

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION DECISION HEARING

LICENSE COMMISSION BOARD MEMBERS:

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

STAFF: ELIZABETH LINT, EXECUTIVE DIRECTOR

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

DATE: August 6, 2013

TIME: 10:00 a.m. to 11:21 a.m.

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P R O C E E D I N G S

EXECUTIVE DIRECTOR ELIZABETH LINT: Good morning. This is the License Commission Decision hearing August 6, 2013. We're in the Michael J. Lombardi Building, 831 Mass Ave, Basement Conference Room.

Before you are Commissioners Michael J. Gardner, Commissioner Robert Haas and Fire Chief Gerald Reardon.

First matter left from June 25th was the change of manager for the Polish American Club.

One of the issues was that we didn't have the background check back, but we do and it's satisfactory.

POLICE COMMISSIONER ROBERT HAAS: There was also an outstanding investigation going on at the time?

EXECUTIVE DIRECTOR ELIZABETH LINT: We

have not found any other problems that we had received calls about.

POLICE COMMISSIONER ROBERT HAAS: Okay.

CHAIRMAN MICHAEL GARDNER: So, in this matter I had originally decided to recuse myself because of a prior work-related contact with applicant to be the manager. Is that the position?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: On reflection, however, I am satisfied that whatever that contact was, which was relatively brief and a number of years ago, will not influence my judgment with respect to dealing with this matter.

So although I'm not completely satisfied about the process for this, I believe I have the authority to simply rescind my recusement on the matter, and I feel prepared to vote on it with a

conscious that I'm doing so without being influenced by any prior contact I've had with the applicant.

So, do we have a quorum to deal with that issue in terms of the people who were present -- Commissioners who were present for that hearing?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

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

The only thing I'd ask is that when we do send notice to the Polish American Club that we identify the pending complaints that we have been receiving and make that manager aware of the fact that it's his responsibility to ensure that steps are being taken to offset or prevent those things from happening again in the future.

CHAIRMAN MICHAEL GARDNER: I'll second the motion as made.

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

FIRE CHIEF GERALD REARDON: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So the change of manager is approved.

EXECUTIVE DIRECTOR ELIZABETH LINT: The second matter was Alliance Livery.

Since that time we have started reviewing all of our livery rules and regulations. We have not come up with any drafts as of yet, but we're working on that. But there still is a moratorium. There are approximately 15 livery vehicles currently licensed in the city, and complaints keep coming in on the livery vehicles.

CHAIRMAN MICHAEL GARDNER: Although it's fair to say, isn't it, Miss Lint, as best we can identify, many of those complaints relate to

liveries not registered in Cambridge?

EXECUTIVE DIRECTOR ELIZABETH LINT:

Correct.

CHAIRMAN MICHAEL GARDNER: I'll make the motion that we defer any action on this application pending the continued review of the status of the livery industry in Cambridge.

POLICE COMMISSIONER ROBERT HAAS: Second.

CHAIRMAN MICHAEL GARDNER: And in terms of that application, are all three of us eligible to vote on that one?

EXECUTIVE DIRECTOR ELIZABETH LINT: No, just two.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed. So the matter is deferred

and the applicant will be notified.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

Moving to July 9th, we had change of d/b/a from Annapurna to Third Eye that was approved, but then there was also an alteration of premises to include wine and malt beverages on a seasonal outdoor patio on the sidewalk. And I don't think we got a resolution in terms of a DPW permit.

CHAIRMAN MICHAEL GARDNER: My memory is that that was part of the application and the plan of the owner, but the required steps for additional -- DPW approval had not been applied with?

EXECUTIVE DIRECTOR ELIZABETH LINT: No.

And there was also a concern from the Commission With Persons With Disabilities as well.

So I don't think anything has changed. I don't have any updated information.

CHAIRMAN MICHAEL GARDNER: Do you have a record of who of us was present for that meeting?

POLICE COMMISSIONER ROBERT HAAS: I was.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes, I do. Just the two of you were.

CHAIRMAN MICHAEL GARDNER: Okay.

Well, I'll make the motion to, I guess, defer the matter until the first scheduled hearing for the Commission in September to give the applicant until then the opportunity to complete the paperwork.

And failing that to -- should it not be completed by then, to deny the application.

POLICE COMMISSIONER ROBERT HAAS: Second.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed. You will notify the applicant of this?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: Okay.

