

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

Michael Gardner, Chairman
Robert C. Haas, Police Commissioner
Gerard Mahoney, Assistant Fire Chief

STAFF:

Elizabeth Lint, Executive Director

-- Held At --

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

Tuesday, September 11, 2012

6:11 p.m.

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P R O C E E D I N G S

ELIZABETH LINT: Okay. We are going to begin.

This is the License Commission General Hearing, Tuesday, September 11, 2012, at 6:15 p.m.

We are in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room.

Before you are the Commissioners, Chairman Michael Gardner, Commissioner Robert Haas, and Assistant Chief Gerard Mahoney.

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If anyone is here for the application of Grangusto, that's been continued to October 9th.

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And the application of Voltage Coffee and Art, has been continued to November 9th.

MICHAEL GARDNER: Before we get started this evening, I would just ask for a moment of silence in memory of the victims of the 9/11 tragedy, including those public safety personnel who risked and lost their lives saving others.

(Moment of Silence)

* * * *

ELIZABETH LINT: The first matter is Disciplinary, Route 2 Hotel Co., Incorporated, doing business as Cambridge Gateway Inn due to a police report received by the License Commission from the Cambridge Police Department.

And if the officers would come up, please.

MICHAEL GARDNER: And could we have the representatives of the police department and the representatives from Gateway please state and spell your names for the record.

ANTHONY MARTIGNETTI: I'm Anthony

Martignetti, M-A-R-T-I-G-N-E-T-T-I. I'm the owner.

OFFICER LAWTON: Officer Timothy Lawton, L-A-W-T-O-N.

OFFICER SMITH: Officer Mark Smith, S-M-I-T-H.

SERGEANT KEOUGH: Sergeant Joseph Keough, K-E-O-U-G-H.

MICHAEL GARDNER: So can we hear first from the police department about the incident and what brings us here this evening.

OFFICER SMITH: Well, Mr. Chairman, I wrote the report so I guess I'll introduce what we did that evening.

We got a call a little after 1:00 a.m. on the morning of July 5th. We responded to a call from an anonymous person who was at the Gateway Inn and reported that they heard a female scream.

ECC, which is the Emergency Communications Center, could not get further

information, only that it was the first floor, the caller believed, and then the caller left.

I was working with Officer Lawton at the time in Car 5. We responded to the Gateway Inn. We spoke with the manager who was on duty, who is the regular manager who is always there. And as we showed up, he immediately said to us, "I know I probably should have called the police."

And we said, "We got a report of a female screaming. Is there any problem in the hotel that you know of?"

He said, "The only thing I know of is it sounds like they are partying down in Room 139."

We said, "Did anybody complain to you about the noise?" And he said, "No. But it's been going on for a few hours, and I probably should have called sooner."

So at that point we went down, myself and Officer Lawton, we went down the hallway.

And just to give you a layout, the first floor at the Gateway Inn you have to go from the lobby through the first door to the hallway, and then there's two double doors that separate the hallway from one set of rooms to another set of rooms.

As we crossed over through the second set of double doors, we immediately detected a strong odor of alcohol, the smell of spilled liquor and beer and also marijuana.

So we approached the door, it was marked 139. We stayed outside for a few seconds, confirmed that clearly the noise was coming from that room. We knocked and announced who we were. We knocked again. The room got quiet. And after, I would say, a minute or so, the door was opened.

We forced the door, just by standing in the threshold to hold the door open so we could see what was in the room, and it appeared to us that there was approximately 35

to 40 males and females. The room was dark. And above everyone's head was a plume of smoke, which was clearly a combination of tobacco and marijuana. And the odor of marijuana was ripe in the room.

At that point, we instructed them to turn the music off; they complied. I identified ourselves as Cambridge Police. We asked this group of 35 to 40 people if anyone in the room was over 21. We could clearly see bottles of booze all over the hotel room, Vodka, rum, cups. And to that, no one responded that they were 21.

So I instructed the group that we were going to shut the party down, we were going to have everyone file out one at a time, we were going to pat-frisk them for weapons, drugs, make sure they didn't have any alcohol, and we were going to get their names and find out how old they were and where they lived. And if everybody complied, there wouldn't be

any charges brought against the partygoers.

Officer Lawton and I began to have the people file out one at a time. We pat-frisked several people. And then because of some activity in the back of the room, I'll say, it appeared that the situation was becoming unsafe.

I couldn't see, because it was dark, if there was a door to the outside or if the window was being accessed by people to either throw something out or to jump out, so I gave a command for them to stay away from the door, stay away from the window, keep the curtains closed, and continue to cooperate as we proceeded to try to get everyone's names.

Again, we tried to get them to come out single file, in an orderly fashion. And then, once again, they began moving around in the back of the room.

So at that point, I separated from Officer Lawton, I went to the back of the room

to stop anyone from doing any further damage or destruction of evidence or escaping out the back window.

We attempted to call for backup. But as the situation progressed through, everyone that we identified in the group was under the age of 21, some were juveniles under the age of 18, and we did recover marijuana, alcohol, and three firearms from the room.

MICHAEL GARDNER: Would you describe what the firearms were, whether there was any ammunition.

OFFICER SMITH: The firearms were all working firearms, two semiautomatics and one revolver, and they were all loaded.

MICHAEL GARDNER: Was one or more of them actually recovered outside of the room?

OFFICER SMITH: Yes. The first firearm I saw after we had the room cleared for our safety, I didn't want to -- we tried to -- just for the record, we tried to get

additional units but the radios were not working.

So the first firearm I observed outside the window was a black semiautomatic firearm. Which, obviously, when we observed them doing what they were doing in the back of the room, it was someone throwing a firearm out of the window.

The second firearm was under the bed, and that was a silver revolver.

And the third firearm was between the mattress and the box spring in the bed closest to the back window.

MICHAEL GARDNER: And was there also a knife?

OFFICER SMITH: Yes, there was a knife.

MICHAEL GARDNER: And were you able to, to your satisfaction, identify most of the people in the room? Did you suspect that some people had managed to get out of a window?

How did it evolve?

OFFICER SMITH: At this point I don't believe anybody had gotten out of the window. I have been able to identify a few people from photos who I believe were in the room. We got maybe a half a dozen of the names before things started to fall apart on us. And for our safety we had to separate. We were unable to get additional units to help get the names, so we were just forced basically to disperse the crowd.

MICHAEL GARDNER: So once you separated from the front door, then you all stopped the pat-frisks and IDs?

OFFICER SMITH: Well, the situation was a dark, small room with about 35 or 40 people and I was in the back of the room, where later we recovered three loaded firearms.

I tried three separate times to use my radio. And when the radio doesn't work,

there is a loud tone. So I believe that everybody standing around me could tell that we were cut off from any communication. So my priority and Officer Lawton's priority was to clear the room.

MICHAEL GARDNER: Did you have any further conversation with the manager?

OFFICER SMITH: I'll leave that to Officer Lawton, he's the one that spoke to the manager while I was securing the room.

OFFICER LAWTON: I was able to speak to him, the manager. He was very forthcoming with the information, like who rented the room, the address, and any information on that. Obviously, he couldn't provide much more. And, as I said, when we got there he said that he should have called the police earlier.

MICHAEL GARDNER: So is the physical layout of the hotel such that the guests would have had to go by the front desk in order to

access the room, or could they have come in from an alternative door?

OFFICER SMITH: There is a door about midway down in the hallway, it's locked, but if someone from the inside opens the door or if they propped the door open, people would have access to the hotel through that door.

SERGEANT KEOUGH: There is a back door also that they could have come in.

MICHAEL GARDNER: Do any of you officers have any personal experience or information about any prior problems of a similar nature at this location?

OFFICER LAWTON: We had one incident, I'm not sure of the date, for a white male who was having a problem and they called us in.

And it ended up being -- I'm not sure what is behind the front desk, a storage container, I'm not sure what he was on, but we did find drug paraphernalia in his room and stuff, but he was to be transported back

(inaudible).

SERGEANT KEOUGH: I've responded to calls up there in the past for domestics. And also we've gone up there on warrants, to get individuals that have warrants on them that we knew were staying at the hotel.

OFFICER SMITH: And I couldn't give you any specific dates because I haven't researched it, but I have been there for loud noise and loud party calls in the past.

MICHAEL GARDNER: Commissioner or Chief?

ROBERT HAAS: You described it as 35 to 40 people in the room. Were they cooperative or were they giving you a difficult time while the others in the back of the room were --

OFFICER SMITH: The majority of the crowd was cooperative. My focus went immediately to the back of the room where it was darker, and they were not listening to my

verbal commands to like stay where they were and stop moving around and stop messing with the window.

But I would say that the majority of the people in the room were cooperating, but there were probably between six and ten people in the back of the room who were responsible for the weapons and the drugs.

ROBERT HAAS: And when you spoke to the clerk, Officer Lawton, why did he indicate to you that he thought that he should have called you hours earlier? He must have known what was going on. Did he elaborate on that as to what was going on and why he didn't call earlier?

OFFICER LAWTON: He did not. And, obviously, he wasn't really providing a lot of information to us, just the fact that he should have shut it down. So I just really wanted to maintain who rented the room, that was my focus.

ROBERT HAAS: So was it your sense that he was aware that there was a party going on in that room?

OFFICER LAWTON: Oh, he knew something was going on if he thought he should have called a couple of hours prior to.

OFFICER SMITH: When we first walked in, he said that they had been partying for a few hours. He knew the room number, he didn't have to look it up or anything like that.

MICHAEL GARDNER: Any questions?

GERARD MAHONEY: Just as some edification. In comparison to this room (indicating), how big would you say the guest room was?

OFFICER SMITH: Less than half, maybe a third compared to this size.

OFFICER LAWTON: Probably right up to this beam here (indicating).

OFFICER SMITH: There were two double beds, a TV, a small table, and a bathroom.

GERARD MAHONEY: This room is about 30-by-16. So would you say roughly 16-by-16, with 35 to 40 people in it.

OFFICER SMITH: When I say "the room was packed with people," and when I say "the cloud of smoke above their heads," I'm not exaggerating in any way.

GERARD MAHONEY: And I certainly believe you.

OFFICER LAWTON: Part of the problem that we had is that we had to start moving people out just on a quick pat-down. I couldn't see Officer Smith from the back of the room because it was so dark.

OFFICER SMITH: When he stood in the back, I couldn't see him from the doorway. So it was just, more or less, just quickly patting everybody down and starting to thin the crowd out. If something was to happen, I wouldn't have been able to know about it.

MICHAEL GARDNER: The room couldn't

be illuminated? Any overhead lights or floor lamps? I take it when you say the room was dark --

OFFICER SMITH: They purposefully had the lights off. We had the bathroom light on in the front and that was basically our only illumination. And there was a small table lamp on in the back of the room, but given the amount of people in the back, that light was dull because it was just so crowded.

So in the back of the room, I couldn't tell if there was a door or a window, or I couldn't see if people were going behind the curtains. It was extremely dark.

SERGEANT KEOUGH: One of the things that we have a problem with is communicating in that particular building. We have to go on Channel 16 to communicate, and a lot of times, you know, we just forget because it's really not second nature.

When we go down in the subway, we

know that, but at that time they were calling for help and they just weren't getting through. One of them actually went outside to call me to respond because they had recovered the firearms.

MICHAEL GARDNER: And then did you, Sergeant, respond after that and participate in essentially the mop-up of it?

SERGEANT KEOUGH: Yes.

MICHAEL GARDNER: Do you have anything else to add besides what Officers Lawton and Smith have shared this evening?

SERGEANT KEOUGH: No. They were basically the first two on-scene. They mainly called me because of the firearms and the alcohol. And we had to pack the firearms and bring them into the station. And they did an excellent job with all that.

MICHAEL GARDNER: Has any action been taken against the people who rented the room?

OFFICER SMITH: As far as I know,

Detective Logan has the case, investigating the firearms, and I'm not sure if there has been any talk about charges against the hotel or anything.

GERARD MAHONEY: So these people, I'm just assuming, what, did they get in motor vehicles and disperse or did they take off on foot?

OFFICER SMITH: I would say that some probably walked up to the Jefferson Park, Jackson Circle area, which is not that far of a walk. They were all juveniles -- not all juveniles, but they were all younger. And they appeared to be the ones that I recognized were neighborhood kids.

GERARD MAHONEY: Cambridge kids.

OFFICER LAWTON: Chief, I can tell you that when I came back out to call Sergeant Keough, there were four individuals left, and everybody else was running across the parking lot like playing games, and everybody else was

just gone before I got there.

MICHAEL GARDNER: It sounds like, given the level of the number of people in the crowd, the difficulty of your being able to manage them in the physical space, and the fact that there were weapons, that, in fact, your own personal safety was at a reasonably high level of jeopardy. Would you comment on that.

OFFICER LAWTON: It sounds like that to me.

OFFICER SMITH: Well, if I could paint a picture, when you find one loaded handgun, and after you've been standing in the middle of a dark room surrounded by people who could easily do you harm, that's scary enough; and when you find three that anyone could have had access to, and I'm standing back their trying to use my radio and separated from my partner in complete anonymity, when they have 35 to 40 people in a crowd like that, they

know we can't identify all of them, so we have to get them one at a time, which is what we were trying to do.

