

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARING

LICENSE COMMISSION BOARD MEMBERS:

Michael Gardner, Commissioner
Robert Haas, Police Commissioner
Lester Bokuniewicz, Deputy Fire Chief

STAFF: Elizabeth Y. Lint, Executive Officer

AT: Citywide Senior Center
806 Massachusetts Avenue
Walter Milne Ballroom
Cambridge, Massachusetts 02139

DATE: Tuesday, April 12, 2011

TIME: 6:00 p.m. to 8:54 p.m.

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P R O C E E D I N G S

ELIZABETH LINT: Good evening, everybody.
Before we get started if you have a cell phone
on, please turn it off.

This is the License Commission General
Hearing, Tuesday, April 12, 2011. We're in the
Citywide Senior Center, 806 Mass Ave, Walter
Milne Ballroom.

Before you are the Commissioners,
Chairman Michael Gardner, Commissioner Robert
Haas, Deputy Fire Chief Lester Bokuniewicz.

DISCIPLINARY: MASSASOIT ELKS CLUB, INC.

The first matter is disciplinary hearing
continued from March 15 and March 29, 2011.
Massasoit Elks Club, Incorporated, Donald
Harding, manager, holder of an all alcoholic
beverages as a club license at 55 Bishop Allen
Drive due to an investigation by License
Commission regarding charging a cover charge and
a separate incident that happened on January 23,

2011 involving a police officer and a patron with a knife.

COMMISSIONER MICHAEL GARDNER: Good evening. Thank you very much. What I would like you to do is if you could, please, state your name and affiliation for the record to begin and then we'll hear from Ms. Boyer.

ANDREA BOYER: Andrea Boyer, licensing investigator, City of Cambridge Licensing Commission.

OFFICER PINA: Officer Ray Pina, Cambridge Police Department.

ATTORNEY TIMOTHY FLAHERTY: Attorney Timothy Flaherty appearing on behalf of the Elks.

DONALD HARDING: Donald Harding, member of the Massasoit Lodge.

COMMISSIONER MICHAEL GARDNER: Thank you. Ms. Boyer.

ANDREA BOYER: Thank you, sir. We were given a Police Incident Report No. 1100497 dated

January 23, 2011 stating that alleged victim was threatened with a knife on the premises of the Elks Club located at 55 Bishop Allen Drive. The report was attached with your packet.

The alleged victim also claims that once he fled the scene for safety, he called the police. CAD Report No. 1100683 concurs with the alleged victim's statement that he called the police and not the establishment.

And based on the incident with a dangerous weapon on the premises and based on the victim calling the police and not the establishment, that is why we are here, and the police officer is going to read his record.

OFFICER PINA: On January 23, 2011, at approximately 1:42 p.m., Francis Reddick, 3/6/1989, of 104 Amory Street was placed under arrest and charged with assault by means of a dangerous weapon (knife) and disorderly conduct after reports were made by a witness that he

pulled out a silver-bladed knife and waved it at the victim during a verbal altercation that took place at 53 Bishop Allen Drive, the Elks Club.

The victim and witnesses immediately fled the scene for safety and called the police. Upon police arrival, Reddick was identified and placed into police custody.

On the above date and time, January 23, 2011, while assigned to foot patrol Central 12, I, Officer Pina, overheard a transmission from ECC stating that two people were trying to fight an RP and his friend at 53 Bishop Allen Drive, the Elks Club. ECC immediately updated that a male SP had shown a knife with a six-inch blade. ECC then updated that the male SP was a black male wearing a blue puffy hooded jacket and had short dreadlocks.

Upon my arrival, I observed approximately 20 to 25 males and females exiting the front and side doors of the Elks Club.

As I approached the entrance to the parking lot, I observed a male fitting the description given by the ECC of a black male wearing a blue puffy jacket with short dreads and his hands in his pockets. I immediately commanded the male SP who was later identified as Francis Reddick, 3/6/1989, to remove his hands from his pockets. Reddick just looked at me and continued to approach me quickly. I then stated, "You in the blue jacket, take your hands out of your pockets now." At this time Reddick was approximately ten feet from me, making eye contact with me and continued to walk straight towards me. Knowing from the description given that Reddick fit the description and that he may be in possession of a six-inch knife, I removed my service weapon from its holster and kept it at the low ready. Again, I demanded that Reddick remove his hands from his pockets. Reddick immediately removed his hands and placed them in

the air while slowing his walking pace down. I grabbed Reddick by his left arm and turned his body away from me so that I could place my service weapon back into its holster and secure it. I then attempted to guide Reddick to a secure area away from the crowd so that I could perform a pat frisk. Reddick became resistive turning around, yelling and refusing to walk when asked to.

At this time Officers Cherubino and Owens were on scene and assisted with taking control of Reddick's flailing arms. I noticed that the Reddick's actions became the focal point of the crowd on the sidewalks and the patrons leaving the club. The sidewalks quickly filled up with onlookers and the streets became impassable due to the curiosity factor of motorists who stopped in the middle of the street to view the incident at hand. After countless efforts to gain control of Reddick's arms, Officer Cherubino commanded

him to get down on the ground finally having to assist him to the ground where he was placed in cuffs for officer safety.

At this time I made attempts to locate the victim and any witnesses involved. I was soon approached by a black male wearing a black jacket with a button down shirt thrown over his shoulder. The male witness was identified as Rasson Charles, 1/29/1987, and stated that he had called the police. Charles then began to explain that him and his friend were inside the Elks Club at the coat check when they were approached by two black males who he states are always making trouble at the parties in Cambridge. Charles then continued to state that a verbal argument ensued between his friend Jay and Reddick. Charles states that during the altercation Reddick pulled out a knife with a silver five-inch blade and began waving it his friend Jay. Charles then stated that Jay put his hands

in the air while backing up and then they both fled the scene for safety. Charles states that he then called for the police. Again after continuous attempts, officers on scene as well as Charles, were unable to locate the victim Jay.

On scene a pat frisk search of Reddick's person revealed a blue handled folding knife with a blade of approximately five inches, a cell phone and keys. The knife was placed into evidence by Officer Cherubino according to supplemental report 11000497-2.

Subsequently Reddick was charged with assault with a dangerous weapon, to wit, a knife, 265 Section 15B and disorderly conduct, 272, Section 53. He was transported to the station by Wagon Officer L. Neal. He was booked and advised of his rights by Officers Pilgrim and Murphy.

COMMISSIONER MICHAEL GARDNER: Was the victim ever located?

OFFICER PINA: To my knowledge, no.

COMMISSIONER MICHAEL GARDNER: There's another matter of a cover charge, is that a completely separate issue?

ANDREA BOYER: It is kind've separate.

COMMISSIONER MICHAEL GARDNER: Why don't we hear about it now and then we'll give the establishment the opportunity.

ANDREA BOYER: Very good. While investigating, the police report that we were just speaking about, pertaining to the alleged knife incident, it was brought to my attention that the alleged witness that is in the report, paid a cover to attend the evening in question to attend that event.

COMMISSIONER MICHAEL GARDNER: This would be Mr. Charles?

ANDREA BOYER: Yes. It's the only witness name I had actually.

While interviewing the alleged witness, he stated that the event was mostly for college

students and that he gone to the event that evening because he had a nice time the previous night while being at the Elks Club. Knowing that the establishment is supposed to be for members and guests of members, I asked him what kind of event it was, and he stated that he was there for the entertainment. I asked him if he paid a cover to get in, and he said, yes, \$10 because he got there before 11:00 and after 11:00, the cover becomes \$15.

Based on the information given to me by the gentleman, I checked websites to see if there were any future events being scheduled at the Massasoit Elks Lodge. I discovered an event called Black Light Party listed on the stitchy.com, the event was to take place on February 26, 2011, which is after this incident that occurred, from 9:00 a.m. to 2:00 a.m. -- excuse me -- 9:00 p.m. to 2:00 a.m. with a DJ known as DJ Charlie B. The event was listed as

an 18 plus with a \$10 gate fee, specifically said a gate fee. And I attached the advertisement to the packet that I gave you.

On February 26, 2011, Investigator Henderson Hedley checked to see if an event took place at the Massasoit Elks Lodge and if a cover was being -- a charge was being collected.

He found that a \$10 charge was in effect, that report is also attached with your package. If you would like me to, I can read that report.

Then on January 28, based on the public hearing, that -- excuse me -- on January 28, 2008 based on a hearing held on January 8 and January 24, 2008, the License Commission Board at that time felt that there was a serious public issue that involved a safety issue at the Massasoit Elks Club, and that the club had no sprinkler system, alarms or emergency lighting.

It was voted at that decision hearing that one-day entertainment licenses which would

allow for a cover to be charged would be prohibited, but that members may still have events.

After that investigation, there was an event that was going to take place from March 18, which was cancelled by the establishment based on this hearing.

And that's why we're here. They are not supposed to have a cover. That makes the Massasoit Elks Club, being a private venue, to be able to have events like this would put them into a different bracket.

So they have been spoken to previously that if they want this to be that sort of establishment that they would have to change that status, like the Green Street Greek American Political Club has.

It would be nice if they would were to have these events at least try to change their status.

COMMISSIONER MICHAEL GARDNER: Ms. Boyer, from your review of the file, what are the concerns you've got about -- apart from the cover charge, what the staff or management of the club did wrong, if anything, on the evening of January 23?

ANDREA BOYER: That specific situation, the most concerning part is the fact that the witness is the gentleman who said that he needed to call the police and that the establishment usually is supposed to step up and call the police, to the best of their ability, to handle the situation.

So that's the largest certain, safety. Safety is always the largest concern.

COMMISSIONER MICHAEL GARDNER: From the investigation, were either of you, able to establish when and how any person in authority within the club learned of the event?

ANDREA BOYER: No. The gentleman didn't

have that information.

COMMISSIONER MICHAEL GARDNER: Sir?

OFFICER PINA: I never received any information like that.

COMMISSIONER MICHAEL GARDNER: And I think you said the incident took place near the coat check area?

ANDREA BOYER: That's according to the witness.

COMMISSIONER MICHAEL GARDNER: Are either of you familiar with where the coat check area is in connection with where a door person might be or other staff might be located in the club?

ANDREA BOYER: No, I'm not familiar with the upstairs area where the coat check is. There's two rooms, there's one downstairs also.

OFFICER PINA: I'm not either.

COMMISSIONER MICHAEL GARDNER: Before we hear from the club, any questions from the other Commissioners?

POLICE COMMISSIONER ROBERT HAAS: So, Officer Pina, you never went inside the establishment -- you never got a chance to go inside the establishment on the evening of the 23rd?

OFFICER PINA: No, I did not go inside.

POLICE COMMISSIONER ROBERT HAAS: And you said you saw 25 patrons coming out of the Elks?

OFFICER PINA: Approximately out of the front and side doors.

POLICE COMMISSIONER ROBERT HAAS: I mean, you said crowd also surrounded you, was that the same 25 or was there more people coming out of the establishment?

OFFICER PINA: Yeah. At that point it was emptying out, the building was emptying out.

POLICE COMMISSIONER ROBERT HAAS: How many people would you estimate?

OFFICER PINA: If I can recall, there was probably maybe like a hundred people out there.

COMMISSIONER MICHAEL GARDNER:

Mr. Flaherty.

ATTORNEY TIMOTHY FLAHERTY: We got one witness who was on call that night. He was actually working that night.

Could you come on in, sir?

COMMISSIONER MICHAEL GARDNER: I'd just ask you if you could come closer to the microphone, sir, and just identify yourself.

NELSON EVERETZE: I'm a member of the Massasoit --

ATTORNEY TIMOTHY FLAHERTY: Hold on for a second. I'll ask you a couple of questions.

Could you state your full name, spelling your last name for this woman who is taking down the record.

NELSON EVERETEZ: Okay. My name is Nelson, N-E-L-S-O-N, EVERETEZ, the last name, E-V-E-R-E-T-E-Z.

I am a member of the Massasoit Lodge.

I'm also the house chairman, the house manager of the Massasoit Lodge.

ATTORNEY TIMOTHY FLAHERTY: Do you recall the evening of January 23, 2011 when police responded with an allegation of a person who had been at or about the Elks in possession of a knife?

NELSON EVERETEZ: Briefly from what I can see we -- the event was staffed. I believe this person was put outside of the event due to arguing that occurred during the event. Within a few minutes, I just remember the police showing up, and taking him in the paddy wagon in the parking lot.

ATTORNEY TIMOTHY FLAHERTY: Mr. Everetez, when you say the event was staffed, what does Massasoit do to staff an event?

NELSON EVERETEZ: We have a guy that is outside that's frisking, we also have three other securities that cover the front entrance, the

rear entrance, we also have people that are outside covering the events also.

ATTORNEY TIMOTHY FLAHERTY: And if there is an incident on site, such as a physical altercation like a fist fight, do you understand that your obligation is to dial 911 and call the police?

NELSON EVERETEZ: Yes, that is our obligation. Like I said, it happened so fast, that the only thing I could remember is the police showing up within a few minutes, so that was it.

ATTORNEY TIMOTHY FLAHERTY: Where is the coat check area on the premises of the lodge?

NELSON EVERETEZ: The coat check area is in the hallway, it's before they even enter into the function hall.

ATTORNEY TIMOTHY FLAHERTY: At any point, did you witness the altercation taking place in or about the coat check area?

NELSON EVERETEZ: No, I didn't.

ATTORNEY TIMOTHY FLAHERTY: How was it brought to your attention that something occurred in that location?

NELSON EVERETEZ: One of the staff members came to me and told me that there was someone in there being aggressive towards someone else in an alteration of an argument. I know there wasn't any hand exchanges or anything and I just asked to have him removed. Once he had him removed within a few minutes, there were lights outside and I went outside and I just seen him being placed under arrest.

ATTORNEY TIMOTHY FLAHERTY: And the staff person that reported this to you, had the parties that were acting in an aggressive way removed from the premises, was there any discussion about any weapons, particularly a knife?

NELSON EVERETEZ: There wasn't any questions regarding any weapons.

ATTORNEY TIMOTHY FLAHERTY: And had there been a knife on scene, do you understand it's your obligation to call 911 and report that?

NELSON EVERETEZ: Yes, that's understood. That's why we have them frisked pretty much from head to toe for weapons.

We also have a metal detector which has just been out of order. We're actually getting ready to get another one because it's not working.

ATTORNEY TIMOTHY FLAHERTY: That's all the questions I have for Mr. Everetez.

Oh, last question: Were you ever interviewed by the police that night and did you make any statements to the police that night, if you recall?

NELSON EVERETEZ: I did speak to the police. I can't remember who I spoke with. I know they just -- I didn't know what was going on. I went outside and they said, you know, "We

got this under control."

And there was probably maybe five or six police officers. It was a paddy wagon, another car and there had to be at least four or five police officers.

ATTORNEY TIMOTHY FLAHERTY: How many people were in attendance at the lodge that night would you say, as best you can recall?

NELSON EVERETEZ: I would say probably 110 maybe at that time. I don't know even know they hit a hundred at that time.

COMMISSIONER MICHAEL GARDNER: What is your capacity, sir?

NELSON EVERETEZ: Our capacity of the building is 150 total.

ATTORNEY TIMOTHY FLAHERTY: Was alcohol served that night?

NELSON EVERETEZ: No. We don't serve alcohol, we only serve water, spring water, that's it.

COMMISSIONER MICHAEL GARDNER: Was there entertainment that evening?

