

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

COMMONWEALTH OF MASSACHUSETTS
CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION
DECISION MAKING HEARING

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman
Christopher J. Burke, Superintendent
Daniel Turner, Deputy Fire Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

--held at--

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

Thursday, May 6, 2010
10:00 a.m.

REPORTERS, INC.
CAPTURING THE OFFICIAL RECORD
617. 786. 7783/Fax 617. 639. 0396
www. reportersinc.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

I NDEX OF AGENDA PROCEEDI NGS

Agenda Matters:	Page
Tommy Doyle's	4
Sonesta Hotel	7
Conga Restaurant	17
Cinderella's	37
Desvina (phonetic)	38

P R O C E E D I N G S

1
2 ELIZABETH LINT: License Commission
3 Decision-Making Hearing, Thursday, May 6,
4 2010. It's 10:07 a.m. We're in the Michael
5 J. Lombardi Building, 831 Massachusetts
6 Avenue, basement conference room. The
7 Commission Chair is Richard Scali, Deputy
8 Chief Dan Turner and Superintendent Chris
9 Burke.

10 RICHARD SCALI: Motion to accept the
11 Minutes from April 27th. Moved.

12 DANIEL TURNER: Second.

13 RICHARD SCALI: All in favor?

14 (Aye.)

15 ELIZABETH LINT: Want to just go in
16 order?

17 RICHARD SCALI: Yes, right. April
18 6th is already done.

19 ELIZABETH LINT: Yes, right, except
20 the Holiday Inn, but that was continued.

21 RICHARD SCALI: May 25th. I have in

1 my notes May 25th. Holiday Inn is continued
2 to May 25th.

3 ELIZABETH LINT: Tommy Doyle's from
4 One Kendall Square for a change of premise
5 description. I spoke with Lynn Best and it's
6 fine. The planning is fine.

7 RICHARD SCALI: All right. So this
8 is at One Kendall Square which has to do with
9 the seats on Portland -- no, on Hampshire
10 Street.

11 ELIZABETH LINT: Hampshire Street.

12 RICHARD SCALI: And then additional
13 seats inside too, on the private property; is
14 that right?

15 ELIZABETH LINT: No.

16 RICHARD SCALI: No.

17 ELIZABETH LINT: Just the new seats
18 on --

19 RICHARD SCALI: Just the new seats.

20 ELIZABETH LINT: On Hampshire
21 Street. They needed to submit an amended

1 plan to us which I have not seen as yet. As
2 well as the abutter notifications.

3 RICHARD SCALI: I know that Chris
4 O'Neil showed me the plans, an e-mail of a
5 plan. But I don't think it was stamped by an
6 engineer.

7 ELIZABETH LINT: I haven't seen it,
8 Sal.

9 RICHARD SCALI: We still need the
10 amended plan. DPW has approved it?

11 ELIZABETH LINT: They have. Haven't
12 seen that either though.

13 RICHARD SCALI: And the other
14 question.

15 ELIZABETH LINT: And the abutter
16 notifications.

17 RICHARD SCALI: Have you seen those
18 yet?

19 ELIZABETH LINT: No.

20 RICHARD SCALI: Tommy Doyle's is not
21 here, right?

1 ELIZABETH LINT: No.

2 RICHARD SCALI: I guess we can't do
3 much unless they -- why haven't they
4 submitted all the information? Don't know.

5 Comments from the Commissioners.

6 CHRISTOPHER BURKE: Well, the police
7 department would approve it if all the
8 stipulations were satisfied. And apparently
9 we don't know that.

10 RICHARD SCALI: They haven't sent us
11 the preliminaries yet.

12 Deputy Chief, any comments?

13 DANIEL TURNER: Give them a certain
14 time frame and then deny the application.

15 RICHARD SCALI: We can do a
16 condition approval for those three being
17 submitted.

18 ELIZABETH LINT: That's what you did
19 with Tommy Doyle's.

20 RICHARD SCALI: That acceptable.

21 CHRISTOPHER BURKE: That would work.

1 RICHARD SCALI: Motion to approve
2 subject to the three conditions and new
3 stamped plan, DPW permit and abutter
4 notification. Let's move.

5 DANIEL TURNER: Second it.

6 RICHARD SCALI: All in favor.

7 (Aye).

8 ELIZABETH LINT: Then we had the
9 Sonesta, the pledge and I spoke to the AB CC
10 and it's perfectly fine.

11 RICHARD SCALI: So let me understand
12 something. So I had assumed that a pledge --
13 the law that I read anyway, maybe it's
14 changed. That a pledge can only be approved
15 with regards to the purchase of the license
16 or towards renovations of the premises. So
17 what's Mr. Kelly's saying?

