

## COMMONWEALTH OF MASSACHUSETTS

## CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION  
DECISIONMAKING MEETING

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman  
Robert C. Haas, Police Commissioner  
Daniel Turner, Deputy Chief  
Michael Giacoppo, Superintendent

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building  
831 Massachusetts Avenue  
Basement Conference Room  
Cambridge, Massachusetts 02139  
Thursday, May 7, 2009  
10:00 a.m.

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P R O C E E D I N G S

MS. LINT: License Commission  
Decisionmaking Hearing, Thursday, May 7, 2009.  
Before you the Commissioners: Chairman Richard  
Scali, Deputy Chief Dan Turner, Commissioner Robert  
Haas, and Superintendent Mike Giacoppo.

MR. SCALI: It's an honor and a  
pleasure to have double police representation  
today.

Motion to accept the minutes from our  
last meeting of April 28. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: All right, let's see who's  
here. Mr. DeBanza, Mr. Rafferty's here. I gather  
Mr. Rafferty is here for Mystic Rosa; correct?

MR. RAFFERTY: Correct.

MS. LINT: From the April 14 agenda.

MR. SCALI: So let's go to the April 14 agenda, which is our first agenda, and we'll go to -- well, the first item on there is Mystic Rosa anyway. Discussion Commissioners?

MR. HAAS: I guess my perspective is, and I think this came up during the hearing, there's really not clear parameters in which you start to get into areas that go beyond distinguishing between entertainment and going beyond that period or point in time, and stuff like that. I think that's what's causing a great deal of confusion.

I don't know if the License Commission needs to look at that again and kind of tighten up those regulations, but I think it's kind of vague. I think without having some clear guidelines and things like that it's going to be hard to hold anybody to a certain standard.

That is primarily my concern with respect to this issue because we haven't really clearly defined what we mean by entertainment and where that bright line is that once you start to

cross over it, then you really start to have some problems with respect to consumer issues and consumer protection issues and things like that.

MR. SCALI: I would agree with you that there's not a clear definition of what entertainment entails, although, clearly, going to someone's home and consulting and coaching is not entertaining.

But be that as it may, there are issues with the case anyway in terms of evidence, and that the gentleman that was the original complainant did receive all of his money back. He did not appear and there was not the ability to actually speak with him or to be cross-examined, although I think Ms. Boyer did a fine job of presenting the case and the information from the police as well. I think we'd have difficulty with the appeal process I'm sure through Mr. Rafferty.

MS. LINT: Mr. Chair, if I could just talk about what she is licensed for? It's to tell fortunes, read palms and tarot cards in the City of Cambridge.

MR. RAFFERTY: And she was told to come to a hearing to respond to allegations of extortion and fraud. I made the case at the hearing that there was no evidence submitted for which the Commission could find -- I would respectfully suggest -- on either of the two charges for which she was noticed and told to appear.

MR. SCALI: As I mentioned, I think there are problems with the evidence that was submitted. I think Mrs. Lint's point is to the Commissioner's point about entertainment versus something else.

MS. LINT: Correct.

MR. SCALI: And that may not be before us right now, but I think what the Commissioner was trying to say is maybe we need to do more about making it clearer. I feel at least in terms of -- that a warning should be given out to any fortune teller in the City, exactly what Mrs. Lint said, it's for tarot cards, palm reading, and that's it. So whatever is on the license is what they're

supposed to be doing.

Whether they take that beyond that and go to people's homes and consult and coach, and give them life lessons, and all of that is beyond what I think is a fortune teller in this City. Maybe it's a different permit, maybe it's a different license, maybe it's a social worker or whatever it may be.

MR. RAFFERTY: I'm not being flip, but if you go to a fortune teller and you say, "By the way, I need my house painted," and they go paint the house." What are you going to say to a fortune teller if the guy invites you to come to my house and meet with my wife, and help us with a problem, is she supposed to say, "I need a license to do that or I'm violating a tarot card reader's license if I do that"?

MR. SCALI: As I said, perhaps it requires some other licensing or permitting that's beyond our jurisdiction. I think the Commissioner's point is that consumer laws, consumer protection laws, people are depending on a

particular license to show that this person is appropriately acting professionally in the City under the license issue.

Is there anything that the Deputy Chief wants to say?

MR. TURNER: I agree with your comments on this whole case as far as there is a very fine line that fortune tellers, and in this case, Mystic Rosa is walking. And then reading the laws and the chapters and verses that govern these operations, it's very silent on the parameters on how these people should operate.

I can understand the counselor's concern with the way the hearing was advertised publicly. When you're alleging a crime, criminal offenses, even that's a fine line because it's not clearly spelled out in the law. Perhaps the License Commission should review how we want to review any legal cases that are going on. Perhaps publish it not in such a flat accusation type manner, but perhaps something just pertaining to the license itself, and then the facts would come



out during the hearing.

But I agree that I'm not sure where we would go from here with it. I feel the License Commission was correct in calling this case in for a hearing. Perhaps the manner in which it was done could be done differently in the future.

MR. SCALI: It is important how you notice it and what you're saying is a violation. Mr. Rafferty is right in terms of what you can prove is what you have to notice the licensee of.

Pleasure of the Commissioners?

MR. HAAS: I don't think there's a basis to go forward on the accusations that were made, and I would move that we close this matter at this point.

Having said that, I think we also need to go back and kind of review the license. There's two issues here, and one I think is suitability. When you give somebody a license you're suggesting to them that they are suitable in terms of the business they're practicing. I think that speaks to the credibility of them being able to operate

within the City. So I think we really have to be cognizant of the fact that when -- from both sides -- that if we're going to issue a license, it speaks to credibility and suitability, and that this person is operating ethically.

I think we just need to make sure that whatever that license suggests, that in fact, it has some enforcement tenants to it, and not to the point of restricting, where you can't do business, but I think we -- I take Ms. Lint's point that we have to make sure that we actually establish some parameters around the licensing.

So that suggests to me that as part of the regulatory promulgation process where we have to have public hearing, I think we should look at that and think about it, and then probably look around to see what some of the Best Practices are with respect to this type of entertainment.

MR. SCALI: I would agree that it would probably be best if we held a hearing on establishing rules and regulations, which we have the power to do under our jurisdiction.

Any other comments?

MR. TURNER: No further comments.

MR. SCALI: Motion then to place the matter on file.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. RAFFERTY: With all due respect, placing it on file would suggest that there was some evidence introduced in the record with regard to extortion and fraud. I've heard the comment -- I think this meets a directed verdict standard. There was no evidence introduced on extortion and fraud.

I think the licensee is entitled to a finding as to whether or not as a result of the disciplinary hearing and their having to go through this process, whether or not there was any basis to find fraud or extortion. That's what was in the newspaper; that was in the notice; and that's what's on the agenda.

It does carry a certain consequence. So to place it on file would suggest that you

charged someone with something, no evidence comes forward, and it's simply going to remain there. Someday your successors might not understand whether or not there was a finding here.

I think with all due respect, the licensee is entitled one way or another to a finding. If the Commission can find that the evidentiary standard was met for extortion and fraud, as much as I would not be happy with it, I think you should rule accordingly. And in the contrary, I think the licensee is entitled to a contrary ruling that there is no evidence, or the evidence didn't meet the evidentiary standard.