NELSON EVERETEZ: There was entertainment that evening. I just know it was a college event, friend of one of the members that goes to the school, I believe over in Northeastern, I'm not sure. It's either Northeastern or Brandeis or something like that wanted to do a lease, so we basically were carded for college IDs and, you know, whatever IDs they possess.

COMMISSIONER MICHAEL GARDNER: What was the nature of the entertainment?

NELSON EVERETEZ: The nature of the entertainment, I think it was just -- it wasn't spring, I think it may have been like a midterm-type of gathering.

COMMISSIONER MICHAEL GARDNER: I'm trying to understand. Did you have a band or...?

NELSON EVERETEZ: Oh, yes, we just had a DJ, I'm sorry.

COMMISSIONER MICHAEL GARDNER: So was it essentially a dancing event?

NELSON EVERETEZ: Yes.

COMMISSIONER MICHAEL GARDNER: Was there a cover charge?

NELSON EVERETEZ: Yes, I believe it was -- I thought it was a donation, that's basically what it was.

COMMISSIONER MICHAEL GARDNER: Could you get in if you didn't pay?

NELSON EVERETEZ: Yes.

COMMISSIONER MICHAEL GARDNER: How would you know you could get in if you didn't pay?

THE WITNESS: Well, basically, I think you had kinda like a guest list of certain students that basically went to the school.

COMMISSIONER MICHAEL GARDNER: So who maintained the guest list?

NELSON EVERETEZ: We usually -- we have a sign-in sheet.

COMMISSIONER MICHAEL GARDNER: I guess I'm confused. Did you have a guest list or a sign-in sheet?

NELSON EVERETEZ: The guest list is on the sign-in sheet because we have basically -- we sign people in as they come in.

COMMISSIONER MICHAEL GARDNER: So in order to get in, you had to be on the guest list?

NELSON EVERETEZ: No, it was just certain guest lists were just immediate family that didn't have to donate. That's all.

COMMISSIONER MICHAEL GARDNER: I'm sorry. Immediate family that didn't have to go in?

NELSON EVERETEZ: No, it was a \$10 donation charge basically.

COMMISSIONER MICHAEL GARDNER: And did the donation charge go up --

ATTORNEY TIMOTHY FLAHERTY: And --

COMMISSIONER MICHAEL GARDNER: I'll ask, if you don't mind, Mr. Flaherty.

Did the donation charge go up after
11:00?

NELSON EVERETEZ: I don't recall.

COMMISSIONER MICHAEL GARDNER: So were
people told it was a voluntary donation, or were
they told that there was a 10 or \$11 -- \$10 or
\$15 fee to get in the event?

NELSON EVERETEZ: I did not -- I couldn't
answer that. I didn't promote the function.

COMMISSIONER MICHAEL GARDNER: Weren't
you in charge that evening?

NELSON EVERETEZ: Yes, I was.

COMMISSIONER MICHAEL GARDNER: You don't
see it as your responsibility to make sure you
understand that you are complying with the terms
of your license with the City?

NELSON EVERETEZ: Yes, I do.

COMMISSIONER MICHAEL GARDNER: And
doesn't that relate to the circumstances under
which people are able to attend?

NELSON EVERETEZ: Yes. I'm just answering it in a format that I believe not everybody paid to get in. That's all I'm stating.

COMMISSIONER MICHAEL GARDNER: Well, is it that the people on the guest list didn't have to pay?

NELSON EVERETEZ: I believe so.

COMMISSIONER MICHAEL GARDNER: I mean, that seems to imply, at least that those not on the guest list, had to pay in order to get in, have I misunderstood that?

NELSON EVERETEZ: Yes.

ATTORNEY TIMOTHY FLAHERTY: Yes, they had to pay.

NELSON EVERETEZ: Yes, they had to pay.

COMMISSIONER MICHAEL GARDNER: I mean, that really doesn't make it a donation, then, does it?

NELSON EVERETEZ: I guess not.

COMMISSIONER MICHAEL GARDNER: How frequently have you -- has the club had events like that since the last hearing you had in 2008?

NELSON EVERETEZ: I wasn't the manager the entire time, so I can't answer that.

COMMISSIONER MICHAEL GARDNER: Maybe you could tell us when you became the manager and how frequently such events have occurred since you became manager.

NELSON EVERETEZ: Maybe once a month.

COMMISSIONER MICHAEL GARDNER: And you became manager when, sir?

NELSON EVERETEZ: Roughly a year ago.

COMMISSIONER MICHAEL GARDNER: When you became manager, did you understand that you were not supposed to, under your license, have events with a cover charge?

NELSON EVERETEZ: No.

COMMISSIONER MICHAEL GARDNER: No one who had the responsibility before you, or the board

or the governing body for the club didn't advise you of the terms under which you were allowed to have members of the public enter your establishment?

NELSON EVERETEZ: No.

COMMISSIONER MICHAEL GARDNER: Is that a pretty fundamental component of your responsibility as the manager to understand the rules under which you operate?

NELSON EVERETEZ: This was just brought to my attention not too long ago because we haven't been doing these kinds of events. This hasn't been an event that has been going on for a year, I'd say probably more of a six-month period.

COMMISSIONER MICHAEL GARDNER: I thought I understood you had events like this about once a month since you started --

NELSON EVERETEZ: I said I had been a manager for a year. I didn't say we had these

events for a year. So I kinda went into these events not really knowing the full extent of our license, and now it's been brought to my attention and we have cancelled a few events prior.

COMMISSIONER MICHAEL GARDNER: I'm sorry. I'm relatively new at this so I don't actually know what we have done before.

When you became the manager, did you have to come before the License Commission to be approved?

NELSON EVERETZ: Before the License Commission?

COMMISSIONER MICHAEL GARDNER: Right.

NELSON EVERETZ: No.

POLICE COMMISSIONER ROBERT HAAS: So you're not the manager of record then?

NELSON EVERETZ: I am.

COMMISSIONER MICHAEL GARDNER: How many staff were at the club that evening?

NELSON EVERETEZ: Four. Including myself, five.

COMMISSIONER MICHAEL GARDNER: So four plus you?

NELSON EVERETEZ: Yes.

COMMISSIONER MICHAEL GARDNER: And where were they located?

NELSON EVERETEZ: One was at the front door, one was at the rear door and one was outside frisking. I believe two were inside the building.

COMMISSIONER MICHAEL GARDNER: Of those two, one of them was you?

NELSON EVERETEZ: Of those two? I'm all over the building. I don't say stationed in any one spot.

COMMISSIONER MICHAEL GARDNER: One at the front door, one at the rear door, one frisking, and two inside.

NELSON EVERETEZ: We have two doors

upstairs, so I would say one at each entrance.
From entrance to exit, and two inside --
actually, one inside the main hall, and we have
one inside the hallways to keep the halls clear.

COMMISSIONER MICHAEL GARDNER: And a
fifth person frisking or was that one of the
people at the doors?

NELSON EVERETEZ: I'm No. 5. So it was
four plus me, there were five.

COMMISSIONER MICHAEL GARDNER: And did
the staff have any function besides security?

NELSON EVERETEZ: No. That's what they
do.

COMMISSIONER MICHAEL GARDNER: How are
the waters distributed?

NELSON EVERETEZ: The waters are
distributed through the coat room.

COMMISSIONER MICHAEL GARDNER: Is there
staff to hand them out or they're just there?

NELSON EVERETEZ: Members of staff do the

waters.

COMMISSIONER MICHAEL GARDNER: In addition to the staff, do I take it are paid; would that be fair to say?

NELSON EVERETEZ: Excuse me?

COMMISSIONER MICHAEL GARDNER: The staff are paid?

NELSON EVERETEZ: Security?

COMMISSIONER MICHAEL GARDNER: Yes.

NELSON EVERETEZ: Yes.

COMMISSIONER MICHAEL GARDNER: So in addition to the security staff, there would be members in the club who would help with the functioning?

NELSON EVERETEZ: Yes, a chaperon.

COMMISSIONER MICHAEL GARDNER: Have you had, in your time as a manager there, any incidents as serious as this?

NELSON EVERETEZ: No. First time.

COMMISSIONER MICHAEL GARDNER: In

retrospect is there anything that you think you could have done differently, you the Elks?

NELSON EVERETEZ: Well, specifically, I believe we kinda covered with basically frisking them. I think that the greater part of it is there's no alcohol involved. If there's any alcohol, it probably happened before they got there, but we also check if they are drunk, intoxicated, we don't let them in the building.

Other than that, I pretty much thought we had it pretty much secured well enough.

COMMISSIONER MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: So on the night of the 23rd, how many people did you turn away for being under the influence, would you say, at the door?

NELSON EVERETEZ: On the 23rd? Briefly, I mean, I can't even remember. We're lucky if it's one every four events, if we're lucky.

POLICE COMMISSIONER ROBERT HAAS: On the 23rd, did you turn anybody away from being intoxicated?

NELSON EVERETEZ: No.

POLICE COMMISSIONER ROBERT HAAS: Do you do a head count.

NELSON EVERETEZ: Yes.

POLICE COMMISSIONER ROBERT HAAS: With a counter?

NELSON EVERETEZ: Yes.

POLICE COMMISSIONER ROBERT HAAS: So you should know what the precise number of people were there that night then, right.

NELSON EVERETEZ: Yes.

POLICE COMMISSIONER ROBERT HAAS: You gave me an estimate of 110?

NELSON EVERETEZ: Yes.

POLICE COMMISSIONER ROBERT HAAS: So how many people are performing that task, the count?

NELSON EVERETEZ: Two.

POLICE COMMISSIONER ROBERT HAAS: Two
with counters?

NELSON EVERETEZ: Yes.

POLICE COMMISSIONER ROBERT HAAS: And
they're counting the people going in and out?

NELSON EVERETEZ: Counting people going
in and out, counting people before the event even
starts.

POLICE COMMISSIONER ROBERT HAAS: You are
estimating 110 people were there that evening,
right?

NELSON EVERETEZ: Yes.

POLICE COMMISSIONER ROBERT HAAS: Did you
know the gentleman that was arrested that night?

NELSON EVERETEZ: No.

POLICE COMMISSIONER ROBERT HAAS: So you
don't know if he was a member of the club at not?

NELSON EVERETEZ: No. He's not a member
of the club.

POLICE COMMISSIONER ROBERT HAAS: He's

not a member of the club?

NELSON EVERETEZ: No. Members of the club know of him. I believe he was on, I think they might've coached him in basketball or something like that.

POLICE COMMISSIONER ROBERT HAAS: When you say that you frisk people coming into the establishment, you frisked all 110 people?

NELSON EVERETEZ: Everyone. Even the DJs.

POLICE COMMISSIONER ROBERT HAAS: And describe what that frisk consists of.

NELSON EVERETEZ: The frisk consists of basically from their -- I would say from their feet all the way to their head, hats have to come off, hats are frisked for weapons.

POLICE COMMISSIONER ROBERT HAAS: So you are physically touching people and their outer garments to do the frisk? You're physically touching people when you're doing the frisk then?

NELSON EVERETEZ: Their clothing.

POLICE COMMISSIONER ROBERT HAAS: Nobody objects to that?

NELSON EVERETEZ: No.

POLICE COMMISSIONER ROBERT HAAS: How would you explain this gentleman getting into your establishment with the knife?

NELSON EVERETEZ: He didn't get into the establishment with the knife.

POLICE COMMISSIONER ROBERT HAAS: Where did he come up with the knife then?

NELSON EVERETEZ: I believe he retrieved that knife when he left the establishment. Maybe went out to his car. Maybe outside, but he definitely didn't get into our establishment with a knife.

POLICE COMMISSIONER ROBERT HAAS: So you can't account for the witness saying that he waved a knife inside the establishment by the coat check?

NELSON EVERETEZ: No.

COMMISSIONER MICHAEL GARDNER: I take that you think that's not true?

NELSON EVERETEZ: I believe it's not true. I believe he might've been threatened. I believe he may have left the event to try to go -- maybe go possess something in his own wherever he may have had it, but I don't believe that to be true.

COMMISSIONER MICHAEL GARDNER: And that's based on anything besides your belief and the thoroughness of the pat?

NELSON EVERETEZ: I believe that the thoroughness of the pat, also I believe if he had a weapon, it probably would have been used right there on the spot. I don't believe it would've went outside, so that's why I believe he was frisked to the best of our knowledge. I believe he retrieved that at some other point or some other time or some other place.

COMMISSIONER MICHAEL GARDNER: You don't have any evidence for that or do you?

NELSON EVERETEZ: No, because if I retrieve a weapon, we would take the weapon. So if he had a knife inside the place, we would have took it, called the police, he wouldn't have got it back, so I don't know how this weapon even come about.

I don't believe we are gonna frisk somebody, get a weapon and or have somebody wave a weapon and let them out of the building with the weapon.

I believe the cops -- I think the cops possessed it on catching him maybe going to retrieve a weapon some other place.

POLICE COMMISSIONER ROBERT HAAS: How many people were actually performing the frisk?

NELSON EVERETEZ: Excuse me?

POLICE COMMISSIONER ROBERT HAAS: How many people were performing the frisk at the

front door?

NELSON EVERETEZ: Probably once, times two.

POLICE COMMISSIONER ROBERT HAAS: You were frisking 110 people?

NELSON EVERETEZ: Yes.

POLICE COMMISSIONER ROBERT HAAS: How long does it take on average per person?

NELSON EVERETEZ: It could take sometime, but they don't come all at once. Sometimes there are ten in a line, maybe five.

POLICE COMMISSIONER ROBERT HAAS: But they'd actually perform a frisk on everybody?

NELSON EVERETEZ: Yes, every one.

POLICE COMMISSIONER ROBERT HAAS: How long does it take typically?

NELSON EVERETEZ: It can take over a minute. It could take two minutes. It can take three minutes depending. You know, depending what they have on.

POLICE COMMISSIONER ROBERT HAAS: I
just -- I'll stop there.

NELSON EVERETEZ: I only say that because
it's basically an ex-police officer,
ex-Burlington police officer and he does his job
well, he frisks and he does that.

COMMISSIONER MICHAEL GARDNER: So I guess
in your understanding or theory about it, there
was a -- the person came in without a knife, he
had a verbal argument with someone at the coat
check, you, your staff asked him to leave or
escorted him out based on the verbal argument?

NELSON EVERETEZ: Yes.

COMMISSIONER MICHAEL GARDNER: He then
went, got his knife, threatened the person with
the knife outside of the establishment and then
was subsequently apprehended by the police and
found to have the knife on him.

NELSON EVERETEZ: That's what I believe.

COMMISSIONER MICHAEL GARDNER: For some

reason the victim and the witness reported that the knife was shown inside the building.

NELSON EVERETEZ: I believe the threat maybe came inside the building, but I don't believe the knife because if there was a knife in the building, according to the way the staff and security are, we would have retrieved the knife, the police would never have had the knife or we would have given the knife to the police officer. I'm not going to let someone leave with a weapon.

COMMISSIONER MICHAEL GARDNER: Well you told us --

NELSON EVERETEZ: Well, I'm saying if they snuck a weapon in or it got by, how it got by, I don't know. I would not let them leave -- I wouldn't let them leave with the weapon." I mean, that doesn't make any sense, so my point is however the report went, I wasn't there when the altercation stated, I kind've came in and I know he split out. I believe that it happened outside

down the street or wherever it may've happened.