18 ELIZABETH LINT: Mr. Kelly said they
19 can pledge it for whatever purposes they deem
20 necessary.

21 RICHARD SCALI: That by statute?

1 ELIZABETH LINT: That's what he
2 said.

3 RICHARD SCALI: I know most hotel
4 licenses it's not a problem anyway because
5 they're different than restaurant licenses
6 anyway. They're generally a bigger venture
7 which most banks require some connection to
8 it.

9 Comments at all?

10 CHRISTOPHER BURKE: Well, the police
11 department would support Ms. Lint's
12 interpretation.

13 RICHARD SCALI: Okay.

14 DANIEL TURNER: No comments.

15 RICHARD SCALI: All right. Motion
16 to approve? Moved.

17 DANIEL TURNER: Seconded.

18 RICHARD SCALI: All in favor?

19 (Aye).

20 ELIZABETH LINT: Middle East.

21 RICHARD SCALI: Middle East. So,

1 here's the problem I have, okay? And I'm
2 sure the Commissioner has other problems and
3 other issues, too. When we originally
4 granted permission for that space, we were
5 trying to offer -- I think you were trying to
6 offer a different flavor for that location.
7 It was going to be upscale restaurant, white
8 tablecloths, eating primarily, and there
9 wasn't going to be any real big entertainment
10 in that space. So, I -- not that Middle East
11 doesn't do a great job and organizing and
12 keeping things in order and making sure that
13 people are safe, I just don't know why we
14 need another 130 people for entertainment in
15 that space on the street when you've got
16 already 982 people downstairs, and you know,
17 in that location. And I, I guess I'm just --

18 ELIZABETH LINT: I think there's a
19 bigger issue that Deputy Chief might be able
20 to address.

21 DANIEL TURNER: Mr. Chair, I did go

1 down and speak to the Building Commissioner
2 and you looked at the proposal, and it was
3 his determination that what's happening with
4 this space does constitute a change of use
5 and it would require a building permit
6 application and an architect's drawing
7 certifying the number of occupants,
8 indicating the maximum allowed occupant load
9 for that space.

10 RICHARD SCALI: So, change of use
11 from a restaurant to a --

12 DANIEL TURNER: Restaurant to a
13 nightclub.

14 ELIZABETH LINT: And there were
15 parking issues as well, wasn't it?

16 DANIEL TURNER: Not that I'm aware
17 of. That would be zoning concerning parking.

18 ELIZABETH LINT: Something else I
19 had in my head.

20 RICHARD SCALI: So in that whole
21 block there and all that space, that one

1 little location is not zoned for a nightclub?

2 DANIEL TURNER: Right now it's a
3 restaurant, and they want to make it a
4 nightclub and there's a new provision of the
5 Zoning Code and becomes an A-2 NC nightclub.
6 It would fall into that category.

7 RICHARD SCALI: Did you know that?
8 No, you didn't know that?

9 So what do they have to do? They have
10 to apply.

11 DANIEL TURNER: Apply to the
12 Building Department for a change of use,
13 submit an architectural drawing. And the
14 architect has to certify the number of --
15 what the occupancy load is. And also that
16 the building construction and fire protection
17 requirements are satisfied by Code.

18 RICHARD SCALI: Is that something
19 that you can do? I guess.

20 UNIDENTIFIED FEMALE: I guess so.
21 Whatever you ask us to do.

1 RICHARD SCALI: The Building
2 Department is zoned restaurant, not
3 nightclub. I just find it hard to imagine
4 that whole block is nightclub. I guess that
5 space.

6 UNIDENTIFIED FEMALE: We try to do
7 it to make it comfortable.

8 DANIEL TURNER: Mr. Chair, I will
9 add that even if the applicant's go through
10 that process, it's still up to the License
11 Commission to do a final approval on that.

12 RICHARD SCALI: The Commissioner
13 have any comments on that?

14 CHRISTOPHER BURKE: The
15 Commissioner's concern was evacuation and
16 egress and defer to the fire department in
17 terms of that issue.

18 RICHARD SCALI: Is that something
19 that you do or is that Building Department
20 with the fire exits?

21 DANIEL TURNER: That would be ISD

1 out of the Building Permit. It would be a
2 combined review. They would get the
3 application. They would submit it to us for
4 our review and then it goes back to them for
5 final approval of the permit.

6 RICHARD SCALI: So, I guess my
7 recommendation is going to be to continue the
8 matter until you resolve it with ISD applying
9 for the proper building permit and use. And
10 then come back to us once you do that in
11 terms of the numbers. I guess in the
12 meantime the question is, Commissioners feel
13 that there should be a continuation of the
14 use as is or, I don't know exactly if we can
15 say that you can continue to operate with the
16 entertainment upstairs in that location.

