Saturday afternoon, informed him what was going on, and I just informed him he might need some help tonight, we have a detail in, I'd appreciate if he'd keep an eye on us. It could be a little thing or a big thing. We had no idea what it was going to be like. We doubled our security.

And I met the organizers when I came and I told them if there was any hint of trouble, even if somebody raised their voice, we'll close the whole thing down.

The incident did happen, was the incident we're waiting for basically, and we shut the whole building down at five past 12, obviously a considerable loss of business.

We obviously didn't want that type of group in our premises and we cleared the whole building, stopped any entry and Cambridge Police were fantastic and helped us greatly.

We literally doubled our security staff

and our whole building was cleared like -- I can't remember the exact time, but I think it 12:15, obviously, the peak time for the night business, and we literally cleared the whole area and cleared the street, and that was the bike club incident.

CHAIRMAN MICHAEL GARDNER: Your license runs to how long?

PETER WOODMAN: 2:00 a.m. The biggest problem was that we had a contract signed and there was a deposit given, so we couldn't pull out at that point because we had a contract for the event. And, again, in fairness, our function coordinator, she was duped. They basically said it was a children's charity event, and I was like they were playing on the heartstrings. And again, something Garrett and I have discussed in detail since any function over 25 people goes directly through us and any function over 50 people we now meet the people prior to the event.

GARRETT TINGLE: Since that date, I have taken a more -- just kinda bringing her along further in terms of event planning where stuff like this wouldn't happen, or if I had known about this a month before, we wouldn't have allowed it to happen.

PETER WOODMAN: They booked it in on the previous Monday or previous Sunday, and, again, in respect to the function coordinator, she was duped basically, and we did our best to control the situation when we were aware of it on Thursday at our weekly function meeting.

CHAIRMAN MICHAEL GARDNER: When did this happen?

GARRETT TINGLE: End of February.

PETER WOODMAN: End of February.

GARRETT TINGLE: It was consecutive weeks?

MS. BOYER: February 20.

CHAIRMAN MICHAEL GARDNER: Then what else

happened?

PETER WOODMAN: Garrett was actually off that night.

The following week an individual entered the premises 25 to 2:00. We close the doors at 1:30 usually. It's exit only. The individual gained entry by telling the door guy that he was related to our DJ, and that's how he got into the building. And this guy came up to the top floor where the dance area is, didn't go to the bar -- last call is already done -- literally walked into the central dance floor. He -- what I observed from watching the footage is he was basically groping any female that passed him, and one individual took exception to this, and a flight occurred.

And our door guy jumped in, who was right there, he jumped in and the individual had a knife on him and stabbed him in the armpit.

We restrained the individual until the

Cambridge Police arrived. He was arrested. And our guy went to the hospital, he got four stitches. I don't know exactly how many stitches he got and he was released that morning at 5:00 p.m.

But, again, he wouldn't have gained entrance to the building if it had been anybody else. He didn't go near the bar he said he was DJ, what was it --

GARRETT TINGLE: DJ's --

PETER WOODMAN: Stepdaughter's child's father.

GARRETT TINGLE: Basically our DJ's live-in wife essentially. They're not officially married, but they have been together for 15 or 20 years. Her daughter has a child with this gentleman and kinda talked his way in the door.

CHAIRMAN MICHAEL GARDNER: He told you the truth.

PETER WOODMAN: The reason he got in and

everybody knows the DJ, all our door guys, no problem you say want to speak to him.

GARRETT TINGLE: We have a formal dress code on the weekends, Thursday, Friday, Saturday, that, you know, it can be -- confrontational in terms of what our dress code is. We try -- Tommy Doyle's is not just a nightclub, it's an establishment that is open all day. We do a lunch crowd, we have sports crowd, we have live music, so it's a very eclectic mix, a lot like the City of Cambridge. We've got kids from Somerville, we've got Harvard kids. We had the prime minister of Belgium on Saturday night. Each night is a different group of people.

So we try to -- you know, one way we try to curb any incidents is make sure you wear proper attire, and this person did fit the dress code, came by himself.

Like I said, I wasn't out there, but I did see the footage, seems like a pretty harmless

individual, and it was obviously a serious issue that came from it to the point where we scaled back that 1:30 and we are creeping closer to 1:20 in terms of doing exit only.

I'm not sure, I can't remember exactly who was on the door that particular night, but we have our most trained door staff screening for people that are possibly intoxicated because we are one of the more of the popular locations after 12:00, after 1:00 and that's where people that night have been bouncing around the square want to end up on our dance floor.

PETER WOODMAN: We turn away more people between 1:00 and 1:30 than we let people in because -- and previous cases, with certain locations, we close at 1:00 p.m., they tend to go to us, to Red Line, so it's basically two or three locations that they can go to. So we generally turn away probably 70 percent that come to us at 1:00 a.m. because they are leaving other

locations, and we have literally scaled back to 1:30 for entrance only.

CHAIRMAN MICHAEL GARDNER: Who called the police after the stabbing?

PETER WOODMAN: We did. Straightaway, sir. We had the individual -- it's three floors, there's a basement floor, a middle floor, top floor, top floor being the biggest floor. We had the individual restrained on the middle floor and literally, I think it was a two and a half minutes after the incident, the police were called by our front door guy who stays on the door at all times.

So that's -- the Cambridge Police got there in three or four minutes later.

CHAIRMAN MICHAEL GARDNER: So on an evening like this, how many security staff would you have and how many other staff could supplement secure?

PETER WOODMAN: We'd have eight direct

security staff on six days depending on Thursday, Friday, Saturday. There's always Garrett and myself there. There's always four to six male bartenders or male barbacks or male servers.

GARRETT TINGLE: The way our building is set up, given our capacity of 286, that is one thing, but the way the building is set up, we need extra security for different -- we have different exits. We generally hit capacity on weekends nights, Thursday, Friday, Saturday going up to the top floor where we have our dance floor and have our live music.

So we do the need security at the top of the stairs and we need security to start a line where we do a one-and-one system where one person comes down from the top floor when we're at capacity and then we can allow one person up.

Same at the front door, it just kinda goes through the whole building that way.

And so, it does take us, you know, it's

like six to eight security on a given weekend night. In the summer, when students are gone, it does scale back to maybe six or something.