So they tried to foil us by doing what they were doing and hiding the evidence so we couldn't find it on their person. And they created such a safety risk for us that we had no choice except to push them out of the room quickly; otherwise, we could have been in a dangerous situation or where officer's lives have been lost in a similar situation.

MICHAEL GARDNER: Not to mention that their level of intoxication might have affected their judgment.

OFFICER SMITH: Some people might be on probation and if they got caught with a gun, they could have been looking at going to jail. There is a lot of reasons why people would fight with the police. That was not a safe situation for us to be in.

So, had we had the Army there, we

would have been able to identify everybody and handle it better. But given the fact that I know Officer Lawton wants to go home and I certainly want to go home, we cleared the room.

SERGEANT KEOUGH: Another thing, a couple of weeks prior to this was the shooting down on Willow Street with the young girl. And tension was high at that time between the different areas of Cambridge and, you know, it could have been a lot worse than it turned out if the wrong person showed up at the party or something like that. It was a pretty bad situation that night.

OFFICER SMITH: We did manage to pat down everybody before we got them out, but we were not able to get everyone's name, so we had to prioritize what was important.

GERARD MAHONEY: Was there any drug paraphernalia recovered?

OFFICER SMITH: Marijuana and

marijuana cigarettes which everybody had dropped when I announced we were going to pat-frisk everybody and get everybody's name before they left. And it just appeared that everybody just dumped whatever they had.

MICHAEL GARDNER: Thank you.

Mr. Martignetti, what do you say?

MR. MARTIGNETTI: If I could the story from another point of view, there was a response at approximately quarter past 12:00 on Wednesday, July 4th. I was sitting in the office, doing some work. Elaine Olson (ph.sp.), who was my front desk manager was on duty. I was on the phone, I could hear her speaking to a couple of young men in the front lobby.

MICHAEL GARDNER: When you say quarter past 12:00, you are talking about in the afternoon of July 4th?

MR. MARTIGNETTI: Right, in the afternoon.

And one of fellows asked if he could rent a room, and she said, yes, could I see your ID, please. Will you be paying by cash or using a credit card? And he said cash, and he gave her the ID.

And so she said, "I'm sorry, you are not 20 years old. We require people to be 20 years old, responsible parties." And she refused to rent him a room.

And then he went on to say, "Well, my brother is in the car, he is 21 years old, and he will be staying with us. As a matter of fact, we'd like to rent two rooms."

And she said, "Well, what do you need two rooms for?" And he said, "Well, we are just going to go out and, you know, enjoy the 4th, and we just wanted to have a place to stay for the night, we didn't want to stay at home."

So the gentleman went out to the car, came back with his brother, she got his ID,

she put him through the computer, and he cleared with us.

We have a long, long history, 20 years old, and we keep that history updated. Whenever we have a problem of any kind with a guest, whether it be for a late checkout, a nonpayment, damage to a room, police activity or anything, we DNR them. It's what we call DNR, it's right in the computer, "Do not rent," and that person will never be rented to again.

So she put him through the computer and he was fine. He said, "I'd like two rooms, please."

And Ms. Olson asked him what they needed the rooms for, the same thing. He said, "Well, we're going to go out for the 4th and we didn't want to drive home, we figured we would spend the night here."

And she began to read him what we call the riot act, which we do with all young

people. She said, first of all, there is a \$50 deposit per room, and that will be there to cover any damages whatsoever.

We don't want any parties here. No partying allowed. There will just be two guests per room because that's all you're registered for, any other additional guests will be charged. And if we see traffic to the room, you will be asked to leave the hotel immediately. And she went on to say very, very firmly, "no parties, nothing."

And I got up at this the point and I went out from behind the desk in my office to see these fellows. And I, once again, reiterated very, very firmly -- sometimes it helps if it comes from someone like me, a little more to make the point.

They were three young black men, they were well-dressed, they were very, very clean and shaven, they were very, very well spoken. I was favorably disposed to let them rent the

room.

And I also told them about the parties. I also told them they would have to leave the room. And I also told them they would lose their \$50 deposit. And I also told them there would be no traffic and no guests. And I told them that the police will be called if they had to be.

And I told them that they would lose their right to stay there in the future and that evening and they would lose their deposit and have to talk to the Cambridge Police Department if there were any parties at all.

And they all said to me, "No problem, sir." They were as polite as you could possibly imagine. I thought that they were college students, quite frankly, by their general demeanor.

They paid the money, they gave a deposit, they were given a key -- sorry, two keys, one to each room, and they went out.

Now, I am very, very surprised, or I was the next morning, about all of this. Because I was in the hotel that night, I stayed over the hotel that night, as I often do. Because I own Lanes and Games, I work very late, and many nights at 11:00 or 12:00, I may decide to stay over.

I also have -- I call him the head maintenance man, a man named Poindexter who lives there at the hotel, it's his permanent residence, he's on duty all the time. I was in the front of the building, my room was next to the front desk. Mr. Poindexter's room is halfway down the first hall, right before the first set of doors.

And, first of all, let me say that I would never, ever, ever allow something like this to happen. And it's not -- well, Mr. Campbell, who is the night auditor, he is not the manager, he's a night auditor, and he is strictly there to work the desk and balance

the books for the day, to make sure the credits card go through and make sure that the accounts are right and everything else. He's not a manager.

But he is specifically instructed that if there ever is a complaint of any sort, he goes down to the room, knocks on the door, quiets it down. If they don't listen to him, call Mr. Poindexter or myself if I'm on the premises, and we can make the decision at that point to call the police.

If there is any sign of violence, drug use, anything that would be an automatic police matter, we call the police.

And I was shocked the next morning when I learned what had happened. Because, first of all, I would never put my employees in a situation where they were in jeopardy. I would never put my hotel guests in a situation where they are in jeopardy. And I certainly wouldn't put Mr. Poindexter or myself in a

position where I thought there was any kind of jeopardy. I was shocked the next morning when I learned of this, particularly about the guns.

I was very, very firm with Mr. Campbell. And I asked him why he didn't wake me up and/or why he didn't wake Mr. Poindexter up? Why we were not even informed of this? This was completely -- you know, I slept through it, and I'm a light sleeper.

Now, I was in the front of the building and I wasn't in the back corridor. But, you know, I was totally, totally amazed that this had taken place without my knowledge, without Mr. Poindexter's knowledge.

And I told Mr. Campbell, in no uncertain terms, that any time you have something like this happen, we have to be informed immediately. And if a general warning to the people to quiet down -- it

could be as loud as a TV set going loud that disturbs people, you know -- and certainly this is far beyond that, but I'm just saying we have to judge it by degree, we can't call the police for a loud TV, but we certainly can call them for a party that will not break up, and absolutely for a party with this many participants.

Our rooms are about 180 square feet, which is probably from this point on (indicating). And with that kind of traffic in the room -- first of all, it would be pretty hard to fit 35 to 40 people of that room that size. I'm not saying that it can't be done. But they must have all gone in the back door which is -- the front desk does face all the way down the corridor, but there are one, two, three, four glass fire doors in from the back lobby where they would be entering, most likely, to the front lobby. So maybe it was difficult for him to see that kind of

traffic. I don't know.

But he told me that he did go down to the room and try to quiet them down. He did not tell me that they had that many people in the room. He said there was a party and it was loud and he told them to quite down and they said they would.

He said he then went back up to the front desk, he had someone checking in, he checked that guest in, and as he was doing that, the police came in the front door.

And he told me he didn't have a chance to call the police. Those are his words. But he did not call the police. And he felt, of course, that once the police were there, that I didn't have to be woken up or neither did Mr. Poindexter.

At that point also, he didn't know the magnitude of the party, and the fact that there was firearms there. He'll never make that mistake again, if he wants to work with

me. Because it's his responsibility to report things and he didn't.

You know, I really don't know what else to say except for the fact that we would never allow something like that. It came as a complete shock to me. It came as a complete shock to Mr. Poindexter, he was the resident manager, for lack of a better word.

And having seen these three young guys at 12:00, I saw absolutely no reason not to rent them a room. Because, as I said, they were young, clean-shaven guys, well-dressed, very polite, very nice. You know, Ms. Olson and I both gave them very, very stern warnings, and I felt confident that they were able to rent a room there.

MICHAEL GARDNER: I guess what I would express a concern or a reservation about is after having given them these warnings, including there's two people to a room and there's no parties, and if that happens you'll

be asked to leave, if that's presumably the policy you are stating, that the problem isn't in your initial screening but the fact that your desk worker or the person in charge, whether he is the manager or not, he is the person in charge and responsible, he didn't follow your policy. Clearly there were more than two people in the room.

And the disconnect between what the officers have said, and his saying that "this has been going on for several hours, I should have called the police," compared to your representation saying that he "didn't have a chance to call the police," is also troubling to me.

MR. MARTIGNETTI: I agree. I see the holes in it, certainly.

And I have a question, though. What time did the police officers arrive on the scene?

MICHAEL GARDNER: According to the

report --

OFFICER SMITH: We'd have to get ECC's printout of the exact time we arrived. But as far as the report says, it's 1:13 in the morning, the time of the incident.

MR. MARTIGNETTI: Well, I can say that I was out at that front desk shortly after 11:00 at night. Because the last thing I do when I do stay over is to check in with the night auditor.

And I worked the holiday, and we were shorthanded because I had given some of my people the holiday off and I decided to cover for them because I didn't have any big plans.

So I know that I was there at 11:00. So if there was a party going on, I would have noticed it and I would have done something about it at that point. So I'm going to say that the party was probably not going on for several hours as Mr. Campbell said, I think that was a bit of an exaggeration.

And I know that I watched the fireworks on TV, and I was up quite late. And maybe, you know, I'm just going to conjecture and say maybe the party was going on for an hour or so, which is still too long, but certainly not three hours, I can't imagine that; they would have had to have started at 10:00.

GERARD MAHONEY: What was your occupancy that night?

MR. MARTIGNETTI: You know, I don't really recall, but I'm going to say it was not a typical 4th of July. We noticed that we didn't get a lot of the out-of-towners that we usually get who come to Boston specifically for the 4th of July holiday. We didn't get them in those numbers. I'm going to say we were probably at around 65, 75 percent.

GERARD MAHONEY: How many rooms do you have, total?

MR. MARTIGNETTI: Seventy-eight.

GERARD MAHONEY: How about in the immediate area of the room where the incident took place, do you know if those rooms were occupied?

MR. MARTIGNETTI: I don't. I can't tell you that.

OFFICER SMITH: The only room we are aware of is across the hall was the other room that they rented, the same gentleman, and that was vacant. No one else from the other rooms came out. We didn't speak to anybody else. We determined immediately that the noise was coming from Room 139 as the clerk told us.

GERARD MAHONEY: Commissioner, do we know where the call originated from?

ROBERT HAAS: Sounds like an anonymous phone call.

GERARD MAHONEY: What type of security do you have in, for instance, the hallways? You mentioned that the desk faces the hall, yet there is numerous doors, so

there could conceivably be any type of activity further down the hall that you wouldn't want in your establishment.

You don't have any like internal security cameras or anything like that?

MR. MARTIGNETTI: Yes, sir, we have cameras.

GERARD MAHONEY: Where are they placed?

MR. MARTIGNETTI: We have a camera in the rear lobby, a camera in the middle lobby, a camera in the front lobby, a camera outside, outside the first floor. And then upstairs we have a camera in the back hall and a camera in the front hall. We have, I believe, it's six cameras all together.

GERARD MAHONEY: So would one of your cameras capture the any of the traffic going in or out of this room?

MR. MARTIGNETTI: Yes, sir.

GERARD MAHONEY: And who monitors the

cameras?

MR. MARTIGNETTI: Whoever is on duty.

GERARD MAHONEY: And they didn't report seeing any --

MR. MARTIGNETTI: No, he didn't.

GERARD MAHONEY: Is the camera, is it recording?

MR. MARTIGNETTI: Yes. But it depends on the manager, Mr. Poindexter, in his apartment, he has the control for the camera. And because the cameras go from station to station to station, he has the ability to lock in on a particular camera.

And, generally speaking, he likes to leave it on the front desk during the night, and that's so he can basically keep an eye on the control of the building, where the front desk manager is, the auditor, and people come and go from the front.

GERARD MAHONEY: Is there any recording of the night in question?

MR. MARTIGNETTI: There probably was, but I'm sure that tape is taped over by now.

MICHAEL GARDNER: Some hotels or motels restrict entry to the building after a certain time except to a card holder.

MR. MARTIGNETTI: We have that.

MICHAEL GARDNER: So at what time do those doors lock?

MR. MARTIGNETTI: 9:00 -- excuse me. The front door locks at 9:00 and you have to be buzzed in. The side doors are always locked and you have to have a key to get in, a room key only, and those room keys are changed every day.

GERARD MAHONEY: Yet, if you are a guest, you could conceivably open the door for people that are meeting you at the door to let them in?

MR. MARTIGNETTI: Absolutely. But that can happen at any hotel in the world. It could happen at a secure office building.

MICHAEL GARDNER: And so in your conversations with the night clerk, Mr. Campbell --

MR. MARTIGNETTI: Scott Campbell.

MICHAEL GARDNER: -- did he say whether or not he, in fact, saw traffic going in or any way in which --

MR. MARTIGNETTI: No.

MICHAEL GARDNER: Did you inquire of him?

MR. MARTIGNETTI: Yes, I did.

MICHAEL GARDNER: And what did he have to say about it?