17 UNIDENTIFIED FEMALE: Okay.

18 RICHARD SCALI: We're saying is make
19 it a restaurant use until it's approved.
20 It's just a safety issue, and it's also just
21 a -- now it's a Building Department issue.

1 Not that you don't do a wonderful job and you
2 give to the community and you do plenty for
3 Cambridge. It's not a reflection at all on
4 the Middle East charitable and civic
5 contributions, but our main focus is safety
6 at this point and making sure that everybody
7 is safe.

8 UNIDENTIFIED FEMALE: For us as
9 well.

10 RICHARD SCALI: All right. So
11 assuming they'll need how much time?

12 ELIZABETH LINT: I would say
13 continue it indefinitely until they take all
14 the steps they can take and come back to me,
15 and I'll put it on the agenda when they go
16 through all the steps.

17 RICHARD SCALI: All right. Motion
18 to continue until Middle East comes back to
19 Mrs. Lint with Building Department approval.
20 And in the meantime an order that you
21 maintain as a restaurant use.

1 UNI DENTI FIED FEMALE: So we can't
2 maintain the capacity that we have?

3 RICHARD SCALI: Well, you have a
4 certain capacity in that location for
5 restaurant use. I mean, eating, sitting down
6 at tables and chairs. You can't take down
7 the tables and chairs. You can't make it
8 into the a dance floor. You can't do
9 karaoke. You can't do all the stuff that's
10 not approved in that site.

11 UNI DENTI FIED FEMALE: So we're shut
12 down?

13 DANIEL TURNER: Until you go through
14 the process of having it approved for that
15 use.

16 RICHARD SCALI: It was approved as a
17 restaurant.

18 UNI DENTI FIED FEMALE: Right. But
19 wasn't it approved for music after dinner?

20 RICHARD SCALI: Whatever the
21 original approval. I don't know what that

1 is. Maybe Mrs. Lint can look it up later on.
2 Whatever was approved a few years ago.

3 ELIZABETH LINT: I don't have that
4 part of the file with me.

5 RICHARD SCALI: I know it's not a
6 dance floor or karaoke or a DJ. It's a
7 restaurant and whatever under other
8 entertainment that was approved originally.

9 UNIDENTIFIED FEMALE: Okay.

10 RICHARD SCALI: All right? So
11 that's a motion. Moved.

12 DANIEL TURNER: I'm sorry,
13 Mr. Chair. Repeat the motion.

14 RICHARD SCALI: Motion is to
15 continue indefinitely until they come back to
16 Mrs. Lint with Building Department approval
17 and in the meantime to maintain use as
18 originally approved.

19 DANIEL TURNER: Second.

20 RICHARD SCALI: Seconded.

21 All in favor.

1 (Aye).

2 RICHARD SCALI: I'm sure you can
3 work that very quickly to get it in to the
4 Building Department, okay?

5 UNIDENTIFIED FEMALE: Thanks.

6 ELIZABETH LINT: Conga.

7 Mr. Rafferty just gave me a document
8 indicating that they will withdraw the
9 karaoke application.

10 RICHARD SCALI: Withdraw karaoke.

11 ELIZABETH LINT: Outside seating
12 will end at ten p.m. on nights when
13 entertainment will take place.

14 ATTORNEY JAMES RAFFERTY: To avoid
15 the issue about the door being opened and
16 wait service coming in and out and noise
17 escaping. It's a noise abatement medication
18 measure.

19 RICHARD SCALI: So what nights are
20 those? Because I think you applied for seven
21 nights, right?

1 ELIZABETH LINT: I'm getting there.

2 ATTORNEY JAMES RAFFERTY: It could
3 be like in a lot of entertainment licenses,
4 the demand may not exist every night of the
5 week, but the ability to have the
6 entertainment. I know it's not like liquor
7 where you come in and force them to turn the
8 music on if it's not on. So there could be
9 some nights that entertainment, even though
10 they were permitted to have entertainment,
11 they might not be providing it.

12 RICHARD SCALI: I think --

13 ATTORNEY JAMES RAFFERTY: We have a
14 few other --

15 RICHARD SCALI: Go ahead.

16 ELIZABETH LINT: The windows will be
17 kept closed when music is on, recorded or
18 live.

19 ATTORNEY JAMES RAFFERTY: You recall
20 the space has those accordion style windows.
21 That Miss Gifford expressed such a fondness

1 for. And we're going to close them on nights
2 of entertainment.