MR. HAAS: I think it is wholly appropriate that we do have a finding on substantiation with respect to the matter, and I think that should be contained within the file.

It does speak though, also, if we have a series of these that it does raise a concern for us. I think there has got to be some record on the matter.

MR. RAFFERTY: I'm not suggesting you

couldn't make a ruling on the first one and then contain something else in your communication around future standards and cautions about operating within the parameters of one's license, but I do think those are criminal charges as the Deputy noted, statutorily defined for which she was called in here to respond to.

MR. SCALI: They're not criminal charges under this Board's jurisdiction. It's strictly civil administratively acted upon. Placing it on file does not give a finding of guilt or innocence. It just means it's on file.

MR. RAFFERTY: That's my point, and then if the hearing hadn't gone forward. . . But now that the hearing has gone forward, and evidence was introduced, I think in a reasonable system of jurisprudence one is then entitled to have the finder of fact make a determination as to whether or not -- I mean matters get placed on file provided there is no objection by the defendant.

In this case, I would say that the licensee is requesting a finding, a determination

as to whether or not there was evidence before the Commission to warrant the violation of the license such that acts of fraud or extortion occurred here. With all due respect, there's just no evidence. There's little in the way of testimony, as we know, but nothing that would suggest fraud or extortion.

MR. TURNER: Mr. Chair, other than place on file, how do we just dismiss this? It is going to be a matter of record. It will always come up with this --

MR. SCALI: Right, it will come up.

MR. TURNER: If something happens in the future, we get to ask what other cases were heard and it will certainly come up as a matter of record that there was a hearing.

MR. SCALI: Correct, it isn't deleted from the record. It will still come up as a past hearing.

MR. RAFFERTY: Understood.

MR. SCALI: The only other option would be for you to vote to dismiss the action. You're not placing it on file and you'd vote to

dismiss with no evidence. I'm not so inclined to do that.

MR. HAAS: I think the thing that's troubling is you had a complaining party that basically was insisting on the fact that this was something other than it was, and at the eleventh hour decided to walk away from this whole situation. So it put the License Commission in the position of having to take some kind of action with respect to the complaint. But like most trials -- this happens all the time -- the witnesses disappear and things like that, and you just don't have any evidence at the end of the day.

And I think what we're stuck with in this situation is that we had this person making some strong accusations to the License Commission, and then for whatever reason decided not to pursue the matter, despite representations that the person made.

MR. TURNER: Isn't placed on file actually a decision without a finding?

MR. SCALI: No.

MS. LINT: I think that you could vote to find that there was insufficient evidence presented to support the claim.

MR. HAAS: I think that's correct. I think that's right.

MR. SCALI: And leave it at that?

MS. LINT: Uh-huh.

MR. SCALI: I would also add in there then that if we do that, that we would hold hearings then to come up with rules and regulations with regard to fortune tellers or other entertainment in the City as well.

Pleasure of the Commissioners?

MR. HAAS: Again, I think we should have a finding. The finding is that we dismissed the complaint based on the fact that there was a lack of evidence; and that we do in fact have the records someplace. I guess both from the perspective of this body taking this matter up, and then also in fairness to the individual that we did in fact make a determination that there was insufficient facts to move forward on the reported



accusations.

MR. SCALI: I would just go with the wording that Mrs. Lint had, "insufficient evidence" on the charges."

So is that a motion?

MR. HAAS: I suppose so.

MR. SCALI: Motion then as to find insufficient evidence on the charges as listed.

MR. RAFFERTY: To warrant this.

MR. SCALI: On the charges as noticed.

MR. TURNER: I'm not so sure that we had insufficient evidence. We had evidence. The fact that the police investigation was dropped because everything was reversed; the money was returned, the situation went away, the complainant went away. So it's not that we didn't have evidence.

MR. RAFFERTY: You didn't have evidence of extortion or fraud. There are specific definitions associated with each of those crimes. Even the original e-mail from the complainant never used the word "extortion."

MR. SCALI: You had evidence, you didn't have the evidence presented to you in a sufficient fashion to have a finding. The evidence may not have been proven in a fashion to have a finding. If the gentleman was here or the police were here, it may have been a different outcome. But you go with what you have.

MR. TURNER: Okay.

MR. RAFFERTY: Well, let's be clear, I mean I'll quit while I'm ahead, but there's documentary evidence in the form of a police report where a police detective made a conclusion. His report contains a conclusion that there was no evidence of a crime, and he was investigating the crime of fraud. So there is evidence on fraud. The evidence is -- at least through the documentary evidence of the detective's police report -- that there was no fraud.

MR. SCALI: We can go round and round.

MR. RAFFERTY: That's the state of the evidence, I think we'd have to agree. It was submitted as part of the hearing.

MR. SCALI: So the motion is to find insufficient evidence on charges as noticed, subject to hearings being held on rules and regulations.

MR. HAAS: Wouldn't that be a second action though? Wouldn't that be a follow-up action to this whole situation?

MR. SCALI: How ever you would like it, Commissioner.

MR. HAAS: I think we have the one matter which we brought Mystic Rosa in for, and then I think as a result of this situation it's compelling the Commission to reassess the current parameters it's using for licensing of this type of entertainment. So I think it's two different matters and one doesn't -- because what you're basically saying it's for this particular incident and I don't think it is. I think it's in general that we need to look at this.

MR. RAFFERTY: It's a policy issue for the Board.

MR. HAAS: So the first motion is --

MR. SCALI: It's your motion. Motion is to find insufficient evidence on charges as noticed, moved by the Commission.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. HAAS: The second motion is to review the current criteria for these types of licenses, and to make a set of recommendations as to whether or not we need to modify them, and then to hold a series of public hearings if we choose to make changes to the existing criteria for that type of license.

MR. TURNER: Seconded.

MR. SCALI: Moved and seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. RAFFERTY: Thank you very much.

MR. SCALI: See we can be fair, Mr. Rafferty. We don't railroad people.

MS. LINT: Harvest Co-Op.

MR. SCALI: Let's go to the Faialense then, which is on the first page of the original agenda with regards to the change of manager -- I'm sorry, the Disciplinary matter for failure to call the police when a fight broke out at the club on March 7, 2009.

This is the incident where the police were originally across the street at the Midwest Grill. They saw a commotion at the Faialense across the street. A fight broke out originally outside, and supposedly, there were over 100 patrons out in the street. Fifteen police officers were called trying to control the crowd.

I guess the issue is, did the management need to call the police and did they do the proper thing in how they handled the party inside? It seems as if from the evidence that the police were already there and the management then felt that they did not have to call the police because they responded immediately to the event. But is the event the cause of the whole incident

anyway, which the management is responsible for?

MR. HAAS: I think there are two issues in mind that are really a concern. I find it hard to believe that you had a very peaceable assembly inside the building and all of a sudden, they come in the street and it turns into a riot. There had to be indications inside that establishment that things were getting out of hand.

I think there was some discussion that some people got upset, but overall, the testimony is basically suggesting that everything was fine inside and for whatever reason, as soon as they walked out the door you had a series of fights breaking out. I can't reconcile the one thing to the other. That's the one issue.