EXECUTIVE DIRECTOR ELIZABETH LINT: Mass Ave Restaurant.

CHAIRMAN MICHAEL GARDNER: Who was available? Just the Commissioner and I?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: So a vote to you and any of the other persons who were here last Wednesday when we did not have a quorum of Commissioners present to deal with this matter, based on my negligent absence, because I was under the impression the hearing had been cancelled, but it had not, in fact, I had taken the appropriate steps to confirm that, I was not present.

I apologize and deeply regret the

inconvenience caused to both the applicants and other Commissioners and the Commission staff.

I've been in public service a long time. I haven't done this too many times. But once is too many and I deeply regret it.

Although we typically don't necessarily take any additional testimony or evidence at decision hearings, I see that the applicant is here with counsel. And I would appreciate hearing from counsel on a restatement of the application summary of steps taken by the applicant to comply with the standards for a no-value license.

If could you please state and spell your last names for the record.

ATTY. VINCENT PANICO: We already have for the stenographer. Vincent Panico, I'm the attorney for petitioner, P-A-N-I-C-O.

DAVID BARLAM: David Barlam. I'm the

owner of the restaurant. B-A-R-L-A-M.

ATTY. VINCENT PANICO: So members of the Commission there were three issues you asked us to address the last time we were here, and one was the issue of support, and we submitted an additional 200 signatures and gave them to Ms. Lint at the last hearing.

And the second issue was: Are there any licenses out for sale out there, have you checked on them, and I investigated that and I found that there were three. But two of them were all alcohol licenses, and the third was a license in Harvard Square. Mr. Cappora was the owner, and when I contacted him, it had just gone under agreement.

Last week I came in and talked to Chris, and I asked him "Are there any other beer and wine licenses for sale?" And he said, no, not that he was aware of.

The second issue was a Plough and Stars. You might recall the owner of the unit who leases it came in and expressed some concern because he presently had it under agreement and didn't want anyone to interfere.

He has submitted a letter. Padrig O'Malley is his name. He said, "Since the previous hearing, I have been in contact with the owner of Mass Ave Restaurant, LLC. After consideration I have decided to endorse their pursuit of a nontransferable beer and wine license.

In that same vein, we have a letter from the owner of the other properties, Georgia Mamakos in which she says she has contacted all of the other owners, and there's no opposition.

She said, "All parties were contacted in August of 2012. Feel free to contact me with any questions of concern and I'll turn those in."

And may I also at this time mention other letters of support. One from a former policeman, Reuben Dottin, R-U-B-I-N (sic), D-O-T-T-I-N.

He says "I patron the restaurant at least four times a week and have been very impressed with David since he took over." He makes other comments which I won't go into.

And also from Mr. Sheldon Cohen who is very active in the city. He said, "I would like advocate support his request to obtain a wine and malt beverage license."

And finally for -- there's one from another client, he's an architect, he designed the tunnel in Harvard Square, and he said, "I am writing in support of Mr. David Barlam's application.

So I think addresses the three issues raised at the first hearing.

CHAIRMAN MICHAEL GARDNER: I guess

because I've known Reuben Dottin since he was a police officer for a long time, I would like to correct the record. It's R-E-U-B-E-N, not I-N.

ATTY. VINCENT PANICO: Sorry.

CHAIRMAN MICHAEL GARDNER: Quite all right.

POLICE COMMISSIONER ROBERT HAAS: So Mr. Chair, at the last hearing, you indicated that one of the reasons why you were not able to look for a license was the concern of the cost of the license and then not fitting into the business model.

You know the License Commission is in the process of contemplating the changing the fees relative to no-value, nontransferable licenses, so before you head down this road, I just want to make sure that the anticipated action -- and, again, I'm not sure where the License Commission is going to go with this -- but that will not

infer with your plans for a no-value,
nontransferable license.

ATTY. VINCENT PANICO: I have discussed
that with my client. We're still going forward.

POLICE COMMISSIONER ROBERT HAAS: Okay.

CHAIRMAN MICHAEL GARDNER: Well, I would
say at the last hearing, I had some concerns
about the fullness of local support. I'm not
sure that I thought that Plough and Stars'
business complications or difficulties were
particularly relevant to us in terms of like I
don't see us as acting to protect existing
establishments necessarily from the competition,
which is what I understood part of the argument
to be, but I take note of the additional
indications of support.