3 ELIZABETH LINT: And dancing by
4 patrons will be reduced from seven days to
5 Wednesday through Sunday.

6 ATTORNEY JAMES RAFFERTY: Sunday is
7 the big salsa night for the classes and the
8 like.

9 RICHARD SCALI: That just leaves
10 Monday and Tuesday nights.

11 ATTORNEY JAMES RAFFERTY: What do
12 you mean just leaves?

13 RICHARD SCALI: That means you're
14 operating five out of seven days dancing.

15 ATTORNEY JAMES RAFFERTY: Yes.

16 ELIZABETH LINT: Potentially.

17 ATTORNEY JAMES RAFFERTY:
18 Potentially, yes.

19 RICHARD SCALI: And the other
20 entertainment is no karaoke, and what else?

21 ATTORNEY JAMES RAFFERTY: That was

1 all. It's the dancing, the music and the
2 live music. And the premise of description
3 changes, last year the applicant did complete
4 the city process for seating on the sidewalk.
5 So this would, the outside seating here has
6 two components to this. There's a portion
7 that's on the sidewalk along Eliot Street I
8 believe, that stretch of the public way is
9 called where Brattle bends. And that's,
10 that's been approved and he has his DPW
11 approval.

12 And then there's a few seats on private
13 property along the Winthrop Street edge. So
14 that's the portion of the application that
15 deals with the change of premises.

16 RICHARD SCALI: There's an overhang
17 there.

18 ATTORNEY JAMES RAFFERTY: Oh, there
19 is.

20 ELIZABETH LINT: There is.

21 ATTORNEY JAMES RAFFERTY: She was

1 focussed on Eliot Street.

2 ELIZABETH LINT: The other side.

3 ATTORNEY JAMES RAFFERTY: The public
4 street.

5 RICHARD SCALI: I don't see trouble
6 with the patio issue.

7 ATTORNEY JAMES RAFFERTY: No, the
8 sidewalk is exceptionally large there. And
9 as the Commission noted, they're doing it all
10 over the place. And right on the other side
11 of Winthrop, that edge in front of Charlie's.

12 RICHARD SCALI: Yes.

13 ATTORNEY JAMES RAFFERTY: I thought
14 the overall concern, not to characterize but
15 Ms. Thompson was noise, but I do think that's
16 legitimate. I have a vivid memory because I
17 had the pleasure of representing the House of
18 Blues at the time when those condos were
19 being constructed, and your predecessor
20 Commissioner Barnes was here on the night
21 they were having the garage and gasoline

1 license. I was asked by my client to just go
2 and have people reflect that there are --
3 they're choosing to build condominiums across
4 the way from a licensed, 285-person licensed
5 establishment with a two a.m. license that
6 allows for dancing by patrons and live music.
7 And they were obviously concerned that in a
8 year or two all of a sudden the residents
9 there would -- much like people who move to
10 East Boston and then expect the plane noise
11 to go away, I mean, the use is long
12 established. It was a late Mrs. MacMillan
13 operated her Ethiopian disco there Anrequatra
14 (phonetic) for decades.

15 RICHARD SCALI: I'm impressed with
16 your French.

17 ATTORNEY JAMES RAFFERTY: Now that
18 Commissioner Greene is no longer with us I
19 need to recount all this history and statutes
20 and Sections of General Laws so there's some
21 sense of history from the Commission.

1 But I do think Winthrop Street has
2 become a very well managed urban destination
3 where there's a high level of compatibility
4 and cooperation between five licensees by my
5 count, starting with Om, Upstairs, Red House,
6 Charlie's and Grendel's.

7 ELIZABETH LINT: And Tommy Doyle's.

8 ATTORNEY JAMES RAFFERTY: And Tommy
9 Doyle's. Thank you. And Ponja now is coming
10 in with his. And he's met with Mr. Overgag
11 (phonetic) who is the unofficial mayor of
12 that little stretch of Winthrop Street, and
13 gets them all to kind of coordinate. And he
14 raised a few questions and that's where he
15 came up with a few of his adjustments. So I
16 think the notion that this is a, you know,
17 the entertainment in a Latin venue like this
18 is pretty critical to what they're trying to
19 achieve here. But the focus will remain on
20 food.

21 RICHARD SCALI: How important is

1 Wednesday night to you for the entertainment?

2 ATTORNEY JAMES RAFFERTY: Well, it's
3 -- because of the different nature of it, one
4 night they're going to have a salsa night.
5 Another night they're going to have a tango
6 night. They really see it as an educational
7 entertainment.

8 RICHARD SCALI: I'm just thinking of
9 giving the neighbors a break. Monday through
10 Wednesday. Maybe refer to Thursday, Friday,
11 Saturday and Sunday.