MR. MARTIGNETTI: He said he didn't notice any traffic there. But that he did go down to the room on a report of noise and he knocked on the door and asked them to keep it down and they said they would. They were very polite to him. And he went back up to the front desk and got busy doing a couple of things and then the police came in. He should

have called the police immediately; I am not defending his actions.

MICHAEL GARDNER: Were there any prior incidents, Ms. Lint?

ELIZABETH LINT: No. I was just going through the file, and I don't have any.

MICHAEL GARDNER: There was a 2009 action --

ELIZABETH LINT: It didn't lead to anything. There was no violation found.

GERARD MAHONEY: And when these gentlemen rented the room, they presented identification, I assume, a photo ID, a license or something?

MR. MARTIGNETTI: Yes, sir.

GERARD MAHONEY: What was the address of the renter?

MR. MARTIGNETTI: 132 Jackson Place, apartment No. 32, Cambridge.

OFFICER SMITH: And the brother who rented a room a month or so in advance, the

clerk informed us that he is out Everett.

GERARD MAHONEY: A month in advance?

OFFICER SMITH: No, a month ago.

They had done this once before. The brother of the person that rented on this occasion, had rented on a prior occasion and his address is out of Everett.

MR. MARTIGNETTI: Excuse me. Can I ask you to clarify, they had done this once before --

OFFICER SMITH: They had rented rooms in your facility.

MR. MARTIGNETTI: Yes. But when you say they had done this once before, I got the impression that they had partied there before. But you mean they rented rooms there before?

OFFICER SMITH: Well, you could insinuate that.

MICHAEL GARDNER: Well, you don't have any complaints?

OFFICER SMITH: No. I just said that

we were informed that the brother of the person who rented on this occasion had rented a room previously and his address was out of Everett.

MR. MARTIGNETTI: But if he had ever had a party like this or we ever had a problem with him, he would have been a DNR. We would have DNR'd him immediately and that would have been on the computer.

MICHAEL GARDNER: Although, I guess I would say -- and I'll let you respond -- but had there been no screen and had there been no call to the police, I take it you don't have any -- because Mr. Campbell didn't take any action -- you would have no reason to DNR him even today?

MR. MARTIGNETTI: Sir, if I had any knowledge of my own children being in that building and having a party with 35 or 40 people, I would take action.

MICHAEL GARDNER: It just sounds like

from whatever happened, the intervention to the knock on the door saying, "Hey, keep it down," you know, is quite inconsistent with the instructions of your standard procedure, as I understand it, that you laid out at noon.

MR. MARTIGNETTI: Absolutely, I agree. It's quite the contrary of what we instructed them.

OFFICER LAWTON: If I could add one more thing. The person who rented the room was not present or in attendance at the party, and the brother wasn't in attendance.

The brother was actually confronted out in the parking lot when I went out to call Sergeant Keough, and the four people that were left, the car that pulled up was the brother of the person who rented the room.

MICHAEL GARDNER: So as far as you know, neither of the renters were in the space?

OFFICER LAWTON: Correct.

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

ELIZABETH LINT: Commission Haas doesn't want to ask questions?

MICHAEL GARDNER: Oh, I thought you did.

ROBERT HAAS: That's okay.

Mr. Martignetti, I just want to get this clear in my mind.

So in other words, you give a warning to your guests, particularly in this case which is what you did, so I'm just trying to figure out what's the purpose of the warning if you are not going to follow-up on it?

You found a clear violation, the clerk did, Mr. Campbell, right? He went to the room, he saw a party going on, and he took no action.

So you alluded to the fact that you had this conversation with Mr. Campbell, you

were very vague in terms of what the responses were. I'd like to know what his response was to your questions in full detail. Tell me what he told you.

MR. MARTIGNETTI: He agreed. He said that he should have acted sooner and that he should have called the police and he should have woken me up, and he should have woken Mr. Poindexter up.

ROBERT HAAS: And the obvious question is: Why not? Why didn't he do that?

MR. MARTIGNETTI: Well, Mr. Campbell, I've known him for about eight or nine years now. He is a very nice man. But sometimes he is a little bit timid, and sometimes he just figures that it's better not to wake Mr. Poindexter up or wake me up for some reason.

It's not that we are going to be upset with him because this is our job. But he feels that -- he felt that he'd give it a

little while longer, I guess. It's really hard to figure people out. He is a timid fellow. He is not the kind of guy to go charging down there and start to hand out the law.

ROBERT HAAS: Whose responsibility is it to manager the welfare and the operation of the hotel, the guests or the manager?

MR. MARTIGNETTI: The manager, absolutely.

ROBERT HAAS: You made a comment earlier that you wouldn't want to expose yourself or your maintenance person or your clerk to any danger, but it's okay to expose the officers to extreme danger in a situation based on what you described?

MR. MARTIGNETTI: I would never agree to that, sir, never.

ROBERT HAAS: The fact that he waited and allowed the situation to escalate to a point and never called, you have to agree that

that now placed these police officers in great danger?

MR. MARTIGNETTI: Yes, he did.

ROBERT HAAS: So what actions have you taken now to make sure that it never happens again.

MR. MARTIGNETTI: He'll lose his job if it ever happens again.

ROBERT HAAS: No, that's not -- what have you done in terms of your operation pursuits now to make sure that this can't happen again?

Clearly, based on Officer Lawton's testimony, the people that rented the room weren't even there.

MR. MARTIGNETTI: I told him that he has to start doing his job.

ROBERT HAAS: Mr. Martignetti, I want an individual responsible for making sure that this never happens again. Is that what you're telling me?

MR. MARTIGNETTI: Well, we are all responsible. I'm responsible, it's my hotel. I'm taking responsibility.

ROBERT HAAS: So what steps have you taken to make sure that this can't happen again, aside from telling your clerk to make sure, if he finds a violation, to act on it?

MR. MARTIGNETTI: We have reassessed our method of payment, because we find that we are much more likely to have problems with guests if they are not paying by credit card. We feel that people who pay by credit card are, let's say, more established, more unlikely to create problems.

And starting October 1st, we are going all credit card, we are not going to take cash customers. And that is a big, big decision on our part, made strictly -- that's going to hurt our business -- but it's made strictly to bring in more substantial guests.

ROBERT HAAS: I'm more curious about

you lock your doors at 9:00, and yet people have been able to breach those security measures. What are you doing to make sure that can't happen again?

MR. MARTIGNETTI: You're not asking me for my retraining of employees? You are asking me how someone cannot get into the hotel unless they are a guest there?

ROBERT HAAS: Basically, yes. How can there be a situation where you have 35 people show up in a small room in the hotel -- in fact, I'm assuming the clerk must have seen more than two people in that room when he went down there, right?

MR. MARTIGNETTI: Yes, I'm sure.

ROBERT HAAS: How are you going to make sure that people can't do the same thing as the situation that occurred on July 4th?

MR. MARTIGNETTI: Probably by walking the halls more, being up and down.

ROBERT HAAS: You only have one

person working there.

MR. MARTIGNETTI: Well, it's a small hotel. We couldn't afford to keep a security person on all night long. But we do have two people, two management people sleeping there, Mr. Poindexter and myself. All he has got to do is knock on our door and call us. He didn't do either one of those things, and that's what he really should have done.

And at that point -- I mean, for any incident, he should wake us up. We are willing, we are very willing --

ROBERT HAAS: My question to you is: You now know you have a breach in your security, right? And what I'm asking you is: What measures are you going to take to make sure you don't have a repeat of this situation again? Other than having somebody walk the halls. It sounds like you're not going to do anything to inspect the security doors.

I'm trying to figure out the accuracy

of what the cameras are because apparently it didn't work that night as far as you being able to monitor that number of people coming into the hotel and getting into a room.

MR. MARTIGNETTI: Perhaps we should look into getting a better security system so we can have a number of different screens on at the same time; so that we can see the back door, the front door, and the middle door all on the camera at the same time. That's a very good suggestion and something I'd be very willing to do.

I don't see how we can lock the doors. In case of emergency, people have to get in and out.

We can definitely keep a permanent camera on the three entrances. We can, you know, I've already mentioned going to the credit cards because I think that that would definitely limit or somewhat mitigate problems like this.

You know, it's very difficult sometimes. Because when you are in a public business, it's very difficult to say, no, we are not going to rent to someone. We are not going to make a decision based on unfounded thoughts, prejudices, you know, against young people or anything else. You know, it's a very difficult thing. For an innkeeper, you have got to be there, and we are.

ROBERT HAAS: You had an opportunity here to see a situation that could potentially harm someone.

MR. MARTIGNETTI: Absolutely.

ROBERT HAAS: And you really haven't given much thought in terms of what you're going to do to make sure that that can't happen again.

MR. MARTIGNETTI: I have given some thought to it. And I told my desk people that once they see that there is a problem, they must call the police immediately.

But then, again, you don't know whether someone is playing a TV loud or you have a party going on in a room. You know, we hear a noise, we call. We go down, we listen to a room. We make a judgment at that point whether they should call the police or not.

But I told him that he should have called the police earlier and it was his responsibility to do that. He should have woken me up. He should have woken Mr. Poindexter up. We are both very experienced guys.

I've been in Cambridge for 38 years and I've worked with the Cambridge Police Department for 38 years. I used to own Faces. And I worked very, very closely with the department. And many, many officers, both working and retired, could tell you that I'm not someone that would take things like this lightly. I've been around and I will do whatever I have to do.

And I don't want to be here. I don't want to be here this afternoon. You know, I run three legitimate businesses, I work very, very hard, and I want to stop these things from happening.

And so if you can make suggestions to me on how I can best do it, I'd be more than happy to listen to it.

GERARD MAHONEY: There's two things that kind of trouble me. Number one is the fact that this incident took place on the 5th of July, and we are now over two months out from it and it appears you haven't -- with the exception of telling your people to be more vigilant -- you haven't, from what you've stated, you haven't taken any other measures.

Is that a fair assessment, a fair characterization? You said you are open to suggestions.

I mean, this is two months out. I would have thought by this time you would have

perhaps, you know, reached out for a security consultant or something like that or even reached out to the police department to ask for their suggestion or advice on what you can do to prevent something like this.

MR. MARTIGNETTI: You make a good point.

GERARD MAHONEY: The second thing of that strikes me as a little peculiar is that you stated you were there when you heard these gentlemen interacting with the woman at the desk and you came out.

Did you not find it a little unusual that somebody from the Jefferson Park complex was renting or looking to rent two hotel rooms and who, as the bird flies, lives maybe a quarter to a third of a mile away from their residence? Did you not find that a little peculiar?

MR. MARTIGNETTI: We have many local guests. People from Arlington that are just

as close. We have people from Belmont that are just as close. I don't want anyone to assume that I would make a judgment on distance based on the fact that they were coming from Jefferson Park as opposed to Belmont Center.

GERARD MAHONEY: I'm not speaking with respect to economics. I'm speaking with respect to -- I find it a little peculiar that somebody that lives, I'll say -- let's go to Belmont -- I would find it peculiar that somebody that lives that close would want to rent a motel room.

MR. MARTIGNETTI: And in my over 20 years of experience in the hotel business makes me think it's not that peculiar. I have many cases of many middle-aged men who have had arguments with their wives and have stayed in the hotel for two or three days from Belmont, Cambridge, Somerville, Arlington.

I've had times where people have had

family guests and they said to their young men in the house, your grandmother is coming over, she needs the room, go stay in a hotel for a couple of days.

I've had many cases where, you know, you might think it's peculiar because people are nearby, but it doesn't necessarily mean that they are going to be up to something illegal.

MICHAEL GARDNER: I guess one other thought I had is to the extent that both the initial person who had contact with the people to rent and you, yourself, having overheard it, thought it appropriate to essentially talk to these potential renters in a way which, I assume, you don't talk to every person who tries to rent a room from you to lay out some of the ground rules.

MR. MARTIGNETTI: That's true.

MICHAEL GARDNER: In hindsight, it might have -- your antennae having been up, it

might have been appropriate to alert your night clerk as to the fact that you had guests that you had some initial concerns about renting to, and to let the night clerk know to keep an eye on them.

MR. MARTIGNETTI: That is normally the case, but I cannot testify to the fact that this was the case in this instance. But normally we do say, "We have young people in this room, we have young people in that room, keep your eye on them," it's commonplace. I cannot say for a fact that that message was forwarded to the head office in this particular case.

MICHAEL GARDNER: And from your interaction with Commissioner Haas, I understand usually that Mr. Campbell, in fact, had a conversation with the people with the door open and, hence, was able to see inside of the room and, hence, would have known some estimate of how crowded it was.

MR. MARTIGNETTI: I'm not sure whether he specifically told me the door was open or not, sometimes people will talk through a door.

MICHAEL GARDNER: And I guess we are disadvantaged by whoever's decision it was not to bring Mr. Campbell here so we can have the direct conversation with him. But I take it in your conversation you didn't establish whether he knew there were 35 people in the room when he went back to check in another guest?

MR. MARTIGNETTI: Sir, quite honestly, I did not realize the scope of this meeting tonight. I was not aware that there would be police officers as witnesses. I was not aware that I was allowed to bring someone else.

I did not, in my own mind, I did not find myself charged with anything, so to speak, and I did not prepare for a hearing.