The other issue, and I think there's a reoccurring theme, and I think it's more troubling, is they're in the business of issuing one-day membership licenses, which I don't know what that means. That's clearly a violation. And granted, that didn't come up as a result, but it came up in the testimony that that's what this was all about.

They issued a one-day membership presumably to generate revenue for the club, but I think the rules are pretty specific that it has to be established members, or friends of members who can actually hold an event in that forum.

The two issues I have are the reconciliation between what was going on inside the club and then how this thing turned into a major donnybrook out in the street; and a larger issue is going forward, and which probably impinges upon the second issue in terms of change of management, is how do we assure ourselves that they don't continue to issue these one-day membership licenses?

MS. LINT: Just going over my notes, Joe Santos who was the proposed new manager indicated that the new Board had a meeting and they will no longer be renting to nonmembers and will no longer issue --

MR. HAAS: I don't think it's discretionary.

MS. LINT: I understand but it was the old Board that was doing it and they're

discontinuing the practices that the old Board had in place.

MR. SCALI: The truth of the matter is that all the clubs are doing it, because they cannot make money any other way but having outside events. We have had meetings with these clubs, and we've warned them before. We've told them you can't have events that are nonmember, non-guest-of-member events. They know that. They're all familiar with that whether they are old membership or new membership. It's happening in these clubs and we've had hearings before on this before. A lot of them would go out of business if they did not rent out the halls for outside events.

MR. HAAS: What you have, and I think this is what our greatest fear is, is you have these rules and these kind of events taking place when you don't know who you're renting the clubs to. You have no recourse other than to say we won't rent to you again if you have a mishap. At least with a membership, you can simply say your membership is in jeopardy or we're going to



eliminate you from membership to the club, because I think that's a greater thing than just having events, in terms of being part of this social club.

MR. SCALI: If they were member events, they would know who they were and whether they were responsible enough to be there and have a party. That's the reason for the law.

I think this is their third incident. I know Councilor Toomey called and asked us that we give them some leeway because there is new leadership in the club. I don't think there's an issue with them actually calling the police because the police were already there, but I think your issue is the bigger issue, is that they are responsible for the event no matter who's there. I guess I would find them in violation of not be able to control an event and renting to nonmembered, or non-guest-of-members event.

MR. TURNER: Mr. Chair.

MR. SCALI: Discussion? You're looking for the rule, aren't you?

MS. LINT: It's in the statute.

MR. TURNER: I do have Rule 16:

"Private clubs must keep a roster of their members and membership cards must be shown when entering the licensed premise." So I'm not sure if there was a violation of that. My question would be, if we've called them in for a Disciplinary on one thing, and as a result of that this other information came forth, do we now have to call him for a Disciplinary on the new charge or can we discipline or issue a fine based on the testimony?

MR. SCALI: This goes very much to the point -- and Mrs. Lint, you have to be very mindful of this with Mr. O'Neil -- is that you need to probably keep the charges more general in terms of the rule as opposed to a specific charge. This may be an issue for others.

MS. LINT: I think the problem in this one is we would have had no way to know who they rented the club out to, if it was a member or a nonmember.

MR. HAAS: We were assuming it was a member because we were assuming they followed the

rules.

MR. SCALI: But you can say in a charge, "hearing due to the incident, a problem with the incident that evening," and keep it more general as opposed to just not called the police or whatever it may be. Just a suggestion for the future in terms of charges.

MR. TURNER: Right, for an incident that occurred on such and such a night.

MS. LINT: Even if it were that general, it would not be for renting to a nonmember. So I think you'd still have the same thing in this particular circumstance, because that's a very specific charge.

MR. SCALI: I think we could still have a finding on that if it was an incident that was not a member incident.

Pleasure of the Commissioners on this particular charge? I guess failing to call the police when a fight broke out; that's not really the issue. The issue is that it was an incident that they were responsible for that caused the

fight or the disturbance.

MR. HAAS: They're culpable on two fronts. One, I think something happened inside that club that should have indicated to them there was a problem, and if they had preempted it by calling the police sooner -- I just don't buy the situation that everything was very peaceable in the club and as soon as they went outside -- I mean you had multiple fights breaking out in the street. It wasn't just two people; you had multiple groups breaking into fights, which required a significant police response.

There had to have been some early indications in the club that would have warranted either them taking some action with respect to ending the event or calling the police ahead of time to mitigate it before it got to that level.

In this day and age, to have people coming out of a club and then breaking into fights in the street I think is wholly inappropriate, and I think they do share some responsibility on that front.

To Ms. Lint's point, I don't think we would have had any way of knowing that they're in the business of issuing one-day membership licenses, which came out in their testimony, which they offered. So clearly, it's a violation. Despite the fact that we may have noticed them on failure to call the police, they're admitting that they're engaging in a practice that's primitive. They can't do that.

And to your point, Mr. Chairman, we repeatedly have told these clubs they can't do that, and for some reason they continue to do that. I understand why, but the rule is the rule.

MR. SCALI: I think certainly we could have that finding from the testimony that was presented to us.

MR. TURNER: Mr. Chair, to just put a spin on it. If the club noticed an issue -- I'm trying to recall, did this whole thing occur at closing hour, or did they close down? Did the patrons all leave early before closing time? I don't recall.

MR. SCALI: It happened at 11:35 p.m. I think they were ending or closing at midnight, so it was as people were coming out.

MR. TURNER: So just for an assumption, or for instance, if the club noticed something going on with their patrons and then pushed everybody out the door without calling the police, would that be considered appropriate behavior?

MR. SCALI: They couldn't handle it and they were -- they should have called the police, sure.

MR. HAAS: In my view, I think they have a responsibility to monitor the situation. And when they start to get some indication there's something going wrong, they've got to take some action to stop it, whether that means getting the people that are causing the problem out of the club, or if that means calling the police to come in and stop the situation from continuing to escalate.

In my view, I truly believe that we

didn't have a peaceable crowd that just all of a sudden, as soon as they opened the doors and breathed the air, turned into a mob. I just don't by that. I think something was going on inside that club that was getting to a point where -- whether they closed it down prematurely or what. But the answer is not to force everybody out the club and onto the street. That's not the answer in terms of trying to stop or mitigate the situation; and then wash your hands of it and say, "It didn't happen inside the club so I'm not responsible."

MR. SCALI: I think I agree with you that something happened inside and everybody was just kind of told to leave and that's where the fights all began because of what happened inside.

MR. HAAS: There was also some testimony suggesting -- whether it's because they weren't aware of it -- that people were drinking and drinking in excess.

MR. SCALI: That is probably harder to prove from the evidence because no one saw anybody actually drinking.

MR. HAAS: They saw them drinking. They just didn't form any opinions about their sobriety. And that was pretty clear.

MR. SCALI: You mean the police didn't see them drinking?

MR. HAAS: No, no. The managers who were serving at the bar basically said that people had been drinking inside the establishment, but they didn't form any opinions, which I think they have an obligation to do in order to cut somebody off and say, "I'm not serving you anymore alcohol."

So I think a lot of it was a hands-off approach in terms of how this matter was dealt with. I think it goes to the second issue with respect to appropriateness of the manager. And I'd say he's not an appropriate manager, but he needs to tell us what he's going to do to make sure these kinds of things are not going to repeat themselves in the future under his management of the club, aside from not issuing one-day memberships any longer.