12 ATTORNEY JAMES RAFFERTY: Well,
13 which aspect of the entertainment would -- I
14 mean, I suppose we can suggest an earlier
15 night. I think we can suggest maybe on
16 Wednesday or eleven on Wednesday.

17 RICHARD SCALI: Another suggestion
18 is to cut back the hours because -- well,
19 Wednesday night is only until one a.m.
20 anyways.

21 ATTORNEY JAMES RAFFERTY: Can you do

1 mi dnight on Wednesday?

2 DANIEL TURNER: Mr. Chair.

3 RICHARD SCALI: Deputy Chief.

4 DANIEL TURNER: May I also point out
5 that Wednesday night is also task force
6 night, so it would be a good opportunity to
7 see how the entertainment is going.

8 RICHARD SCALI: It's already one
9 o'clock in the morning.

10 ATTORNEY JAMES RAFFERTY: So
11 midnight on Wednesday on the dancing? Right?
12 You're talking the dancing?

13 RICHARD SCALI: I'm talking about
14 the live entertainment and the dancing.

15 DANIEL TURNER: Mr. Chair.

16 RICHARD SCALI: Deputy Chief.

17 DANIEL TURNER: Due to Ms. Lint I
18 guess. Do we know what the other
19 establishments have?

20 ELIZABETH LINT: I was just thinking
21 about that. I think the others are at two.

1 RICHARD SCALI: Not on Wednesday?

2 ELIZABETH LINT: Not on Wednesday.

3 They're one.

4 DANIEL TURNER: One a.m. on

5 Wednesday?

6 ELIZABETH LINT: Yes.

7 ATTORNEY JAMES RAFFERTY: I think

8 the dancing -- he does have an arrangement

9 with the fellow who's going to be doing a

10 mariachi and music on Wednesday night, and

11 the dancing could stop at midnight and as

12 long as the live music can continue until

13 then.

14 RICHARD SCALI: Keeping track of

15 that is more difficult.

16 ELIZABETH LINT: That becomes a

17 logistical nightmare.

18 DANIEL TURNER: I just, you know,

19 again can't see why he shouldn't be allowed

20 to have the same as the other establishments.

21 RICHARD SCALI: I don't think they

1 have entertainment seven nights a week.

2 ELIZABETH LINT: No, Om I think is
3 Thursday, Friday, Saturday and Sunday.

4 ATTORNEY JAMES RAFFERTY: House of
5 Blues certainly did. They had live acts
6 seven nights a week. Does Tommy Doyle --
7 there's a stage on the second floor? Do they
8 not use it?

9 ELIZABETH LINT: Not on Wednesday.

10 RICHARD SCALI: Not midweek. I'm
11 going to suggest that we allow the
12 entertainment Thursday, Friday, Saturday and
13 Sunday. Be mindful Sunday is one a.m. unless
14 it's a night before a holiday.

15 ATTORNEY JAMES RAFFERTY: There is a
16 much -- the Sunday really is about the dance
17 classes. There's not much dance business on
18 Sunday, but it's a good night when the venue
19 is anticipated to be as busy to these dance
20 classes where these people come in and teach
21 dancing because it's an acquired time as

1 opposed to, you know -- some people are not
2 naturally gifted in dance I've discovered.

3 (Off the record discussion.)

4 RICHARD SCALI: All right,
5 Mr. Rafferty.

6 DANIEL TURNER: Mr. Chair.

7 RICHARD SCALI: Deputy Chief.

8 DANIEL TURNER: All the paperwork is
9 in order.

10 ATTORNEY JAMES RAFFERTY: Can we say
11 no dancing on Wednesday but the gentleman
12 could do his music on Wednesday?

13 RICHARD SCALI: Which is the
14 mariachi?

15 ATTORNEY JAMES RAFFERTY: Yes, the
16 Mexican band, song.

17 It's a man with a guitar. We can limit
18 the live on Wednesday.

19 RICHARD SCALI: I guess I can live
20 with that. What do you think?

21 CHRISTOPHER BURKE: I would concur

1 with your assessment.

2 RICHARD SCALI: All right. Here's
3 what we have. Withdraw all the karaoke.
4 These are all proposed conditions.

5 ATTORNEY JAMES RAFFERTY: Right.

6 RICHARD SCALI: Ending the patio at
7 ten p.m. Wednesday through Sunday, right?

8 ATTORNEY JAMES RAFFERTY: When the
9 entertainment is occurring. If the guy
10 doesn't show up on Wednesdays in August, you
11 know, then they'd use the patio under the
12 regular hours. Doesn't the city hours on the
13 sidewalk go until eleven?