ROBERT HAAS: But you understood the gravity of the situation and the fact that the officers also recovered three firearms in the room, and the fact that there were a number of people in the room that shouldn't have been there because of the fact that you had already warned them.

So I'm kind of confused as why you wouldn't take this matter as seriously as we are taking it.

MR. MARTIGNETTI: I'm sorry, maybe I mischaracterized it a bit. I certainly take the matter seriously. Whenever there is a firearm present, it's certainly serious.

I've had guns pointed at me over the years. Like I told you, I have 38 years of experience in the business in Cambridge. A number of times, maybe, I would even venture to say that I've probably had firearms pointed at me more times than many officers on the force. I know the seriousness of it.

However, if I could characterize my impression of the meeting, I did not realize that it would have been appropriate or beneficial to the meeting if I brought in witnesses.

MICHAEL GARDNER: Well, the notice to you dated August 17, 2012, says it is "regarding a disciplinary scheduled for Tuesday, September 11, 2012, Cambridge. Gateway Inn."

It says, "Dear Mr. Martignetti, a disciplinary hearing on whether to revoke, cancel, suspend, reduce capacity, or further condition your inn holder's license at the address, will be held this evening.

"The sufficient cause for this hearing is due to a police report alleging a loud party took place on the premise and several firearms were recovered.

"The manager on duty stated to the police that it sounded like a party was coming

from one of the rooms, but he didn't receive any complaints so he did not call the police.

"Please be sure to attend this hearing to answer any questions the Commissioners may have."

So I'm surprised to hear you say that you didn't understand the nature of the hearing.

MR. MARTIGNETTI: I inquired of certain parties in the city government whether this was standard language or not to give me some kind of indication as to whether this was a fact-finding or an actual hearing. And I was led to believe that this was standard language, not aimed particularly at this case or any other case.

MICHAEL GARDNER: I've been doing these hearings since approximately October of 2010, October of 2010. I don't remember any other hearing in which the license holder was noticed of a report of weapons.

Anything else?

ROBERT HAAS: Mr. Martignetti, I think he's been around long enough that we made a distinction between fact-finding hearings. This is clearly noticed that this was a disciplinary hearing and it also talked about potential consequences that this board would take with respect to this hearing tonight.

So I don't know how you can consider this typical language. We've had fact-finding hearings before disciplinary hearings.

(Inaudible.) I think you are aware of the fact that there is a difference between those two issues.

MR. MARTIGNETTI: I'm sorry, sir, but if I realized that there were potentially very severe consequences as a result of this hearing tonight, I would have brought witnesses, and I certainly would have brought him in.

MICHAEL GARDNER: Before we decide on any further procedures, are there any members of the public who would like to be heard on this matter?

Seeing none.

Are there any members of the public who have personal knowledge of this matter and who are willing to share it with the Commission?

Seeing none. I would suggest, among other things, that what we could do is make a decision this evening with respect to any disposition of this case to defer the matter to our Decision Meeting which is scheduled for the -- when? The 27th?

ELIZABETH LINT: I think it's October 4th.

MICHAEL GARDNER: And the other thing is whether or not to continue the matter to give Mr. Martignetti the opportunity to bring Mr. Campbell in. And I would ask the

Commissioners as to what their preference is.

ROBERT HAAS: Mr. Chairman, I'm inclined to lean towards the latter. And the other stipulation that I'd like to know -- and this is going back to Assistant Chief Mahoney's questions about the security cameras -- but I'd like to know what you're going to do so we don't see this situation again, and give you an opportunity to prepare a much better explanation as opposed to simply putting the burden back on your clerk.

What are you going to do to make sure that this can't happen or at least to reduce the opportunity that this can't happen in the future.

But I think that simply going forward with a disciplinary matter without understanding what corrections you're going to make, is going to be fruitless.

GERARD MAHONEY: Are you still doing long-term housing?

MR. MARTIGNETTI: Stopped it a year and a half ago.

MICHAEL GARDNER: The next two hearings that the Commission has scheduled are October 9th and October 23rd. October 9th has quite a heavy agenda?

ELIZABETH LINT: It is.

MICHAEL GARDNER: So I will make the motion that we continue this matter generally until we have the hearing on October 23rd, with the request that Mr. Martignetti make Mr. Campbell available to us that evening, and also that he be requested to detail any additional or further remedial steps that you've taken or plan to take with respect to better control of the security on the premises to prevent anything similar to this in the future.

ROBERT HAAS: Mr. Chair, are you going to want the officers to return as well?

MICHAEL GARDNER: I'll defer to you

as to whether or not you believe there is the need.

ROBERT HAAS: The only thing I'm concerned about is if there's going to be a rebuttal or further follow-up questions.

MICHAEL GARDNER: I'll be more than happy to have the officers return.

OFFICER SMITH: I'm available if you need me.

MICHAEL GARDNER: So that's the motion.

ROBERT HAAS: I second the motion.

MR. MARTIGNETTI: Is it possible that I could get a copy of the minutes of the meeting?

MICHAEL GARDNER: The minutes of this meeting will be posted on our website as soon as they are ready. Or as soon as they are approved?

ELIZABETH LINT: As soon as they are approved. Actually, we usually post them when

they are ready.

MICHAEL GARDNER: We'll make sure they are posted.

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

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed.

And I want to thank the officers in particular for coming in and sharing their information this evening and your description of handling a difficult situation.

And thank you Mr. Martignetti, and we look forward to seeing you again.

MR. MARTIGNETTI: Thank you.

* * * *

ELIZABETH LINT: Application for Thelonious Monkfish Limited, Jamme Chantler, holder of a wine and malt beverages as a restaurant license and entertainment license

at 524 Massachusetts Avenue has applied to amend their existing entertainment license to include live musical instruments and/or vocalists with amplification.

MICHAEL GARDNER: I would ask you both to come forward and state and spell your names for the record.

ATTORNEY GOLDBERG: Attorney Bernard Goldberg, 620 Massachusetts Avenue, representing the petitioner.

JAMME CHANTLER: Jamme Chantler, J-A-M-M-E, C-H-A-N-T-L-E-R. Manager of Thelonius Monkfish.

MICHAEL GARDNER: And if you would be so kind as to described your plans for us.

MR. GOLDBERG: We are here requesting an entertainment license for expansion to allow music on the premises.

I believe I included in the file a representation of where the music would be held. And I have another copy here which is

more explicit, if that is not, and I would ask that it be shown.

If you are familiar with the location, Thelonius Monkfish on Mass. Avenue, 524, it's a small restaurant. The capacity is probably about 47, 48 people on both sides of the restaurant itself.

In the restaurant on the right-hand side as you enter the premises, there is a raised seating area of approximately eight people sitting at the table. And this is where the site of the music is to be planned. Eight people will not be sitting there because of the music, which will be jazz type music, according to the name of the premises, Thelonius Monkfish, who was one of the great jazz musicians of the past years.

The music itself will be soft jazz, consisting of maybe three instruments, a piano, a saxophonist, and a base. Their music will not be amplified, so to speak, and there

will be a microphone for the purposes of the music being transmitted from that area to the customers, not to overwhelm the customers, because of the nature of the premises itself. It will be soft jazz and perhaps on some occasions there may be a vocalist. But other than that, the music will start, even though the entity's license is from 11:00 to 11:00 at night, the music will not start until approximately 7:00 and will end around 10:00.

It's for the purposes of entertainment to the customers who will enjoy not only the foods but the music itself and be attracted to the premises because of the name itself which promotes jazz type music.

MICHAEL GARDNER: So will this involve a cover charge?

MR. GOLDBERG: No cover charge at all. This is just for entertainment to the customers who will be eating.

MICHAEL GARDNER: The current

entertainment license allows for recorded music?

ATTORNEY GOLDBERG: Yes.

MICHAEL GARDNER: I knew at one point but I can't remember, Thelonius Monkfish, pianist or --

JAMME CHANTLER: Pianist.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: I'm a little bit surprised, because I know the size and the configuration of the restaurant, are you going to adjust your seating capacity now?

JAMME CHANTLER: Do you know where the tiny mat gardens that are toward the back, we just wouldn't seat anybody there. The instruments will be there, and then we'll just have to sit at the other places.

But I'm thinking more to do it for Sunday brunch starting out. I don't want to really do it every night or anything because

we cannibalize our own sales, and that wouldn't be good. Especially where we don't plan to charge for --

ROBERT HAAS: Right. So what you're saying is that you'd normally stay at your normal seating arrangement except for during brunch hour. I mean, Mr. Goldberg represented that it was be 7:00 p.m. to 10:00 p.m., which is beyond brunch area. So I'm just trying to get an --

ATTORNEY GOLDBERG: That would be an exception, as Jamme has indicated during a lunch hour Sunday. Which primarily is also provided by many of the restaurants in the area for the Sunday brunch.

ROBERT HAAS: What I am trying to get at really is: Are you changing your seating capacity or aren't you?

ATTORNEY GOLDBERG: No.

ROBERT HAAS: So that area normally would have eight people --

ATTORNEY GOLDBERG: And that would be eliminated.

JAMME CHANTLER: But we hope not to eliminate it from our license. But that on the occasions that we play music, those eight seats would not be seated, they would be removed from the area.

ROBERT HAAS: So you are planning on using it for dual purposes, right?

ATTORNEY GOLDBERG: Right.

ROBERT HAAS: Using it for entertainment, and also what you're using it for now, right?

ELIZABETH LINT: Mr. Chair, if I may. It's what we would call an alternative floor plan.

MICHAEL GARDNER: And you are aware of your obligations under the City's noise ordinance, and you made the representation that it will not be loud.

JAMME CHANTLER: I think essentially,

because I don't want it to be a show, I want it to be more almost atmosphere music, just to create a good feeling for the people.

MICHAEL GARDNER: Ambiance.

JAMME CHANTLER: In that case, we wouldn't want it to really overwhelm the people sitting there.

MICHAEL GARDNER: Do you have a model of any places in Cambridge that you think you are essentially trying to replicate or come close to?

ATTORNEY GOLDBERG: There are a lot of restaurants that do have music. Whether they support jazz rather than a vocalist, and whether they have modern type music or even this type of music that is presently played around town.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: No.

MICHAEL GARDNER: Are there any

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

Seeing none, I'll make the motion to approve the amendment to the existing entertainment license to include live musical instruments and/or vocalists with amplification, subject to the conditions and the representations made here this evening.

GERARD MAHONEY: Seconded.

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

ROBERT HAAS: Aye.

Gerard MAHONEY: Aye.

MICHAEL GARDNER: None opposed.

If anyone is interested, Ms. Lint has informed us that the Decisions date is October the 4th.

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ELIZABETH LINT: Application,
Cambridge Cuisine, LLC, doing business as --

it's missing something -- Bridgestreet. William Gilson, Manager, holder of a wine and malt beverages license (not yet issued) has applied for a change of business name to Puritan & Company.

MICHAEL GARDNER: Good evening. If you would be so kind as to state and spell your name for the record and identify yourself.

MING-TAI HUH: My name is Ming-Tai Huh, M-I-N-G hyphen T-A-I, last name H-U-H. I'm a managing member of (inaudible), LLC.

MICHAEL GARDNER: So describe to us the status of the business now and the reasons for the proposed change.

MING-TAI HUH: The status of the business is that we are currently undergoing renovations to open this fall at the location of 1166 Cambridge Street. So we are not open for business yet. And we have an active building permit; we are on our way with that.

The nature of changing the name came from two reasons: One, confusion; and, two, we actually found a better name that suits our business more effectively.

Quite honestly, a lot of people asked us, "Oh, your business is on Bridge Street" and that's not the case, it's on Cambridge Street. So maybe it was a little too clever. So there was a bit of confusion on that point.

And, two, the actual building was created by a baked goods purveyor back in the 1920s and 1930s called The Puritan Cake Company, Incorporated.

And learning a lot more about the building during renovations, we decided to evolve that name to something that suits us and also pay a little homage to the history of the building, hence, Puritan & Company.

MICHAEL GARDNER: And so what is missing is the business doing business as Bridgestreet.

MING-TAI HUH: Yes. Bridgestreet, yes. One word.

MICHAEL GARDNER: Any questions?

ROBERT HAAS: No.

GERARD MAHONEY: No.

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

Seeing none.

When is your this estimated opening date?

MING-TAI HUH: Mid-October. We are looking forward to completing renovations and obviously getting the fire inspection, and to open in October.

MICHAEL GARDNER: I'll make a motion to --

MING-TAI HUH: The third week of October is ideal for me. But I certainly would like it to be not later than that date.

MICHAEL GARDNER: Are there any

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

Seeing none, I'll make a motion to approve the application to change the business name from Bridgestreet to Puritan & Company.

GERARD MAHONEY: Seconded.

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

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: Good luck.

* * * *

ELIZABETH LINT: Application.

Heading Home, Incorporated, has applied for a lodging house license at 103-109 School Street for 12 rooms and 24 occupants. Applicant is also applying for exemption from the requirement of having a resident manager.

MICHAEL GARDNER: Good evening. If you would please state and spell your names

for the record and identify your role in the matter.

LISA BROOKER: My name is Lisa Brooker, L-I-S-A, B-R-O-O-K-E-R, and I'm the program manager of the 103-109 School Street.

TOM LORELLO: And I'm Tom Lorello, L-O-R-E-L-L-O, and I'm the executive director of Heading Home.