PETER WOODMAN: But for any big event, we tend to get a detail because it's beneficial for ourselves because once you see a police officer at the door, it stops that.

GARRETT TINGLE: It's a little deterrent.

PETER WOODMAN: The building is a 40, 60, 100 plus upstairs, we have the majority of the security upstairs and it filters through from the front door to the middle, to the side. With our security plan, we can hire more security people.

This incident was just it came from nowhere. It happened 14 minutes to two. He didn't consume any alcohol. He shouldn't have gained entrance to the building with our usual rules. He just bribed his way in the door saying he wanted to speak to Casey. He come in and he wasn't intoxicated. I heard later from another

police officer, he was on some kind of drug, he was crazed. But if you saw the individual, he was wearing a pair of slacks, buttoned-down shirt and pair of glasses. He looked like a normal Joe.

CHAIRMAN MICHAEL GARDNER: Any other incidents that happened recently that we are here for?

PETER WOODMAN: I don't recall any others.

GARRETT TINGLE: No.

ANDREA BOYER: Biweekly I get reports and that was one situation.

PETER WOODMAN: That was outside of the building.

ANDREA BOYER: That was a group -- yeah, a different group getting together and not hanging out. There was a large group out front. Just another situation having people out front the establishment to be addressed.

PETER WOODMAN: For us, once we get close to capacity, we are not letting people into the building. So, when a line does form on that particular week, it was we had six-foot snowbanks outside so people were out on the far lane on the main road on Winthrop which is blocked off -- it's blocked off to traffic.

And so, again, we had three security other than myself. I was out there myself. There's only so much we can move people. We can't -- we're moving people in by Om's, and it was affecting Om's business, so they we said, okay, you have to disperse for ten minutes, come back ten minutes, and for the Harvard Law event, which generally whenever they go to any location in Harvard Square, they pack the place. That evening we had a line for, I will say, a good hour, hour and a half. We were doing the filtering, one in and one out from the front door to the tops and middle floor.

And I remember that night because I said look -- I talked to the police officer, "What can I do? Do you want me to tell the people to go home?"

So that's what we did. Within five minutes, the people were clearing the way.

CHAIRMAN MICHAEL GARDNER: Thank you.

Questions?

POLICE COMMISSIONER ROBERT HAAS: I think it's important as we start to see, especially in close proximity the two events, we want to make sure that nothing's changed in your operation or you need to do something with respect to security that you can offset recurrence.

I mean, one of the things we always look at is if something's happened, you know, what could you have done better or differently. It sounds like you addressed the event issue.

I think you've already kind've conceded the fact that you have a rule, someone kind've

bent it a little bit --

PETER WOODMAN: He was suspended for a week over it.

POLICE COMMISSIONER ROBERT HAAS: I think it bodes well that you need to kinda stick to your rules.

PETER WOODMAN: That's what the rules are for.

GARRETT TINGLE: From watching everybody else, I mean, I was personally -- any time anyone in my staff is injured in any way, like I was taken -- it was really hard on me to hear someone that is working for us got assaulted by a customer to the point where he was stabbed, fortunately, not seriously, you know, the fact that he was in the position he was in, actually helped keep public order and keep safety in terms of if our doormen -- we didn't have doormen stationed in those areas at the most volatile areas which are on the dance floor where it's

1:30 at night where it's the last few single girls looking for the last few single guys kind of atmosphere, it's dark, it's loud music, where we have a doorman saw kinda what was happening and intervened and got for his own -- to his own personal health was affected, but the fact that he was in there tells me that our system is good, but, like I said, if we stick to our rules in terms of you can't bend for stuff like a guy trying to creep in 20 minutes before closing when our policy is not to let people in after 1:30.

CHAIRMAN MICHAEL GARDNER: Any there any other changes that you're considering or any other steps you've taken?

GARRETT TINGLE: The main -- an additional set of eyes on the front door. We have done that in the past. And as we have people that have worked with us, mainly ex-Marines and Army Reserves are generally where we get our door staff. So they are, obviously,

well-versed in taking orders and sticking to plans and stuff like that, and sometimes it's that extra set of eyes on the door that can say, yes, he has his ID, yes -- but maybe he's not ready, maybe he's a little too drunk or maybe he's on something. Maybe continue to talk to people.

So, there are spot-check stuff that we do in terms of asking potential people, you know, violators, people that, I mean, we don't let in, we ask them certain questions and engage in conversations so it's just not the eye test right away. That's one thing we went over with our door staff. Putting in extra set of trained eyes on the door definitely helps. I think we're progressing to where we want to be.

PETER WOODMAN: So basically many nights we have two guys on the door and then Garrett and I do the door and then sometimes we stand back and just observe and if you see someone who's a

bit suspicious --

GARRETT TINGLE: One of the hardest things is dealing with, when you have a dress code and you are refusing entrance to people, even if they are non-intoxicated, it's automatic -- it's in competition. People want it come in and you are disallowing them, and you get called all kinds of names, and we try -- we train our door staff to be just let them talk like and I'm great at that. That's if I see something like that happening, I'm let them call me everything in the book and gladly, but we prefer not to have that kind of crowd.

It's not a perfect system, we do our best. I think the system is in place and we are continuing to move forward.

CHIEF GERALD REARDON: Obviously you had the cameras fixed.

GARRETT TINGLE: We've got a whole new system.

PETER WOODMAN: A \$10,000 system put back in again. You got that?

ANDREA BOYER: Yes, I did. Thank you very much.

PETER WOODMAN: Any time we have an incident, we have a report book, obviously, the log. And both Garrett and I decided since then, any incident, small or large, it's inside that report book because the problem with our system is it only lasts a month because, we have a zip on the instrument.

CHIEF GERALD REARDON: You find them very helpful?

PETER WOODMAN: Definitely, a hundred percent. When Garrett is off, the only time he's off, he can log in from home. It just gives you that piece of mind as well.

One thing I have to say it has been a certain element in the Harvard Square in the past six months, we've been finding it very, very

tough in our Harvard Square location. Just abuse we are getting on the door from our staff. Just there has been a certain element in the Harvard Square in the past six months.

POLICE COMMISSIONER ROBERT HAAS: What do you think the attraction is?