14 RICHARD SCALI: No. Allowed to one
15 a.m. or less.

16 ATTORNEY JAMES RAFFERTY: The vast
17 majority of the outside seating is on the
18 Eliot Street side, and there's not -- there's
19 no residences in their proximity there.

20 ELIZABETH LINT: I do have a plan
21 but I don't have an architectural drawing

1 with meets and bounds for the public
2 property, and I would need that to submit
3 with the City Manager's agreement.

4 ATTORNEY JAMES RAFFERTY: I'm told
5 that's already in place. That he has a DPW
6 permit. Would that not have been addressed
7 then?

8 ELIZABETH LINT: No.

9 RICHARD SCALI: Not for that
10 section. Because you'd need an actual --

11 ELIZABETH LINT: And I don't have a
12 city manager's agreement.

13 ATTORNEY JAMES RAFFERTY: It's
14 called the city manager's agreement on the
15 public sidewalk?

16 ELIZABETH LINT: Yes.

17 ATTORNEY JAMES RAFFERTY: So, I
18 didn't think you could -- I didn't think
19 Public Works would issue that permit without
20 the City Manager's agreement. They do?

21 RICHARD SCALI: Yes. Team

1 management is the very end of the process.

2 ELIZABETH LINT: It's the last piece
3 of the puzzle.

4 ATTORNEY JAMES RAFFERTY: Okay. Is
5 that something we get at the clerk's office?

6 ELIZABETH LINT: My office.

7 RICHARD SCALI: Upstairs.

8 All right. So the description was for
9 the two alternate plans; one for the dance
10 floor and one without the dance floor?

11 ATTORNEY JAMES RAFFERTY: And
12 expansion into the public way and the private
13 patio, correct.

14 RICHARD SCALI: So no change in
15 capacity?

16 ATTORNEY JAMES RAFFERTY: Right.

17 RICHARD SCALI: We're keeping it at
18 111.

19 ATTORNEY JAMES RAFFERTY: Right.

20 RICHARD SCALI: All right. Motion
21 to approve, change of premises description,

1 two alternate plans.

2 ATTORNEY JAMES RAFFERTY: Well, one
3 alternate plan and a --

4 RICHARD SCALI: Two plans, yes.
5 Staying at 111 capacity, including the
6 outside patio or patios. Patio being --

7 ATTORNEY JAMES RAFFERTY: Excuse me,
8 the patio seating is -- I may have misspoke.
9 The patio seating would be the seasonal
10 outdoor seating isn't part of the cap number,
11 correct?

12 RICHARD SCALI: Right. What number
13 do we have on the patio?

14 ATTORNEY JAMES RAFFERTY: The total
15 in the -- combined in the two is 46.

16 RICHARD SCALI: 28 on one side and
17 -- am I right? I think it was 20-something
18 on one side.

19 ATTORNEY JAMES RAFFERTY: That
20 appears to be right.

21 RICHARD SCALI: 28 on one side.

1 ATTORNEY JAMES RAFFERTY: And the
2 balance on the other side.

3 RICHARD SCALI: 22 on the other
4 side. So 22. That's not right. 28 and 28?

5 ELIZABETH LINT: No.

6 RICHARD SCALI: 28 and 18?

7 ATTORNEY JAMES RAFFERTY: 26 on the
8 private.

9 RICHARD SCALI: 26 private.

10 ELIZABETH LINT: And 20? So if we
11 all go to law school because we can't add.

12 ATTORNEY JAMES RAFFERTY: Yes, for
13 me.

14 RICHARD SCALI: 26 private and 20 on
15 the public, right?

16 ATTORNEY JAMES RAFFERTY: Correct.
17 There's an approved public plan from Public
18 Works that we filed with the application, and
19 that is....

20 RICHARD SCALI: Okay.

21 ELIZABETH LINT: We'll sort it out.

1 RICHARD SCALI: That's one thing we
2 want to have for the record. Motion to --

3 ELIZABETH LINT: Amend the plan.

4 RICHARD SCALI: Okay. Motion to
5 approve the change of premise description
6 with the alternate floor plan 111 capacity
7 inside. Move.

8 DANIEL TURNER: Seconded.

9 RICHARD SCALI: All in favor?

10 (Aye).

11 RICHARD SCALI: Motion to approve
12 the outside patio seasonal seating, a total
13 of 46; 26 private and 20 public subject to
14 City Manager's agreement and engineer's plan.
15 Moved.

16 DANIEL TURNER: Seconded.

17 RICHARD SCALI: All in favor?

18 (Aye).