COMMISSIONER MICHAEL GARDNER: Right. I guess I don't understand why the victim would've lied about that.

NELSON EVERETEZ: I believe in my staff, I don't believe my staff is going to let someone leave with a weapon. I mean, that's all I can tell you.

COMMISSIONER MICHAEL GARDNER: Well, if they knew. I mean, I think you didn't -- what we understood in the questioning that your counsel provided, it was reported to you there was a verbal altercation, none of the staff purported to you there was a knife?

NELSON EVERETEZ: No.

COMMISSIONER MICHAEL GARDNER: I mean, it's possible the knife was shown closed up and you escorted him out and the knife is still there and I guess what I'm concerned about is it sounds like you believe that your -- the frisking

process is essentially a hundred percent foolproof, that it's not possible for somebody to get a knife into the establishment and I'm -- I'm just not sure that rings with my little experience.

NELSON EVERETEZ: I don't believe anything is foolproof. I mean, that would be -- you know, I don't believe anything is foolproof. I don't believe anything is a hundred percent. But I do know that we take it very seriously as far as weapons are concerned. We haven't had any, you know, anyone stabbed in or outside our premises, and, like I said, if there was a weapon shown however it got in there, I know that we would have retrieved it and taken it from him. That's just the rule-of-thumb. If someone has a weapon, you take it, you don't give it back, you call the police, you get his ID.

I mean, it's just -- you know, there's a format that we go by, but I don't believe a

weapon was flashed, someone said he had a knife and security did nothing about that. I find that hard to believe.

COMMISSIONER MICHAEL GARDNER: Did you then interview the security about -- the security staff about the story about the knife being shown in the courtroom?

NELSON EVERETEZ: That wasn't even brought to my attention. By the time I found out between going around, I went outside, I seen this kid get placed in the paddy wagon, I seen them frisking him, frisking his car. I don't know where the weapon came from. I don't know if the weapon came from his car.

COMMISSIONER MICHAEL GARDNER: But subsequent to the event, you didn't then do a review with the security staff to sort of debrief about what happened?

NELSON EVERETEZ: I just -- I did a debrief and it was basically there was an

alteration and he was put outside of the event.

That's all.

COMMISSIONER MICHAEL GARDNER: You didn't ask the staff if they saw a knife?

NELSON EVERETEZ: No.

COMMISSIONER MICHAEL GARDNER:
Mr. Flaherty, anything else?

ATTORNEY TIMOTHY FLAHERTY: In Page 2 of the police incident report, I understand and I think the -- a fair reading of it is that a witness states that there was an alteration, an argument ensued and then during the altercation, Mr. Reddick pulled out a knife with a silver five-inch blade and began waving it at his friend. But it's not specific even from the witness's statement that that occurs within the premises of the Elks Lodge. It says it's during the altercation.

And it also says, it stated that, you know, they backed up and they both fled the scene

for safety.

It doesn't mention anything about being put out by security members at the Elks.

So I think although the fair reading is if the altercation and the verbal argument takes place within the premises, then I guess it's a fair reading that the knife is presented during that portion of the altercation.

I think it's almost as equally a fair reading that the altercation continued outside and the knife may have been pulled outside. And I'm not seeking to minimize it in any way.

It's just an additional reading of the complaint because the complaint is not -- the complaint -- the incident report about the complaint is not specific from the complaining witness that it happened inside the premises, but I do recognize the importance and gravity of the situation and the pointedness of the questions about the pat frisk and the security issues.

COMMISSIONER MICHAEL GARDNER: I guess in terms of, as I understand Mr. Everetez's view of what happened, after going out, the altercation would have had to stop for the assailant to go retrieve the weapon from the car or wherever it was and then come back and flash the knife.

In terms of that theory, if the knife wasn't on him at the coat check, right, would you agree with that?

ATTORNEY TIMOTHY FLAHERTY: Understood. He could have gone out and retrieved it from a car or a stash on the sidewalk, maybe possibly if he knew they were being frisked, he left it outside.

NELSON EVERETEZ: His car was in the parking lot ten feet from the building. That's where the police were going through his car. I mean, it was within ten feet. That's why I thought they retrieved it from him going to his car. That's all I can tell you.

I have no recollection of him having a knife inside the place.

POLICE COMMISSIONER ROBERT HAAS: Officer Pina, do you have an understanding where the altercation took place, was it outside or inside?

OFFICER PINA: From what I understand, it was inside the coat check.

ATTORNEY TIMOTHY FLAHERTY: Do you want to stay with Mr. Everetez or are you doing to move on to Mr. Harding?

COMMISSIONER MICHAEL GARDNER: I was going to move on to Mr. Harding unless you had --

ATTORNEY TIMOTHY FLAHERTY: No.

COMMISSIONER MICHAEL GARDNER: So Mr. Harding, could you just again describe and tell us what your role with respect to the club is.

DONALD HARDING: I'm the manager on record with the Licensing Board.

When everything happened a few years ago,

I was very, very active in everything that's happened. We since have brought new members on, and since the new members have come on, I have not been as active as I was at that time.

I will admit that when Mr. Everetez was put on, we had other managers in between, and when you were asking about whether or not that information got transferred to him, the people who were working with him before, we just had some issues and they just left very quick.

I know that it's my responsibility to make sure whatever happens that he knows the rules and regulations, but, like I said, he had gotten -- the transfer and responsibility of the day-to-day activities was given to Mr. Everetez, but it was given very quickly.

COMMISSIONER MICHAEL GARDNER: I guess I would assume if that -- I mean, if he's the manager sort've that evening, he's got some responsibility to -- about how people get in,

what the terms are, the rules for who is allowed in and who is not. But, ultimately, the responsibility is yours and whatever the governing board for the organization is, isn't it?

DONALD HARDING: Yes.

COMMISSIONER MICHAEL GARDNER: So how frequently would you say, since the hearing in 2008, you have had events where there was a cover charge?

DONALD HARDING: I would say about 12. 12 maybe 15.

COMMISSIONER MICHAEL GARDNER: So one every two or three months?

DONALD HARDING: About that.

COMMISSIONER MICHAEL GARDNER: Something like that?

DONALD HARDING: Yes.

COMMISSIONER MICHAEL GARDNER: And I guess it's -- it's of some concern -- there

wasn't any ambiguity about the guidelines that you were supposed to operate under, was there.

DONALD HARDING: No, there wasn't.

COMMISSIONER MICHAEL GARDNER: What do you think we ought to do with what appears to be sort've a flagrant and ongoing violation of the terms of your license.

DONALD HARDING: I believe in second chances, so I don't know -- I mean, we do things. I understand the rules, the regulations. Like Mr. Everetez has said, we are very strict and have our procedures as far as how everything is going to be, so I couldn't give you any suggestions.

COMMISSIONER MICHAEL GARDNER:

Mr. Everetez originally classified this money as a donation. I think whatever the nomenclature here, we understand this was a cover charge or a gate fee to come into the establishment, and in terms of the -- of whether it's some sort of

donation or not, was a there is a particular purpose towards which the money under these circumstances would be applied, is it for the operation of the club or did it go to a particular charity?

DONALD HARDING: Basically everything is to keep us open.

One of the things that got lost in translation is the fact that any time there is a cover charge that we are supposed to have that cost -- the amount posted outside and that did not happen. But we do these really just to keep us open. That's one of the issues that we have is that, to be honest with you, when the bar is open, you know, we are not making enough money when we just have our friends and family for us to be able to stay open.

We just had a \$2,500 tax bill come in and that's what we do. So it doesn't matter what we're doing, you know -- I wouldn't say it

doesn't matter, but we oftentimes do do that.

It's not necessarily this venue, you know, it could be people 60, 70, it doesn't matter.

COMMISSIONER MICHAEL GARDNER: So I guess I am certainly sympathetic with the difficulty of keeping a premises open and viable, but it sounds like you kinda rely on events like this to help with your operating income, even though events like this, as I understand it, are not authorized under terms of your license? Am I saying that right?

POLICE COMMISSIONER ROBERT HAAS: So Mr. Harding when you advertise an event, it's not solely for the purposes of a member of the club, it could be other people that are coming into the club so you can raise money to maintain the status of the club, right, the scope of your license as well, right?

DONALD HARDING: Yes.

POLICE COMMISSIONER ROBERT HAAS: Did we

have this conversation before about renting the hall or having people outside -- I thought we did, didn't we?

DONALD HARDING: Yes.

COMMISSIONER MICHAEL GARDNER: Did we have this conversation about renting out the hall or having people come out the side of the club coming in -- I thought we did, didn't we?

DONALD HARDING: The difference is the people who are doing it now at that time it was the punk rockers, we are a lot more familiar, you know -- it's more people who are a lot closer to us now.

POLICE COMMISSIONER ROBERT HAAS: When you advertise like that you really are kinda inviting the general public to come into your establishment, you really can't account for who's actually coming, and I think the premise for members and guest of members is so that you kinda know who the audience is that's coming to the

club where you open it up like this for public advertisement, you could be attracting anybody and you could find yourself in the same situation you had before where you had people coming in, they were disruptive and causing problems for the membership of the club.

That's kinda of the issues we were concerned about before, if I recall correctly, and I think you are putting yourself in the same place again by having these advertisements and inviting the general public into the club.

I understand why you are trying to raise the money to maintain the club, but you accept the risk or liability by having it open like that.

You mentioned that you are less active now as a manager of the club.

DONALD HARDING: I'm less active in the evening part. I mean, I'm still very active in the organization. I'm the secretary in the

organization and very active in the organization.

POLICE COMMISSIONER ROBERT HAAS: And is Mr. Everetez taking on more responsibilities in terms of managing the evening events?

NELSON EVERETZE: Yes.

POLICE COMMISSIONER ROBERT HAAS: -- is he manager of the record as well as are you sharing that responsibility.

NELSON EVERETZE: I don't know. I know that before I was the manager, the person who was manager before me was somebody because when I was hear before, I was wasn't the manager on te record, it was somebody else.

And he had been manager since we first got our license. I don't know when.

POLICE COMMISSIONER ROBERT HAAS: If I recall correctly this is why we moved you into this position because you had a more active role than the gentleman there before you?

NELSON EVERETZE: That's correct. But I

mean I'm still involved. I know the management. I know the ins and outs to be able to have the conversations with everybody about what should happen even if I didn't do it. I understand how everything is supposed to operate, so it's better -- I thought it was better for me to be able to be there so that if anything happens, I would be able to explain to everybody this is how we're supposed to do things.

POLICE COMMISSIONER ROBERT HAAS: My understanding of the role of the manager is to oversee the operations and make sure that everything is running properly so that you don't run afoul of your licensing limitations and things like that.

So, I mean, I'm going to leave it up to your best judgment whether or not you think Mr. Everetez should take on more of a bigger role, but that's kinda up to the club and the board to make that decision.

I heard you kinda say you stepped back a little bit. I wonder how inactive you have become.

DONALD HARDING: I have taken a step back as far as the evening portion, you know, and let a lot of the younger members be involved in what was going on because, you know...

COMMISSIONER MICHAEL GARDNER: I'm a little confused. I thought at one point in response to Commissioner Haas's questions, I believe you said that while you understand that you are supposed to post the price or the cost of admission outside and that wasn't done. I guess what I thought was, you weren't supposed to charge people to come in, period, and this was for members and guests, and it's in violation of your license to have a cover fee posted or otherwise. Do you think I have it wrong?

DONALD HARDING: I mean, there are times that we just, you know -- we have our events,

even when we have our anniversary events and different things like that. I mean, whether it's right or wrong, we charge people to come in when we have our anniversary, we sell tickets and do different things like that when we are having different events, so it doesn't happen all the time, but there are different functions that we have that --

POLICE COMMISSIONER ROBERT HAAS:

Mr. Chair, I just want to get a clarification of Ms. Lint. I mean, there's an ability to apply for single-day licenses for special kinds of events like this or they can't do that either?

ELIZABETH LINT: Only if it's the members or guests of members and that's it. So they can have, say, an anniversary event and charge the guests -- the members to come in and that's fine. But this is they can't.

POLICE COMMISSIONER ROBERT HAAS: Okay.

COMMISSIONER MICHAEL GARDNER: I wonder

if there's anything you would like to add, sir?

ATTORNEY TIMOTHY FLAHERTY: The way it's been explained to me what has happened at the Elks, and I think it's been explained, they're broke. And in an attempt to raise additional funds, they've opened membership a little bit and had younger people come in.

Some of the responsibilities, as Mr. Harding explained, have been passed on to some of the younger members who are not well-versed, I think, apparently in the rules and regulations of a private club. And some of the members, I believe, as it has been explained to me, had a couple of these events to try and defray the tax bills, the capital costs, the buildings that need repair, inventory, paying for security and staff without understanding what exactly they are allowed to do and not allowed to do.

Mr. Harding and I had a conversation

about that just a few moments before the meeting began, and he understands that, if nothing else, he needs to get much more active with the new membership and explain to them "This is unacceptable and you can't do this."

So it has occurred. There's to question about it, it has occurred. It's not something that happens every week. They don't hire it out every Friday and Saturday night. It's something that happens on a sporadic basis. It had happened over the last couple years on more than a couple occasions, and the money that has been raised through the gate fee or whatever you want to call it, has been applied towards the capital expenses of the club, and the club is broke.

So I think the club, if I am looking at it objectively is at a crossroad. It need either to apply for a change in status to the Board or they've gotta return to their roots running it the way it was intended to be run, and that's a

decision that has to be made by the Board immediately.

And if they run afoul of the Commission again, I think they understand the consequences that they will be facing, and they understand, Mr. Harding and Mr. Everetez understand that the liquor license for the club is at issue here. And it's a longstanding, long-time member of the community here in Cambridge, it's valued by a lot of people, there's a lot of family and friends and generations of people who are active in it, and I think they understand the seriousness of it, and they understand the responsibility, but there's no question about it, the license has been operated without strict adherence to the rules and regulations of the Commission. So that has to change. They understand that, and I think they understand what they need to do in order to do that.

And I think a question was asked of --

Mr. Gardner asked a question of Mr. Harding,

"What should we do with this?" And if I could propose sort've an intervening sanction maybe that might make sense is that the Elks Lodge report back within 30 days to this Board what they have done for the retraining of the new members, what they have done on the education of the new members to make them understand that this is something that is not acceptable under the rules and regulations, can't be condoned, can't occur any longer, and once that's done, I think the Board has to make a decision which direction they are going to go for the next generation, it's a very valuable part of this community and the building itself is very valuable. They have to make a decision how they're going to run the club so they don't lose the club.

COMMISSIONER MICHAEL GARDNER: Thank you.

POLICE COMMISSIONER ROBERT HAAS:

Ms. Lint, what's the prior record?

ELIZABETH LINT: I was just going to ask you if you wanted that.

A stern warning in 2005 due to underage drinking, lack of security, failure to apply for a one-day license and then a three-day license suspension in 2008 when an individual was assaulted inside the club.

POLICE COMMISSIONER ROBERT HAAS: That was 2008, you said?

ELIZABETH LINT: Yes, 2008.

COMMISSIONER MICHAEL GARDNER: Is that when the -- were there at that point any restrictions or changes to the rules with respect to the cover, or has that always been the rule?

ELIZABETH LINT: That's always -- that's by statute. It's members and guests of members. So we made it very clear, I think, both of those occasions, and I know I have had many conversations with Mr. Harding, I believe Ms. Boyer has as well, about what you can do and

you can't do and this is what you can't do.