But I will ask the Commissioner if he has
any further thoughts on the matter before we move
to dispose of it.

POLICE COMMISSIONER ROBERT HAAS: No. I think you have been able to at least identify the three issues that we raised in the last hearing.

Now that the one remaining beer and wine license is under agreement, there apparently is no other license for you to take advantage of, and I think that's the thing we're concerned about that you have available licenses and they're not being -- so we don't under value those licenses. I think with -- while it's taken off the market, I think I'm prepared to move forward with this matter.

CHAIRMAN MICHAEL GARDNER: And for my point of view in terms of prior actions of the Commission that I'm aware of, I think you've met the criteria with this, at least the same level of evidence, which has resulted in our positive actions in the past.

Something I was not necessarily persuaded

of on July the 9th.

So, I'll make the motion to approve no-value, nontransferable wine and malt license with the recommendation that the matter be reviewed within six months in terms of both any difficulties in the operation or any complaints or concerns from the neighborhood. And subject to the administrative requirements of the Commission, which includes the 21 Proof training and the ABCC's own state approved training which you also have to do.

POLICE COMMISSIONER ROBERT HAAS: Second the motion.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye. None opposed. Good luck with the plans.

Again, my apologies.

EXECUTIVE DIRECTOR ELIZABETH LINT:

July 23rd, we had the Hackney appeal, Victor Mireku.

CHAIRMAN MICHAEL GARDNER: Do you have -- the reason I don't ask that all the time is because we did not have the record.

EXECUTIVE DIRECTOR ELIZABETH LINT: It's upstairs.

CHAIRMAN MICHAEL GARDNER: Why don't we just -- let's defer. We'll hold on that one and see if you can get somebody to bring it down.

EXECUTIVE DIRECTOR ELIZABETH LINT: Okay. Prospect Liquors.

CHAIRMAN MICHAEL GARDNER: So, I see the applicant or the requestor is in the building. I'm happy to have you come forward, sir, if you want.

STEVEN HALPERN: We represent people in

the neighborhood who didn't have an opportunity at the last meeting to voice our concerns and we would like an opportunity to voice the concerns.

CHAIRMAN MICHAEL GARDNER: Okay. Thank you. I'll just take under advisement for the moment the fact that both the applicant is present today, and there are some members of the community who are here who claim not to have had the opportunity to speak at the last hearing and would like the opportunity to speak a little.

Before we do that, I would like to just sort've lay the jurisdictional groundwork here.

We met on July the 23rd, when this matter was concerned. At that time because of some important administrative activity taking place at the Police Department, no member of the police administration was available to serve as the departmental representative on the Commission.

The applicant was represented by counsel

at that hearing. My memory is that I made the inquiry of the applicant, through counsel, as to whether or not they were willing to allow the Police Commissioner to participate in the decision-making on this hearing given that the Commissioner has had substantial exposure to the issues and participated in the hearings, which resulted in the revocation of the license in the first place, and my understanding and memory is that counsel for the applicant agreed that in the interest of having a full commission participation in this important decision, he would be willing to waive any objections to the commissioners not being present on July 23rd.

Is does that fit with your memory of the record, Ms. Lint?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: And fire chief?

FIRE CHIEF GERALD REARDON: Yes.

CHAIRMAN MICHAEL GARDNER: So I think that it remains up to you as to whether or not you feel you're in a position where you want to exercise your authority here. I believe we've cleared any legal hurdles for your doing that, and, in general, my preference is that we have a full participation of the Commission in this matter.

I am also inclined to make an exception to the general understanding that we do not take testimony at a decision hearing, but, again, given the importance of the matter and the sort've unusual nature and with the indication that we do have some members of the public who would like to express themselves.

I would just ask if either of you object to taking that time indicating I would reserve no more than ten minutes for such testimony.

POLICE COMMISSIONER ROBERT HAAS: I think it will be helpful for me to have testimony particularly with the folks here to give testimony since I wasn't here on the 23rd.

Also, I would like to get a review of the context on the 23rd hearing prior to any testimony, so I can get kinda up to speed on that. And I wouldn't be able to take any action without any kind of testimony.

CHAIRMAN MICHAEL GARDNER: Okay. So the minutes of the 23rd have just been released. You probably have not had the opportunity to review that.

POLICE COMMISSIONER ROBERT HAAS: No.