19 RICHARD SCALI: Motion for the
20 following conditions with regards to the
21 patio, patio to end at ten p.m. -- or close

1 at ten p.m. when entertainment in use inside.
2 Windows closed when entertainment in use.
3 Withdrawal of the karaoke. Dancing Thursday
4 through Sunday. The other entertainment on
5 Wednesday without the dancing. No
6 entertainment on Mondays and Tuesdays.

7 ELIZABETH LINT: Other than what
8 they have on their current application.

9 RICHARD SCALI: Meaning no dancing
10 and no karaoke. No dancing and live
11 entertainment on Mondays and Tuesdays.

12 ATTORNEY JAMES RAFFERTY: No live on
13 Mondays and Tuesdays either, okay. So to put
14 it another way, dancing Thursday through
15 Sunday. Live music Wednesday through Sunday.

16 RICHARD SCALI: Right. Making sure
17 that, you know, that Wednesday and Sunday
18 would be one a.m. except when Sunday is a
19 holiday. And Thursday, Friday and Saturday
20 until two a.m.

21 Anything I'm forgetting?

1 ELIZABETH LINT: I don't think so.

2 RICHARD SCALI: Comments?

3 CHRISTOPHER BURKE: That's
4 acceptable.

5 DANIEL TURNER: No problem.

6 RICHARD SCALI: Motion on those
7 conditions?

8 CHRISTOPHER BURKE: Moved.

9 DANIEL TURNER: Seconded.

10 RICHARD SCALI: All in favor?

11 (Aye.)

12 ATTORNEY JAMES RAFFERTY: I can see
13 Mr. O'Neil about the City Manager agreement.

14 ELIZABETH LINT: Not today, he's not
15 here.

16 RICHARD SCALI: Six months review on
17 this, too.

18 ATTORNEY JAMES RAFFERTY: Okay.

19 RICHARD SCALI: Moved, seconded.
20 All in favor?

21 (Aye).

1 where you're located. I really thought you
2 could do it. I really thought you could do
3 it, but DPW is saying you just can't fit it.
4 And I can see why having gone by there.

5 UNIDENTIFIED MALE: That's okay.

6 RICHARD SCALI: I'm disappointed
7 myself because it's a great spot for people
8 sitting outside and there's just no way to
9 turn off that ramp.

10 UNIDENTIFIED MALE: Thank you.

11 ELIZABETH LINT: I even asked them
12 if they would consider moving the ramp and
13 they said no.

14 RICHARD SCALI: Any other comments?

15 CHRISTOPHER BURKE: None.

16 DANIEL TURNER: No comments.

17 RICHARD SCALI: So we'll just do a
18 withdrawal on the application.

19 UNIDENTIFIED MALE: Thank you.

20 ELIZABETH LINT: And Desvina, that's
21 it.

1 RICHARD SCALI: Desvi na. Good
2 morni ng.

3 UNI DENTI FIED FEMALE: Good morni ng.

4 ATTORNEY CRANE: Good morni ng.

5 RICHARD SCALI: So I et the pol ice
6 department make thei r comments first and then
7 I can have some comments mysel f wi th regards
8 to a di sci pl i nary matter. We ori gi nal l y
9 conti nued i t September 22nd and we were
10 wai ti ng on the court acti on resul ts whi ch we
11 got whi ch resul ted i n a nul l. So comments.

12 CHRISTOPHER BURKE: Wel l, I thi nk
13 that cl earl y thi s i nci dent unfol ded as a
14 resul t of a di si nterested thi rd party passi ng
15 by and observi ng the al tercati on. Once the
16 pol ice offi cers arri ved, they determi ned that
17 there was suffi ci ent probabl e cause to effect
18 i n the arrest. And thi s probabl e cause was
19 l ater reaffi rmed duri ng the arraignment
20 process i n court. Cl earl y the victi m' s
21 unwi l l i ngness to cooperate wi th thi s

1 administrative or the criminal side does have
2 some affect on whether or not disciplinary
3 action can be sustained. But there is a
4 concern on the part of the police department
5 that this is now the second incident which
6 would include the prior spitting incident.

7 I think after careful reflection, I
8 think that the manager did in fact act
9 inappropriately during this incident.

10 RICHARD SCALI: Inappropriately?

11 CHRISTOPHER BURKE: Inappropriately.
12 But in consideration that he's no longer the
13 manager and has that function, I think that
14 is a mitigating factor. I think at the very
15 least, the situation be made part of the
16 record and should have some basis in
17 assessing any future disciplinary matters.