MS. LINT: I think it would also be



important for him to go through the 21-Proof training and put all the Board members through it as well.

MR. SCALI: Which would be our standard action.

So is there a motion, Commissioner?

MR. TURNER: How many offenses, or past history?

MR. HAAS: They've had prior offenses; right?

MR. SCALI: It's the third offense.

MS. LINT: There was a fight involving the club President in 2003. The President stepped down for six months. And then in 2008, there was excessive noise and a closed grate blocking an exit.

MR. SCALI: And a fight.

MS. LINT: And also in 2008, a fight which resulted in a three day license suspension, which was suspended for six months with conditions.

MR. HAAS: Are we still within that six months of 2008?

MS. LINT: No.

MR. HAAS: We're beyond that; right?

MS. LINT: Yes.

And again, Councilor Toomey was asking that you be cognizant of the fact that it is new Board members and that they're implementing changes.

MR. SCALI: A motion?

MR. HAAS: These people that are applying for management were there that night.

MR. SCALI: They're the new directors or managers.

MR. HAAS: The new managers.

MS. LINT: Apparently they had not booked this event. They won it.

MR. SCALI: But they were observing it.

MR. TURNER: Something on the idea of a six-month suspension to be suspended, or a six-month review of the new --

MR. SCALI: You'd make the motion to be a -- this is a third offense; with regards to

the event not being controlled by the club management; that they are responsible for their events.

MS. LINT: This is actually the fourth offense because there were two in 2008. One was in March and one was in April.

MR. SCALI: Oh, there was two.

MS. LINT: A fight.

MR. TURNER: I remember the baby shower one.

MR. HAAS: That's this one.

MR. SCALI: So this is the fourth offense.

Let's establish the offenses first and then we'll come up with the punishment. So the motion is to find on the facts that the event, number one: the management was responsible for the event and did not control the event. Number two: the management took a hands-off approach to the event and forced the group onto the street, which caused the fights outside.

MR. HAAS: I don't know if we can

conclude that, but I would offer that I can't reconcile what they're telling us happened and what transpired out on the street. It doesn't make any sense to me.

MR. SCALI: They're still responsible for the event no matter what.

MR. HAAS: My point is they're still responsible, but I don't buy the argument that everything is peaceful inside the club, and all of sudden, when they went onto the street it broke out into a series of fights. They should have seen something happening inside the club that would have warranted them taking some kind of action.

MR. SCALI: So you're saying that the management should have taken some action by calling the police before it got out into the street.

MR. HAAS: Yes.

MR. SCALI: Do you also want to find in regards to the fact that it was a nonmember event?

MR. HAAS: It's a clear violation. They offered that as testimony during the course,

so -- unless you want to have a second hearing. I don't think they want to have a second hearing for that. I imagine they'd want to kind of just have this all resolved at this point.

MR. SCALI: A nonmember event, non-guest-of-member event as well. And do the Commissioners wish a finding on the drinking issue?

MR. HAAS: I don't think we can reach that.

MR. SCALI: On those findings, moved. Seconded.

MR. HAAS: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: With regards to the punishment, this is a fourth offense. The last time they did not serve a -- they got a three-day suspension which they did not serve because it was suspended for six months. On a fourth offense, our normal course would be a three to seven day, or a seven to ten day suspension. Pleasure of the

Commissioners on this? I guess they have to serve something this time. They didn't serve anything at all the last time.

MR. HAAS: I would offer to impose a nine-day suspension: three days to serve, six days be held in abeyance for six months.

MR. SCALI: Three days to serve, six to be held for six months.

MR. HAAS: Six months.

MR. SCALI: Mrs. Lint to choose the days.

MR. HAAS: Yes.

MR. SCALI: Any other motion?

MR. TURNER: The 21-Proof training.

MR. HAAS: Would that be the second issue, or the disciplinary issue?

MR. SCALI: That could be part of the disciplinary action as well.

MS. LINT: It could be attached to either the change of manager or the --

MR. TURNER: Mr. Chair, through you to Commissioner Haas, any injuries occur to the police

officers? A thought I just had was are there any monies, or fees, or costs to the City by sending the police to break up these fights, or the EMS, or anything like that?

MR. HAAS: I don't think any officers were injured in that event.

MR. GIACOPPO: Not that I'm aware of.

MR. TURNER: Some type of restitution; that's another approach we should look at.

MR. SCALI: So the motion is for a nine-day suspension, three to serve, chosen by Mrs. Lint; six to be held for six months; and 21-Proof training for all membership.

MR. HAAS: Should you do it for all membership?

MR. SCALI: All management and bartenders. That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Can I ask a question?

MR. SCALI: Sure, a question.

MR. HAAS: How do you identify the

three days that they're going to serve when this is an event driven situation?

MS. LINT: They're open.

MR. HAAS: They have regular meetings?

MS. LINT: They have regular open hours. You can drop in and have a beer if you're a member.

MR. SCALI: Pick their busiest days, which are probably weekends: Thursdays, Friday, Saturday night.

With regards to the change of manager to Mr. Santos, discussion of appropriateness of Mr. Santos. Although he was there that evening, I guess -- was he actually there that evening?

MR. HAAS: Yes.

MR. SCALI: I guess he's new. He seems like he's trying to do the right thing at least. I don't know whether he has it under his belt quite yet. Once he gets through the training and all the other issues with regard to 21-Proof.

Do you wish to have it reviewed in six months? Approval subject to review.



MR. TURNER: There were no background history issues or anything like that; right?

MR. SCALI: No.

MR. HAAS: Now you have a new Board. I would want to see from them at least a policy that mirrors the regulations, a written policy submitted to this Commission.

That does a couple of things. One, it demonstrates to us that they clearly understand what the regulations are; they've adopted them as whatever their bylaws are; and it gives them a greater degree of culpability if they violate them now because they've made a decision. For example, they're not going to issue one-day memberships. They understand that they have to call or take some mitigating action, and they are responsible for the actions of the members that are holding events.

I think as a requirement I'd want to see from Mr. Santos through the Board, what are their bylaws with respect to how they're going to regulate events, and make sure that they are in compliance with all the rules and regulations and

applicable laws to running a social club.

MR. SCALI: Motion then to approve, subject to policy being submitted.

MR. HAAS: A review of their policy, and acceptance of the policy by the Commission.

MR. SCALI: A review of their policies that would mirror the regulations, particularly on no one-day memberships and responsibility for events being reviewed by the Commission, and a six-month review.

MR. HAAS: Six-month review.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Do you want a hearing on those policy regulations, or do you wish to just have it reviewed by the Board?

MR. HAAS: I would offer two things. One, I think as a matter of making sure that we offer some technical assistance to them to make

sure that somebody reviews with them the rules and regulations and laws with respect to running a social club; and then for that body to look at its existing bylaws and make sure those applicable requirements are contained within their bylaws, so that they have a full appreciation of what they are required to do in terms of running that establishment going forward.

And if they present that to us prior to final review, or final acceptance of Mr. Santos being the manager, so we understand that he understands the rules by which he'll be operating that club.