CHAIRMAN MICHAEL GARDNER: So my suggestion is that we -- since you now -- well, that we hear both again from the applicant, if there's anything the applicant wishes to say briefly, and also hear from members of the public

for up to ten minutes, then take a recess to give all of us the opportunity to review the minutes of July the 23rd and then come back for a further deliberation on the matter, is that acceptable?

FIRE CHIEF GERALD REARDON: It might be helpful for the audience to understand what today's hearing is and the potential in terms of --

CHAIRMAN MICHAEL GARDNER: Thank you, Chief.

To set the stage for this and please correct me if I have oversimplified, Miss Lint, after numerous hearings, and what, I think the Commission would regard as stern warnings and clear deadlines, the Commission voted to revoke the license to sell alcohol by Prospect Liquors in the late winter of 2013.

That revocation is, as I understand it, still at the appeal at the Alcohol Beverage

Control Commission.

In the meantime, the store has been closed, and not doing any business. The prior holder of the license, Mr. Patel, came with counsel on July 23rd to ask for a reconsideration of the Commission's decision to revoke the license and the request that Mr. Patel be -- the license be reinstated to Mr. Patel for the limited purpose of sale of the license as opposed to reopening the store for business.

We heard from counsel for Mr. Patel, who, in my memory, indicated that he understood completely the reasons for the Commission's action, but essentially made a hardship plea on the basis of Mr. Patel to return the license to him so that he could achieve some economic value out of its sale given the extreme economic hardship on both from the business and personal point of view that Mr. Patel was facing as a

result of the closing of the business and the loss of the license.

Does that sound like a fair summary, Miss Lint.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Absolutely.

CHAIRMAN MICHAEL GARDNER: Mr. Patel, do you have anything briefly you would like to add at this point?

DHIRU PATEL: Not really. I just want to sell this business as quick as possible and get out from this. My attorney explained everything on 23rd, what situation I'm in. I just want to sell it and get out. I will take every step to help sell it. That's all I want to say.

CHAIRMAN MICHAEL GARDNER: My memory was that there were -- that counsel for Mr. Patel represented that there were four or five potential buyers for the license, one or more of

whom were interested in taking over the same location, one or more of whom had indicated that they were desirous of moving the license to a different location.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

I do have several offers to purchase and some of them are quite difficult to read from coming through the fax, but they're definitely here.

They're being marketed by a broker.

CHAIRMAN MICHAEL GARDNER: Okay.

Making an exception to our general rule of not taking public testimony at a decision hearing, I will now ask if there are any members of the public that would like to be heard on this matter and ask -- Mr. Patel, why don't you step back now or take a seat and I'll just ask any members who would like to speak to please just come up, and you can all come up at once, assuming there's room, and bring up another

chair. Let's have two people at a time.

FIRE CHIEF GERALD REARDON: Does everybody understand the premise today?

THE AUDIENCE: Yes. Reinstatement for purpose of sale only.

FIRE CHIEF GERALD REARDON: We kind've know what the neighborhood has gone through and we have gone through this. This is the purpose -- we'll not have anything to do with the business in the future whatsoever. And if it's reinstated, it has to have a public hearing before anyone else can take it over.

CHAIRMAN MICHAEL GARDNER: I'm gonna limit everybody to ten minutes, so please state and spell your names for the record and keep your remarks brief and to the point.

Go ahead.

DIANE GARNER: Diane, Garner, D-I-A-N-E,
G-A-R-N-E-R.

I live at 73 Tremont Street just around the corner from Prospect Liquors and I just wanted to say what a difference it has made in the neighborhood since it's been closed. I'm not afraid to walk down the street. I'm not wakened at 6:30 in the morning by drunken disorderly people on there way to the liquor store to get their first fix.

The litter in the neighborhood it's really changed enormously, and I would hate to see it go back to what it was before. It was frightening.

CHAIRMAN MICHAEL GARDNER: Okay.

MARK FRANKLIN: Mark Franklin. I also live at 73 Tremont Street.

CHAIRMAN MICHAEL GARDNER: I'd ask you to spell your last name for the record for consistency, please.

MARK FRANKLIN: F-R-A-N-K-L-I-N.

CHAIRMAN MICHAEL GARDNER: Thank you.