COMMISSIONER MICHAEL GARDNER: One question just occurred to me. Have you had a cover charge or a gate fee for events in which alcohol is served?

DONALD HARDING: No, not in awhile.

COMMISSIONER MICHAEL GARDNER: Not in awhile?

DONALD HARDING: Our own events?

COMMISSIONER MICHAEL GARDNER: Well, no, an event in your establishment.

DONALD HARDING: It hasn't happened since you have been there.

NELSON EVERETZ: We haven't opened the bar in so long. It's been closed.

DONALD HARDING: It hasn't been -- we have not had the bar open during an event that's been paid. I would say easily since he's been there.

COMMISSIONER MICHAEL GARDNER: Six

months.

NELSON EVERETEZ: Yes, as house manager.
I'm a house manager. Longer than that.

I mean, I just want to mention, he -- we
do a lot of good for the community besides just,
you know, the dance halls. I have done a few
talent shows with kids, I've had a music program.
We do men's health breakfasts. I think we have
one coming up in another two weeks.

What is the last one we did?

DONALD HARDING: Violence on women.

NELSON EVERETEZ: Violence on women.

We are there basically for the community
when there's a repass or someone passes away, we
give our building for families who grieve. So
what we do is not all bad. I didn't join the
organization for that.

And I just want you guys to take that
into consideration, you know, our license is
important to us, we have revisited since we got

this letter, we've had talks, we've had meetings, we've actually just set up a board, a board of trustees, and we put some things together to strategize to be able to keep the building open. Basically we trying to upkeep the building. It's expensive to be in Cambridge.

POLICE COMMISSIONER ROBERT HAAS: I think we have the appreciation and I'm keenly aware of all of the benefits that the Elks has done, I have been to events there myself, but what you're running the risk of is all that good work you are doing is getting undermined by these kinds of events that go outside of the scope of your license. It's not going to serve any useful purpose if your license gets suspended or you lose your license because then the value to the community gets dissipated.

NELSON EVERETEZ: I recognize that as a house manager, I wouldn't pose a threat to do another event like this. I mean, I didn't join

the organization for that.

I have been running the music program for ten years, I'm trying to bring it to the organization. We are trying to do after-school programs, so, you know, it's -- we're here for the community. We're not perfect, but...

COMMISSIONER MICHAEL GARDNER: Shall we defer our decision to our decision hearing or --

POLICE COMMISSIONER ROBERT HAAS: I make a motion to take the matter under advisement.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Second.

COMMISSIONER MICHAEL GARDNER: I'm sorry. There's been a motion and a second, but before we act on taking the matter under advisement, I will ask if there are any members of the audience here who would like to speak on this matter, and hearing none, I'll just give the organization, if there's anything else you want to say before we take a vote on taking it under advisement.

DONALD HARDING: I'm just going to seconded what Mr. Everetez said. I have been just getting more involved in community activities and programs. That's -- because again that's why I joined. I didn't join -- I mean, this thing was bestowed upon me, but my concern more is for us to do more things for the neighborhood and the community, you know, but unfortunately, we have to keep the doors open in the meantime, so...

COMMISSIONER MICHAEL GARDNER: Thank you.

There's been a motion that's been seconded to take the matter under advisement.

Are there any further discussion among the Board Members?

POLICE COMMISSIONER ROBERT HAAS: No.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:

Aye.

COMMISSIONER MICHAEL GARDNER: There's none opposed. So we'll take the matter under advisement. I notes your offer with respect to coming back, I think that you would probably be well served to get to Ms. Lint some indication of any action or matters that you are taking internally with respect to the challenges that you are facing.

POLICE COMMISSIONER ROBERT HAAS: I guess the other thing I would be interested in knowing because I know it's a financial dilemma for the club is to if you're not going to do these events anymore then what you plan in terms of keeping the club viable financially that would be helpful us and from my deliberation anyway.

Right now, you've left it kind of unsaid that you have these financial obligations, we've pretty much because your license is saying you can't use a cover charge or gate charges to

support that initiative, so I'm trying to figure out, you know, is there an opportunity -- is there an appetite to change your license status sometime in the future or -- I would like to know what you're thinking about.

I don't want to know now. I just want to know what you're thinking about with respect to the direction you're going in the future because it's going to be a concern -- if I recall correctly, we had the same discussion two or three years ago the same issues. You're trying to raise money to keep the club viable, but, again, keep kinda going outside of the scope of that license.

ATTORNEY TIMOTHY FLAHERTY: There has been some talk about soliciting contributions from private individuals. I know they're welcome to accept any.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

ELIZABETH LINT: The next matter, John Harvard's Brew House, has been continued to May 31st.

COMMISSIONER MICHAEL GARDNER: Can I just have some information why it's continued?

ELIZABETH LINT: Yes, they hired an attorney who was already scheduled to be at a hearing in another city.

COMMISSIONER MICHAEL GARDNER: Okay. It's at the request of the establishment?

ELIZABETH LINT: Yes, and we could not put it on for May 17th because the officer is not available.

COMMISSIONER MICHAEL GARDNER: Okay.

APPLICATION: THE ROYAL BHARAT, INC.

ELIZABETH LINT: Application: The Royal Bharat, Incorporated doing business as The India Pavilion, Mohan Singh, manager, holder of wine and malt beverages as a restaurant license 17-19-21-24 Central Square has applied for a

change license type of wine and malt to all alcohol. Applicant is also applying for a change of manager from Mohan Singh to Sukhwinder Singh.

COMMISSIONER MICHAEL GARDNER: Good evening. Welcome. I'd appreciate it if you could each just state your name and the affiliation for the record.

ATTORNEY WILLIAM GOLDBERG: Attorney William Goldberg representing The Royal Bharat.

MOHAN SINGH: Manager of The Royal Bharat.

SUKHWINDER SINGH: Power of attorney for Mohan Singh.

ATTORNEY WILLIAM GOLDBERG: Good evening, Mr. Chairman, and members of the Commission. We are here before you to seek an all alcoholic beverages license for The Royal Bharat. Presently there is an existing malt and wine license at the premises which would be 17-19 Central Square in Cambridge. If you approve the

all alcoholic license, the address would be exclusive of 17-19-21-24 Central Square, Cambridge.

The present -- there's a present malt and wine license with a closing hour of 1:00 a.m. We would like the Board to consider this application and with the same hours if they granted the all alcoholic license.

Mr. Singh has been in business at the 17-19 expanded for over 30 years. Since that time, there has been no record of any violation of any sales of alcohol to anyone that has entered the premises.

The premises at 21-24 Central Square became available for rental, and Mr. Singh wanted to expand as well as remodel the existing restaurant, and he took over the premises which is now described as 17-19-21-24.

If you've had a chance to go by that area before this expansion, you would note that what

has occurred with Mr. Singh's money and effort is to change the complete side of Central Square at that location. The interior has been completely redone, the kitchen, dining room, the entire area.

And the seating capacity has been expanded to 90 seats rather than, I think it was, about 45 seats.

With the advent of this remodeling and parenthetically the expense that Mr. Singh, Mohan Singh, has involved is over \$300,000. It's a beautiful building, the site is extremely comfortable for the patrons and the bill of fare is noncomparable.

But with the expansion, there had been a desire to seek an upgrade of the license from malt and wine to all alcoholic. With the increased capacity and demand by its customers for all alcoholic beverages, it was deemed appropriate to come before your Board to seek and

to increase the -- change the type of license that is presently existing.

I think there's a letter that I believe that Carl Barron, the former chairman of the Central Square business, he wrote a letter to the License Commission, and I think he said it appropriately, he said that Mr. Singh -- in trying times, Mr. Singh has investigated heavily in expanding his well-known restaurant and upgrading almost an entire city block.

The Singh family has been around Central Square for over 30 years, and they are highly regarded by the local business community.

He's established a wonderful reputation and the expansion will serve, I believe, the public interest. Not only has the increase or the remodeling of the building been somewhat of a public interest plus in a positive vein, but the complement of an all alcoholic license is only an extension of the present existing license, so

it's not a new license, and although it may be considered to be a no value license if the Board approved it, we would think that in the 30 years of his experience, that there will be a continuation of nonviolation of the laws pertaining to the sale of alcohol.

The manager and other members of the staff have been in constant contact with Mr. Connolly while they have the existing beer and wine license, they have received certificates of accomplishment from Mr. Connolly, so that all of the staff are familiar with the laws pertaining to the sale of alcohol.

I think Mr. Sukhwinder Singh will indicate just what thinks of the course involved. So I -- there's no issue -- there's no parking, obviously, but I don't think that's an issue because we have the public MBTA that would leave people there and there's a complete parking center on Green Street. There wouldn't be any

complication with regard to parking or setting people off in that area.

In so many short words, I think the application speaks for itself. What we are looking for is an upgrade to an all alcoholic license from an existing malt and wine license with no violations for over 30 years that has been -- that this business has been in existence.

COMMISSIONER MICHAEL GARDNER: Thank you very much, sir.

I wonder if you might talk a little bit about the issue of CAPS, whether this is an area in which there's a cap on all alcohol licenses. I would be interested also in what happened when the seating capacity expanded from the 45 to, I believe you said, 90, was the existing malt and wine license inflated to cover those seats and exactly how that process was --

ATTORNEY WILLIAM GOLDBERG: Yes.

COMMISSIONER MICHAEL GARDNER: -- whether

or not any of the current license is of no value status or not?

ATTORNEY WILLIAM GOLDBERG: The present license is a value license. I believe that the -- if there was an approval, it would be a nonvalue license. With regard to the cap situation, we know that there is perhaps a moratorium on the issuance of all alcoholic licenses, however, we have a malt and wine license, which will be available, we can sell that license and that -- to a perspective purchaser, so that it will be a license that will be available for transfer to a new vendee.

In regard to the increase of the capacity, when the building was renovated, they made application to the building department with plans and the -- by reason of the expansion, the building department increased the seating capacity to its present 90 seats.

COMMISSIONER MICHAEL GARDNER: And it's

been open in the renovated form for approximately how long?

ATTORNEY WILLIAM GOLDBERG: Sometime maybe March, sometime in March or February.

COMMISSIONER MICHAEL GARDNER: In February the renovations were completed and it reopened as the larger establishment?

ATTORNEY WILLIAM GOLDBERG: Yes. They increased the seating capacity and they have been carrying on a business there since February.

COMMISSIONER MICHAEL GARDNER: What is your view of the existing for value license, is it a 45-seat license or a 90-seat license?

ATTORNEY WILLIAM GOLDBERG: I would think it would be 45.

COMMISSIONER MICHAEL GARDNER: So should we think about this, as there's 45 seats, which are value, and there's 45 seats which are nonvalue for the malt and wine, is that how we should think about it?

ATTORNEY WILLIAM GOLDBERG: I think that would be a fair reading of it.

COMMISSIONER MICHAEL GARDNER: And I just would be interested in sort've of the evolution of the business plan and whether or not it was contemplated at the time of renovation that you would be seeking an all alcohol license, and whether that plan was discussed with the Board in the context of the plan for expansion and renovation?

ATTORNEY WILLIAM GOLDBERG: No.

At the time of the expansion, there was no compilation coming before the Board to seek a malt and wine license from 45 to 90.

Upon the completion of the renovation, and because of the size of the renovation and the increase in seating capacity, it was felt that it would be appropriate to come to seek a 90-seat all alcoholic license.

COMMISSIONER MICHAEL GARDNER: Okay. So

I guess I'm confused. You didn't get 90 seats for malt and wine?

ATTORNEY WILLIAM GOLDBERG: No.

COMMISSIONER MICHAEL GARDNER: You're still only operating on 45?

ATTORNEY WILLIAM GOLDBERG: That's correct.

COMMISSIONER MICHAEL GARDNER: I see.

ATTORNEY WILLIAM GOLDBERG: And I understand the commissioner's point, but at the time, we felt that we would make the application for the malt and wine license rather than get an increase of the 45 for the malt and wine license. We would come before the Board to seek an all alcoholic license at 90.

COMMISSIONER MICHAEL GARDNER: Has the malt and wine license been issued for most of the 30 years?

ATTORNEY WILLIAM GOLDBERG: Yes.

COMMISSIONER MICHAEL GARDNER: So, it

always had malt and wine?

ATTORNEY WILLIAM GOLDBERG: I wouldn't say 30 years. I think we made an application to come before the Board to seek a license. I think there was an available license for transfer, and we came before the Board to seek the approvals for the transfer. We've been in business for 30 years, but I don't believe the malt and wine license has been in existence there for that amount of years.

COMMISSIONER MICHAEL GARDNER: But for some substantial period?

ATTORNEY WILLIAM GOLDBERG: Oh, yes.

COMMISSIONER MICHAEL GARDNER: Questions?

POLICE COMMISSIONER ROBERT HAAS: So have you tried to identify a license for sale or --

ATTORNEY WILLIAM GOLDBERG: Well, we would do so, yes. We'd need the approval of the Board before we put the cart before the horse.

POLICE COMMISSIONER ROBERT HAAS: I'm

just wondering if there's any available, an all alcoholic license available now in Central Square in that cap district.

ATTORNEY WILLIAM GOLDBERG: I don't believe there are.

ELIZABETH LINT: There aren't.

POLICE COMMISSIONER ROBERT HAAS: So your intent would be to sell the wine and malt license --

ATTORNEY WILLIAM GOLDBERG: That's correct.

POLICE COMMISSIONER ROBERT HAAS: -- if you're successful in getting this license?

ATTORNEY WILLIAM GOLDBERG: Yes.

POLICE COMMISSIONER ROBERT HAAS: So you'd get a gain --

ELIZABETH LINT: It couldn't work that way because if the wine and malt is attached to that establishment, you can't approve another license to go in. You can upgrade this one.

POLICE COMMISSIONER ROBERT HAAS: That's what got me confused. I thought we were in the process of trying to upgrade this license, but you are making it sound like two separate licenses.

ATTORNEY WILLIAM GOLDBERG: No, no. We want to increase, upgrade the license to an all alcohol license and get --

POLICE COMMISSIONER ROBERT HAAS: So you would never sell this license. Okay.

COMMISSIONER MICHAEL GARDNER: Honest to God I heard you say you planned to sell the other license. That's just what I heard you say, so I'm confused.

ATTORNEY WILLIAM GOLDBERG: I'm reminded of a phrase and I'm -- maybe I'll suggest it to you that perhaps can explain yours and my confusion.

Sometimes you don't put both feet in your mouth because then you wouldn't have a leg to

stand on. So that -- if I said it, I retract it.

COMMISSIONER MICHAEL GARDNER: Thank you for the clarification.

POLICE COMMISSIONER ROBERT HAAS: That's what I thought you were trying to do. So what does that do to the value of the license that you are now seeking -- you are not seeking. So you basically would be getting an upgrade of a license?

ELIZABETH LINT: He would get an upgrade of a license, however, the only portion of it that he would be able to sell is the wine and malt. So the all alcohol would be as if you were issuing a new no value not transferrable license.

POLICE COMMISSIONER ROBERT HAAS: My understanding would be then if they were in a position where they wanted to sell the license at some point in time, the only thing they could sell at that point in time is a wine and malt for 45 seats?

ELIZABETH LINT: That's correct.

POLICE COMMISSIONER ROBERT HAAS: Okay.

COMMISSIONER MICHAEL GARDNER: That could go anywhere or just in Central Square or just in that location?

ELIZABETH LINT: It could go anywhere.