PETER WOODMAN: Generally, I think it's a location, a new location's opened up and generally like a color race is every weekend, I get stared at and I guess to the point you go --

POLICE COMMISSIONER ROBERT HAAS: What do you think is changing the clientele in Harvard Square?

PETER WOODMAN: There's a certain location that's bringing, in my mind, bringing the whole --

MS. BOYER: Spit it out.

PETER WOODMAN: Connors, it's bad for business, but I know the business they do have outside business with the patios -- it's crazy,

it's just crazy, and it's just generally we have to rotate our guys from getting abused at the front door. Our location is down 20 percent this year because our late night business is down which is not -- I'm not losing any sleep over. Our food business increased greatly. It's nearly up 50 percent. That's what we always wanted. But it's getting to the point where, like when Garrett seems upset, the guy had to take three days off. He was genuinely very upset. We were all very upset. I don't want any employee of mine to get injured because of our business, and it's just we have had the feeling in the past six months, it's not even worth it, and you kinda go wow, you now?

CHIEF GERALD REARDON: No questions.

CHAIRMAN MICHAEL GARDNER: Any members of the audience who like would be heard on this matter?

PAUL OVERGAAG: Good evening. Paul

Overgaag from the Red House and Charlie's
Kitchen.

I'm an abutter of Tommy Doyle's for the last six or seven years, and we have been very good neighbors, and I'm kinda here more for the public safety on Winthrop Street that I think it's time -- I have spoken to people unofficially about the public safety, and I'm worried about the public safety, and a couple years ago, I had a couple police officers over to talk about the possibility of trying to do something about the public safety.

There's in excess of about 1,000 licensed seats within a block between Charlie's, the Red House, Tommy Doyle's, Conga, Om, Grandma's Den and upstairs in the square, we have in excess of 1,000 licensed seats.

Some establishments close early because they are not in the late night business, other establishments stay open and are definitely in

the late-night business and they create a certain vibe that starts around 10:00 at night, and the vibe has been extremely positive, a happy hum in the whole street, in the whole neighborhood are conversations, loud noises until Om, about a year ago, started doing heavy disco music at night. And really patrons in my place at 11:00 at night will sit and bounce up and down on their bar stools because of the heavy bases.

Then to make matters worse, they sometimes even open up the windows, and now the whole street becomes a disco, and we all have to tolerate their noise level, which, I think, is unacceptable.

I think it also brings a certain hostility into the street, like I can play my music a lot louder than you, so I can attract all the customers or whatever they try to do.

We have a tremendous amount of people waiting to get into Tommy Doyle's. We have

people waiting to getting into Om. We have Conga on the corner, which I was hoping to talk about tonight also, but they're obviously not here because they're not ready. We have Charlie's Kitchen, very busy with the Beer Garden. The next hearing I'm here to propose a late-night dining spot on Winthrop Street in the Red House Restaurant.

So everybody wants to add good activity, but I think we're going a little bit the wrong way, and I think because of that, public safety is becoming an issue.

What we've done in the past is Charlie's has scheduled police details together with Tommy Doyle's, with Om, who I'm still waiting for payment for last year's police details, and I'm kinda giving up on that, and I'm kinda here tonight to maybe suggest a cooperative between all the licensees and the License Commission to see if we can get some extra police coverage paid

by the licensees through a tax that they pay in the beginning of the year that goes from the License Commission straight to the detail office and we'll have on the weekends, Thursday, Friday, Saturday, we'll have police detail when we need it, paid for by everybody on the street, distributed equally in shares.

If you are upstairs on the square and you don't have a 2:00 license and you don't have entertainment, you don't have to participate in the license.

But the minute you have entertainment, the minute you want to be open until 2:00, you need to start paying up in this tax idea, or, you know, so we can really work on the public safety.

Then I would like to see that we all start adhering to the same rules. If there's -- let's just all close at quarter of 2:00, and this way we can get that street empty because, you know, there's 1,000 people that need taxis, they

need to get to the subway, that have -- all of them have alcohol on them because nobody comes through Winthrop Street to drink syrup.

And just so we don't have these accidents multiply, and I see a very busy season coming up, I see the problems multiplying, and I don't need any more work and I don't think you guys need any more work, and I don't want to be sitting here at hearings trying to say what are we going to do about it.

Let's try to do something now so we can have a good and safe successful summer all of us. That's all I have to say.

POLICE COMMISSIONER ROBERT HAAS: Do you think there's an appetite among the majority of the licensed establishment in that city to have that kind of conversation.

PAUL OVERGAAG: Me and my neighbor definitely have this kind of appetite. I have tried to have Conga participate in police

details. They are waiting for money because they don't have money.

I'm personally responsible for the signs in front of Winthrop Street. I asked people \$150 for a set of signs, and I have to go knock on the door with a leg breaker to get 150 bucks from particular people.

As I said earlier, I'm still waiting for money from Om for police details that were performed in October.

Now, I'm not a collection agent, you know, I cook for a living.

So I would like to see that appetite created with the License Commission behind us.

POLICE COMMISSIONER ROBERT HAAS: I think it's a larger issue besides details, we need to kind of understand the complexity of the issue as you point out, really understand what the areas that's impacted by with respect to public safety concerns and then work out a series, I think, of

solutions. I think it's going to require participation, at least the majority of the license holders in that Winthrop area because that's -- as you point out, there are a number of people coming here for a variety of reasons and maintaining a certain amount of order and control.

I don't know if Ms. Jillson would be interested in the association being involved in that conversation?

DENISE JILLSON: Yes.

PETER WOODMAN: I think if we are both getting details, everybody's taking advantage of the details, we're paying for it.

POLICE COMMISSIONER ROBERT HAAS: I think everybody's got to play an active role, not just Tommy Doyle's or Charlie's Kitchen.

PAUL OVERGAAG: It's the police presence that deters a tremendous amount of problems. It doesn't keep all the problems away, but it deters

a tremendous amount of problems.

If there's seven underage kids, one says, "Let's go have a drink with our fake IDs," and they see a cop, the party is over.

They take their tail, they stick it in between their legs and they go someplace else.

PETER WOODMAN: One thing I would add to what Paul had said was consider it was in the street, it opens up to the public at 2:00 a.m., and at 2:00 a.m., the cars tend to drive down, the taxi comes down and that has caused a lot of problem for us both.