MARK FRANKLIN: The property is in the same block as Prospect Liquors. In fact, our backward comes within two buildings of the parking at the Prospect Liquors building. We have close interest in the matter.

Inman Square, as you certainly know is (inaudible). There are three package stores counting Prospect Liquors within five blocks. In addition to enumerable bars and restaurants with liquor licenses.

The concentration is such that it provides an object lesson in what happens when there's too much outlet for liquor in a given place.

In order to make money at least one of these stores has to move towards underhanded dealings, otherwise, there simply isn't enough income to survive when there's that much

competition.

I believe the state has guidelines or rules about the number of package stores there should be for the population, and Cambridge as a whole, I believe because of loss of population, has far more, at any rate more package stores than would comply with the guidelines. And the reason we're allowed to have those is because many of them are grandfathered from a time when Cambridge had more -- had a higher population.

So, to my mind, this is a Godsend opportunity to bring ourselves closer to being in compliance with state guidelines, and at the same time to remove this incentive to underhanded or illegal dealings on the part of one or more of these institutions.

CHAIRMAN MICHAEL GARDNER: Thank you very much.

STEVE HALPERN: My name is Steve Halpern.

CHAIRMAN MICHAEL GARDNER: I would just ask you to spell your last name.

STEVEN HALPERN: H-A-L-P-E-R-N. I have lived and owned the building on Tremont Street since 1980. I would make two points: One, it seems to me unfair that somebody should profit from their misbehavior and their breaking of the law, which is clearly what has happened here.

I am not convinced that Mr. Patel's representations of hardship are based on fact.

My second point would amplify Mark's, which is this is a very bad location for a liquor store.

There's no parking. It's relatively small. There are lots of other outlets. It also produces a traffic problem, both a vehicle traffic problem where we have a lot of doubling parking when the store was open right in front of the store which is a right-hand turn off Prospect

Street. And I, myself, come around that corner and I'm startled by somebody getting out of a double-parked car into the only lane you can pass.

And now that the store has been closed for awhile, traffic flow around that corner has been substantially improved.

The second thing I would say about that is that pedestrian flow up and down Tremont Street, which had been the case where every morning, half an hour before it opened, we would be -- there would be a line of people who are out to buy nips, some of whom were already inebriated on their way to the Prospect Liquors. Behavior was not always what you would desire in a residential neighborhood. And then three-quarters of an hour later, after they had purchased the nips or a pint of vodka, on their way back to sitting on the front stoops,

et cetera, et cetera. I need not to go into detail. That's what I have to say.

CHAIRMAN MICHAEL GARDNER: Thank you.

Are there any other members of the public that would like to be heard?

I ask you to please state and spell your last name for the record.

MING TAI HUH: Ming Tai Huh. M-I-N-G, T-A-I, last name is H-U-H.

I'm a resident of Central Square Area 4 and also the owner of a restaurant right around the corner from Prospect Liquors called Puritan & Company.

POLICE COMMISSIONER ROBERT HAAS: Say that name again.

MING TAI HUH: Puritan & Company. I walk to work everyday from Central Square, which is a place where there are other lots of liquor stores as well, and on the way there, I can see the

damage of (inaudible), the type of behavior that occurred at Prospect Liquors has created on the neighborhood. It gives liquor stores a bad name. But I think after reading the hours of testimony based on this case from January to October, I think it's safe to say that the Commission agrees there are multiple violations, multiple disciplinary incidents at this location. You have been very compassionate for this man's business, you've given him multiple times to do the right thing, yet, in the last time I read the documents, it says that he wrote a letter claiming that he had financial hardship and took it upon himself to take the rules in his own hands and made changes to his business without any approval from the Commission here, sitting here.

So I think there's countless times or many -- seven times where this person has

violated really the trust of the neighborhood, the Commission, the City of Cambridge. And it says in the rules and regulations that faulty liquor sales or liquor licenses -- and I'm sure you're very familiar, but for the public really -- passed on March 23, 1993, if a liquor license is revoked by the city, for the Commission for vice-related issues, they're on record for selling to minors, selling to intoxicated individuals, the Commission will not approve a sale of that license being revoked or suspended.

The reasoning behind this policy is licenses would have committed over some kind of involvement. The offense should not profit from the sale of the license with the (inaudible).

It's my opinion that the Commission should not allow this.

CHAIRMAN MICHAEL GARDNER: Thank you very

much.

Any other members of the public who would like to be heard?