COMMISSIONER MICHAEL GARDNER: But that would involve then this establishment closing because it wouldn't have a license, is that --

ELIZABETH LINT: Well, it could stay open without a license, if they so chose.

COMMISSIONER MICHAEL GARDNER: I guess I'd be interested in given all of the sort've planning that went into this major capital investment and the renovation, what has changed about your coming before us for this license now that wasn't the case beforehand? I understood you to say, sir, it wasn't really complicated originally to try to obtain an all alcohol license. I'm trying to understand what it is

about the business or the evolution of the business that has made this important.

ATTORNEY WILLIAM GOLDBERG: One, the demand from the public; two, because of the number of seating capacity, which demands a more -- a better educated customer who not only wants beer and wine, but they would like all alcohol, that has been a demand by people that have come to the restaurant before this application. And now there's this opportunity to complement the public by increasing the upgrading of the license.

(Short Recess Taken.)

COMMISSIONER MICHAEL GARDNER: So, Ms. Lint, I believe we are ready to go live.

It's approximately 7:31 in the evening of April 12 and after we have all recharged our batteries, we'll open the hearing again.

And I have managed to forget exactly where we were.

ATTORNEY WILLIAM GOLDBERG: If the reporter can read it back. I would request that.

COMMISSIONER MICHAEL GARDNER: I know I was asking about if anything had changed recently, which after all of this up front work, investment, planning, now sort of at the end of it, you have come in for the all alcohol license. I guess I'm sort of a little surprised that wasn't part of the plan to begin with.

And what I understood you to say is well, there's demand for all alcohol in part because it's a larger premise and perhaps the clientele -- the mix of clientele had changed.

ATTORNEY WILLIAM GOLDBERG: That is so. But I think also because of the increase of seating capacity, there's more demand by groups to rent the premises, and when the groups come in, the malt and wine license may be minimal with a desire to have an all alcoholic license.

So there is the space there for groups to

utilize one portion of the restaurant for their own purposes whether it's during the evening or the afternoon, and the comment made by the groups is that what kind of a license do you have? And when they say -- when the comment is a malt and wine license, they prefer to have an all alcoholic license or an option for an all alcoholic license.

COMMISSIONER MICHAEL GARDNER: What is the evidence that would lead us to conclude that there's a public need for more alcohol licenses in Central Square?

ATTORNEY WILLIAM GOLDBERG: Well, number one, there is already an existing beer and wine license, so that at the site there's been an existing license, malt and wine. To upgrade it, is to just keep the same group, the public interest. That's such a wide term, public interest. I think, Mr. Commissioner, what Mr. Mohan Singh has done in revitalizing this

section of Central Square serves the public interest and that the public demand may be equal with regard to public interest as well.

The term can take on so many different facets of understanding. And, somehow or other, that terms takes a wrong turn, and what I'm suggesting to the Board is that a -- this gentleman has been in the square for 30 years, has a malt and wine license, no violations. To upgrade the license to all alcoholic is going to be servicing the same public that he has been serving for malt and wine.

The upgrade, it's not putting in a new license, it's just upgrading the existing license. And there was a public interest when they got the other license, the old license, so that would be a continuation for the thinking with regard to the upgrade.

COMMISSIONER MICHAEL GARDNER: Is the layout such that there -- that this is only

alcoholic beverages served at the table or is there a bar?

ATTORNEY WILLIAM GOLDBERG: There's a bar. It's a minimal bar. It's about six or seven seats. But no alcohol will be served without some kind of food intake.

It was the same, I think -- it was the same on the license he had the malt and wine, which included seven seats as well. But it's not a bar, it's a restaurant, and the alcohol is complementary to the service of the food.

COMMISSIONER MICHAEL GARDNER: How does the ambience, atmosphere, ethos of the place change in the envisioning of the owners by having this? What really is different?

ATTORNEY WILLIAM GOLDBERG: With regard to the malt and wine license, there's a storefront, the tables and chairs -- it served its purpose with the size that it was. Now, and I suggest in order for the Commission to be more

exact about it, if you were to take a walk down and go into the restaurant, you can see what has been done.

This is a -- not a storefront any longer. It's a major restaurant. It attracts people from all over, and they like the ambience. And they just want to have a drink other than a malt and wine beverage.

A visit would be very helpful to the Commissioners to take a look and see what this facility was. I know that you can't see what the facility was before, but now to see it, you can understand what the need is and how the public interest would be served.

COMMISSIONER MICHAEL GARDNER: This is actually one of the few premises in Cambridge that I have visited before and after.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: I have as well, very nice.

ATTORNEY WILLIAM GOLDBERG: Thank you.

COMMISSIONER MICHAEL GARDNER: Are there any questions?

POLICE COMMISSIONER ROBERT HAAS: I just want to be very clear. So this will be an upgrade, an expansion of 90 seats, and if it were ever to come to a time where you needed to sell the license, you turn back the all alcohol portions of the License Commission and be left with the wine and malt license for 45 seats to sell if you choose to do that?

ATTORNEY WILLIAM GOLDBERG: That's correct.

COMMISSIONER MICHAEL GARDNER: So is the application really for -- well, it's -- for 90 all alcohol and that encompasses the extra 45 not covered on the current malt and wine; is that right?

ATTORNEY WILLIAM GOLDBERG: It includes that, yes.

COMMISSIONER MICHAEL GARDNER: Could we

hear about your plans for the change in management, and if you could describe your experience as a new manager and what your plans are there?

SUKHWINDER SINGH: I have joined the business as I married into the family. So after certain times, he decided to give a second generation to run the business what he did for 30 years. So as the demand now I'm there all the time on the premises, and he's stepping back a little bit to take his obligations and manage other businesses, too. So we think that at the time -- I'm there all the time, open to close. So I should be the manager and to see the customers and all the people.

ATTORNEY WILLIAM GOLDBERG: Did you want to inquire as to his experience?

COMMISSIONER MICHAEL GARDNER: Yes.

SUKHWINDER SINGH: So working with Mr. Mohan Singh since 2003 as a floor manager and

as a restaurant, the The India Pavilion. I took a training in bartending and we just completed, in December, we took a training for 21 Proof. Just -- because we were upgrading everything, the restaurant is bigger so we should know all the laws.

COMMISSIONER MICHAEL GARDNER: So you have experience in other establishments --

SUKHWINDER SINGH: Yes.

COMMISSIONER MICHAEL GARDNER: -- owned by Mr. -

SUKHWINDER SINGH: Mohan Singh. There was a restaurant with liquor, so I used to manage that restaurant before.

COMMISSIONER MICHAEL GARDNER: Okay.

POLICE COMMISSIONER ROBERT HAAS: No further questions.

COMMISSIONER MICHAEL GARDNER: Are there any comments from any members of the public?

Do we keep track of how many seats there

are in Central Square and sort've what the growth or the change in the number of seats are over time?

ELIZABETH LINT: No, we don't. I do also have a letter -- I have the letter from Mr. Barren that Mr. Goldberg referenced. I also have a letter from Councillor Toomey in support of the application and he says that "The India Pavilion is a long-time Central Square establishment and has recently made great improvements to their facade. They played a role in making a Central Square a more attractive location within the City of Cambridge, and they have proven to be responsible business owners that care about Central Square. Granting The India Pavilion a full liquor license will allow them to compete fairly with other Central Square restaurants and allow them to provide a better dining experience for their patrons."

COMMISSIONER MICHAEL GARDNER: I guess, I

for one, feel the need to where this is a capped area, sort've review the regulations again and think about it.

Would it cause you much hardship if we defer this decision to our next decision hearing?

ATTORNEY WILLIAM GOLDBERG: No. We would like to expedite it, but I appreciate your comment. The only thing I could think about is that there have been some issuances of no value licenses in the Central Square, as far as I believe, for malt and wine. I may stand corrected, but my impression is that.

And I think that in answer to your question we'll certainly wait for you to make further investigation. I only will qualify that by saying that there are instances of perhaps of the Licensing Board where they would take into consideration the applicants, the experience, the involvement of the applicants in the community, who is a member of the Central Square

Businessmen's Association. He has been a taxpayer, et cetera, that I think has to be taken into account by the Board as well, and we would appreciate the Board making that or considering that as part of its application.

I don't know how long the next meeting may be, but it's not my province to tell the Board what they may wish to do in order to make certain of their availability.

COMMISSIONER MICHAEL GARDNER: Is our next decision hearing scheduled for the first Thursday in May?

ELIZABETH LINT: I believe so.

COMMISSIONER MICHAEL GARDNER: That's May the 5th.

ATTORNEY WILLIAM GOLDBERG: If the Board requires any further information or assistance that I could provide to them in order to help the Board, I would be happy to do so.

COMMISSIONER MICHAEL GARDNER: Well, the

Chair would certainly entertain a motion one way or another.

POLICE COMMISSIONER ROBERT HAAS:

Mr. Goldberg, you said there was no value licenses issued in Central Square prior, to your knowledge?

ATTORNEY WILLIAM GOLDBERG: It's my understanding that there may have been a no value license that may have been transferred there.

ELIZABETH LINT: I believe at least one has been issued.

POLICE COMMISSIONER ROBERT HAAS: Do you remember where it was? I think the last action we took was a transfer, wasn't it, from one cap area to another?

ELIZABETH LINT: Not involving Central Square.

POLICE COMMISSIONER ROBERT HAAS: I thought the new establishment they were proposing?

ELIZABETH LINT: Thelonious Monkfish.

ATTORNEY WILLIAM GOLDBERG: It involved a restaurant in Harvard Square.

POLICE COMMISSIONER ROBERT HAAS: I thought it was -- wasn't there a license for a 99 Restaurant that we transferred to Central Square?

ELIZABETH LINT: Oh, the 99?

(Pause.)

I don't have a memory of that.

POLICE COMMISSIONER ROBERT HAAS: I am trying to think about the last time. I don't recall doing a non-value license in Central Square.

COMMISSIONER MICHAEL GARDNER: There have been no malt and liquor non-values in Central?

ELIZABETH LINT: There may not have been.

ATTORNEY WILLIAM GOLDBERG: I can't speak definitely about --

POLICE COMMISSIONER ROBERT HAAS: If she didn't know, you would know.

COMMISSIONER MICHAEL GARDNER: I guess I kinda think -- this seems to me like an important enough decision in an area that this Board previously determined should be capped. It's at least my effort to struggle to understand when a cap really means, that we ought to at least do a little bit more research into both the history and the circumstances, and I would, for one, feel more comfortable doing this on May the 5th after we have had the chance to evaluate it further.

POLICE COMMISSIONER ROBERT HAAS:

Mr. Chair, the only thing I'm contemplating, though, is it is an existing license, so it's not really a net gain of a license, it's just an upgrade of a classification. I think I would agree with you if we're trying to add an additional license in Central Square and not thinking about or not recalling any situation like that before, so I'm -- again, I think it's probably something that we need to rectify

anyways since you have 90 seats now, and technically, you have a license that's not properly classified for your establishment at this point in time.

ATTORNEY WILLIAM GOLDBERG: I think it's -- whether the -- whether the seating capacity or not, it's the license that we want, but what your comment was that it's -- it's not a net gain or loss because we got the malt and wine license.

POLICE COMMISSIONER ROBERT HAAS: It's just an upgrade basically.

ATTORNEY WILLIAM GOLDBERG: There's a big demand for a malt and wine license in the Central Square area.

ELIZABETH LINT: Actually Central Square lost a license because Florentina's license is no longer active, so it's down one.

COMMISSIONER MICHAEL GARDNER: We have a member of the public who like to be heard.

DENISE JILLSON: Is it too late?

COMMISSIONER MICHAEL GARDNER: No.

DENISE JILLSON: I would love to be heard just as a member of the public. As a person as a resident of the City of Cambridge.

COMMISSIONER MICHAEL GARDNER: If you could identify yourself for the record, please?

DENISE JILLSON: Of course. Denise Jillson, my address is 2203 Mass Ave.

You know, just been following this a little bit tonight, and been following the sort've the whole evaluation of Central Square. And while I can appreciate that you want to take a look at the cap, and I would encourage you to do that, because I think you have to take that cap and blow it out of the water in terms of Central Square, particularly as the council and economic development looks at Central Square as an area that needs to be revitalized, and that there should be a restaurant scene and we should

be encouraging more and not less, and I certainly appreciate your caution, but I think that particularly tonight with this group, that the impact is minimal, but we are going to be -- hopefully we're going to be seeing a lot more activity out of Central Square as more restaurants, more businesses, more entertainment, more late night, more patios. I think that's what the city, I believe, is looking for, and I know Councilor Reeves has spent hours and hours talking about the need for more of this kind of thing in Central Square.

So, as a resident and as a taxpayer, I would support the decision for almost an immediate decision tonight to help these gentlemen go forward and do what they need to do in terms of getting Central Square back on its feet.

Thank you very much. Thank you for letting me speak after you closed the public

comment.

POLICE COMMISSIONER ROBERT HAAS: So, Mr. Chair, if you're inclined, I would like to make a motion to support the application to upgrade the license to an all alcohol license for a capacity of 90 seats.

COMMISSIONER MICHAEL GARDNER: There's no value, no transfer?

POLICE COMMISSIONER ROBERT HAAS: No value, no transfer with the exception of the clarification we made with respect to wine and malt license, you'd have to turn your all alcohol license back in, and the only value license you have left is the 45 seat wine and malt license.

COMMISSIONER MICHAEL GARDNER: So a motion has been made to approve a no value, no transfer all alcohol license for this premises with the understanding that the existing 45 seat malt and wine license would be the only thing which in the future would be transferable,

although, as understand it, this is not currently a divisible license, it's all of a piece in terms of this proposal?

ATTORNEY WILLIAM GOLDBERG: Yes.

COMMISSIONER MICHAEL GARDNER: Is that right?

ATTORNEY WILLIAM GOLDBERG: Yes.

COMMISSIONER MICHAEL GARDNER: So that motion's been. Is there a second?

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
I'll second it.

COMMISSIONER MICHAEL GARDNER: Any further discussion?

I guess I appreciate the interest and effort to revitalize Central Square and the license we approved several meetings ago in connection with the establishment that I hope to have a large variety of entertainment both indoor and outdoor.

But I remain troubled with the idea that

this Commission put in a cap for some presumably good reason and with sort've an ad hoc decision to set aside the cap without more analysis, so it's troubling to me.

Also, I appreciate the facts -- substantial apparent improvement at least visually in terms of restaurant choices that the expanded establishment provides to that particular block in Central Square, and I think feel like we should take steps that are necessary to encourage and help that location thrive.

Having that said that, I will call for the vote.

All those in favor signify saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:

Aye.

COMMISSIONER MICHAEL GARDNER: Those opposed?

No. I don't oppose it, but I will

abstain on the vote.

So the motion carries by a vote of two to zero.

ATTORNEY WILLIAM GOLDBERG: Thank you.

ELIZABETH LINT: You also have to vote on the change in manager.

POLICE COMMISSIONER ROBERT HAAS: So, Mr. Chairman, I make a motion to approve the proposed change of manager.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: Second.

COMMISSIONER MICHAEL GARDNER: There's been a motion to approve the change in manager as reported in the agenda.

All those in favor signify by saying "aye".

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: Aye.

COMMISSIONER MICHAEL GARDNER: Those

opposed?

None.

The ayes have it.

Good luck. Wish you well with a really beautiful spot.