POLICE COMMISSIONER ROBERT HAAS: It sounds to me there's a whole host of recommendations and issues that should be worked out. Again, I think if we can -- I'm not going to advocate for more detail. So I'd just recuse myself.

PAUL OVERGAAG: I understand.

POLICE COMMISSIONER ROBERT HAAS: What I

would like --

PAUL OVERGAAG: By the way, we don't want it to have -- you know, coming out of the public shirt pockets either because, you know, it's not them that created the problem. It's the establishment that has created a profitable problem, and they should take a little bit of these profits and now deal with the consequence that they have created, and that seems to be the understanding that not everybody has. It's short-term thinking. Let's make a buck and let's sell as much alcohol as we can to whoever wants to come and let's see what the consequences are later.

I'm a long-term player being in Harvard Square for 25 years and I would like to stay here a little longer with a successful place.

CHIEF GERALD REARDON: I think what you're describing is that there's not equal appetite by all the licensees to pay their fair

share in dealing with this. I'm not too sure if we can impose anything to do that, but...

PAUL OVERGAAG: It helps if everybody gets invited by the License Commission to come talk about this. You will see the difference in attendance if I make the phone call. They don't even pick up my phone, so, because they know my number.

CHIEF GERALD REARDON: Ms. Jillson's been under the bus, but maybe we can start with a kinder gentler stick. So maybe if they can turn around --

POLICE COMMISSIONER ROBERT HAAS: In concert with the association.

ELIZABETH LINT: We would be more than happy to host everybody right here.

PAUL OVERGAAG: Thank you very much.

ELIZABETH LINT: But in terms of assessing fees or taxes, we certainly don't have the authority to tax. And I don't think we have

the authority to require a licensee to pay into a fund for police details.

And as we also know, details often don't get filled because officers just aren't willing to work or fill them or whatever, or there are too many or whatever it is. So we could be assisting in facilitating something that can't happen.

POLICE COMMISSIONER ROBERT HAAS: I think it's a combination of an overall public safety plan which we're all concerned with, and then the association and its members thinking about what the best way to make sure that it's a profitable area, it's an attractive area, and that you continue to have people come to you for the right reasons, and then, you know, make it successful for everybody, but I think that conversation has to take place among people that have a vested interest in seeing that happen.

CHIEF GERALD REARDON: I think people if

they understand that, you know, having any kind of troubles is not a good thing for anybody. It's certainly not profitable, it certainly is not going to make business grow and thrive. You know, it's really in their best interest to turn around, you know, business will do better if people feel safe there.

Certain people who aren't there for trouble, won't frequent the area anymore if they think it's a spot where there is trouble also.

PAUL OVERGAAG: And this is starting to happen.

CHAIRMAN MICHAEL GARDNER: I'm wondering if there any other members of the public who would like to be heard on this matter? Please come forward.

Thank you very much, sir.

DENISE JILLSON: Good evening. Denise Jillson, I'm the Executive Director for the Harvard Business Association. And, you know,

this is incredibly disconcerting because we've worked so hard to make, you know -- Winthrop Street is sometimes known as restaurant row, and there are many restaurants that Paul didn't even name, Wagamama has a liquor license and Shabu-Ya and Maharaja. And they are all right there. It's just an intense wonderful great place and, you know, to have these kinds of incidents, it's so easy to lose, right? It's so difficult to build the moment and keep it going and keep it safe and make it attractive, and then one or two incidents can just, you know, will be the end of it. It becomes, you know, I'm not going there anymore because it's not safe.

So, to the extent that the association can offer help and guidance and, you know, to facilitate any kind of meetings, I don't believe there's one person -- there isn't one entity that I have just named that are not members of the association. They are all members. And I felt

badly about Whitney's. Whitney's is not a member, so I couldn't do anything for Whitney's tonight, and maybe that's probably okay, but they are all members of the association on Winthrop Street, and to the extent that we can help, we will. Because to ignore it is not acceptable.

And one of the things that we're finding is the economy has seemed to have turned around a little bit, you know, and we do expect that this summer is going to be amazing, just based on what we have seen in the past couple of months, and the kinds of activities that we have seen, even in the winter, it's really quite extraordinary.

So, you know, this summer has the potential to be an amazing, but it also has the potential to be problematic if we don't take care of the situation.

So, I thank you for listening. I'll do whatever you need me to do to help alleviate.

POLICE COMMISSIONER ROBERT HAAS:

so, Mr. Chair, if I could, I would like to make a recommendation that Ms. Lint and Ms. Jillson coordinate a meeting with all of the licensed establishments in the city that have a vested interest particularly around Winthrop Street. I will certainly send my staff to help sustain that conversation and maybe just figure out what other entities should be there as well.

Is trash and stuff an issue for DPW
or...?

DENISE JILLSON: Well, you know, it's not so much trash, but there's a puking issue.

ELIZABETH LINT: Nice.

DENISE JILLSON: Sorry.

POLICE COMMISSIONER ROBERT HAAS: Again, it's something we should think about in maintaining a certain environment.

DENISE JILLSON: And, you know, if you have an establishment like upstairs on the square and frankly, the Red House, that are more upscale

than say Tommy Doyle's or Grendel's Den.

POLICE COMMISSIONER ROBERT HAAS: The prime minister of Belgium comes there.

PETER WOODMAN: And two princes.

DENISE JILLSON: But, you know, it's just disconcerting for sure.

POLICE COMMISSIONER ROBERT HAAS: I'm just trying to think what other state agencies really could be helpful in this thing. I think Traffic and Parking is another one, particularly if we're going to think about doing something with respect to Winthrop Street, you know, it could be closed longer or something along those lines.

DENISE JILLSON: Well, you know, that's really interesting because what Paul didn't mention is Paul has been so gracious in making sure that the signage is out there. But Paul leaves at 1:00 in the morning. So, then, you know, if he doesn't take the signs in, they get

stolen or destroyed or whatever, so he's replaced them several times already, you know, on his own. And so the sign comes out, and then, you know, taxis or other people just go down the street, even though the sign is very clear, the city has a posted sign on a pole that says you cannot enter, but if the barrier is gone, people randomly go down the street.

PETER WOODMAN: They fly down the street.