MR. SCALI: It has to go before the ABCC, too, so there will be some time in between if we submit it.

MS. LINT: Harvest Co-Op.

MR. SCALI: Harvest Co-Op which an addendum item. Disciplinary matter with regards to a sting that was held on March 19, 2009, by Ms. Boyer. The subject was 17, and was asked for the ID. A female gave a receipt with an Ohio fake ID. There was a warning I believe we gave them in 2005 with regards to a mandatory meeting, and one in 2008. They received a reprimand in 2006 for --

MS. LINT: Selling to a minor.

MR. SCALI: So this would be a second offense. Harvest Co-Op is not really a package store; it's more of a market with beer and wine.

MS. LINT: Mr. Chair, subsequent to this incident, Mr. Cutler, the manager at Harvest Co-Op took some significant steps which he wanted you to be aware of. He got in touch with Mr. Connolly for update on the 21-Proof program and they did do that and have the certificate. They joined CLAB, they retrained the line staff and the management on their policy and state laws, and they had all of the cashiers and manages who sell

alcohol sign acknowledgments that they received a copy of the policy.

MR. SCALI: It's still a second offense. Pleasure of the Commissioners? A second offense is usually a one to three day suspension in regards to our policy, unless you find that their new policies and retraining have sufficiently helped with the issues at hand.

MR. HAAS: I would offer in light of the fact that I think they've taken a number of steps to demonstrate to us that they're trying to take this matter very seriously. I would offer a one-day suspension to be held in abeyance for six-month.

MR. TURNER: I concur.

MR. SCALI: Motion to find that there was evidence of sale to a minor with regards to the field investigation done by Ms. Boyer on March 19, 2009. It is a second offense with a motion for one-day suspension to be held for six months, to be served if future violations are found. Moved, seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: I think that's all for  
you, Commissioner.

MR. SCALI: All right, Superintendent. Welcome to your last meeting again.

So let's go back to April 28, which was our meeting last week. Mr. De Banza is here so let's go to the last item on the agenda, which is the lodging house, Prince of Arcadia item.

Mr. De Banza bought this property in 2007. It has not been licensed for two years. It was licensed previously through Mr. Steinberg. So the issue is, number one, Mr. De Banza, is he qualified to be the holder of the license; and number two, is there a violation for not being licensed in the past two years, and a request for an exemption to the resident manager.

I know Mrs. Lint did some research in regards to violations, so I don't know whether there is an issue with regards to fining.

MS. LINT: There sure is: 140:24 says, "Whoever conducts a lodging house without a license shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than three months, or both."

MR. SCALI: Discussion?

MR. TURNER: Mr. Chair, during Mr. De Banza's testimony, he indicated he was advised not to apply for the license until after renovations were done. Did we research that or do any looking into that at all?

MS. LINT: No one in my office advised him not to apply. He also holds other lodging house licenses in the City and is well aware that he needs to be licensed to operate. My memory is that for the last one that we licensed, the same situation had occurred.

MR. TURNER: And Mr. De Banza would have been notified by -- or actually, no, Mr. Steinberg would have been notified on the renewal of the licenses. We never heard from Mr. Steinberg?

MS. LINT: No. It was only through checking the assessor's database that we discovered that Mr. De Banza was the owner of the property now.

MR. SCALI: Mr. De Banza, I guess I



just don't understand. I asked this question before, but you have other licenses in the City and you were operating while you were renovating, so I don't understand why you didn't think you needed a license. I just don't understand that.

MR. DE BANZA: I came into the License Commission's office.

MR. SCALI: That's not a sufficient excuse because my staff would not have told you that. So think of something else.

MR. DE BANZA: There was nothing else. Maybe it's just a misunderstanding but I was told I should get the permits, get all these things done, and come back. So I did this.

MR. SCALI: But that's two years ago.

MR. DE BANZA: It took a long time.

MR. SCALI: How can you operate for two years and not have --

MR. DE BANZA: And then I was in your office another time and you were present, and I asked you about this, and then you asked -- that's why I mentioned it -- about occupants. Then you

didn't seem to like it but you didn't follow through on this. You said, "Are there occupants?"

MR. SCALI: Mr. De Banza, I would not have spoken to because I know Mrs. Lint would have spoken to you because I'm not allowed to speak to you if you're applying for something. So I don't know where that came from. I really don't know why you would say that.

MR. DE BANZA: I only got my information from when I visited the License Commission. In addition, I'm dealing with the inspector who inspects the rooming house and the licensed premises in the City of Cambridge, Mr. Brian -- I don't know what his family name is. He said, "What about Inman Street?" He came for the inspection in the second half of May, the other rooming house, or places I have. I said you know, we're still working on this. We have permits and so. He said he doesn't want to inspect it before it's completed.

MR. SCALI: You were having trouble with Inspectional Services getting the inspection

done; is that what it was?

MR. DE BANZA: No. The inspections was no problem. It's only that the inspector who inspects the premises that based on a license, he's going around to restaurants and inspects the kitchens I suppose.

MR. SCALI: It's a totally different inspector for lodging houses. It has nothing to do with restaurants at all. It's totally different. It's a mystery. We'll just go with that; it's a mystery at this point.

MR. DE BANZA: I essentially only came to apologize that this happened and --

MR. TURNER: I'd like to hear from Mr. Steinberg. He obviously received notices and letters from the License Commission. What did he do; just throw them away?

MR. SCALI: He wasn't the owner any more so he threw up his hands and said Mr. De Banza's responsible for this. I got my money. Discussion?

MR. GIACOPPO: I think there are a

couple of points here that are important to remember. First of all, Mr. De Banza owns other lodging licenses in the City so it's not that he acquired the property and was not familiar with a lodging license and what the practices might be. It's more credible that perhaps because he was doing construction, and if the residents had been removed and there wasn't lodging going on, that would be understandable that you would then apply for the license at the conclusion of the construction. But by your own testimony, that was not the case. You did the construction while continuing to conduct the lodging operation.

MR. DE BANZA: Yeah, I continued. I inherited the tenants.

MR. GIACOPPO: And again, you did not afford your lodgers the full protection of the law by being properly licensed. The Deputy Chief indicated that the premises were in very good order, so it's clear that you know how to conduct a lodging establishment.

The issue here is what is the reason

for not having a license and operating in violation of the criminal statute for two years? I would suggest that whatever advice you got, you could not take someone's word to knowingly ignore the law. A lawyer couldn't tell you to ignore the law and no one in the License Commission could legally and properly tell you that it was okay to ignore the law. If it was a misunderstanding of what was being asked and what was being said, that's more believable. But you can't just ignore a statute on the advice of someone. It would be a ruling from this body or something more legal in court.

I would suggest that people are living there, the situation has to get rectified, they have to have a license. And the way to remedy this would be through disciplinary action imposing the appropriate fines or penalties that you would have paid and been responsible for.

MR. DE BANZA: There were a lot of things in the house that were not in compliance. One of them was there was no sprinkler system. The electrical was old. There were a lot of things

that I had to simply comply with. There was no fire alarm system.

MR. SCALI: It has sprinklers now; right?

MR. DE BANZA: Everything, everything perfect. There was no fire alarm system. Maybe on that basis I was told I should get my place in order before I can come and apply for the license because simply the basis wasn't provided to continue to operate this on the level it has been operated for I don't know for how long. For the longest time.