MICHAEL GARDNER: And would you describe, please, the nature and purpose of the facility and how it's run and staffed and your reasons for being here this evening.

LISA BROOKER: Sure. We are a shelter. We are a home to 15 men, 6 woman, any given night 24/7, 365. We interact with both the police and the fire department regularly, they are very helpful to us.

We also have three permanent preferred housing apartments located upstairs.

We do not have a resident manager at the time but we are staffed 24/7 with at least

one person, if not two, at all times.

MICHAEL GARDNER: And this facility has been in operation for some time?

LISA BROOKER: Yes, it has.

TOM LORELLO: Since 1974; but on the current site, I want to say, since 1983.

MICHAEL GARDNER: And so what brings you here this evening?

LISA BROOKER: Well, actually what started out as a member of the fire department came to our residence and was like asking questions about our on-site residential manager. And I was like, "Oh, we don't have one, but we are staffed 24/7 and we always have staff on-site.

And they asked me, "Are you going to the Commission meeting tonight?" And I said, "No. I have my license," because I had previously been issued a license but it expires in 2013.

So I'm like, I didn't receive

notification that I needed to appear. And I said, well, let me call my boss and the member of the fire department called his boss. And it was just like we both -- we were like, well, he can look around if he needs to because we had our inspection as well and everything had passed.

And I called my boss and he said let them look around. And the member of the fire department said that his boss said he didn't need to. And I showed him the license and he said all is well and good, and he left.

And then later we received notification that we were operating a lodging house license, we were in violation.

And so the letter didn't specify exactly, so I called Ms. Lint to try and figure out what had happened. She indicated that a letter had been sent out to us. I told her that I did not receive it, and had I received it, I would have attended. And her

office then gave us the opportunity to come tonight.

MICHAEL GARDNER: Ms. Lint, can you clarify what it is either about the paperwork or the status of license that needs to be corrected?

ELIZABETH LINT: It was originally Shelter, Inc., once Shelter, Inc. no longer existed and Heading Home took it over.

TOM LORELLO: We didn't take it over, we changed our name.

ELIZABETH LINT: But once that happens, we don't transfer the license, it has to be a new license.

MICHAEL GARDNER: So in terms of changing the name, can you give us any sense about whether this is, in fact, a continuous operation with basically the same staff or the same corporate structure, the same policies, and merely a name change --

LISA BROOKER: Yes.

MICHAEL GARDNER: And if that's the case -- I see some heads nodding, which don't get picked up in the record.

LISA BROOKER: Yes.

TOM LORELLO: Yes, yes. The same board of directors. The same board of directors that voted for the name change are still our board of directors.

I was the executive director of Shelter, Inc., eight and a half years ago. I'm now the executive director. The whole management team is the same management team.

MICHAEL GARDNER: When did the name change occur?

TOM LORELLO: It was voted in 2008 and then we filed out paperwork with the state in 2008, and I think we got the approval in late 2008.

MICHAEL GARDNER: So we are attempting to correct basically the identification of the operator/owner of the

restaurant?

TOM LORELLO: Yes, sir.

ELIZABETH LINT: Yes.

ROBERT HAAS: And you had an exception for resident manager under the former name as well?

MICHAEL GARDNER: Please, you can't shake your head, you've got to answer verbally.

LISA BROOKER: Yes.

TOM LORELLO: Yes, sir.

GERARD MAHONEY: How many facilities does Heading Home, Incorporated operate?

TOM LORELLO: All together, we own 14 buildings right now, but we have spread outside of Cambridge at this point.

And then we also operate about 250 units of scattered site supported housing, and most of that is now in Boston and some of the other communities.

GERARD MAHONEY: So the occupants or

the residents that will be coming to School Street, are they -- is it a short-term stay? Do they get a job? Is it transient?

LISA BROOKER: Yes. We get referrals from the community. We have a drug and alcohol policy. No one is allowed to use drugs or alcohol in or out of our facility. They are set up with case management services, a housing advocate, we have a mental health clinician on site Tuesdays and Thursdays. So we are basically trying to reach people where they are and get them to be self-sufficient.

And we actually have a fairly high successful housing rate. Mostly in the last year we've successfully permanently housed 60 percent of our residents that have come through the doors.

MICHAEL GARDNER: Any disciplinary history of complaints?

ELIZABETH LINT: None.

MICHAEL GARDNER: Commissioner, any

relevant history interaction with the police department?

ROBERT HAAS: No. We've had a pretty good working relationship with them.

LISA BROOKER: Yes.

MICHAEL GARDNER: Anything else you'd like to add?

LISA BROOKER: Not at this time.

TOM LORELLO: Just that we did everything that was asked of us as far as letting the abutters know and we have all the receipts.

LISA BROOKER: Yes. I have everything for you.

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

Seeing none. And I'm wondering, Ms. Lint, do we need to treat this as a new application because of the change of corporate name?

ELIZABETH LINT: That's correct.

MICHAEL GARDNER: I'll make a motion to approve the application for the lodging house license as described in the agenda, including the exemption of the requirement for having a resident manager, taking into account the long history of the operation at the location under the prior corporate name as well.

GERARD MAHONEY: Seconded.

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

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed.

LISA BROOKER: Thank you very much.

MICHAEL GARDNER: Straighten out of the paperwork and good luck in doing the important work that you do.

LISA BROOKER: Thank you very much.

* * * *

ELIZABETH LINT: Application. Club Recreativo Lusitania, Inc., Alvaro Carvalho, manager, holder of an all alcoholic beverages as a club license at 40-42 Fifth Street has applied for a change of manager to Avelino Coelho.

MICHAEL GARDNER: Good evening. If you would be so kind, please state and spell your names for the record and identify your connection with this matter.

AVELINO COELHO: Avelino Coelho, A-V-E-L-I-N-O, C-O-E-L-H-O. I will be the new manager of our club.

MICHAEL GARDNER: So you are the applicant to be the new manager.

AVELINO COELHO: Yes.

MICHAEL GARDNER: And you are?

AMILCAR VASILVA: I'm the president generally assembly.

MICHAEL GARDNER: Please just state

and spell your name for the record.

AMILCAR VASILVA: Amilcar Vasilva,
A-M-I-L-C-A-R, V-A-S-I-L-V-A.

MICHAEL GARDNER: Thank you so much.
Would you tell us about the change
and, also, sir, would you describe any
experience you've had in the past in managing
a similar facility.

AVELINO COELHO: My friend here --

MICHAEL GARDNER: Would you speak up
as best you can.

AVELINO COELHO: My friend here is
resigned from the manager. And they give me a
chance to continue as manager.

MICHAEL GARDNER: So Mr. Carvalho --
is that right?

AVELINO COELHO: Yes.

MICHAEL GARDNER: -- has resigned as
the manager?

AVELINO COELHO: Yes.

MICHAEL GARDNER: And you've been

selected by the board or the organization to be the new manager?

AVELINO COELHO: Yes.

MICHAEL GARDNER: And could you describe any experience you have had in managing an alcohol -- or a facility that serves alcohol prior to now.

AVELINO COELHO: I've been in the club since 1977 and I help the people in the club.

MICHAEL GARDNER: So you've been affiliated with the club since 1977?

AVELINO COELHO: Yes.

MICHAEL GARDNER: In what role?

AMILCAR VASILVA: A member and director.

MICHAEL GARDNER: A member and director.

AMILCAR VASILVA: Yes.

MICHAEL GARDNER: Are you currently a director as well? Are you a director of the

club now?

AVELINO COELHO: Yes.

AMILCAR VASILVA: Yes. I try to help
I'm sorry.

AVELINO COELHO: My English is not
too good.

MICHAEL GARDNER: Well, we appreciate
your attention to it.

So this is a paid position?

AVELINO COELHO: No.

MICHAEL GARDNER: Not paid?

AVELINO COELHO: No.

MICHAEL GARDNER: And just describe
the club a little bit for us, for those of us
who might not be familiar with it.

AMILCAR VASILVA: I can do it, sir,
to help.

MICHAEL GARDNER: Okay, fine.

AMILCAR VASILVA: The club is 90
years old. It's a trademark in Cambridge. It
was known by Lucilex (ph.sp.) a long time ago.

They have a soccer field in (inaudible). They have a big sign a few years ago, Lusitania -- Lucilex -- they indicate we have a membership of a family club, we have about 100 members. It will be 100 years old 1922 (sic). I hope I am here. (Inaudible)

We have some activities, (inaudible), a Portuguese tradition, soccer, and you have class for learning English. One of the immigration is open a few years ago, all the emigrants come from Portugal and the islands, they have a chance to learn English. And you have a professor, you have two classes a week for a few months. And you contribute for -- we have contribution for a scholarship from the police department, City the Cambridge, and the Naval Reserve has this, too.

MICHAEL GARDNER: So do you serve food as well as alcohol?

AMILCAR VASILVA: No. The food is -- I can tell you, about two or three years ago,

the members got together and had a dinner. Maybe two or three, four times a year.

MICHAEL GARDNER: And what is the nature of the alcohol business? Are drinks sold there --

AMILCAR VASILVA: You have snacks, peanuts, sandwiches once in a while. And right now, we begin to be open on the weekends, Friday, Saturday and Sunday.

MICHAEL GARDNER: So the club is open Friday, Saturday and Sunday?

AMILCAR VASILVA: We have a license to open every day. But in the summertime, most of the time it's three days a week and after 12 noon.

MICHAEL GARDNER: And do you have an occupancy limit, the occupancy, how many people can be in the club?

AMILCAR VASILVA: You have a nice hall, small, maybe 60 -- 80, 85 people. And downstairs is the bar.

MICHAEL GARDNER: Is it members only or members and guests?

AMILCAR VASILVA: Members and guests.

MICHAEL GARDNER: And how do you control for underage service?

AMILCAR VASILVA: Very, very, very few problems. You have to ask for IDs, and the guest will be accompanied by a member. It's for members and families and guests.

MICHAEL GARDNER: Ms. Lint, what are the requirements with respect to a manager in a facility such as this with respect to training and --

ELIZABETH LINT: They are required to do the 21 Proof Training.

MICHAEL GARDNER: We have a training program called 21 Proof. Have you been through that training yet?

AVELINO COELHO: No, I'm not training but when I there, I ask the people, I ask for ID.

MICHAEL GARDNER: Well, as a condition of your being given the status as the manager, you have to complete the training program that is organized by the License Commission. So you'll need to make arrangements for that.

ELIZABETH LINT: We will send you the information.

MICHAEL GARDNER: Any history of complaints, concerns in the location?

ELIZABETH LINT: No.

MICHAEL GARDNER: Other questions.

ROBERT HAAS: No questions.

GERARD MAHONEY: I have nothing.

MICHAEL GARDNER: And your experience, as I understand it, is you've been helping out since 1977 and you are a member of the board of directors or have been.

AVELINO COELHO: Yes.

MICHAEL GARDNER: Anything else either of you would like to add? No?

ROBERT HAAS: No.

Gerard MAHONEY: No.

MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter? No.

Anything else he her of you wrote like to add?

AVELINO COELHO: No.

AMILCAR VASILVA: Nothing sir. I just try the best for the community in East Cambridge.

MICHAEL GARDNER: I'm sorry, sir, your last name is pronounced how?

Avelino COELHO: C-O-E-L-H-O, Coelho.

MICHAEL GARDNER: I'll make the motion to approve the change in manager to Mr. Avelino Coelho, subject to his completing all of the required training for the position.

GERARD MAHONEY: Second.

MICHAEL GARDNER: Motion having been made and seconded, all those in favor signify

by saying aye.

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed. Good look with your continued operation.

And congratulations on, as I understand it, your 90th year? And I'm sure we all look forward to seeing you make 100. I wish you luck.

AVELINO COELHO: Thank you.

* * * *

ELIZABETH LINT: Application, Yumewokatare International, LLC, doing business as Yume Wo Katare. Tsuyoshi Nishioka, Manager, has applied for a common victualer license to be exercised at 1923 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 18. The hours of operation will be 11:00 a.m. to

2:00 a.m. seven days per week. Applicant is also applying for an entertainment license to include an audio tape machine/CD playing music below conversation level, 1 TV, and a radio.

MICHAEL GARDNER: Good evening.

Would you be so kind as to state and spell your names for the record for purposes of the stenographer.

ATTORNEY CHIN: Good evening. My name is Attorney Russell Chin, C-H-I-N. I'm representing the applicant.

TSUYOSHI NISHIOKA: My name is Tsuyoshi Nishioka, T-S-U-Y-O-S-H-I, N-I-S-H-I-O-K-A, manager.

HIDEKI HAROMOTO: My name is Hideki Haromoto, H-I-D-E-K-I, and my last name is, H-A-R-O-M-O-T-O.

TSUYOSHI NISHIOKA: He is a friend.

MICHAEL GARDNER: Mr. Chin?

ATTORNEY CHIN: Thank you,
Mr. Chairman and members of the Board.

We are here before you with an application for a CV license to open and operate a Japanese soup restaurant. And Mr. Nishioka has approximately 11 years of experience, managing and operating similar restaurants in Japan. This will be his first restaurant in Massachusetts.

He is state certified. And we have executed a lease for a property that used to be a pizza restaurant. We are looking to keep the same seating, which will be 18, and looking to expand the hours a little bit. But other than that, we are not making too many changes.