ATTORNEY WILLIAM GOLDBERG: Thanks very much.

APPLICATION: TOMOLLY, INC.

ELIZABETH LINT: Application: Tomolly, Incorporated d/b/a Charlie's Kitchen/the Red House Restaurant, Paul Overgaag, manager, holder of an all alcoholic beverages as a restaurant license at 10 Eliot Street has applied for a change of premises description to add a bar with six chairs on an existing outdoor patio on private property. Applicant is also applying to add three tables and six chairs on the public sidewalk on Winthrop Street.

COMMISSIONER MICHAEL GARDNER: Good evening. If you could state your name and

affiliation for the record, please.

PAUL OVERGAAG: I'm Paul Overgaag. I'm the owner and operator of Tomolly, Inc., doing business as Charlie's Kitchen doing business as The Red House Restaurant on 98 Winthrop Street and 10 Eliot Street.

COMMISSIONER MICHAEL GARDNER: Could you briefly describe what you are here requesting us to consider this evening, sir?

PAUL OVERGAAG: I would like the Commission to consider a proposal to change the layout of the existing patio in front of The Red House, and to consider the application of putting three tables and six chairs in the public way of Winthrop Street.

COMMISSIONER MICHAEL GARDNER: Prior to your coming here, did you need to go to Public Works or anyplace else for permitting?

PAUL OVERGAAG: We went before the Historic Commission because it's a historic

building, and we got approved of the changes because it would enhance the look of the building to be a little more historic because you now can see a foundation of the building and the portions of what used to be.

COMMISSIONER MICHAEL GARDNER: Did you say see the foundation? I'm not sure I --

PAUL OVERGAAG: See the foundation of the original building. Then we went to Zoning, got approved by Zoning in order to do the license application.

Due to the kind of work it is, it's landscaping. We went in front -- we met with the Inspectional Services and they agreed with us. The only permit we pulled was a plumbing permits because we are putting an oyster bar in hopefully.

COMMISSIONER MICHAEL GARDNER: Use of the public way?

PAUL OVERGAAG: Use of the public way, we

talked to Public Works. Public Works said, "Why don't you put the application forward and see if the License Commission is willing to put it in front of the City Council and let the City Council make the decision, because it is a City Council decision.

ELIZABETH LINT: It wouldn't work that way. It would be -- you would have to have approval from the City Council in order to get the permit from the DPW, but we would not send it. That would have to be his own application.

PAUL OVERGAAG: We put it before the City Council. And the DPW is in support if the City Council is in support.

COMMISSIONER MICHAEL GARDNER: I see. Is this in terms of the sequencing of events and approvals, Ms. Lint, a typical way to do it?

ELIZABETH LINT: There's really no typical way. Some people go to City Council first, some people come here first.

POLICE COMMISSIONER ROBERT HAAS: Don't we usually get the DPW to give us at least an indication of whether or not we can do that?

ELIZABETH LINT: I usually do get some kind of indication. I have not heard from him, in fact, I have several calls into him.

PAUL OVERGAAG: Therefore, I kinda explained it was one part of a two-part of an application where there's a change of existing premises and then the issue of the three tables in front of 98 Winthrop Street in the public way.

COMMISSIONER MICHAEL GARDNER: Is there any service on the existing outdoor -- excuse me -- patio now?

PAUL OVERGAAG: Yeah, there's service on the existing patio. It's a private patio. So there's service as soon as someone wants to sit down, 365 days a year.

COMMISSIONER MICHAEL GARDNER: So how will this change that?

PAUL OVERGAAG: We'll lower the front part of the patio to be even with the street so the patio will become more accessible from the street. There will be an oyster bar placed in front of the -- next to the fence that separates the Beer Garden and The Red House, and that I would like to take six of the seats that we have now and change them to six bar seats.

COMMISSIONER MICHAEL GARDNER: Could you just describe the -- among the things that you've handed us are a menu and also some drawings.

PAUL OVERGAAG: Yes. I would also like to develop a little late night dinner activity on Winthrop Street.

Currently there's a lot of traffic on Winthrop Street, and there's very little outside dining available after 11:00 because as The Red House has done also, they closed their patio at 11:00, upstairs on the square, closes their patio at 11:00. So I would like to develop some late

night business with a small late night menu.

COMMISSIONER MICHAEL GARDNER: Your license would allow you then to be open and serve till how long?

PAUL OVERGAAG: The license is complicated. It's Tomolly, Inc. has the license, it's an 2:00 license on Thursday, Friday, Saturday and it's a 1:00 license on Sunday, Monday, Tuesday and Wednesday. We would extend our hours to those hours.

COMMISSIONER MICHAEL GARDNER: You would be serving the restaurant or late night menu up until then?

PAUL OVERGAAG: Charlie's Kitchen stays open until 15 minutes before closing time with food, and The Red House can start doing the same.

COMMISSIONER MICHAEL GARDNER: And the color drawing, the first page that you have presented to us, if could you just describe what this shows?

PAUL OVERGAAG: It represents an artist mockup of what it's going to look like where the people will be sitting a little lower even with the street versus before they would be sitting up on top off the wall, rather high up on the street with a picket fence, and not really accessible for the public, not really part of the nice walkway that Winthrop Street has become.

POLICE COMMISSIONER ROBERT HAAS: There's a stone wall.

PAUL OVERGAAG: The stone wall is saying. It's somewhat historic stone wall, so that's why.

POLICE COMMISSIONER ROBERT HAAS: This is still on private property or part of the public way?

PAUL OVERGAAG: In front of the stone wall, standing on the street, it's public way, and behind the stone wall, it's private property.

POLICE COMMISSIONER ROBERT HAAS: Okay.

COMMISSIONER MICHAEL GARDNER: And so

would you be moving six table seats to the bar with no change in the number of seats on the license?

PAUL OVERGAAG: I believe it works out that that's what would be happening. If the six seats in the street will come available, it would be an increase in capacity.

COMMISSIONER MICHAEL GARDNER: So this is a -- is this a two-part application?

PAUL OVERGAAG: It's one application with a two-part question in it.

COMMISSIONER MICHAEL GARDNER: One of the parts involves increasing the number of seats by six?

PAUL OVERGAAG: Increasing the number of seats on the outdoor patio in an capped area of Harvard Square, where it's in the -- increase or the break of the cap has been allowed as long as it's for outside patios.

ELIZABETH LINT: Can I clarify that?

After much research on behalf of Mr. Crane actually, it was determined that outdoor patio seats do not count as part of your capacity and it has nothing to do with the cap because they're seasonal.

COMMISSIONER MICHAEL GARDNER: Do they anything to do with the license?

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: Is it increasing -- is it -- it's not increasing the license capacity?

ELIZABETH LINT: No, it's because they're just seasonal, so for that period of time from March 1 to November 30, they have that extra capacity, but they are considered seasonal so they don't go against any of the capacity issues.

COMMISSIONER MICHAEL GARDNER: Is this statutory or is this historical as to how the Cambridge License Commission does it?

MS. LINT: I think it was both actually.

I can find it. I have it somewhere.

PAUL OVERGAAG: It was somewhat historic when it was pointed out and read and interpreted and re-entered, but looked at it from the left side and looked at it from the right side.

COMMISSIONER MICHAEL GARDNER: When would you be -- with the necessary approvals, I take it you don't need a City Council or Public Works approval for the first part of the application?

PAUL OVERGAAG: Correct.

COMMISSIONER MICHAEL GARDNER: What would your plan be with respect to when you would do the renovation or when you would be available to actually use those seats?

PAUL OVERGAAG: We actually started the renovation already.

COMMISSIONER MICHAEL GARDNER: Okay. Any other questions?

POLICE COMMISSIONER ROBERT HAAS: You started the renovations on the private portion of

the proposal, right?

PAUL OVERGAAG: That's right.

POLICE COMMISSIONER ROBERT HAAS: Okay.

Now, you have no indication as to the appetite of DPW for the public portion at this point?

PAUL OVERGAAG: We met with DPW a couple times in particular with Vinny. And he has spoken to his boss about the three tables and he came back and because it's somewhat of a political issue, he came back and said, "If the City Council approves it, we'll sign-off on it" are the words from the DPW.

POLICE COMMISSIONER ROBERT HAAS: Aside from it being a political issue, do you have any other concerns about egress or pathways with respect to --

PAUL OVERGAAG: It stays outside the regular egress that we have, which is one of the -- the drawing on the left-hand side with the bar seats on your left-hand side, there's the

egress space, normal.

The patio egress is better off right now, the whole egress from the bar, we have two egresses because we have a hand railing that was moved and allows you to actually get off the patio a lot safer.

COMMISSIONER MICHAEL GARDNER: How much of the sidewalk is taken up by the tables?

PAUL OVERGAAG: If we were to be approved for the tables, the street from the wall to the curb on the opposite side of the street is 17 feet. We would -- these tables take up three feet, which leaves 14 feet for emergency vehicles. It does need to be noted that the street is closed from 11:00 in the morning to 2:00 at night, which are the hours of operation. So it's a pedestrian street, so we are not really taking over sidewalks where pedestrians are supposed to walk.

COMMISSIONER MICHAEL GARDNER: Okay. Are

you putting your tables in the street or on the sidewalk?

PAUL OVERGAAG: On Winthrop Street there is no sidewalk. There's a curb within the street that says there is a sidewalk.

There's seats and chairs, the tables will be on the sidewalk part of Winthrop Street.

COMMISSIONER MICHAEL GARDNER: I'm sorry for not being more familiar.

When you take the tables away, will you be taking away space that vehicles will occupy or only pedestrians?

PAUL OVERGAAG: The vehicles can't occupy the space that we have because if you look at the drawings, there's black ballasts separating the sidewalk from the street. The chairs and tables will be in between the black ballasts.

POLICE COMMISSIONER ROBERT HAAS: So that will be a permanent structure?

PAUL OVERGAAG: There will be a fence

that will be a semi-permanent structure because you have to enclose your area.

POLICE COMMISSIONER ROBERT HAAS: In other words, this would always remain even when the street's open again, right, for traffic?

PAUL OVERGAAG: Say that again, please?

POLICE COMMISSIONER ROBERT HAAS: So right now Winthrop Street is closed between 11:00 to 2:00, right? Presumably service trucks and other vehicles can use that pathway. So what happens to this ballast that now separates the seating?

PAUL OVERGAAG: The ballast stays there. They are there now, anyway, and we would connect the ballast with the fence to make it enclosed.

POLICE COMMISSIONER ROBERT HAAS: Okay.

COMMISSIONER MICHAEL GARDNER: Would this also be seasonal?

PAUL OVERGAAG: This would be the only seasonal part of the application is the six seats

on Winthrop Street.

The private patio, because it's private, it doesn't fall under the seasonal seating, and it's part of our capacity.

COMMISSIONER MICHAEL GARDNER: So is it enclosed or open?

PAUL OVERGAAG: It's a patio, but it's a patio because it's not classified as seasonal seating, it's part of your capacity.

The only seasonal seating that is licensed would be the six seats on Winthrop Street.

COMMISSIONER MICHAEL GARDNER: I think I understand the seasonal from a legal point of view.

From the point of view of members of the public, will the patio be open in the winter?

PAUL OVERGAAG: The patio is always open.

COMMISSIONER MICHAEL GARDNER: And people go out and sit in the cold or is it enclosed?

I'm just trying to understand what --

PAUL OVERGAAG: People in the City of Cambridge, the minute the sun shines and it's tolerable to sit outside will come and eat in the sun.

I was asked how was business the other day and I went like New Year's Day, we had 70 people out on the patio, and Saturday was the next day that we had business outside, so that tells you how business was.

The problem with outside seating, you can't predict it. But we were capable of serving outside on New Year's day because we were licensed as a private patio.

COMMISSIONER MICHAEL GARDNER: And the total capacity is how much, I'm sorry?

PAUL OVERGAAG: The license is rather complicated. I think there's -- I don't even guess because it's together with Charlie's and The Red House, there is seasonal setting.

COMMISSIONER MICHAEL GARDNER: You are supposed to know how many so you can keep count, right?

ELIZABETH LINT: I know.

PAUL OVERGAAG: Yep. I have it somewhere, but not in the back of my head. It's 84 downstairs in Charlie's, 36 in front of Charlie's patio, there's 86 in the Beer Garden, there's, I think, 70-something upstairs, and then there's three private dining rooms of two of ten, one of eight. There's a back dining room of 49. There's a bar of 17, 18.

COMMISSIONER MICHAEL GARDNER: So something in excess of 400?

PAUL OVERGAAG: I think it's a little under 400.

ELIZABETH LINT: 364.

COMMISSIONER MICHAEL GARDNER: Thank you.

Renovation already having been started, when would you be ready to add your bar with six

chairs?

PAUL OVERGAAG: That should be ready after the plumbing inspector signs off, probably the end of next week and the Health Department signs off.

COMMISSIONER MICHAEL GARDNER: So, essentially that portion of the change is to take what are now table seats and convert them into bar seats?

PAUL OVERGAAG: Yes.

COMMISSIONER MICHAEL GARDNER: Any other questions from the Commissioners?

POLICE COMMISSIONER ROBERT HAAS: No questions.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: The ballasts that are there now, they're existing?

PAUL OVERGAAG: Yes. They were put in by the city when we did Winthrop Street.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:

And the bollards to the other side of street is 14 feet.

PAUL OVERGAAG: No. The other side of the street there's not a room -- the other side of the street actually has a curb that sticks out.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: From the curb to the bollards is 13 --

PAUL OVERGAAG: From the curb to the bollards is 14.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: 14 feet and they're existing now?

PAUL OVERGAAG: Existing.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: Just talking through my apparatus excess.

PAUL OVERGAAG: We like to keep 11 feet for emergency vehicles.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: 18 feet it's supposed to be.

COMMISSIONER MICHAEL GARDNER: Anything

else you would like to add before we solicit comment from members of the public?

PAUL OVERGAAG: No thank you.

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

Please come forward and state your name.

ROBERT BANKER: My name is Robert Banker, B-A-N-K-E-R.

COMMISSIONER MICHAEL GARDNER: Have a seat if you are comfortable or you stay --

ROBERT BANKER: I'll lean on this. I'm hear as a character reference as well as a -- Mr. Overgaag has shown me these drawings several months ago telling me of his plans, and we walked the site, he explained and made it very clear. He's been my tenant -- not my tenant, he's been my abutter for a number of years, and without any incident. A lot of people seem to go there and eat and drink, and he's a welcomed neighbor in

the property -- in the neighborhood.

Have I made myself clear?

POLICE COMMISSIONER ROBERT HAAS: So
you're in support of the application?

ROBERT BANKER: Yes, I am. Those are my
sentiments.

COMMISSIONER MICHAEL GARDNER: Thank you
very much.

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

DENISE JILLSON: In an official capacity.

COMMISSIONER MICHAEL GARDNER: Please
identify yourself for the record.

DENISE JILLSON: Yes, Denise Jillson,
Executive Director of the Harvard Business
Association and we would like to extend our
support.

I did initially have some concerns, but
then I forgot about the ballasts because I was
wondering how that was going to work, but now

that I've heard it, you know, it makes perfect sense, and as long as the seating is beside the fence, then the vehicles can't go in that area anyway. So I think it will be lovely.

Paul does a great job. He has been a member of the Business Association for a very long time with both Charlie's Kitchen and The Red House, and a welcomed and active member who doesn't mind ever giving his opinion and is incredibly helpful always. So we are in support of this application.