I ask you to state and spell your name for the record.

WALTER SOUSA: My name is Walter Sousa, S-O-U-S-A.

I'm the ex-owner of Prospect Liquors and own the condo now and I lease it to Patel. I would like to say that prior -- in prior months that we had an opportunity to come out and speak and we have and all this, and now all of a sudden people coming up on the day that there should have been a decision. This should have been done prior.

The other thing is how do you say it's quite now. Well, there's still Martin Brothers, 660 down the street and Albert's Market. The thing is the way you follow the route is they

drop off their cans on Columbia Street. That's a big problem right there. If they got rid of the Redemption Center, they would find another location to go.

So, when I had it, I had an incident that people go there. They walk by my store and they drop nips and buy them somewhere else and I was getting the blame for them.

One time I videotaped and it wasn't me. So I just think that on behalf of Patel, I would like to see him have another chance to sell, get out of the business and hoping somebody comes in and turns that into a nice respectable liquor-run store like -- probably even better than he had it or I had it. I wish the Board would consider giving Patel another chance because that's my livelihood, too, that's how I make a living. I would like to be even one of the guys to buy it back, but apparently, my name is not on the list.

So thank you.

CHAIRMAN MICHAEL GARDNER: Thank you very much.

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

Seeing none, do we have the application?

EXECUTIVE DIRECTOR ELIZABETH LINT: He's not here. No. You do have one. We have one of the liveries.

CHAIRMAN MICHAEL GARDNER: Is there one other livery issue? I thought we dealt with the livery issue.

EXECUTIVE DIRECTOR ELIZABETH LINT: That was on June 11th.

CHAIRMAN MICHAEL GARDNER: We didn't deal with this issue on July 23rd?

EXECUTIVE DIRECTOR ELIZABETH LINT: No.

POLICE COMMISSIONER ROBERT HAAS:
June 25th or June 11th?

EXECUTIVE DIRECTOR ELIZABETH LINT:

June 11th, and I'll tell you why.

Oh, because he didn't have a vehicle. He didn't have a business plan.

CHAIRMAN MICHAEL GARDNER: So the Commission has been approached by a number of individual entrepreneurs in recent months to establish livery services in the city, and my understanding, please confirm, Ms. Lint, that -- is it Mr. Milk do you know.

ALGA MEKONEN: My first name is A-L-G-A. Last name M-E-K-O-N-E-N.

CHAIRMAN MICHAEL GARDNER: And my memory, Mr. Mekonen, is that you came in and wanted to establish a livery business. We deferred any action on it at that time. You didn't -- you hadn't made a lot of steps to demonstrate your sort've readiness to begin the business from the -- at least from the perspective of some of

the Commissioners, so we deferred action.

Since then, the Commission has been dealing with a couple other applications, decided to defer any action on any additional livery applications pending a further review of the livery business in the city, and consistent with a moratorium which had been in place although not universally enforced for a number of years.

I will hear you briefly on any additional steps you've taken since the last time you were before the Commission with respect to your plans.

ALGA MEKONEN: (No response.)

CHAIRMAN MICHAEL GARDNER: Is there anything else you would like to tell us?

ALGA MEKONEN: Just what is the decision for that. I have to know.

CHAIRMAN MICHAEL GARDNER: So you're asking the Commission to make a decision?

ALGA MEKONEN: Yes.

CHAIRMAN MICHAEL GARDNER: All right. I think consistent with the rest of the applications, I would make the motion to defer any action on this application pending further review of the livery business within the city.

And I say that understanding that you would like to know, I think you can take a deferral as there's no immediate plan to approve this.

ALGA MEKONEN: Okay.

CHAIRMAN MICHAEL GARDNER: That may be a little better than an outright denial, but it's definitely a signal that you don't -- you should not go forward with making the personal or business investments to set up the business. So that's the motion.

POLICE COMMISSIONER ROBERT HAAS: I second the motion.

CHAIRMAN MICHAEL GARDNER: Anything else

you want to add?

POLICE COMMISSIONER ROBERT HAAS: No.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye. None opposed. We're not going to approve. We haven't outright denied, but we put it into a review, which, in fact, will take some months. Okay.

ALGA MEKONEN: Thank you.

CHAIRMAN MICHAEL GARDNER: Thank you for your interest and desire to establish a business in the city.