DENISE JILLSON: And that's really problematic and that needs to be addressed, too.

So, there are issues and, you know, we want to address them all because we just want to have a great summer and we don't need these problems.

ELIZABETH LINT: I can certainly reach out to Sue Clippinger and Peterson to see if they can -- representatives that would be willing to join us.

DENISE JILLSON: Have I covered it?

PAUL OVERGAAG: I think so.

DENISE JILLSON: Paul and I had a conversation earlier today and, you know, as I told him and he reiterated tonight that our main concern is first and foremost is public safety. And this is just, I feel like it's -- I don't want to say dangerous, but I feel --

POLICE COMMISSIONER ROBERT HAAS: You feel we have reached a certain crescendo?

PAUL OVERGAAG: It's certainly unsettling.

DENISE JILLSON: It is, yes. And I welcome the opportunity, I look forward to working with you.

CHAIRMAN MICHAEL GARDNER: That doesn't require a motion?

POLICE COMMISSIONER ROBERT HAAS: No.

ELIZABETH LINT: No.

DENISE JILLSON: Thank you.

CHAIRMAN MICHAEL GARDNER: Any other

members of the public who would like to be heard on this matter?

JAAP OVERGAAG. My name is Jaap Overgaag. I work at Charlie's Kitchen and the Red House. I have done so for the last 13 years, and Carmine is not here tonight, but that made me think two weeks ago after that happened, the shooting incident, this is not a place that we -- this is not what we need. We need a safe Harvard Square where people go to work and they feel safe. If I want to not feel safe, I'll go other places in the country where I can choose to not be safe when I go to work.

I think it's the establishments' responsibility to make sure that we have safe operations. I know for myself when there's anybody or something does not fit in our profile, the person is removed, police is called for assistance.

I think some establishments don't follow

that same profile. They kinda do this
(*indicating*) and it's okay and it will solve
itself.

But I think we need to make sure that
irregularities get dealt with when they first
come up. Don't let it grow too far. Don't let
things even start. Small fires get big real
soon. We need to make sure there's no fire, and
we have a fire, that there's an extinguisher
right there.

Law enforcement, I think, needs to be
there. Andrea and -- Ms. Boyer needs to do her
investigations.

I think it's very important that underage
drink programs are very, very strictly enforced.

In the case with Whitney's somebody after
hours in the bar, when we first took over in
1998, it was customary that people stayed after.
Unh-unh, no more. We don't do these things.
People think I'm like too strict, I'm anal, no.

1:45 the door closes, it's not 1:44 and it's not 1:46. It's 1:45, et cetera, et cetera.

I think that's for the community, it's for everybody around this table, which are the rules, those are the rules. You don't live by the rules, you are at fault.

I think that's really good. But everybody needs to, I think, needs to do that, too.

As far as details goes, yes, if there's a police officer and somebody does open his mouth because he doesn't agree with the rules of the establishment, and they see the man in uniform, all of a sudden, there's no more discussion.

If there is a discussion that started, police officers takes care of it. So I do feel a real urge for details to be required, I would almost say that.

I would find ways for the Commission to get that established or police presence because

we need to be safe, need to get home to our wives and children and family.

CHAIRMAN MICHAEL GARDNER: Thank you very much.

Any other members of the public that would like to be heard on this matter?

Well, we understand you have taken some steps. I guess we encourage you to make sure that your security is as fit, ready and fully staffed as necessary given the circumstances.

Anything else with respect to this issue?

POLICE COMMISSIONER ROBERT HAAS: So it's agreed upon that there could be a meeting with the Harvard Square business association and the Commission and relevant departments to talk about a more comprehensive safety plan for Winthrop Street during the times of concern.

CHIEF GERALD REARDON: Do we need that in the form of a motion?

POLICE COMMISSIONER ROBERT HAAS: I don't

think so.

ELIZABETH LINT: No. What I do need is a motion on the informational hearing to place it on file perhaps to take no action because it's not a disciplinary hearing.

CHAIRMAN MICHAEL GARDNER: Could we have a motion to place it on file, but available for reference and review, both with respect to the meeting that the Commissioner suggested, and any follow-up monitoring as we get into the spring and summer?

POLICE COMMISSIONER ROBERT HAAS: I make that motion.

CHIEF GERALD REARDON: Seconded.

CHAIRMAN MICHAEL GARDNER: All those in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

Thank you. Good luck and wish you tight

management.

DISCIPLINARY: ENTERPRISE RENT-A-CAR COMPANY OF
BOSTON, LLC

ELIZABETH LINT: Disciplinary matter:
Enterprise Rent-A-Car Company of Boston, LLC,
holder of a Letting of Motor Vehicles license at
25 River Street due to complaints of vehicles
being parked on the City sidewalk and impeding
pedestrian traffic.

CHAIRMAN MICHAEL GARDNER: Good evening.
Thank you for coming.

Is this the last item on the agenda
except for the --

ELIZABETH LINT: The last except for the
ratifications.

CHAIRMAN MICHAEL GARDNER: --
ratifications.

Well, someone has to be last.

Thank you for your patience.

So would you please just introduce

yourselves, your names and affiliations for the record, and then we would like to hear from you as to what you understand the problem or circumstances to be.

SETH ROY: My name is Seth Roy and I'm the area manager, that is one of my locations.

GREG RUSNAK: I'm Greg Rusnak. I'm regional vice president and officer of the company.

CHAIRMAN MICHAEL GARDNER: And this is of Enterprise?

GREG RUSNAK: Correct.

CHAIRMAN MICHAEL GARDNER: Tell us a little bit about the operation at this location, how long you have been there, what your arrangements are with respect to vehicle return, storage or parking and what you understand this problem to be.

GREG RUSNAK: We have been operating out of this location at 25 River Street since 1992.

The only service we provide is the rental of automobiles, and it's our understanding that we are here because of an issue where there's vehicles upon return that are impeding the sidewalks that surround our building, primarily on the corner between West and Franklin where pedestrians -- the sidewalks where they are defined are being blocked, primarily our understanding is, after our operating hours when we do not have personnel there, and then a customer returns a vehicle after hours and there's nobody there to move the vehicle.