MR. SCALI: That's what I was trying to get you to tell us is the reason why you would not have applied for a license is because you weren't going to comply with some inspection. I guess that's what I was trying to understand. If you weren't going to comply with the Fire Department or because you weren't able to comply.

MR. DE BANZA: I complied with everybody, only with you not, because I was supposed to have this license, apply for the

license or continue to have the license while the construction was going on. I think the only reason the lapse happened was that I was under the impression that I was supposed to come back to apply for the license after I'm in complete compliance with all the standards the License Commission has on license premises. And that is where my mistake was, and I'm only here to apologize.

MR. TURNER: Where is the license currently?

MS. LINT: There isn't one.

MR. SCALI: It was never issued. There wasn't one issued.

MR. TURNER: One was sent to Mr. Steinberg for a renewal; correct?

MS. LINT: Yes.

MR. TURNER: Back in?

MR. SCALI: 2007.

MS. LINT: I think '06, actually.

MR. TURNER: So the license is sitting upstairs I assume because it never was issued.

MS. LINT: It's sitting right here.  
From '07 to '08, and '08 to '09.

MR. SCALI: Two years it wasn't  
renewed.

MS. LINT: And '06 to '07.

MR. SCALI: So three years?

MS. LINT: Uh-huh. In fact, there's a  
note here in Evelyn's handwriting that Mr. De Banza  
now owns it and need to apply, and received an  
application on March 28 of '07.

MR. DE BANZA: See I went there, and  
this is when I got my information, and this is how  
I proceeded.

MR. SCALI: Why didn't you apply?  
Well, anyway. We're going around and around in  
circles.

Motion of the Commissioners. My  
motion would be on two issues. One on the issue of  
not being licensed, a motion to impose a fine with  
regards to the three years -- is it three years,  
Mrs. Lint?

MS. LINT: Yes.



MR. SCALI: The three years not licensed of \$100 per year, so the fine would be \$300 plus the back fees.

MR. TURNER: Are those triple fees?

MR. SCALI: No. Back fees for the past three years. That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: Then with regards to Mr. De Banza's application for a lodging house license. I guess everything is in order; am I correct?

MR. TURNER: Yes.

MR. SCALI: So I make a motion then to approve, subject to the fact that you comply with all the rules and regulations and make sure you're following what the law says with regards to this license and any letters you receive from our office or advice. That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: With regards to your motion for exemption to resident manager, motion to approve.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: You're all set.

MS. LINT: Two other matters: One is Uno on Somerville Avenue, and the other one, just looking at my notes, there was an issue regarding Om that you wanted on for today. Whether or not if there's no one on the patio they can change the inside capacity.

MS. LINT: So the issue with regards to Om, which is on Page 1 -- is that that where it is?

MS. LINT: No.

MR. SCALI: It's an Addendum item, the first item on the Addendum, which is a Disciplinary matter. During the Disciplinary matter there was a discussion about numbers, and I guess our policy is not clear that if you have a patio through March through November, which is when we allow the patios, and during that time, if people are not on the patio -- and I guess somehow we move those tables and chairs as well -- are they then allowed to move that capacity inside? I think that's kind of crazy.

MR. TURNER: How do you police it?

MR. SCALI: It's difficult. I would say that once you have your patio, you have your patio out there, that's it. You can't bring it inside during the patio season.

MR. HAAS: The Commission goes through great pains to establish how much inside seating there is and how much outside seating there is, so I don't think it's transferable. I don't believe you can simply say, well, I'm only using 10 of my 20 seat outside, so I can move those 10 inside. Otherwise, you would just say this is your total capacity and not make a distinction between outside and inside seating.

MR. SCALI: They're not transferable back and forth; would you agree?

MS. LINT: I think what they were saying is if it's a rainy day and we can't use them outside, can we use them inside, but just what the Commissioner is saying that --

MR. SCALI: The rules are then so blurred you really don't know what's going on.

MR. SCALI: I guess the motion is then

to clarify that the capacities are not transferable from patio to inside during the patio season.

Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: Aye.

MR. TURNER: Should we perhaps take a motion up to adopt that into the patio policy? Is that in there at all? At some point?

MS. LINT: I think it's implied in the patio policy because what we're granting is seasonal outdoor seats and it clearly says "outdoors."

MR. HAAS: The other point I would offer too is generally it's in excess of what they're authorized seating would be anyway. So what you run yourself into the potential of doing is by allowing them to be transferable is that you can allow over occupancy inside because it's raining outside. So I can move all those seats

back inside and now you've got an overcrowded situation. Because typically, I would imagine they're trying to measure the square footage against profit, and they're not going to have spare space for the most part. I don't even think it's implied, I think it's pretty explicit.

MS. LINT: They are outdoors seats.

MR. SCALI: Where they're putting those tables and chairs is the other issue the Fire Department has too.

MS. LINT: The Building Department has that issue as well. They want to know where the chairs are going. They want to know -- they need panic hardware. They need something about a firewall if they're going to be having dancing by patrons. So that issue is kind of dead for right now.

MR. SCALI: So the dancing is not going to happen under Building Code?

MS. LINT: Not right now.

MR. SCALI: I think you said that they need to come back though and present to us what the

capacity is going to be without the dance floor.

MS. LINT: That was clarified. I think it's upstairs in the other file because this is the Disciplinary.

MR. SCALI: They're not going to have standing without dancing is what I was saying.

MS. LINT: Zoning signed off on the increase in occupancy to 194 total.

MR. SCALI: Inside?

MS. LINT: Inside and outside.

MR. SCALI: They need to come back and tell us how this is going to fit.

MR. TURNER: I'm understanding what they're doing, which it's basically not a simple restaurant and it's not a simple nightclub. They want to be a little of everything, and they're going to move people up and down stairs and inside and out, move furniture around to accommodate at their convenience and their needs. How does an inspector go in and regulate that? It's almost impossible. They'll be flying under the radar on that one for a long time.

Where do you draw the line on it as well? Do you sit there and say look, you're either a restaurant or a club. This is it. This is your occupancy load upstairs and then downstairs, and that's it, period.

MR. SCALI: If they're not going to have a dance floor, I can't understand how they're going to fit 100 or so people on the first-floor.

MR. TURNER: And then they've got the people waiting to go upstairs to eat, but they're downstairs in the private dining area. It's a very complicated situation. And I still -- what was it; a hundred and something downstairs?

MR. SCALI: One hundred eighteen.

MR. TURNER: I cannot figure out how to get 118 people in there, dancing with what music?

MS. LINT: It's very small.

MR. TURNER: It's half the size of this room.



MR. SCALI: Uno with regard to Porter Square with regard to the agreement that we had with them from 1990 that there would be no entertainment in the building. I know Mrs. Lint spoke to the landlord about the agreement.

MS. LINT: Yes. I have a lengthy e-mail from the landlord, and they would be amenable to modifying the agreement with the License Commission with certain restrictions.

Most importantly, the application was for live entertainment from 7:00 p.m. Monday through Saturday, and noon until closing on Sundays, but they think that's much too early and that it would be problematic for the other tenants in the building. So they would recommend that live entertainment start at 9:00 p.m.