PAUL OVERGAAG: Thank you.

DENISE JILLSON: My pleasure.

COMMISSIONER MICHAEL GARDNER: Is there any other seating in this area outdoors on Winthrop Street?

DENISE JILLSON: Yes, there's a lot of outdoor seating. Om has outdoor seating, Grendel's Den and upstairs on the square. And they are all in the public way. And if I'm not

mistaken, this would just -- it would align itself with all of that. There would be no sort've extension out into the street.

The difficulty with Winthrop is that the sidewalk and the street are level, so the only thing that determines sort of a demarcation is this cobble that goes along, but it's all flush. And then, of course, the ballards, so this would definitely be on the sidewalk and as it is now, I -- we had concerns about emergency vehicles, but the city -- but the city placed the ballards there.

POLICE COMMISSIONER ROBERT HAAS: The initial design, though, is for folks to walk on the inside between --

PAUL OVERGAAG: There's not enough room for that. So you can jump out of the way of a truck. The truck would hit the ballards.

POLICE COMMISSIONER ROBERT HAAS: Like a safety zone?

DENISE JILLSON: Yeah.

PAUL OVERGAAG: Safety zone, yes.

POLICE COMMISSIONER ROBERT HAAS: Can you just explain why DPW has a reservation about why they suggested you go a different way with respect to the approval for the outside seating? I'm just a little bit -- what is the reservation about? I'm trying to understand that.

PAUL OVERGAAG: I'm a little confused about the process myself. A, because I'm doing it by myself and without counsel. So I thought I had to get approval from the License Commission to get the seats approved for alcohol, and then have the City Council approve it because I need to rent the space. Then have DPW approve it because they are the ones that need to okay, if I have enough space for the emergency vehicles, if the fencing is correct, if all the other stuff is...

POLICE COMMISSIONER ROBERT HAAS: My

understanding is we've always looked to DPW to kinda say this is an area that's acceptable to predicate our decision. So what you are asking us to do is go ahead and make an approval on an area that we haven't had DPW sign-off on?

PAUL OVERGAAG: Okay.

POLICE COMMISSIONER ROBERT HAAS: It's not your fault.

PAUL OVERGAAG: I would turn the application around to say pending approval of DPW the License Commission will support it.

ELIZABETH LINT: That has been done before. There's precedent.

COMMISSIONER MICHAEL GARDNER: I apologize for being so slow.

PAUL OVERGAAG: It's okay. It's a big process.

COMMISSIONER MICHAEL GARDNER: I'm not sure I understand where the pedestrians walk while the seats are out and the road is open.

PAUL OVERGAAG: Okay, Winthrop Street was designed as a shared street. A shared street means we are going to have pedestrians and vehicles all on the street at the same time. It has proven that the vehicles will slow down if they see a pedestrian. Then a bunch of the restauranteurs on Winthrop Street were like, wow, we don't want taxicabs flying down these streets because they will, and there will be incidents, and for public 'safety if the restaurants are open, why don't we close the street. DPW, Harvard Square Business Association, we all worked together to have the street closed from 11:00 a.m. to 2:00 p.m. at night.

POLICE COMMISSIONER ROBERT HAAS: 11:00 p.m. to 2:00 a.m.?

PAUL OVERGAAG: Right.

So there's no vehicles on the street at that particular time, so it's a pedestrian street. Before that, from 2:00 to 11:00, it's a

shared street, but there's to restaurants open. So the cars and pedestrians do their thing that you do on a shared street. The restaurants are not open, so it's a nonissue.

COMMISSIONER MICHAEL GARDNER: I'm sorry. So the tables don't go out until the street closes at 11:00 p.m.?

PAUL OVERGAAG: All tables stay out, but there's a 11-foot runway that vehicles can go and use the street with?

DENISE JILLSON: And that exists already.

COMMISSIONER MICHAEL GARDNER: And are the pedestrians commingled or are they off to the side.

PAUL OVERGAAG: The pedestrians own the street. And in the morning, there's people looking back when they hear a vehicle because there's still some -- I need to get to the other side of Harvard Square quick because I'm really late.

COMMISSIONER MICHAEL GARDNER: Any other members of the public who would like to be heard or, Ms. Jillson, do you have anything else to add?

DENISE JILLSON: No, I'm fine.

POLICE COMMISSIONER ROBERT HAAS:

Mr. Chairman, if you are so inclined, I would like to do this in two parts. I would like to make a motion to approve the application or the modifications to the private patio as proposed by the applicant.

COMMISSIONER MICHAEL GARDNER: So there's a motion to approve the changes to the private patio, which include converting six table seats to six bar seats; is that correct?

POLICE COMMISSIONER ROBERT HAAS: Yes.

COMMISSIONER MICHAEL GARDNER: Thank you.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: I second that motion.

COMMISSIONER MICHAEL GARDNER: The motion

having been made and seconded to approve the changes to the outdoor patio and convert six table seats to six bar seats, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed. That segment of the application is approved.

POLICE COMMISSIONER ROBERT HAAS: I'm having a hard time visualize the ballast on Winthrop Street. I look at it everyday. I'm just trying to visualize it. I'm trying to figure out --

COMMISSIONER MICHAEL GARDNER: Could I ask when -- we understand you are all set to go because you've already started your renovations to the thing we just approved.

What's your timetable or your preferred

timetable with respect to the second part of the application and the table seating?

PAUL OVERGAAG: There's no timetable on that. I will just -- healthy discussion moving forward on the issue, so if there's some questions on clarification, some pictures could be sent to you by email, we can totally do that. Set up some tables, take a picture.

POLICE COMMISSIONER ROBERT HAAS: I will make a point at looking at it again. I mean, I look at it and see it everyday. I guess I could go down there and look at it again.

PAUL OVERGAAG: We'll set it up and sometime something visual helps lot. There's no rush.

POLICE COMMISSIONER ROBERT HAAS: I'm guessing there's already demarcation there with respect to the ballards, I probably can visualize it, but I just need to look at it.

PAUL OVERGAAG: At the entrance of The

Red House, there's two and then I think going down Winter Street there's one halfway and then there's one just before the light.

POLICE COMMISSIONER ROBERT HAAS: Like I said, I'll be driving down that street again tomorrow morning, so I'll take a look at it.

COMMISSIONER MICHAEL GARDNER: The Chair would appreciate a motion that I accept this matter --

POLICE COMMISSIONER ROBERT HAAS: I make a motion to take second portion of the application under advisement for the May 5 decision hearing.

COMMISSIONER MICHAEL GARDNER: A motion has been made to take the second portion of the application with respect to the contingent approval of outdoor seating in the public way contingent upon approval of the Council and Department of Public Works. A motion has been made to take that under advisement, is there a

second to that motion?

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: I
second that.

COMMISSIONER MICHAEL GARDNER: The motion
having been made and seconded to defer any
decision on the contingent application for the
seating in the public way for further
determination, all those in favor signify saying
"aye".

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Aye.

COMMISSIONER MICHAEL GARDNER: None
opposed. So we'll defer that decision, we'll
attempt to look at it on the May 5 decision
hearing.

Any additional information, including
visuals, you could provide would be appreciated.

PAUL OVERGAAG: Thank you.

APPLICATION: THE ZINNEKEN'S GROUP, LLC

ELIZABETH LINT: The Zinneken's Group d/b/a Zinneken's, Thanh Nhon Ma, manager, has applied for a common victualer license to be exercised at 1154 Massachusetts Avenue. Said license, if granted, would allow food and nonalcoholic beverages to be sold, served and consumed on said premises with a seating capacity of 19. The hours of operation would be 7:30 a.m. to 12:00 a.m. seven days a week.

COMMISSIONER MICHAEL GARDNER: So thank you very much for coming. I appreciate your patience.

It would be helpful if you could just identify yourselves and your affiliation for the record, please.

ATTORNEY VINCENT PANICO: My name is Vincent Panico, P-A-N-I-C-O. I'm the attorney for the petitioner.

Would you identify yourself, please?

THANH NHON MA: My name is Thanh Nhon Ma.

Thanh, T-H-A-N-H, Nhon, N-N-H-O-N, Ma, M-A.

ATTORNEY VINCENT PANICO: Do you have a copy of the menu?

COMMISSIONER MICHAEL GARDNER: I do not have it in my packet.

ATTORNEY VINCENT PANICO: Can I bring it up?

COMMISSIONER MICHAEL GARDNER: I have been shown -- is this a proposed menu, sir?

ATTORNEY VINCENT PANICO: Yes.

COMMISSIONER MICHAEL GARDNER: Could you just briefly describe the cuisine that you plan to serve?

ATTORNEY VINCENT PANICO: This is a particular item. It's popular in Europe and other parts of the world. As a matter of fact, the other night I saw a documentary on Australia, they had one in Australia. It's made with a special machine, the ingredients some of which are imported from Belgium, and the type of

operation is very similar to cafes you find in Europe, they are small, they are upscale and they're very popular.

My client's family owns a restaurant in Belgium, and he's worked in the restaurant and has restaurant experience.

This is typically when we envisioned the location, we realized that there was a similar operation right on the site previously. There was a French creperie, I don't know how many years ago, but this is the exact spot we're going into.

COMMISSIONER MICHAEL GARDNER: If I can summarize from looking at the menu, this is a creperie?

ATTORNEY VINCENT PANICO: This is a Belgium waffle. The previous place was a creperie.

COMMISSIONER MICHAEL GARDNER: This serves --

ATTORNEY VINCENT PANICO: Waffles.

COMMISSIONER MICHAEL GARDNER: And is it a liege? Did I say that right?

ATTORNEY VINCENT PANICO: Liege.

COMMISSIONER MICHAEL GARDNER: And crepes that have a variety of toppings.

ATTORNEY VINCENT PANICO: Waffles.

COMMISSIONER MICHAEL GARDNER: Not crepes. I got a picture here of something here that says it's a crepe. So no crepes.

ATTORNEY VINCENT PANICO: They have unbelievable toppings as well a variety of different chocolates.

COMMISSIONER MICHAEL GARDNER: That's the principal or the sole type of food on the menu?

ATTORNEY VINCENT PANICO: Yes.

COMMISSIONER MICHAEL GARDNER: I interrupted you. I will let you go on.

ATTORNEY VINCENT PANICO: It's a place where they try to create a particular atmosphere.

It's a cafe-type atmosphere. And as I say, it's something that's very popular in Europe, and I envision it will be very popular in Harvard Square also.

COMMISSIONER MICHAEL GARDNER: You indicate, sir, you have experience with a similar restaurant in Belgium, is that correct.

THANH NHON MA: Not similar. My parents own upscale restaurant for more than 30 years. And as a kid and as a teenager, I have worked for almost eight years in the kitchen and in the eating rooms, so I have experienced in all aspects of the restaurant business. The concept I'm trying to introduce is different from the restaurant that my parents used to own.

COMMISSIONER MICHAEL GARDNER: I see. And is this part of a chain or franchise operation or are you doing this solo.

THANH NHON MA: No. It's an independent and local store and it's the first one in the

United States.

COMMISSIONER MICHAEL GARDNER: Do we have any establishments similar to this in Cambridge in terms of the kind of menu being offered?

THANH NHON MA: No.

ATTORNEY VINCENT PANICO: Not that I'm aware of. They did do a test and they brought this product into Harvard Square. I don't remember exactly where they went, but I understand it was exceedingly popular.

COMMISSIONER MICHAEL GARDNER: And your experience, if I understand it, sir, is primarily with your parents' restaurant in Belgium, do I have that right?

THANH NHON MA: That's correct.

COMMISSIONER MICHAEL GARDNER: And --

THANH NHON MA: I also worked as a student for Hagan Daz, the ice cream maker.

ATTORNEY VINCENT PANICO: He was the manager of a small hotel at one time.

COMMISSIONER MICHAEL GARDNER: Okay. And what is the experience that you've had that is closest to your being responsible for managing a reasonably specialized food offerings which are different, as I understand it, from those that you had experience with in Europe?

THANH NHON MA: Well, the main difference is that the cuisine is different, but in terms of operations, it's pretty similar. So we are trying to create a cozy European atmosphere, and in terms of operation, it would be very similar to the experience that I had in Belgium.

COMMISSIONER MICHAEL GARDNER: Could you describe how you will be receiving your supplies and also your provision for trash removal and potential for litter in the area?

THANH NHON MA: Do you mean in terms of food?

COMMISSIONER MICHAEL GARDNER: Yes.

THANH NHON MA: Food supply? We are in

contact with local suppliers for some items.

Other items that we cannot find in the United States, will be imported directly from Belgium.

COMMISSIONER MICHAEL GARDNER: How about the transport into your facility? Where will the trucks or the vehicles go to deliver? How does that work?

THANH NHON MA: We are in association with some suppliers, so we'll use their storage space and basically, they will deliver, I would say maybe twice a week to our store.

COMMISSIONER MICHAEL GARDNER: Through the front door is there rear access?

ATTORNEY VINCENT PANICO: I think it comes in through the back, the supplies come in through the rear.

THANH NHON MA: The rear will be used for dry storage, but, you know, for the fruits, and so on, we'll use the main entrance.

ATTORNEY VINCENT PANICO: Mass. Ave.

COMMISSIONER MICHAEL GARDNER: The trucks, whatever they are, would -- vehicles would park on Mass Ave and they would be wheeled through the front of the store?

THANH NHON MA: Well, it's a particular location where it's located at the intersection of Harvard Street and Mass Ave, so I guess it will be easier for the trucks to park on Mass Ave.

COMMISSIONER MICHAEL GARDNER: And what about the provisions for your handling trash?

THANH NHON MA: At the back on Arrow Street, there's some containers, so we will use this for trash.

COMMISSIONER MICHAEL GARDNER: That's part of your lease or your access to those?

ATTORNEY VINCENT PANICO: That's part of the lease?

THANH NHON MA: Yes.

COMMISSIONER MICHAEL GARDNER: Are those

covered containers?

THANH NHON MA: Yes.

COMMISSIONER MICHAEL GARDNER: What is your anticipation about how frequently you will need to have trash pickup?

THANH NHON MA: I will say three times a week, every two days, yes.

COMMISSIONER MICHAEL GARDNER: And is this a sort of place where people would come and get takeout and eat it on the street, or would you envision everything is sit-down in your facility -- in your premises?

THANH NHON MA: We are trying to create a pleasant experience and atmosphere where people feel comfortable and can sit with their laptops and work and send emails, but we realize that will be a part of our customer that may be interested to take the food away.

COMMISSIONER MICHAEL GARDNER: What concerns or provisions do you have about the

possibility of litter as a result of that activity?

THANH NHON MA: We'll use nondisposable items for customer eating inside the premises.

For the take-away business, we will have disposable plastic bags so people can take their waffle away.

COMMISSIONER MICHAEL GARDNER: Questions?

POLICE COMMISSIONER ROBERT HAAS: So you have indicated your hours of operation are 7:30 a.m. to 12 basically midnight. Who is going to be on the premises? When will you be on the premises during that period of time, seven days a week.

THANH NHON MA: We will hire people.

POLICE COMMISSIONER ROBERT HAAS: As a manager how often will you be in the establishment?

THANH NHON MA: Everyday.

POLICE COMMISSIONER ROBERT HAAS:

Everyday.

THANH NHON MA: Yes.

POLICE COMMISSIONER ROBERT HAAS: Seven
days a week?

THANH NHON MA: Yes.