We are looking for an entertainment license strictly for music and television, conversation level music.

And with that, we'd be open to your questions.

MICHAEL GARDNER: If you know, what were the hours of operation of the previous

establishment?

ATTORNEY CHIN: I believe that they were 11:00 to 11:00 or 11:00 to 12:00, something like that. We are requesting 11:00 to 2:00.

MICHAEL GARDNER: And I guess the generalized question is: Do you feel confident that it's economically viable to have a restaurant with a seating capacity that small?

ATTORNEY CHIN: Mr. Nishioka has operated restaurants of a similar size; again, not necessarily in Cambridge but in Japan. And he is very confident that based on his experience and based on the number of restaurants of a similar type in New York City, with a similar capacity, that he will be able to operate it successfully.

MICHAEL GARDNER: And to what extent is take-out a component of the business?

ATTORNEY CHIN: Where it is strictly

soup, we think that the take-out will be limited. We think that most people will be coming in to eat their soup.

MICHAEL GARDNER: And tell us about supplies and deliveries, how supplies and deliveries will get there and will get in from the back door or front door, and also your arrangements for trash and rubbish.

ATTORNEY CHIN: Could I defer to Mr. Hideki? Mr. Nishioka has English as a second language and we brought in his friend to help translate for purposes of the hearing.

(Discussion off the record between Attorney Chin and his clients.)

ATTORNEY CHIN: There will be a back door for both deliveries and trash transfer.

MICHAEL GARDNER: Is there currently a dumpster or a trash removal service available to you?

ATTORNEY CHIN: Under the lease, the landlord is obligated to take care of the

trash removal, apparently there is a dumpster of some sort.

MICHAEL GARDNER: Are you keeping basically the same seating arrangement as the pizza place had or are there any other renovations that are required?

ATTORNEY CHIN: Seating will be the same in terms of number. There is a significant amount of renovation that has been contracted for and is actually undergoing right now.

MICHAEL GARDNER: Will the soup or the various foods be prepared on-site?

ATTORNEY CHIN: Yes, they will.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: How many people will normally be working in the restaurant?

ATTORNEY CHIN: Three.

ROBERT HAAS: Three simultaneously, or is there three employees?

ATTORNEY CHIN: All together.

ROBERT HAAS: So there will be three people on the premises when it's in operation, right?

TSUYOSHI NISHIOKA: Yes.

MICHAEL GARDNER: And in terms of being open so late, what are your plans with respect to making sure that there are not any noise problems, traffic problems, or any disturbance to the neighborhood?

ATTORNEY CHIN: There are other restaurants, as I understood it, open approximately to that hour. And we only have seating capacity for 18, so I think that the traffic should be pretty limited with such a small number of potential patrons.

MICHAEL GARDNER: Any questions?

ROBERT HAAS: No.

GERARD MAHONEY: No.

MICHAEL GARDNER: Are there any members of the public who would like to be

heard on this matter?

Seeing none.

And we understand that you have prior experience in Japan and operating similar type restaurants?

ATTORNEY CHIN: Yes.

MICHAEL GARDNER: And what's the projected opening date?

TSUYOSHI NISHIOKA: The end of this month.

MICHAEL GARDNER: Well, I'll make a motion that we approve the common victualer license as described in the application and the entertainment license as described.

I would suggest the condition that it will at least have some inspection or visitation, particularly in the late hours, I'm just a little concerned about going to 2:00 a.m., to make sure that after it's in operation and that there is not a neighborhood disruption.

But we'll make the motion to approve the hours subject to review and inspection by our staff.

ATTORNEY CHIN: Sure. Thank you.

GERARD MAHONEY: Seconded.

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

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed. So welcome to Cambridge and good luck with your operation.

ATTORNEY CHIN: Thank you.

* * * *

ELIZABETH LINT: Application, 29 Ware Street, LLC, Claus De Bansa, Manager, has applied for a lodging house license at 29 Ware Street for 12 rooms with 12 occupants. Applicant is also applying for an exemption from the requirement for having a resident

manager.

MICHAEL GARDNER: Good evening. Would you come forward and state and spell your name for the record and describe your role and then explain what you are proposing.

CLAUS DE BANSA: My name is name Claus De Bansa, C-L-A-U-S, D-E, B-A-N-S-A. I'm the owner of the property 29 Ware Street in Cambridge, and I'm here to apply for a lodging house license for 12 rooms with 12 occupants.

MICHAEL GARDNER: So you are the owner of the property?

CLAUS DE BANSA: Yes.

MICHAEL GARDNER: And what is the plan for the lodging house? Just describe what it is that you anticipate as a business.

CLAUS DE BANSA: I plan on renting to Harvard and MIT scholars, and that is the plan.

GERARD MAHONEY: What is the current

use of the building?

CLAUS DE BANSA: The current use is a single family.

GERARD MAHONEY: Single-family home?

CLAUS DE BANSA: Yes.

MICHAEL GARDNER: Are there any zoning issues?

ELIZABETH LINT: Not that I'm aware of. We don't have any information yet because there is renovations going on. I'm not aware of any.

CLAUS DE BANSA: It's a C3 zone.

MICHAEL GARDNER: You have explored the zoning issue?

CLAUS DE BANSA: Yes. It has all been signed off by Ranza (inaudible) and by the fire department to have a sprinkler system there, a sophisticated fire alarm system there. Captain Turner at the time came personally to inspect it, and this was all done.

MICHAEL GARDNER: Has the renovation been all done so far?

CLAUS DE BANSA: Yes.

MICHAEL GARDNER: And you've divided the single family house up into the 12 different rooms?

CLAUS DE BANSA: There are three rooms on each floor. On the third floor, on the second floor, on the first floor and on the ground floor.

MICHAEL GARDNER: What are the bathroom arrangements?

CLAUS DE BANSA: Most rooms have private bathrooms.

MICHAEL GARDNER: What experience, if any, have you had in operating a lodging house or a facility such as this before?

CLAUS DE BANSA: I have a long experience, maybe from the early '90s on, in Cambridge. First with somebody else and then on my own. I own some other lodging houses in

Cambridge.

MICHAEL GARDNER: How many and where?

CLAUS DE BANSA: I own one at 27 Williams Street, I own one at 61 Fayette Street, I own one at 63-65 Inman Street. I own one house at 179 Prospect Street where there are four rooms that are lodging house, it's just four rooms, the rest are apartments. And I think that's it.

MICHAEL GARDNER: Do we have any history of problems with any of these facilities?

ELIZABETH LINT: No, no.

MICHAEL GARDNER: How soon are you ready to rent?

CLAUS DE BANSA: As soon as I get the approval from the License Commission.

MICHAEL GARDNER: Do you have any tenants there now?

CLAUS DE BANSA: I have two tenants there now. I signed the lease for a third

tenant because I know that I can have, with this current arrangement in a single family, up to three unrelated tenants.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: And the reason for the exemption for a resident manager is?

CLAUS DE BANSA: In my other houses, I don't have a resident manager either and I'm available and around all the time. I have a backup person who is -- you know, everybody has the phone number to. And the fire alarm system notifies me in case there is a problem or my backup person. And so we know this is how it has worked very well over the last 20 years.

ROBERT HAAS: How often do you typically inspect the properties?

CLAUS DE BANSA: Every day.

GERARD MAHONEY: Your fire alarm system is monitored, is it?

CLAUS DE BANSA: It is set up to be monitored. But since it has not been a rooming house since '05, it is a phone line but it's not connected to the fire alarm system but it's ready to be connected.

GERARD MAHONEY: So you are ready to secure a vendor for the alarm company --

CLAUS DE BANSA: I have already, yes. I worked with Alarm-X in my other houses. And they have installed the system and they will have full stations on each floor and it will have fueled boxes on each floor.

GERARD MAHONEY: I'm very familiar with their work, they do good work.

CLAUS DE BANSA: And when I came to have a sprinkler system installed and the sophisticated fire alarm system, at the time it was a single family, and Captain Turner was very happy and he said "you do more than you have to." But I had in mind that I would come here to ask for (inaudible) conversion of the

units.

MICHAEL GARDNER: Any kitchen facilities at all?

CLAUS DE BANSA: Yes. Currently we have one kitchen. And I may come in the future, you know, to ask to come and put in a new kitchen on each floor, on the second floor and on the third floor, but not on the ground floor.

GERARD MAHONEY: Any parking issues?

CLAUS DE BANSA: I have five parking spots. I have two inside of the garage, two behind the garage, and one on the left-hand side of the garage between the house and the garage.

Typically, my type of tenants do not have cars, but I'm happy that I have parking all the same.

GERARD MAHONEY: In the beginning, did you say MIT or Harvard scholars?

CLAUS DE BANSA: Scholars, yes.

(Inaudible) usually post surgeons, graduate students or professors. It's always the same.

MICHAEL GARDNER: Any questions?

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

Seeing none.

Do you have your abutter notices?

ELIZABETH LINT: I believe I do.

(AUDIENCE MEMBER)

MICHAEL GARDNER: Please come forward and state and spell your name for the record.

JOHN LICHTER: My name is John Lichter, L-I-C-H-T-E-R. I own 23 Ware Street and I own 468 Broadway, so I'm on both sides of him.

And my concern was the lack of a manager. He says he has done it before. I have been at past license decisions and I guess some places are run without a manager and some with. So long as there is no problems, I have no problems. I assume some

people do have them.

MICHAEL GARDNER: Well, we also rely on complaints from members of the public. So if, in fact, you or others do have problems, now or in the future, which we hope doesn't occur, please come see Ms. Lint or let the License Commission know.

Thank you, sir.

So given the extensive experience within the City without complaints, and subject to all the other regulatory requirements being met, I would make the motion to approve the application for a lodging house license at 29 Ware Street as described, and also to exempt the applicant from the requirement of a resident manager.

GERARD MAHONEY: Second.

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

ROBERT HAAS: Aye.

GERARD MAHONEY: Aye.

MICHAEL GARDNER: None opposed. So good luck.

CLAUS DE BANSA: Thank you.

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ELIZABETH LINT: Application. Bon Me Foods, doing business as Bon Me. Patrick Lynch, manager, has applied for a common victualer license to be exercised at One Kendall Square, Suite B3105. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 20 seats inside and 10 seasonal outdoor patio seats on private property. The hours of operation will be 7:00 a.m. to 2:00 a.m. seven days per week.

MICHAEL GARDNER: Good evening. If you would all be so kind as to state and spell your names for the record and identify your relationship.

PATRICK LYNCH: Patrick Lynch,
P-A-T-R-I-C-K, L-Y-N-C-H. My wife and I own
Bon Me Foods.

ALISON FONG: My name is Alison Fong,
A-L-I-S-O-N, F-O-N-G. I'm the owner as well.

TEA KANLEHRMANN: Tea Kanlehrmann,
T-E-A, K-A-N-L-E-H-R-M-A-N-N. And I'm an
employee.

MICHAEL GARDNER: So why don't you
tell us about your plans.

PATRICK LYNCH: We operate two food
trucks in the City of Boston. And we've been
doing that for about a year and a half. We
are both Cambridge residents and we are
looking to open up a physical location now.

And so we picked out a spot in the
Kendall One building. And basically we intend
to do pretty similar foods to what we've been
doing on our trucks. We have a quick service
food concept, and it's like Vietnamese
inspired food. And we'd like to open up I

guess towards the end of the year in the Kendall One building.

MICHAEL GARDNER: And so no prior experience in operating a restaurant out of a fixed location?

ALISON FONG: I'm also the chef, and I've worked for a number of years in the culinary industry and in a commercial restaurant kitchen.

MICHAEL GARDNER: You worked in the culinary industry.

ALISON FONG: Also, I'm the director of food services for a private school.

MICHAEL GARDNER: And so how will you be able generally to manage these very different operations and make sure that your service in Cambridge is up to high quality?

PATRICK LYNCH: Well, we already have a manager in place for the restaurant in Cambridge. He currently works on our truck every day and will be shifting over to the

restaurant when we open. We also both intend to be at the restaurant most days, you know, one way or another.

Alison is going to continue to be in charge of food, both at the restaurant and for our trucks, so she'll probably be at multiple locations basically every day.

She's leaving her job at the school, which is a full-time job, so she will be able to focus more on this. She's leaving in November.

ROBERT HAAS: Who has a full-time job, your employee or your wife?

ALISON FONG: I do.

ROBERT HAAS: How many employees do you have now or will you have?

PATRICK LYNCH: We currently have I believe it's 33 employees. And with the restaurant, we'll probably will be adding around -- it's hard to say right now. We probably won't add too many in the winter, but

once the summer picks up again, we'll probably add at least ten employees, maybe more.

MICHAEL GARDNER: Are these hours of operation from 7:00 a.m. to 2:00 a.m., both realistic and required?

PATRICK LYNCH: We wanted to apply for the maximum window that would be possible and then figure out what would make sense for our operation.

We don't currently do breakfast. And our current hours on our trucks are roughly 11:00 a.m. to 8:00 p.m. I think that's an area that has some night life and we probably would want to explore being open a little later in the evening, and we may try out breakfast at some point. But I don't know if we are going to do that initially.

MICHAEL GARDNER: In general, our concern is if somebody applies for hours of operation, we expect them to be open those hours because that's part of the service that

is being proposed.

So we don't like an applicant that -- an application to say, "Well, I want the maximum number of hours and then we'll pick according to our business model which of those hours we'll be open."