MR. SCALI: Until?

MS. LINT: To closing.

MR. SCALI: To 1:00 a.m.

MS. LINT: The application is until midnight.

MR. SCALI: So 9:00 p.m. until

midnight.

MS. LINT: They would ask that "there be no more than two vocalists at any given time; that instrumentation be limited to acoustical guitars; that sound amplification should not impede normal conversation levels; nor shall it in any manner interfere with quiet enjoyment of any of the other tenants or patrons of the shopping center."

And, "Due to the landlords obligation to provide an environment conducive to the conduct of business and the landlords legal obligation to provide quiet enjoyment of the mall in its setting, at the request of the landlord and/or the managing agent all live music shall immediately cease with no liability to landlord and/or landlord's managing agent." It doesn't say for what purpose.

MR. SCALI: Just for any purpose?

MS. LINT: Yes. They want to reserve the right to alter the hours.

MR. SCALI: That's not really up to them if we grant them a certain time. I think the first step has to be that they need to submit in

writing to us a request to amend our original agreement with the landlord first. Then we should review that in terms of whether we're going to even allow them to amend that agreement that we signed in 1990 with the building. And then we'll come back and consider the Uno application.

MR. TURNER: Mr. Chair, second to that, do you have any recollection if there were any others like the North Cambridge Stabilization Committee involved in that, and neighborhoods. I know that that's on the Somerville line. Were there other neighbors that were all part of that original?

MR. SCALI: Neighborhood Nine, Agassi Neighborhood Group, Porter Square.

MR. TURNER: Would they have a say in this or a voice where it's a change from what they were originally --

MS. LINT: I didn't hear from anybody.

MR. SCALI: It should be noticed on an agenda that we are amending our agreement and then notice to those groups as well.

MS. LINT: They've gotten it.

MR. SCALI: We need to notice that we are amending our agreement before we grant this.

So motion then to notice an amendment to our agreement with the landlord before we approve the Uno application. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MS. LINT: When would you like to continue this to?

MR. SCALI: You can continue it to the same night as the agreement amendment if you wanted to. The next hearing available would be May, June, maybe June.

MS. LINT: June.

MR. SCALI: Anything else? That's it.

MR. SCALI: Before you all leave I just wanted to update you on the taxicab subcommittee issues. The subcommittee is considering a number of different changes in the taxicab industry, and I think I told you all about this before but I wanted to make sure you have the latest update.

The discussion with regard to the meter rate being increased, we approved a certain rate that they're amenable to; however, we're also having discussions with regard to approving or requiring credit cards to be accepted in the cabs, which some in the industry are fighting. Some would prefer that it be optional versus mandatory.

We had a presentation done by Creative Mobile Technologies who deals with Bank of America. They have a program which installs the system in the rear of the cab for free. The equipment is free, the installation is free. CMT handles all of the transactions through Bank of America for each of the individual owners. New York has this system, Chicago, San Francisco, Boston is looking

into this system along with other systems as well.

MR. HAAS: Is Boston making it mandatory?

MR. SCALI: Boston is making it mandatory. They are also making mandatory that all vehicles be hybrids by the year 2015, and there's a lawsuit with regards to that issue.

There is also a discussion with regard to requiring retraining for all existing cab drivers who have not gone through the school. So anybody licensed before 1994 would then be required to be retrained through our school with a short one night program for which we would charge like \$25 for that particular retraining. That's still in discussion as well.

It's just been very volatile discussions going on with regards to the credit cards and it's still ongoing. There are a number of people from tourism and business organizations that want credit cards to be accepted.

They're looking for me to present it to all of you in a hearing very very soon. Our

goal is to perhaps have this all in place by the fall for October inspections. Mr. Cassidy from Weights and Measures would like to be able to do it during the month of September. If we do do meter rate increases and/or credit card systems, he'd like to be able to do that during September for October inspections.

I don't know what the pleasure of the Commissioners is; if you wish a total package of information on a lot of changes with regards to the industry, or to hear them individually. That's a possibility as well.

MR. HAAS: When you say have a hearing on for example, the credit card use, would that be in front of the taxi operators or just amongst ourselves?

MR. SCALI: It would be a public hearing to be noticed by Mrs. Lint. Notification to all the taxicab people, public, and come in.

MR. TURNER: Have you been to one of those yet?

MR. HAAS: No. What's the primary

objection to the credit cards?

MR. SCALI: The people who are objecting feel that the processing fee is taking away from their profits. They feel that they are highly regulated and therefore, why are we making these things mandatory, additional requirements for them already. I think underlying is the fact that perhaps everything would be more recordable as opposed to cash transactions and therefore it's more reportable to the IRS and all that. All those things kind of come into play.

MR. HAAS: I would offer this: I am sympathetic to the fact that there may be some additional costs incurred as a result of offering this service, so I don't see how you can separate the fee adjustment and the credit card issue. I think they should be part and parcel. You want a fee adjustment? We'll make the fee adjustment but we'll also make the fee adjustment to take into account what you're operating costs will be so you're not going to have it cutting into your profit.



Clearly I don't think we're even going to address the whole issue about reporting.

MR. SCALI: You can't really do that.

MR. HAAS: I would offer as an opinion that I think it would be a strategic mistake to try to break it apart. I think it's got to be part and parcel. You want a rate increase, we want to see you get a rate increase, but we also want to see these credit cards as part of that rate increase coming in at the same time. That's how I would offer it to them.

Again, I think part of the rationale is that we don't want you to see a loss in your profit. If there is some additional costs that are going to be associated with the credit cards, let's take that up now in terms of rate increases and just do a rate increase once. Whatever you think you need for your profitability, but also what our operational costs now will be incurred as a result of the credit cards being introduced.

MR. SCALI: I have mentioned that to them that I did mention this to you before about

the additional -- I think Bank of America charges like two-and-a-half percent, which I offered as being added to the meter rate increase to them, and that didn't seem to affect their reasoning at that point in time. So there are other underlying issues obviously. I think it is more about the fact that they're being forced to do anything is the issue.

MS. LINT: They're also not looking at the flip side of it; that they actually could make more money from it. Because if you get into a cab and you have a limited amount of money in your pocket, you're going to give them what you've got and that's going to limit their tips. But if you're paying by credit card you tend to give them more.

MR. HAAS: I can't tell you the number of times I've seen people stop at an ATM machine, they run in, get cash to pay them for the cab ride. It's crazy. If they've got a debit card or a credit card already, it seems to me to be a lot easier for them. Plus they run the risk that if

somebody runs out of the car to go to the bank, they'll just run off.

So I think it's a service to the public. I think in this day and age people are not as reliant on cash as they used to be.

MR. TURNER: Plus, cash will still be accepted, so it's not like we're saying you have to use a credit card. I'm sure New York and Chicago and all these other towns that went through this went through the same grievances that our industry has, and they got through it.

MR. SCALI: I think the other issue is, and we can hear that at the hearings, is that they do not want to be locked into one particular company to get the credit cards through, and they would prefer to have an option as to who they would go to. However, what they don't understand is if you go to one particular operation, one particular bank, the rate may be lower in bulk as opposed to -- if they all go to one particular operation, it may be cheaper for them to do it that way.