18 RICHARD SCALI: Okay. You want to
19 comment first?

20 DANIEL TURNER: No.

21 RICHARD SCALI: I guess, you know,

1 Mr. Crane put it legally in perspective
2 evidence, substantial evidence. You know, I
3 don't find the substantial evidence to find
4 you in violation. But do I believe for a
5 minute that you were chasing him up the
6 street for safety purposes? No. Do I
7 believe that he lost his temper and he and
8 the nephew went up there to beat him up?
9 Yes, I do. I definitely believe that that
10 was the case. You know, anybody's reaction
11 to that would be to call the police and stay
12 away from the person with the alleged knife.
13 So, I think in the future our process
14 probably should move ahead subpoenaing
15 witnesses and making sure that they come in
16 and testify before the court action even
17 though that may not be the case the way the
18 police officers prefer we handle it. But you
19 lose the momentum as things are happening
20 before the Court, and witnesses tend to leave
21 and not go and testify and things change. In

1 many cases, not just this case. I realize
2 that can happen. But I definitely don't feel
3 that Mr. Molecki (phonetic) acted properly or
4 his nephew acted properly. And I don't
5 believe for a minute that they were defending
6 themselves in any way in self-defense.

7 But be that the case, Mr. Crane put it
8 substantial evidence is the issue. And I
9 guess I would support the Superintendent's
10 suggestion that this be on file for any
11 future disciplinary matters. But any other
12 comments?

13 DANIEL TURNER: No comments.

14 RICHARD SCALI: Questions?

15 CHRISTOPHER BURKE: No questions.

16 RICHARD SCALI: Did you want to say
17 anything, Mr. Crane?

18 ATTORNEY CRANE: It's been placed on
19 file, that's fine.

20 RICHARD SCALI: All right. Motion
21 then to place the matter on file?

1 CHRISTOPHER BURKE: Second that.

2 RICHARD SCALI: In the case that it
3 would be considered for any future
4 violations?

5 CHRISTOPHER BURKE: Yes.

6 RICHARD SCALI: It's moved.

7 CHRISTOPHER BURKE: Second that.

8 RICHARD SCALI: All in favor?

9 (Aye).

10 RICHARD SCALI: Thank you.

11 ATTORNEY CRANE: Thank you very
12 much.

13 ELIZABETH LINT: And if you like, I
14 can report on Cafe Anatolia.

15 RICHARD SCALI: Oh, yes.

16 ELIZABETH LINT: Receipt of my
17 letter telling him that we were going to shut
18 him down immediately if he did not make a
19 payment and come up with a plan. I heard
20 from Ms. Lawrence. He went in and made a
21 \$200 payment. And then he went in again and

1 made an agreement with her that he was going
2 to pay between 100 and 150 every other week
3 understanding that the minute he misses one,
4 we will close him down.

5 RICHARD SCALI: So \$100 to \$150 for
6 every other week for how many weeks?

7 ELIZABETH LINT: The rest of his
8 life.

9 RICHARD SCALI: He owes \$3,000 or
10 so, right?

11 ELIZABETH LINT: We have another
12 date built in.

13 RICHARD SCALI: We continued to June
14 22nd?

15 ELIZABETH LINT: Yes. In the
16 meantime that's the status.

17 RICHARD SCALI: So if he misses one
18 payment, so they let us know.

19 ELIZABETH LINT: She will let me
20 know.

21 RICHARD SCALI: So the plan is 150

1 every other week. And continue to the June
2 22nd hearing.

3 All right. That's moved.

4 DANIEL TURNER: Seconded.

5 RICHARD SCALI: Seconded.

6 All in favor?

7 (Aye).

8 RICHARD SCALI: Anything else?

9 ELIZABETH LINT: I don't have
10 anything.

11 RICHARD SCALI: So we have Grace
12 Methodist Church continued to June 8th.

13 ELIZABETH LINT: Yes.

14 RICHARD SCALI: Everything else was
15 approved. Paradise approved to September
16 30th. And Charlie's Kitchen one year review,
17 approved.

18 Okay. Any other matters before the
19 Commission?

20 Comments?

21 CHRISTOPHER BURKE: None.

1 RICHARD SCALI: Motion to adjourn.

2 CHRISTOPHER BURKE: Second that.

3 RICHARD SCALI: Seconded. All in

4 favor?

5 (Aye)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
BRI STOL, SS.

I, Catherine Lawson Zelinski, a
Certified Shorthand 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
this matter.

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 19th day of May 2010.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 23, 2015

THE FOREGOING CERTIFICATION OF THIS
TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION
OF THE SAME BY ANY MEANS UNLESS UNDER THE
DIRECT CONTROL AND/OR DIRECTION OF THE
CERTIFYING REPORTER.