I think now would entertain a motion that we go into a brief recess to allow Commissioners to review the record without consultation among each other before returning to open session to

make a decision on both the Prospect Liquors matters and the Hackney license revocation that's still before us.

POLICE COMMISSIONER ROBERT HAAS: When was the Hackney --

CHAIRMAN MICHAEL GARDNER: That was probably the 23rd as well.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: So the two of us can do that.

Chief Reardon and I were here on the 23rd. I am positive of that as I was that last Wednesday's hearing was cancelled.

EXECUTIVE DIRECTOR ELIZABETH LINT: Lester was here on the 9th. Tom was here on the 26th.

CHAIRMAN MICHAEL GARDNER: I'll entertain a motion to take a recess.

POLICE COMMISSIONER ROBERT HAAS: Second

that.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

We'll be back as quickly as we can be back.

(Recess began at 10:50 a.m.)

(Recess ended at 11:05 a.m.)

CHAIRMAN MICHAEL GARDNER: We're back on the record at approximately 11:05. During our brief recess of approximately ten minutes, the Commissioners took the opportunity to review the minutes from the July 23rd meeting. There was no conversation or substantive discussion about the matter before us and no votes were taken.

Commissioners, were you satisfied that

you reviewed the record fully and sufficiently to be able to make an informed decision in this matter?

POLICE COMMISSIONER ROBERT HAAS: I am.

CHAIRMAN MICHAEL GARDNER: I think I will give each Commissioner the opportunity to speak in turn.

For myself, I guess very briefly what I will say is that the Commission took its action earlier this year. For the record, Ms. Lint, March? February? Either in the late winter or early spring.

EXECUTIVE DIRECTOR ELIZABETH LINT:

March 19.

CHAIRMAN MICHAEL GARDNER: That's as close to late winter and early spring as you can get.

The Commission took its action on March 19th understanding that that action had the

potential to create substantial financial hardship for the license holder.

It took that action in my mind only after giving Mr. Patel months of notice that he should move expeditiously to sell the license while it was still in his possession to give him the opportunity to have a soft landing notwithstanding the really horrific record he had, at least in my view, of abusing the license through sort've regular flaunting of the rules and subsequently direct violations of the Commission's decisions which I have every confidence he understood.

I think there's no reason in my mind to change the decision we made on March 19, which his own counseled described in the July 23rd hearing as well reasoned and considered. I think the regulations as cited by one of the members of the public are quite germane to this and describe

the longstanding Commission policy with respect to dealing with flagrant violations. In this instance, both flagrant and continuing, and believe, particularly in light of the opportunities the Commission tried to give to the license holder to get out of the business gracefully, that he did not take advantage, but instead continued to defy Commission orders makes this for me a particularly clear case that the action we took was right and we should stand by that action. And I believe there's some deterrent value to this for the future.

Our principal interests are in protecting the public, the public safety and welfare in the city. And that includes doing what we can to make sure that license holders -- that we vet license holders as well and license holders when they are applicants and when license holders get a license that we hold them to the standards

that we set forth with the understanding that if they fail to comply with those standards, they stand to lose the license and whatever financial value it may have.

I think that our interest in protecting the public and making it clear that license holders who consistently violate the rules, stand to lose the license and that when we say it, we mean it, overrides in my mind any particularized financial difficulties of this former license holder, who has -- his own counsel made clear are financial difficulties which result from his own mismanagement, a violation of the terms of the license.

So I'm not inclined to support a reconsideration of the March 19th decision. I leave it to either of the other two Commissioners to speak as they will.

POLICE COMMISSIONER ROBERT HAAS: I have

been on the Commission for six years. This is the first time I've seen the Commission, in my tenure, take action of this nature, but it wasn't without cause. I think we went down this road several times. Gave the holder plenty of opportunity to correct a number of the issues that were going on in the neighborhood, and also gave the applicant or the holder an opportunity to sell the license and get out of the business some time ago, which he decided not to do.

There's a pending appeal before the ABCC. As I read in the minutes, it's scheduled for August 28. My attitude at this point in time is this body took the action it deemed appropriate and necessary.

I'm not prepared to change my position on this issue as you, Mr. Patel, had an opportunity before the ABCC to make a compelling argument as to whether or not it's going to uphold the

decision of this Commission and not overturn it.