Have I stated that fairly, Ms. Lint?

ELIZABETH LINT: It's a requirement. The state law requires that you be open your stated hours.

PATRICK LYNCH: Okay. So should we revisit that --

ROBERT HAAS: You can modify that now if you know what the hours of operation are. You can always come back and re-apply for extended hours if you think the business model or plan allows for that.

So if you already have a set of hours that you know you are going to be operating, that's probably what you want to do at this point in time, unless you want some time to go

back and think of it.

(Discussion off the record.)

PATRICK LYNCH: Okay. Why don't we say 8:00 a.m. to 11:00 p.m.

MICHAEL GARDNER: So that means you're going to be open from 8:00 a.m. to 11:00 p.m. the days you state you're going to be open.

ROBERT HAAS: You have to be.

PATRICK LYNCH: Well, let's say 11:00 a.m. to 11:00 p.m.

MICHAEL GARDNER: Seven days a week?

PATRICK LYNCH: Yes.

MICHAEL GARDNER: So as we understand the amendment, you are proposing to have a common victualer license with patio seating on private property from 11:00 a.m. to 11:00 p.m. seven days a week?

PATRICK LYNCH: That's correct.

MICHAEL GARDNER: And tell us about your arrangements for pickups and deliveries

and trash removal.

PATRICK LYNCH: The building has a common dumpster area, and I believe that there are shared cardboard pickup, and then each of the restaurant tenants in the building has their own, like, trash for food waste. And so we'll have a dumpster there in the same area and get it picked up as required, which will probably be at least several times a week.

ALISON FONG: And there is a loading dock in back for deliveries.

GERARD MAHONEY: Which space -- I'm trying to visualize -- I'm somewhat familiar with the property down there. I'm trying to visualize what space this is that you're going into?

PATRICK LYNCH: It's in the 300 building, which is the one that has Friendly Toast in it, and also the new Westbridge Restaurant. And there is a small space that's open right next to Friendly Toast; it's been

open for, I think, a year and a half.

GERARD MAHONEY: Is this down in the well lit area?

PATRICK LYNCH: No. It's a half-level up.

MICHAEL GARDNER: Any questions?

ROBERT HAAS: No.

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

Seeing none, I'll make the motion to approve the common victualer license for a seating capacity of 20 inside and 10 seasonal outdoor patio seats, for hours of operation of 11:00 a.m. to 11:00 p.m. seven days a week.

GERARD MAHONEY: Second.

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

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed.

And your expected opening date would be? I think you said it, but --

PATRICK LYNCH: Hopefully early January. We'll see how that goes, but that's our hope.

ELIZABETH LINT: Mr. Chairman, just for the record, we do have a letter in support from Patrick McGee, President of the East Cambridge Business Association, who supports the application. Counselor Twoomey is also in support of the application, as is Counselor Chung.

MICHAEL GARDNER: Thank you for adding that to the record.

Welcome to Cambridge. Good luck.

PATRICK LYNCH: Thank you.

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ELIZABETH LINT: Application of Afroze-Begum, LLC, doing business as Nimah Market, Sajjat Hussoin, Manager, has applied

for a common victualer license to be exercised at 2180 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises, with a seating capacity of eight. The hours of operation will be 8:00 a.m. to 10:00 p.m. seven days per week.

MICHAEL GARDNER: Good evening. If you would be so kind as to state and spell your names for the record and tell us your role in this application.

SAJJAT HUSSOIN: My first name is Sajjat, S-A-J-J-A-T, last name, Hussoin, H-U-S-S-O-I-N. And this is my wife.

ROUSHAN AFROZE: My name is Roushan, R-O-U-S-H-A-N, last name is Afroze, A-F-R-O-Z-E. I'm one of the owners and operators.

MICHAEL GARDNER: Could you describe your plan for us, please.

SAJJAT HUSSOIN: We have been in

business for almost four years now. We sell halal meat and frozen fish, whole beans to ethnic dry goods. So what we have found over the years is the order for halal fish meat. Sometimes beginning at work for extra time like a half-hour, 45 minutes. And also to process the fish (inaudible).

So what happens all the time is people come in store and some people (inaudible) --

THE STENOGRAPHER: I'm sorry, but I'm having a hard time understanding you.

SAJJAT HUSSOIN: I'm sorry. My accent. Let me start again.

MICHAEL GARDNER: So people come into the store, they have to purchase something, they have some time to wait, sometimes as much as a half-hour. Even if they have children, especially if they have children, they are not exactly sure how to fill the time.

Is that a fair summary of what you

just said?

SAJJAT HUSSOIN: Yes.

MICHAEL GARDNER: And so your plan then is what?

SAJJAT HUSSOIN: That's one. And the second thing is, we are at the corner of Pemberton Street and Mass. Avenue, so there are lot of walking people there. They stop by in the store for food or anything, or they receive tea, that type.

The third thing is that we have a bus stand next to our store.

MICHAEL GARDNER: A bus stand, did I hear that right?

SAJJAT HUSSOIN: Yes. And so what happens is sometimes people wait there for 15, 20 minutes, waiting for the bus to come. So they all want to come in the store and wait for the bus.

And so what we want is could we have some sitting places in the store. We have

room for like ten chairs and two tables so the people can sip tea, coffee, have some snacks or maybe a light lunch or read the newspaper or just -- this is what we are.

MICHAEL GARDNER: So you are proposing to change the business a little bit by having some chairs and tables so the people can have either coffee, tea, or snacks or a light lunch. Okay.

And I understand that you will not have any kitchen facilities on the premises, is that right?

SAJJAT HUSSOIN: Yes, we'll not have any.

MICHAEL GARDNER: So where will the food come from?

SAJJAT HUSSOIN: Most of them are prepackaged. We'll have some tea or coffee all muffins, things of this nature. And we have also frozen (inaudible) that we warm in the microwave, or maybe a frozen dinner.

ROUSHAN AFROZE: And we have a toaster for the bagels, but no flame, no stove, nothing.

SAJJAT HUSSOIN: It's not a restaurant, it's not a cafe. It's somewhere in the middle just to satisfy our customers.

ROUSHAN: And also to excel our meat sales.

MICHAEL GARDNER: Do you have any experience in operating any kind of food service for consuming on the premises?

Do you have any prior experience in the restaurant/cafe area?

SAJJAT HUSSOIN: ServSafe.

MICHAEL GARDNER: ServSafe?

ROUSHAN AFROZE: And we have been selling food like coffee, like packaged donuts, those kinds of things.

SAJJAT HUSSOIN: We have been doing this for almost four years now.

MICHAEL GARDNER: So the business in

the current operation has been going on for four years.

ROUSHAN AFROZE: Three and a half.

MICHAEL GARDNER: And you sell meat there?

SAJJAT HUSSOIN: Yes.

MICHAEL GARDNER: Fresh meat?

ROUSHAN AFROZE: Fresh halal meat.

SAJJAT HUSSOIN: Plus our regular (inaudible).

MICHAEL GARDNER: Any questions?

GERARD MAHONEY: I have no questions.

ROBERT HAAS: No questions.

MICHAEL GARDNER: And will this increase your rubbish or trash disposal challenges in any way?

SAJJAT HUSSOIN: We do not expect it. But if it does, we'll handle it.

ROUSHAN AFROZE: We already have our -- because we are not -- but if we sell a lot, we'll add more. We already have inside a

receptacle to put the trash in because we sell coffee and things like that. And because our front side of the store, no complain or rubbish or anything.

MICHAEL GARDNER: Any prior complaints, Ms. Lint?

ELIZABETH LINT: We don't currently license them because they don't have any seats, it's just a store.

MICHAEL GARDNER: Is there any member of the public who would like to be heard on this matter?

Seeing none, I'll make the motion to approve a common victualer license for food and non-alcoholic beverages for the seating capacity of eight, open the hours stated.

ROUSHAN AFROZE: We open 8:00 a.m. to 10:00 p.m.

ROBERT HAAS: Is that your current operating hours?

ROUSHAN AFROZE: Yes.

GERARD MAHONEY: I'll second the motion.

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

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed. So good luck with your new venture.

ROUSHAN AFROZE: Thank you so much.

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ELIZABETH LINT: Appeal of Feshea Temesgen, Hackney License No. 29305, is appealing the decision of the Executive Director to uphold the fine for a fare refusal issued by Officer Benny Szeto.

I just have to correct this, it was actually Ellen Watson, the Executive Assistant, who heard this appeal. That was when I was out with my problem.

MICHAEL GARDNER: All right. Will

you come forward, please, and state and spell your name for the record.

FESHEA TEMESGEN: Feshea Temesgen, F-E-S-H-E-A, last name Temesgen, is spelled T-E-M-E-S-G-E-N.

MICHAEL GARDNER: According to the file, the License Commission got a complaint from a member of the public that you had declined a fare. I understand you have made a statement as to your perspective on what happened. And why don't you tell us from you're point of view what happened.

FESHEA TEMESGEN: Four people came to the --

ELIZABETH LINT: Could you speak up so we can all hear you.

FESHEA TEMESGEN: I'm shy. Okay. So four people that came to the Transportation Building, to the Marriott, and they came to ask me for a ride.

The first person, he want to sit in

the front seat. And in my front seat is my laptop and some fruit and my Hackney book and a magazine and newspaper and most things a cab driver would put in the front seat; because sometimes we stand for two hours, three hours, four hours, those are times we read sometimes and e-mail family sometimes.

And the first person, I have some stuff in the front seat, occupied the front seat and they take the next cab. I offer them, I move my stuff to the trunk. Oh, no, they go to the second cab.

They went to the second cab, and that's --

MICHAEL GARDNER: So because there were four people, it would have been -- one of the people would have had to sit in the front seat?

FESHEA TEMESGEN: Yes. The front seat is some of my own stuff. Most of the time I take one person or two persons. It's

very rare to take four people to ask for a ride. That's our why our own stuff we keep in the front seat most of the time.

And customers have rights. I give them, I offer to move my stuff to put it in the trunk, but they take the second cab. And then the officer, he give me a \$15 fine.

MICHAEL GARDNER: So what I don't understand is, if it had happened the way you describe it, which is that there were four people that come up to your cab, they see that you've got material on the front seat, you offer to put the material in the back seat -- or in the trunk, rather, and they say, "No, we'll take the second cab." So why then would they would complain about your refusing the fare?

FESHEA TEMESGEN: I don't refuse the fare. I don't ask them where they go. I don't ask any of them. I don't know why they complain. Maybe they had a bad experience, I

don't know.

But the officer called me and I explained to him. And I drive for the last five years and I never refuse. I don't have any complaints (inaudible).

MICHAEL GARDNER: You're saying that you haven't had a prior complaint about refusing a fare?

FESHEA TEMESGEN: I never have a refusing a fare.

MICHAEL GARDNER: Ms. Lint, do you have anything else to add?

ELIZABETH LINT: I think it might be helpful, I know you reviewed the files earlier, but perhaps the Commissioner and the Assistant Chief would like to hear what Mrs. Watson determined and what Officer Szeto found.

MICHAEL GARDNER: Okay.

ELIZABETH LINT: Feshea Temesgen was driving Medallion 111 on June 20th. He was

the top cab at the stand at the Marriott. Apparently, a party of four wanted to go to the Galleria Mall. One member of the party told Officer Szeto that he spoke with the driver who refused to take them.

They went to the second cab on the stand, which was Medallion 205, who took the party of four to the Galleria Mall.

Officer Szeto called the driver of the Medallion 205, who said he observed the party speaking with Feshea Temesgen, the driver of 111, before they came over to his cab.

It was Officer Szeto's position and Mrs. Watson's position that if the passenger had made the decision not to take the cab just because there was something on the seat, they never would have called to complain.

MICHAEL GARDNER: And so from the Marriott to the Galleria Mall, that is a pretty short ride.

ELIZABETH LINT: It's a very short ride.

FESHEA TEMESGEN: (Inaudible) you ask for destination. Most people don't ask them destination. I don't know where the destination is because they are not in my cab. They look in my cab. The look in the mirror and the front seat is my own stuff. I offer them -- this is a conversation between me and them.

The 205 -- when the officer asked me, who is the second cabbie, I told him "205 is behind me." I told him, "205, he take that fare." I don't refuse them.

I don't ask them for destination because they are not inside my cab, they are outside. I was next to my cab, I stand outside. (Inaudible) I'm outside.

MICHAEL GARDNER: If it occurred the way you describe it, I still don't understand why they would be motivated to file a

complaint about a fare refusal.

FESHEA TEMESGEN: I'm so surprised. I don't know if they had a bad experience. I don't ask them where their destination is.

I know the 205, I gave to the officer who take them, I told them 205. Even officer, when I came in the office, he called them. It's the same number, but they don't respond. He called them, but they don't respond. The people that complain, they don't respond.

ROBERT HAAS: Do you have an accounting of the actual complaint that was filed by Officer Szeto?

ELIZABETH LINT: I do not. I believe it was just a phone call.

ROBERT HAAS: So he didn't file a report with respect to the complaint they were making?

ELIZABETH LINT: No.

GERARD MAHONEY: Did I understand you to say that they were looking in the mirror?

FESHEA TEMESGEN: They see in the mirror my car in the front seat.

GERARD MAHONEY: And where were you when this was taking place?