This operation out of New York, CMT,

would love to market it to all 257 cabs and give them a better deal and a better rate. Some of them prefer to go to other banks and they want to get their own rates. I guess it would be up to us to decide that at some point in time.

The real goal of this as well, just so you know how this all began, is that Ambassador Brattle does process credit cards. They process them through their own system through -- I forget now which bank it is. But they also charge the owner or driver 10 percent to process those credit cards.

The goal is to impose a rule under our rules that you cannot charge more than five or six percent for any processing of any kind of credit cards, which is the rule that Boston has; that no one can charge more than six percent for any kind of processing fee, and therefore, it actually makes it fairer to the owners and drivers to not have to pay 10 percent to a meter service to process a credit card. So that's how this really began with complaints.

The other issue too was that Ambassador Brattle also requires that no one can charge unless it's more than \$20 for the fair. So if you come in and your fair is \$19, you can't charge in the cab and you have to use cash. The rule in Boston and other cities is that no matter what the amount is, you're able to charge no matter how little or big it is.

That's been a complaint of the drivers; that they have to throw people out of the cab if they don't have the cash or they don't have the cash to pay under \$20. Or, they've been charging people \$20 on the credit card and then refunding them the money back that they would be due minus the amount of the fair, which is wrong too.

MS. LINT: But that also goes to my point, because if you're in that cab and it's a \$19 fair, and you can't charge it, and all you've got in your pocket is a \$20 bill, that's all that driver's getting.

MR. SCALI: True, you'd get a better tip off of that as well. I just wanted to make

sure you knew.

Also, this is the last week of inspections and we're doing very very well. They have three-quarters of them done already and they only have another day or two. There might be maybe 20 or 30 cabs left for today and tomorrow.

Benny and Tony are being very very strict with the cabs this years. Dents, dings. peeling, not passing anybody. There's been complaints about that; that they're being very strict. I have told them to be very strict with those cabs and not approve anybody that has any kind of issues at all. There's been quite a few recalls.

MR. HAAS: One of the City Councilors wasn't very complimentary about the condition of our cabs.

MR. SCALI: Correct.

MR. GIACOPPO: That's encouraging for the Commissioner and I to hear this because there was a brief discussion yesterday about complaints to the police -- to the Department about the police and it's all about us doing our job.

MR. SCALI: Right. I just want to say too that Officer Arcos and Officer Zito are doing a very fine job.

MR. HAAS: You're not getting any reprieve on your six months.

MR. SCALI: No reprieve?

MR. HAAS: No reprieve.

MR. SCALI: What does that mean? After six months we lose Officer Arcos? I hope you're reconsidering that, Commissioner.

MR. HAAS: We put a grant in to cover this position, remember?

MR. SCALI: Yes.

MR. HAAS: We haven't heard anything yet.

MR. SCALI: I know that he wants to desperately stay. I know he does want to stay very very badly.

MS. LINT: And he's doing good things.

MR. SCALI: He's doing very very well. Thousands and thousands of dollars in fines are coming in.

MR. GIACOPPO: You have no idea about his history. He has an amazing record of drug enforcement in the City of Revere. He was like a one-man army, because he had no help over there. He made I think -- I think he did 85 individual search warrants, and his largest recovery was \$200,000 in cash. He didn't deal in little baggies, he dealt in kilos and half-kilos, and ounces and pounds. He's very very skilled in drug work.

MS. LINT: I actually did think of a project that might be beneficial.

MR. SCALI: He's very committed, very professional, very dedicated, and will stay at night until he finishes what he has to finish.

MR. HAAS: I'd encourage you to take advantage of his talents. There's a lot of things I think he could be doing in terms of sting operations. Some of the investigations we really haven't been able to get into that he -- again, because of his background he really could be effective.



MR. SCALI: I would encourage the Commissioner not to take him away quite yet.

MR. GIACOPPO: Seconded.

MS. LINT: I have a question about -- you were talking about condition of cabs, and that has been a big bone of contention. If you want to change the year beyond -- the age of the cabs that can be used, do you have to have a hearing on that, or can you just do it?

MR. SCALI: It's in the rule book that we have to have a -- that would be another part to be included in the package too, of lowering the vintage year to a lesser year. Right now, we have a six year rule.

MS. LINT: Boston has three.

MR. SCALI: I would propose something in between. I will tell the subcommittee -- we meet again next Wednesday -- that it's the goal of the Commission, if you all agree, to have a package presented to us all with regard to a number of different changes in the rules on the meter rate. Is that the goal of the Commission?

MR. HAAS: I think that would be the best approach for the Commission because I think our intent is, one, to provide better service to the patrons, but also at the same time making sure the industry is not being hurt because of administrative fees that may be imposed by offering the service.

I would argue, and this also goes to the heart of the matter when you talk about whether they're charging back to the owners and operators, that maybe we incorporate that into the fee so they're not required to pay that on their own; that that can again be incorporated into the fee.

I think to some degree there is some financial benefit so that -- because every transaction is not going to be a credit card transaction. So if we basically say we're going to up whatever the adjusted fee is by another six percent, I mean there's a potential and I think the only thing we have to watch for is that there's no games going on and saying well, I'm not taking a credit card if it's less than \$20 because I want to

take advantage of the six percent increase. I think we can surely monitor that. I think there would be a financial incentive for them to do this, and also provide a better service to the clientele, the patrons that are using the cab service.

MR. SCALI: My goal is to let them know at our hearing next Wednesday that it's not just me making the decision; that the Commissioners are considering all these things.

MR. HAAS: The Deputy Chief is not saying anything so I don't know what he wants.

MR. SCALI: I want to make sure you all agree; that's it not just me making --

MR. HAAS: He might be opposed. You may want to dice it up.

MR. TURNER: I agree, do a package.

MR. SCALI: The last thing is next Thursday morning at 11:00 a.m. we're having our taxicab driver of the year awards. This year we're doing lifetime achievement awards for two drivers. One has been driving for 37 years, and one was driving 42 years. One gentleman passed away this

past weekend and we're going to do it posthumously through his family. So we're hoping you all come.

MR. HAAS: What time is it?

MR. SCALI: At 11:00 a.m. on the 14th of May in the Akerman Room.

MR. GIACOPPO: Who is the gentleman that passed away?

MR. SCALI: John Bernier was driving since 1972. He was very ill with cancer and passed away this past Saturday. He was selected before he passed away and it just happened to happen at the same time.

MR. TURNER: What time?

MR. SCALI: At 11:00 a.m. on Thursday morning.

MR. TURNER: Is there a reception?

MR. SCALI: There is a reception. You'll get muffins and quiche, and coffee and juice, and bagels. Please come.

MR. HAAS: I have a meeting that day but I'll see if I can move it.

MR. SCALI: Anything else? Motion to

adjourn. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

(Whereupon, the proceedings  
concluded at 11:39 a.m.)

**CERTIFICATE**

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL COUNTY, SS

I, Anne Ouellette, a Professional Court Reporter, the undersigned Notary Public certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of these matters.

I further certify that the proceedings hereinbefore set forth is a true and accurate transcription of my record to the best of my knowledge, skill and ability.

In Witness Whereof, I have hereunto set my hand this 11th day of May, 2009.

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