POLICE COMMISSIONER ROBERT HAAS: Not
during that whole period of time, though, right?

THANH NHON MA: Well, I have another
associate. So the -- another investor, so this
person would be there as well, so we'll try to
change.

COMMISSIONER MICHAEL GARDNER: Does this
person have any experience in the restaurant
business?

THANH NHON MA: Yes. He worked for many
years for cafe and restaurants.

COMMISSIONER MICHAEL GARDNER: Okay.

POLICE COMMISSIONER ROBERT HAAS: No
other questions.

COMMISSIONER MICHAEL GARDNER: Anything

else you would like to add before we call on the members of the public here?

ATTORNEY VINCENT PANICO: No.

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

DENISE JILLSON: Yes.

COMMISSIONER MICHAEL GARDNER: Would you please identify yourself for the record?

DENISE JILLSON: Denise Jillson, Executive Director for the Harvard Business Association. I met Thanh and his partner, Bertrand, about a year ago. They spent many months looking around Harvard Square for a space that's appropriate for their kind of business.

We did get the opportunity to try the product when we had some taste testing, and it was pretty fabulous, and they set up a little area with their specialized machine and they made very hot and wonderful Belgium waffles with all

the different toppings from strawberries to bananas, as well as Belgium chocolate. It was all pretty wonderful. And then they thought they had a space and that fell through, and I was delighted to find recently that they found the space where the creperie used to be, it's a charming, little tiny space right at the corner of Arrow and Mass Ave just in front of Berryline. Berryline is in the backside. This is really a special space because it's tiny. And it has a lot of windows and great frontage on Mass Ave. So you can sort've envision what they can do with it if they -- and I think they will do it properly.

So we are excited about that and I think that product, because it's just Belgium waffle and it's the kind that people in Europe take it on the street and walk around with it as strawberries fall down their chin onto their clothing. Nonetheless and it's charming and they

have been around for awhile. We are very much in favor of this application and wish them well as they are really sweet and Bertrand, as Thanh said has lots of experience with the restaurant. We feel like we don't have anything like this in Cambridge or anything like this in Harvard Square. So maybe all the people that go to Berryline and wait in line for hours for their frozen yogurt will partake of some Belgium waffles.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

DENISE JILLSON: Thank you.

COMMISSIONER MICHAEL GARDNER: Do you have plans to try to set up tables on street at any time?

THANH NHON MA: Not for the time being, no.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to approve the application?

COMMISSIONER MICHAEL GARDNER: There's been a motion to approve the application as is stated in the agenda for the victualer license for a seating capacity of 19. Is there a second?

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Second.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Aye.

COMMISSIONER MICHAEL GARDNER: None opposed. So the application is approved.

We wish you well.

ATTORNEY VINCENT PANICO: Thank you.

COMMISSIONER MICHAEL GARDNER: When do you expect to be open?

THANH NHON MA: First of July, we hope.

COMMISSIONER MICHAEL GARDNER: Good luck.

THANH NHON MA: Thank you very much.

COMMISSIONER MICHAEL GARDNER: There are other business before us?

ELIZABETH LINT: Yep. I don't see the applicant here, but the last application is Petals Foods, LLC doing business as Sepal, Walid Masoud. We'll contact him tomorrow to see what the problem is.

And we have a policy discussion on allowing taxi drivers to impose an additional \$6 fee for vans and SUVs. The fee would not apply to accessible vans and there's also -- there needs to be some discussion about the flat rate fees with regard to taxicabs that was voted at the last hearing.

The drivers came to me and said, "We should've told you this before, but we currently are allowed to charge \$6 for when people call to ask for station wagons. Station wagons are few and far between now, so drivers that typically

had wagons are buying SUVs and vans. Right now I think we have eight. I know we don't have ten. But somewhere in that range, and they were asking that they be allowed to charge the same extra fee for the larger vehicles.

COMMISSIONER MICHAEL GARDNER: Does it work that this is a -- just a fee, a flat fee on top of the rest of the bill?

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: And does it only apply to that vehicle if the vehicle is specifically called for, or if that vehicle happens to be at a stand and it's the next one in line, then the customer pays the extra money?

ELIZABETH LINT: Typically it's if you called for it. And what the drivers tell me is they don't necessarily always actually tack the extra money on, but, say, it's a large group of people and they are helping them carry luggage, and so on and so forth, then they would add it,

or if they are called for it.

The experience from what they tell me if you just are at the stand, they wouldn't necessarily add it on, but it gives them the opportunity to do that. See, obviously it's because large cars use more gas, so they're trying to cover their fees.

COMMISSIONER MICHAEL GARDNER: So it's really up to them. They would have the legal right to charge the surcharge even for a customer who got that cab even if the customer had requested it?

ELIZABETH LINT: It's similar to they're allowed to charge for luggage. Typically, they don't, but I think they like knowing that they have the option.

COMMISSIONER MICHAEL GARDNER: Have we had any complaints about the station wagon surcharge in the past?

ELIZABETH LINT: Never. Not in my

tenure.

COMMISSIONER MICHAEL GARDNER: Do you have any sense that in your tenure there were station wagons and the station wagon surcharge was charged?

ELIZABETH LINT: I don't often hear about it. But just from -- in passing recently because there's a lot of frustration in not being able to buy station wagons that the drivers are being forced to buy Ford Escapes. I think there's two vans out there as well.

COMMISSIONER MICHAEL GARDNER: A Ford Escape counts as an SUV?

MS. LINT: Yes.

COMMISSIONER MICHAEL GARDNER: And this just comes with -- this would come with the license, the Hackney license if the Hackney license were attached to a vehicle of this size?

ELIZABETH LINT: The medallion.

COMMISSIONER MICHAEL GARDNER: The

medallion.

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: Sorry.

And there are no particular limits on this with respect to the number of vehicles like this that would be subject to the fee, just a matter of the marketplace how many medallion owners choose to buy SUVS and vans?

ELIZABETH LINT: Correct. Very few of them do.

COMMISSIONER MICHAEL GARDNER: And there are existing regulations for similar -- similar for station wagons, this would just extend it to SUVS and vans?

ELIZABETH LINT: That's correct.

COMMISSIONER MICHAEL GARDNER: Pleasure of the Commissioners?

POLICE COMMISSIONER ROBERT HAAS: There's no change in the fee -- the standing fee \$6.

ELIZABETH LINT: That's what it is, yeah.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to approve the additional fee for vans and SUVs as it applies to station wagons.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: I second it.

COMMISSIONER MICHAEL GARDNER: So there's been a motion made and seconded to apply the existing \$6 possible surcharge, which now applies to station wagons only, to SUVs and vans operating as taxis in Cambridge.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: Aye.

COMMISSIONER MICHAEL GARDNER: Aye. Those opposed. None. So the motion is approved.

ELIZABETH LINT: The second part of that is the flat rate fees. The Board voted at the hearing on the taxi rate increase that the flat

fees would go up in a percentage wise in order with the meter rate increase. I heard from many, many drivers and then Mr. Galuccio the drivers really felt that the flat rate fees were high enough. And we did a little canvassing of surrounding towns and determined that -- the flat rate fees in Cambridge were actually higher than almost all the surrounding towns, and the drivers did not want to increase the flat rate fees.

COMMISSIONER MICHAEL GARDNER: Any further questions of Ms. Lint on this matter?

POLICE COMMISSIONER ROBERT HAAS: No questions.

COMMISSIONER MICHAEL GARDNER: So we would entertain a motion notwithstanding the change in the Hackney rates approved at our last action on this matter that the -- are they called flat rate fees?

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: That the

flat rate fees remain the same. I entertain a motion to that effect.

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Second.

COMMISSIONER MICHAEL GARDNER: Motion having been made and seconded to maintain the flat rate fees at the same level they are now without taking into account the adjustment in the meter rate. All those in favor signify by saying "aye".

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Aye.

COMMISSIONER MICHAEL GARDNER: As opposed, none. So the motion passes.

ELIZABETH LINT: And one more. Policy hearing to discuss imposing a \$25 processing fee for one day charity wine license applications.

This question came about, you may recall, several hearings ago, there was application by Central Square Theater for several charity wine events.

These are new applications. We have never dealt with them before. And what we discovered in taking them in the amount of time that one staff member was spending on processing, I think they applied for somewhere in the vicinity of 15 events, it took a staff member better than a day to process all of them.

And other people, I understand it's a charity, however other people who are coming in and applying for different things are paying huge application fees compared to \$25. So we felt it was appropriate to have that assessed when they're applying for those licenses.

POLICE COMMISSIONER ROBERT HAAS: If I recall correctly, the wines are donated, right, they are not paying for the wine?

ELIZABETH LINT: They are not paying for anything.

COMMISSIONER MICHAEL GARDNER: And so has this change in the fee structure been properly publicized on the agenda?

ELIZABETH LINT: Yep. There's an addendum. You don't have that?

POLICE COMMISSIONER ROBERT HAAS: Yes.

COMMISSIONER MICHAEL GARDNER: Any questions from the Commissioners?

POLICE COMMISSIONER ROBERT HAAS: No questions.

COMMISSIONER MICHAEL GARDNER: Do we have any other essentially one-day event fees?

ELIZABETH LINT: Absolutely.

COMMISSIONER MICHAEL GARDNER: How does this compare?

ELIZABETH LINT: If one is applying for a one day, say, wine and malt license depending on the number of people is what the fee is, but it's

much higher than \$25.

COMMISSIONER MICHAEL GARDNER: Okay.

Entertain a motion.

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve the proposed fee for one-day charity wine license applications.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: Second.

COMMISSIONER MICHAEL GARDNER: Motion having been made and seconded to approve a \$25 processing fee for one-day charity wine license applications, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: Aye.

COMMISSIONER MICHAEL GARDNER: None opposed. The ayes have it. Motions passes and then you will have this as part of your fee structure.

RATIFICATIONS

ELIZABETH LINT: Yes. We have
ratifications. Medallion 87, 191, 209, 14, 91,
248, 246, 221, 176, 210, 226, 19, 173.

Paperwork is all in order.

POLICE COMMISSIONER ROBERT HAAS: Make a
motion to accept.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Second.

COMMISSIONER MICHAEL GARDNER: Motion
having been made and seconded to approve the
financing of the listed medallions, all those in
favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed so the motion passes.

Do we have any other business before us
this evening.

ELIZABETH LINT: Very minor business and along with the Central Square Theater applications, I know I had emailed you about this, we had heard back from the ABCC that they actually applied the wrong way and that the Nora Theater Company, who was the charity, should have applied as a -- it should have been a charity wine partnership license because Central Square Theater has a license, so they refiled all of their applications, and the ABCC approved all of them, but I just wanted to have that on the record.

COMMISSIONER MICHAEL GARDNER: It doesn't require any action from us?

ELIZABETH LINT: It doesn't require any action.

COMMISSIONER MICHAEL GARDNER: Have we all learned better how it was supposed to be done?

MS. LINT: We did.

Although I did -- I understood from Central Square Theater who they actually had to appear at the ABCC, and they spoke very highly of the License Commission, so I guess we do things right.

The other matter was Congo was supposed to be scheduled for tonight. It was anticipated that Mr. Rafferty was going to file a transfer application to make the deadline for this hearing, he did not do that. So we are putting it back on the agenda for whatever the disciplinary action would be for May 17.

POLICE COMMISSIONER ROBERT HAAS: To do what?

ELIZABETH LINT: They were going to transfer the license.

POLICE COMMISSIONER ROBERT HAAS: To?

ELIZABETH LINT: I don't know.

POLICE COMMISSIONER ROBERT HAAS: Oh.

COMMISSIONER MICHAEL GARDNER: So

meanwhile, I'm not sure I understand, is it, in fact, closed now, or is it still in this apparently continuing violation of being open, but not being open or not serving food?

ELIZABETH LINT: It's a little more difficult than that. I learned today that, not this past weekend, but the weekend before, they were actually -- they had to close because they -- their electricity was turned off.

So, I believe they have been closed right along, and the hope was that there would be a transfer and all the problems would be solved. So I'm not really sure where it stands, but they are closed.

COMMISSIONER MICHAEL GARDNER: Don't they need to -- I guess I'm a little uncomfortable about the fact that this is controlled by Mr. Rafferty's schedule. Don't they --

ELIZABETH LINT: That's not what it was. It was the person who was going to make the

purchase decided to back out of it.

COMMISSIONER MICHAEL GARDNER: Right.

ELIZABETH LINT: So Congo now has to take some affirmative steps to either come before us and ask that the license be held inactive or whatever -- or operate it properly.

COMMISSIONER MICHAEL GARDNER: I guess I would think that's what they should've done this evening. They didn't have a deal, shouldn't they have been here to go inactive as opposed to having a continuing violation?

MS. LINT: Well, except for we didn't put it back on the agenda, so we had to assume that.

COMMISSIONER MICHAEL GARDNER: I mean, from our last hearing, it was scheduled for tonight. I had it --

ELIZABETH LINT: It should have been.

COMMISSIONER MICHAEL GARDNER: Okay.

Can they simply come in administratively and give you notice that they wish to go

inactive?

ELIZABETH LINT: I'm not sure what their desire is whatsoever. So they can come in and tell me what they plan on doing, but I'm not absolutely certain that it would be held inactive. I'm not sure they want to close.

COMMISSIONER MICHAEL GARDNER: They don't have an option of just keeping partial hours, do they?

ELIZABETH LINT: No.

COMMISSIONER MICHAEL GARDNER: Is there any reason why it wouldn't be a prudent course for us to request that Ms. Boyer or the staff continue to monitor what the hours are?

ELIZABETH LINT: They are monitoring and it has been closed because of the electricity problem.

COMMISSIONER MICHAEL GARDNER: Anything else about that we should comment on at this point?

POLICE COMMISSIONER ROBERT HAAS: I'm concerned about the fact that we have some major reservations about their current operations and it sounds to me like they are struggling at best to try to even -- I'm just trying to figure out -- I mean, the next hearing is April 26, which is the public hearing they are having, I don't know if you want to try and put it on the agenda for that.

ELIZABETH LINT: Andrea is on vacation that week, and she really is the one that has the bulk of the information in that regard and will be testifying to that.

POLICE COMMISSIONER ROBERT HAAS: Wouldn't we have concern, though, if they try to reopen between now.

MS. LINT: We can have a conversation with them.

POLICE COMMISSIONER ROBERT HAAS: Not to reopen?

ELIZABETH LINT: I don't think they can.

POLICE COMMISSIONER ROBERT HAAS: I don't either. I want to make sure that, you know...

ELIZABETH LINT: No, I understand.

COMMISSIONER MICHAEL GARDNER: If that's the case, it would be good if they made representations to the Board about their intentions between now and May 19.

ELIZABETH LINT: Agreed.

COMMISSIONER MICHAEL GARDNER: Could you communicate to the appropriate representatives the sense of the Board that --

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: -- we would appreciate their -- given their current situation, putting their house in order with respect to notice as to what is going on between now and the 19th?

ELIZABETH LINT: Yep.

COMMISSIONER MICHAEL GARDNER:

A motion to adjourn is always in order.

POLICE COMMISSIONER ROBERT HAAS: Motion
to adjourn.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Second.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ:
Aye.

COMMISSIONER MICHAEL GARDNER: This
meeting of the License Commission closes at 8:54.

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 181, 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 22nd day of April 2011.

Jill Kourafas
Certified Shorthand Reporter
Notary Public
My Commission Expires:
February 2, 2017

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