We have been working with Brad Garrett extensively, along with Wayne Amaral, who has come to the site and created some drawings for us and a traffic flow pattern, which we feel like, based on his recommendations, will significantly improve, if not totally resolve the issue.

One of the problems -- a significant problem that we have right now is the parking lot

is extremely aged, and there's no stripping or any way finding at all for a customer when they return the car.

So, what Wayne has done for us, which we appreciate, is created some way finding signage and some stripping on the lot that once weather permits, we are in full agreement to get facilitated. That will include return lanes, parking stripping, some curb cuts, in particular on the corner where the pavement is so worn, that there really is no defined pedestrian walkway for customers that are returning cars to decipher whether it's on the parking lot or a sidewalk. So Wayne has agreed that the city is going to redefine that pedestrian walkway.

We right now, due to weather, are unable to facilitate the improvements, but we certainly have all the bidding in place and contractors in place to get that done, we're hoping weather permitting as earlier as mid-February.

CHAIRMAN MICHAEL GARDNER: It won't be mid-February.

GREG RUSNAK: I'm sorry, sorry. Mid-April, but that, of course, is weather permitting.

CHAIRMAN MICHAEL GARDNER: Do these plans include any barriers between your property and the pedestrian way?

GREG RUSNAK: There will be, again, at Wayne's suggestion some ballasts installed on the corner of River and Franklin and a couple more on the corner of Western and Franklin, again, to redefine a parking area.

I met on site with Wayne and we walked the property.

He then submitted this plan to me, and there was no alterations at all. We're in full support of what he suggested.

And we have taken some alternative steps in terms of staffing to have people there after

hours in the event that cars are returned, and even with the way finding and the stripping and the curb cuts and the overflow parking direction, cars are still left to impede the sidewalk. We will have staff there to move those cars to alternate sites, primarily some overflow parking that we have made arrangements with Pilgrim Parking, which owns a lot behind the YMCA of Green and --

CHIEF GERALD REARDON: Pleasant.

ELIZABETH LINT: Sellers.

GREG RUSNAK: Green and Sellers where we will lease spots from them that will be available to us for those after hours so the employees that are there, if there are cars left, will be able to move those cars down there.

Really our main problem that we have been made aware are after hours between 4:00 p.m. and 9:00 p.m. on Sunday, which is the primarily when customers are returning cars and we're not there,

the lot is set up to hold the amount of cars that we're expecting to be returned. Our primary problem is, and I don't think you can probably see this, but when you pull into the building, we are able to provide parking for the expected returns horizontally along the building, somebody will come in and nose a car in and now there's no more spots for anybody to park in the front and people just continue that pattern not making full use of the parking that we have available.

So, we feel like redefining the parking lot, it will resolve that issue.

And one of the other issues that we're hoping that also resolves is reducing the pedestrian traffic that is walking through our lot when there's not a defined sidewalk because that, again, is a hazard when you have vehicles being moved, and you have pedestrians that can't define where the sidewalk is and are just cutting through the property.

CHAIRMAN MICHAEL GARDNER: What is the nature of the ballast that you referred to?

GREG RUSNAK: It's -- it will be fixed on the corner.

CHIEF GERALD REARDON: Are you referring to bollards?

GREG RUSNAK: I thought they were bollards, but bollards, it's my understanding are concrete.

CHIEF GERALD REARDON: A lot of times they're steel that's filled with concrete.

GREG RUSNAK: Right. These will be flexible, they will define a perimeter area, but if a vehicle hits it, it will not cause damage to the vehicle, it will flex and then flex back up, it will be fixed to the ground with a rubber base, but it will be flexible.

CHAIRMAN MICHAEL GARDNER: So these will mark the corners, is that the idea?

GREG RUSNAK: Right. The design of it

based on this will redefine where the curb cuts are so the cars are not to be parked. As it stands now, and the way it was worded to me, if a customer can get a wheel on our parking lot, they feel like they're on the parking lot despite the fact that 50 percent of the vehicle is impeding the pedestrian walk. We want to redefine that parking lot so that people come in and do not pull the nose over so the wheels are on the parking lot, but the vehicle extends out onto the walkway. That's the design of the ballast.

CHAIRMAN MICHAEL GARDNER: How many parking space does your lot provide for?

GREG RUSNAK: Based on this design, we feel like we would have 27 spots. Again, size of vehicles varies. At that particular location, the majority of our vehicles are of smaller classification. We do have some requests, but we do not typically operating the larger, whether it be a cargo van or a pickup truck are extremely

limited at that location.

CHAIRMAN MICHAEL GARDNER: Currently the plan is people can come in and drop the car off, if there is staff there, they are checked out, otherwise if there's no staff, they simply drop the keys to the vehicle and handle the rest of it later?

GREG RUSNAK: Correct.

CHAIRMAN MICHAEL GARDNER: And are there ways for you to reliably to predict volume by day of the week to be able to tell whether or not you have, in fact, got the capacity?

GREG RUSNAK: Yes. We have software programs that tell us how many vehicles are coming in, as well as how many vehicles are specked to be returned. We've made some modifications to that. We put some volume ceilings in on reservation counts as to how many we'll accept to go out.

The only thing that we're unable to fully

control is if a customer rented at an alternative location and returns to this location that we weren't aware of, that's extremely limited. I don't have the exact number, but it's -- we're getting to the point now where we know isolated locations where people will go rent, and I won't bore you with Enterprise Rent-A-Car policies, but it's all rate driven, and if somebody can take a commuter rail to an outer lying area and get a reduced rate, then they will go out and get that car and then they will attempt to return it to this location where they ultimately wanted to return it, but the rate for that location was higher because the volume is much lower.

So some steps we have taken in place for that are that outer lying areas now will incur a fee if somebody wants to drop the vehicle here, strictly as a deterrent. We simply don't want the vehicles brought here if they were rented here because we lose that control of how many

vehicles are coming and going.

CHAIRMAN MICHAEL GARDNER: And what's your staffing plan to have people available after hours to move cars for how long?

SETH ROY: The software Greg was speaking of, I can -- excuse me -- my assistant can tell when my returns are happening. They're usually between the hours of 4:00 and 9:00. I can see when they're going to be heavy. It's a week-by-week basis, and I pretty much have my staff coming in, starting at the time of returns, move the cars to other locations right until the lot's empty with three kind of example cars to set the tone for parking and we stay there as long as we need and come in as late as we need to.