FIRE CHIEF GERALD REARDON: On the 23rd I was probably the harshest critic of Mr. Patel. He probably never should have had this license in the first place. He has done contrary to everything we asked him to do. He repeated opportunities to change his ways which he hasn't done.

In spite of that, I would consider him selling the license for the purposes of getting out of the business because there's a lot of collateral people who got damaged by him because this was used as leverage.

A lot of people are probably going to suffer severe financial hardship. I don't think he will see any windfall from this. He would be able to get out from some of the other debts he has had.

If this license is to go back up, there's

no guarantee it's going to be at that location. If it was to go at that location, believe me, it's not going to go the way it did in the past because the neighborhood should not suffer the shortcomings or the management by Mr. Patel or anyone else in there that adversely affects the neighborhood.

And I have been one that has seen that. I tried sitting across the street at 1221 Cambridge Street, I understand what they're going through.

But for the purposes of simply substantially making whole his debtors, I would consider it for that purpose only. Understand as I said to his counsel that he has nothing to do with the business here whatsoever.

CHAIRMAN MICHAEL GARDNER: Thank you.
Thank you.

So this is an application by a former

license holder for us to reconsider our decision to rescind the license is that a correct way of stating it, Ms. Lint?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: So I will make the motion that the Commission reject -- reject reconsideration of its decision or in any way change its decision from March 19 to rescind the license based on the reasoning as outlined in the history up to and including March 19th as conceded by counsel for Mr. Patel on July 23rd and as articulated at the Commission this morning.

POLICE COMMISSIONER ROBERT HAAS: I second the motion.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Those opposed?

FIRE CHIEF GERALD REARDON: Opposed.

CHAIRMAN MICHAEL GARDNER: So the motion carries, two to one, and there will be no action changing the Commission's decision of March 19th.

Do we have any -- we have one other matter before us.

EXECUTIVE DIRECTOR ELIZABETH LINT: The Hackney appeal.

CHAIRMAN MICHAEL GARDNER: So the Hackney appeal, the fire chief and I were present that evening, we deferred any decision on it pending actual review of the driver's license record. We had a chance to review that record, and I would make the motion that we approve the decision of Ms. Lint to deny an extension or to cancel the license, revoke the license.

EXECUTIVE DIRECTOR ELIZABETH LINT: Not to renew.

CHAIRMAN MICHAEL GARDNER: Not to renew the license.

FIRE CHIEF GERALD REARDON: It's also clear from testimony that the officer had this individual on a year-by-year basis. He has been given the opportunity several times.

EXECUTIVE DIRECTOR ELIZABETH LINT: Three times.

FIRE CHIEF GERALD REARDON: And it's unfortunate that he cannot keep from getting citations or motor vehicle fines. I understand it's his livelihood, but I would trust to say if I was on probation for three years and continued to do this, that I am jeopardizing myself and there's no one to blame but him and him alone unfortunately. So I would support Ms. Lint's --

CHAIRMAN MICHAEL GARDNER: The motion's

been made and seconded. All those in favor who were present on the 23rd, signify by saying "aye."

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So the decision to approve -- to deny the appeal and approve Ms. Lint's decision revoking the license stands.

CHAIRMAN MICHAEL GARDNER: Any other business before us?

EXECUTIVE DIRECTOR ELIZABETH LINT: No.

CHAIRMAN MICHAEL GARDNER: I'll make a motion to adjourn.

POLICE COMMISSIONER ROBERT HAAS:
Seconded.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

We're adjourned at approximately 11:18.

Any members of the public who would like to speak to any Commissioners in a nonofficial capacity after the hearing, they're free to make the attempt.

(Whereupon the meeting was concluded at
11:21 a.m.)

ERRATA SHEET

INSTRUCTIONS: After reading the transcript of this hearing, note any change or correction to and the reason therefor on this sheet. DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet (before a Notary Public, if required).

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I have read the foregoing transcript of the hearing, and except for any corrections or changes noted above, I hereby subscribe the transcript as an accurate record by me.

CERTIFICATE

Commonwealth of Massachusetts

Norfolk, ss.

I, Jill Kourafas, a Notary Public in and
for the Commonwealth of Massachusetts, do hereby
certify:

That the hearing herein before set forth
is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set
my hand this 18th of August 2013.

Jill Kourafas
Certified Shorthand Reporter
License No. 14903
Notary Public
My Commission expires:
February 2, 2017

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