CHAIRMAN MICHAEL GARDNER: In your review of this, do you have any reason to believe that, in fact, any of your staff is responsible for this overflow parking onto the pedestrian way?

GREG RUSNAK: No. I think if anything, we have been negligent in redefining the parking lot in terms of resealing it. Really if you look at the property, it's very difficult to distinguish the parking. There's no stripping. Again the asphalt has worn to the point on the Franklin side where it's nearly impossible to the point where Wayne Amaral has come out and temporarily painted stripes to identify a sidewalk and physically written "sidewalk" so that people can identify it.

But I think once the curb cuts are put in and the walkways are clearly identified, then a customer can come in and see the stripping and park a car and eliminate a lot of the issues.

POLICE COMMISSIONER ROBERT HAAS: When you say curb cuts, you mean eliminating because you've got quite a bit -- the way the property is designed, there's no curbage.

GREG RUSNAK: Right.

POLICE COMMISSIONER ROBERT HAAS: So
you're talking about actually creating --

GREG RUSNAK: We are going to create curb
curbs.

POLICE COMMISSIONER ROBERT HAAS: You are
going to create curb and create distinguished
curb cuts as opposed to just no --

GREG RUSNAK: Correct. As well stripping
with a 12-foot lane in front of the building and
then subsequent three eight-foot lanes clearly
stripped, arrows identifying it and the term
"returns" really making it so that if you are a
customer, you pull onto a lot, much like you
would a business and see where do I put this car,
it will be clearly defined eliminating that cars
this way and this way and that way not making use
of the parking area.

CHIEF GERALD REARDON: So Wayne went over
this with you and he's pretty confident in the
layout?

GREG RUSNAK: This is a hundred percent his plan. Again, our intent is to fully comply with the issues. I'm a rental car guy, I'm not a parking engineer so I welcomed his advice and we're going to fully comply with what he designed.

CHIEF GERALD REARDON: We work with Wayne all the time. Wayne does a very efficient job for us.

GREG RUSNAK: He was extremely helpful in the process. My only regret is that we didn't meet with him earlier and not get to this plan.

CHAIRMAN MICHAEL GARDNER: What is the date of that plan that Mr. Amaral has submitted for the work he's done so far?

GREG RUSNAK: He and I met two weeks ago.

CHAIRMAN MICHAEL GARDNER: This is subsequent to March 1st?

GREG RUSNAK: Oh, yeah.

CHAIRMAN MICHAEL GARDNER: Do we have

that material on file?

ELIZABETH LINT: Yes. I was going to say I have a memo from Brad Garrett and I can summarize the substance of it for you.

He met with Greg and reported that he read the City Manager's response to the awaiting report which we know is what brought this all before you us and he said overall Enterprise has been very responsive, has taken several actions to improve the parking situation around the Central Square locations, and is summarized in the attached memo which Greg has basically just outlined for you.

Also, one of the issues that came up in the -- in that last City Council meeting in regard to Ms. Clippinger's report was -- you know, how she knew that Cambridge residents were the ones that were renting these cars, so research was done, 48 percent of all renters have Cambridge addresses, according to the drivers'

licenses, there were 978 rentals to Harvard and MIT students whose licenses did not have a Cambridge address. They also have a long list of corporate accounts with businesses in Cambridge who use their services for short-term corporate travel.

So there is certainly a Cambridge base which I know is one the questions that the councilors raised.

Brad goes on to say the department asked Wayne to evaluate the lot to determine what physical improvements could be made to help reduce or eliminate the problem, and then he did a site plan and made those recommendations as were just enunciated, but I have it all here. It can be incorporated into any conditions on the license.

CHAIRMAN MICHAEL GARDNER: How confident are you that the regular returns staff or the people working there understand this problem and

are going to be sensitive in the future to making sure that while they were there, the cars are parked appropriately?

SETH ROY: I would say a hundred percent. We hire all college educated kids. A lot of my employees went to Bentley and Assumption and local kids and we hire a hundred percent within, promote within, you need to do your job well in order to move up in this company.

GREG RUSNAK: I think that our employees at every level have a vested interest in our business, the success or failure of it both compensation-wise and promotability-wise. So they understand the importance of the issue and they take a personal vested interest.

I think, hopefully, you have seen, since this issue has been brought to our attention, some of the feedback that we're getting that there's certainly been an improvement noticed.

Personally I hope the weather improves

sooner than later from a corporate standpoint. Our branding is not to have orange cones out on a corner lot identifying curb cuts. It's not a financial issue. We want the appearance to be to our trade dress standards and certainly we want the appearance to the city to be pleasing.

So, as soon as the people that facilitate this type of work tell me confidently that they can pour asphalt and stripe and repave, the work will be initiated.

POLICE COMMISSIONER ROBERT HAAS: Do you know if Wayne looked at the view distance off of River Street? One of the things that I've noticed is when the cars are parked right up against the edge of that lot, it's very difficult to see down River Street in order to get across River Street on Green Street.

GREG RUSNAK: And I think that's what some of the curb cuts on his -- it won't allow us to park cars, it will have setbacks that should

improve the site lines at each corner.

So, you know, we're hoping that business continues to improve. It's not a volume issue right now. It's more of a logistics issue and handling the volume that we have and making maximum use of the space.

POLICE COMMISSIONER ROBERT HAAS:

Mr. Chair, for the record, we have been monitoring this location for the last six weeks. We have noticed a significant improvement in terms of the parking arrangements. Our office has been instructed that if, in fact, they do find violations, they will ticket and tow the cars and we've also put the management on notice that was our intent, and we haven't really had to go to that extent at this point, so...

CHAIRMAN MICHAEL GARDNER: So who's the person that somebody calls with a complaint about a violation --

SETH ROY: Call me.

CHAIRMAN MICHAEL GARDNER: -- Sunday at
10:00 p.m.?

You're the one.

Suggestions from the Commissioners about
any additional action to take -- I guess before I
do that, tough, I'll ask: Are there any other
questions from the Commissioners?

CHIEF GERALD REARDON: Not at this time.

CHAIRMAN MICHAEL GARDNER: Any members of
the public that would like to be heard on this
matter?

Any suggestions from the Commissioners
about any appropriate action to take at this time
whether there's any disciplinary action that
appears appropriate whether we should do a
continued monitoring?

POLICE COMMISSIONER ROBERT HAAS: What I
suggest, Mr. Chair, is that listening to the
testimony that we do, in fact, incorporate the
recommendations of Traffic and Parking as part of

the condition of the license, and I would also recommend that there be a review to have them come back and give us a status report.

In the meantime, we'll continue to monitor the location and also provide any feedback we notice in terms of any deficiency we see.

CHAIRMAN MICHAEL GARDNER: Would you suggest coming back in June or any particular time?

CHIEF GERALD REARDON: I would suggest six months to give them time to get this work done, and have some sort of a short period of time that we can evaluate it on.

POLICE COMMISSIONER ROBERT HAAS: With the stipulation that if we do, in fact, notice any discrepancies between then, we would actually bring them back for --

CHAIRMAN MICHAEL GARDNER: Six months is September, early October.

I'd feel more comfortable if we had them back in sooner myself really. You are going to have the construction done during April, certainly by the beginning of May, right?

GREG RUSNAK: Weather permitting, yes.

ELIZABETH LINT: June.

CHAIRMAN MICHAEL GARDNER: Late June?

That in the form of a motion?

POLICE COMMISSIONER ROBERT HAAS: I make a motion that we review in our June hearing on status of the -- to review the status of the parking lot with respect to the conditions imposed on the license.

CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: So a motion that came in two parts, one was to an apply the Traffic and Parking conditions to the license, and the second component to have a status review and update at a hearing during June of 2011.

ELIZABETH LINT: And I think there was a

third element that if there's a violation and that's what I was missing.

POLICE COMMISSIONER ROBERT HAAS: Yes. If we notice a deficiency or a violation in the meantime that doesn't preclude us from bringing the applicant back for review.

CHAIRMAN MICHAEL GARDNER: And that was the motion you seconded; is that right?

CHIEF GERALD REARDON: That's correct.

CHAIRMAN MICHAEL GARDNER: Okay.

GREG RUSNAK: If I can just add one thing, I don't know where this fits into this time frame, but the memo that I have from Wayne's suggestion is a function of this work, he wants to tie to Western Avenue renovations, so there's going to be certain aspects of his scope of work that certainly, unless Western Avenue's going to be done in 90 days, will not be completed, based on his suggestion.

POLICE COMMISSIONER ROBERT HAAS: We'll

get a status report by June and we'll figure out what work has yet to be done and then figure out what the timing is with respect to the reconstruction of Western.

CHAIRMAN MICHAEL GARDNER: Thank you for that clarification.

All those and a favor, signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed.

We appreciate your taking seriously what has been a serious neighborhood and public safety concern in the city. It sounds like you want to be good neighbors and we want to work with you to make sure that you live up to your end of and that we be of assistance.

RATIFICATIONS:

ELIZABETH LINT: Okay. Ratifications.

Medallion 12, 30, 93, 73, 75, 103, 175, 21, 58,

243, 05, 09 and 65, it works in order.

CHAIRMAN MICHAEL GARDNER: These are all refinancing?

ELIZABETH LINT: All refinance.

CHIEF GERALD REARDON: Motion to approve.

POLICE COMMISSIONER ROBERT HAAS: Accept.

CHIEF GERALD REARDON: Accept.

POLICE COMMISSIONER ROBERT HAAS: Second.

CHAIRMAN MICHAEL GARDNER: A motion to approve to accept has been made -- well, a motion approve was made, but it was subsequently changed to a motion to accept and it has been seconded and all those in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Opposed none.

The ayes have it.

Do we any other business before the Commission that we should consider at this point?

ELIZABETH LINT: Just to let you know,

that I will be putting on one of the next agendas a proposal to increase several of our licensing fees that have not been increased in over 20 years, and considering it's budget time. It's probably a good time to do that.

POLICE COMMISSIONER ROBERT HAAS: So do we need to have a public hearing on that?

ELIZABETH LINT: Yes, you do, because all of those licensees that have those licenses probably want to be heard. But, for example, the vendor peddler trucks pay \$39 a year, they pay \$150 in Somerville, they pay \$250 in Framingham.

POLICE COMMISSIONER ROBERT HAAS: Can we get like a comparison?

ELIZABETH LINT: That's all I have been able to find. Boston is --

POLICE COMMISSIONER ROBERT HAAS: I wouldn't compare -- I would think like Framingham and Somerville and Everett and Medford maybe.

ELIZABETH LINT: I haven't been able to

find them. When I have some free I'll look.

POLICE COMMISSIONER ROBERT HAAS: Newton doesn't do this kind of thing?

ELIZABETH LINT: No. I've already checked there. Some of them just don't have all of their fees --

POLICE COMMISSIONER ROBERT HAAS: I think it may be helpful if we could see like four or five comparisons of comparable communities.

ELIZABETH LINT: I have two for now. And our palm readers and secondhand goods, antiques, I mean, they are paying next to nothing. It just seems outdated.

CHAIRMAN MICHAEL GARDNER: I recall there was some conversation at the taxi hearing about an issue of flat rates, which we did not take a particular vote on that evening, we only voted on the meter rates. Is there any need to take any action with respect to the flat rate?

ELIZABETH LINT: Yes. That will also be

on.

CHAIRMAN MICHAEL GARDNER: That will be another item on a subsequent agenda. It has to be on the agenda, it has to be public notice.

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: A motion to adjourn is always in order.

POLICE COMMISSIONER ROBERT HAAS: Make a motion to adjourn.

CHIEF GERALD REARDON: Seconded.

CHAIRMAN MICHAEL GARDNER: All those in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: The ayes have it. It's approximately 9:02 on the evening of March 29, 2011.

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss.

I, Jill Kourafas, Certified Shorthand Reporter and Notary Public duly commissioned and qualified in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing record, Pages 1 through 207, is a complete, accurate and true transcription of my stenographic notes taken in the aforementioned matter to the best of my skills and ability.

In Witness Whereof, I have hereunto set my hand and affixed my seal this 8th day of April 2011.

Jill Kourafas
Certified Shorthand Reporter
Notary Public
My Commission Expires:
February 2, 2017

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