FESHEA TEMESGEN: I'm next to my car, standing outside.

GERARD MAHONEY: You're standing outside next to the cab?

FESHEA TEMESGEN: Yes.

GERARD MAHONEY: What side of the cab were you on? The driver's side?

FESHEA TEMESGEN: I'm on the passenger's side when they came.

GERARD MAHONEY: And what window did they look in?

FESHEA TEMESGEN: What window? The passenger's side. Because at that time --

GERARD MAHONEY: So you and the fare were standing on the same side of the cab?

FESHEA TEMESGEN: Sorry?

GERARD MAHONEY: So you both were

standing on the passenger's side of the vehicle; is that correct?

FESHEA TEMESGEN: They came into it this way (indicating). I was here, the cab was right there (indicating). And I turned to go to my driver's side, he looked in the mirror, the window is open, they saw my stuff inside.

GERARD MAHONEY: You just told me that you were standing on the passenger's side of the vehicle; is that correct?

FESHEA TEMESGEN: Yes. When I saw them, I turned.

GERARD MAHONEY: Okay. You were standing on the passenger's side of the vehicle. What side of the vehicle were the citizens on? What side of the vehicle were they on? Were they on the same side of the vehicle as you were?

FESHEA TEMESGEN: They were looking in --

GERARD MAHONEY: No. What side of the vehicle were they on?

FESHEA TEMESGEN: All of them.

GERARD MAHONEY: You said they looked in the window of the vehicle.

FESHEA TEMESGEN: The passenger side.

GERARD MAHONEY: So you were both standing on the same side of the vehicle but you had no conversation?

FESHEA TEMESGEN: No. When they came from across the street, I offer them that I move my stuff. And they saw -- the two guys, they left already to the next cab. I offer them to the rest of the people that I move my stuff into the trunk.

And most of the time refusing, the cab driver is complaining, most of the time it's the driver. (Inaudible.) The cab driver, because it was a short fare or whatever it is, most of the time they complain, my experience, because of the short fare, the cab driver is

complaining.

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

Well, again, sir, I appreciate you coming forward and describing to us your point of view. And it seems pretty clear that you understand the rules that you are supposed to operate under.

I'm still unpersuaded that there would be a complaint if it didn't happen as described by the complainant. So I'm going to make the motion to approve the fine for the fare refusal that was issued by Officer Szeto; and it's a fine, which I think is, under the circumstances, not excessive but entirely reasonable.

GERARD MAHONEY: Second.

MICHAEL GARDNER: Any further discussion?

ROBERT HAAS: I have no discussion.

MICHAEL GARDNER: So the motion having been made and seconded to approve the action of Officer Szeto and Mrs. Watson in approving the fine for the fare refusal, all those in favor, please signify by saying aye.

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed.

Sir, we've denied you're appeal. But I do want to say that I appreciate you coming forward and your making it clear to us that you understand the rules you are supposed to follow.

FESHEA TEMESGEN: Okay. Thank you.

* * * *

ELIZABETH LINT: Policy matter. The Board of License Commissioners will hold a policy hearing to create a new class of wine and malt beverages as a restaurant license with a 2:00 a.m. closing time. The license fee will be \$2,475.00 for transferrable

licenses and \$4,944.00 for city issued non-transferrable licenses.

And if I could just give a little background on this, that might be helpful.

MICHAEL GARDNER: Yes. And we won't ask you to state and spell your name for the record.

ELIZABETH LINT: Thank you.

Some time ago Attorney Gallucio was here with a client who applied for a new wine and malt beverages license in Harvard Square with a 2:00 a.m. closing; and somehow it slipped by all of us and it was approved by the Board, but it's a category that we don't have.

So either we have to roll back those hours or create a new category. We do have 2:00 a.m. all alcoholic beverages licenses.

MICHAEL GARDNER: So my recollection of this matter is that the 2:00 a.m. closing was approved by a two to one vote.

I had opposed a new applicant starting out with a 2:00 a.m. closing time with no history of operation in the city.

Then it turns out that, in fact, we've had no beer -- sorry -- no wine and malt beverages license at all operating at 2:00 a.m.

Since then, if you know, Ms. Lint, has there been any particular expression of interest among license holders in seeking to -- who currently have 1:00 licenses -- and seeking to move to 2:00 or not?

ELIZABETH LINT: I have not heard from anyone.

GERARD MAHONEY: It would seem to me that if we have all alcoholic licenses to 2:00 a.m., I don't see any harm whatsoever in beer and wine or malt and wine going until 2:00 a.m.

MICHAEL GARDNER: I think Commissioner Haas was the only member of the

Board who was present that night who voted in favor of the 2:00 a.m., so I'll just ask you if you could give us some of your reflections on the decision to create a new classification.

ROBERT HAAS: Well, my intention was not to create a new classification at this time. The gentlemen -- I keep saying gentlemen, it's the same gentleman, he has a long-standing history here in Cambridge. He has had a number of years of operation for a restaurant.

And just given the proximity of other establishments, I was persuaded to vote in favor of the license.

My intention at the time was not to change the classification, but more or less compelled by the testimony that the gentleman had in his application.

MICHAEL GARDNER: I guess my memory was that the operation was not in Cambridge.

ROBERT HAAS: He had other places that he had an extensive history. I think he had four other establishments, four or five other establishments.

GERARD MAHONEY: He's been in Cambridge, it's the brand --

ROBERT HAAS: He has other establishments, I just don't recall where they are. If I'm thinking about the same applicant.

MICHAEL GARDNER: I guess I would just ask the Commissioners: Should we create this new classification? Do you have any thoughts about criteria that we ought to be following with respect to making decisions about potentially expanding, by a very large number, the number and types of establishments that could, in fact, be open until 2:00 a.m. or could be serving until 2:00 a.m.?

ROBERT HAAS: I'm confused about the mention of the rates. Is that an increase in

rates as far as a new classification or is that the same rates?

ELIZABETH LINT: What was calculated out is just as in, say, an all alcoholic or a wine and malt 1:00 a.m. that has a certain fee based on the hour. And then when we go back and give out the new non-transferable license, the fee is doubled. So this is just the calculation between the 1:00 a.m. and the 2:00 a.m.

MICHAEL GARDNER: Well, with the application of about a 23.6 percent.

ELIZABETH LINT: 1.236 percent.

MICHAEL GARDNER: Yes, 23 percent of the increase over the current 1:00 a.m. license.

ELIZABETH LINT: Correct.

MICHAEL GARDNER: So these rates are about 25 percent higher than a 1:00 a.m. license.

ELIZABETH LINT: Right.

ROBERT HAAS: So, in other words, let's say, for the sake of argument, the Board does, in fact, decide to create a new classification, there will be a new rate assessed for people who want to have a wine and malt license to 2:00 a.m. as opposed to 1:00 a.m.?

ELIZABETH LINT: Correct.

ROBERT HAAS: So just going back to the point the Chief made about all alcoholic and beer and wine, why would you make the distinction?

ELIZABETH LINT: I cannot tell you how this came about. It's been this way for a very long time.

GERARD MAHONEY: My sense would be that the -- it's something that's seen, I think, more frequently now with establishments offering just beer and wine.

ROBERT HAAS: I'm just trying to figure out, we want to made a distinction --

GERARD MAHONEY: The City never made a distinction.

MICHAEL GARDNER: Well, the 2:00 a.m. was the exception for a long time. And we had the vote of the License Commission in 1991 to grant no additional 2:00 a.m. licenses based on disruptions in neighborhoods and congestion and presumably public safety.

And a lot of reasons why, at least at the time, the preference was that 1:00 a.m., meaning essentially 1:30, was the last time that the establishments who were serving alcohol would be open.

In the intervening 21 years, there has been a relaxation of the resistance to 2:00 a.m. closings as applied to all alcohol operations. I think it's probably fair to say that we haven't had the request in the past for beer and wine to go to 2:00 a.m.

ELIZABETH LINT: Not in my tenure.

MICHAEL GARDNER: So, you know, I was

opposed to a 2:00 a.m. license upon the initial application on the prior applicant, and wishing to follow what I understood to be a practice or a preference of the Commission that we get some experience with the applicant in the location prior to considering a 2:00 a.m.

One member of the Commission said that he was not particularly impressed with or moved by the precedent or procedure and intended to vote on such matters on a case-by-case basis.

I remain troubled that we are being driven to essentially make potentially a very large change in the hours of operation for many premises in the city are based on what I understood to have been an ad hoc decision.

GERARD MAHONEY: If I may, how many 2:00 a.m. licenses are there?

ELIZABETH LINT: I could not tell you off the top of my head. I can say that,

although we do have many all alcoholic 2:00 a.m. licenses, there are still many that are 1:00 a.m. And just because they are allowed to have the 2:00 a.m., they don't, many establishments choose to close at 11:00 or 12:00 because they don't want to have that late hour rush to get out.

MICHAEL GARDNER: And do you have any sense about the number of purely wine and malt beverages licenses we've issued?

ELIZABETH LINT: Well, we have 265 total, of which 144 have it, so I want to say that it's probably a 60/40 split with the 40 being wine and malt.

MICHAEL GARDNER: So it's something in the neighborhood of 100 or --

ELIZABETH LINT: Give or take.

MICHAEL GARDNER: Say, 80 to 100 potential applicants.

ELIZABETH LINT: I think so. But not all of them are even 1:00 a.m.

GERARD MAHONEY: When you say "potential applicants," you mean that they can come back and want to go from 1:00 a.m. to 2:00 a.m.?

MICHAEL GARDNER: Yes.

GERARD MAHONEY: But isn't one of the purposes of this Commission to not only issue licenses but also to police the operation and the exercise of the license?

So that if, for instance, we got a disciplinary hearing request with respect to the hotel. So that if the license is issued and in the course of the business it becomes problematic, this Commission has the authority to bring them in for inquiry and disciplinary measures if necessary.

MICHAEL GARDNER: That's true.

GERARD MAHONEY: And I often go back to -- you know, the City Council has gone on record as far as trying to constantly increase and encourage the propagation, if you will, of

nightlife in the city.

ELIZABETH LINT: That's correct. But to play devil's advocate for a moment, one of the other considerations is public need and public good. So is there a need? And does it serve the public to allow the possibility?

GERARD MAHONEY: So I'll play the other devil's advocate and say that if the legislative body of the government states that their policy is to set the public good as being increased to the number of establishments.

MICHAEL GARDNER: Well, in fact, we have CAP; so there's a long established CAP policy.

GERARD MAHONEY: And if I may, would the Chair entertain -- I would make a motion that --

MICHAEL GARDNER: No, I would not entertain a motion yet, the members of the public need to be heard. And also give the

Commissioner a chance to add anything else if he wishes to. He properly chastised me for not giving him a chance to make inquiry of the license holder.

ROBERT HAAS: I hear what the Chief is advising I think because this is a policy decision that's going to impact some of the terms in going forward. And I wonder if it's more appropriate for all three full-time Commissioners to actually vote on this matter.

GERARD MAHONEY: No offense taken.

ROBERT HAAS: I just think since it does, in fact, involve the fire chief and his vote affects change in the policy, he should be present to make the deliberation and also vote on whether or not we want to create a new classification for a beer and wine license.

MICHAEL GARDNER: So if I understood it, Commissioner, you are suggesting that we defer this matter?

ROBERT HAAS: Absolutely.

MICHAEL GARDNER: But, however, having it on the agenda, I would ask if there are any members of the public who would like to be heard on the matter of whether or not the Commission should create a new classification for wine and malt beverages as a restaurant license with a 2:00 a.m. closing time, this is your opportunity to come forward and be heard.

If anybody would like to come forward and give testimony or make a statement, that would be fine, but we won't consider hand gestures from the audience.

Seeing none, I'll make a motion that we continue this matter generally until the next hearing when all three permanent members of the Commission can be present to consider it. That's the motion.

ROBERT HAAS: Second.

MICHAEL GARDNER: Motion having been made and seconded, all those in favor signify

by saying aye.

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed. And no disrespect, Assistant Chief.

GERARD MAHONEY: None taken.

ELIZABETH LINT: I will make an inquiry when the Chief is back from his vacation.

MICHAEL GARDNER: In the meantime, do we know if the premises which obtained a 2:00 a.m. license is, in fact, open and operating yet?

ELIZABETH LINT: Not yet.

GERARD MAHONEY: I went by today, not yet.

ELIZABETH LINT: They were doing renovations.

ROBERT HAAS: May I request a five-minute break?

MICHAEL GARDNER: We have a request

to take a five-minute break and we'll do it, and we will reconvene, by that clock, at 8:55 p.m.

(Brief recess.)

MICHAEL GARDNER: It's now 8:55 and we are going to reconvene.

* * * *

ELIZABETH LINT: The second policy matter. The Board of License Commissioners will meet to discuss amendments to the Rules and Regulations of Taxicabs with respect to service, training, operations, price disclosure, and any other matters that may address the standards of the Cambridge Taxi Industry.

MICHAEL GARDNER: So this is the second hearing we are holding on these proposed regulations. We had an extensive discussion -- would it have been at the August meeting?

ELIZABETH LINT: July.

MICHAEL GARDNER: July.

ELIZABETH LINT: July 19.

MICHAEL GARDNER: And why don't you just introduce yourself. State and spell your name for the record and give us a recap of what's happened since that hearing.

COREY PILZ: I'm Corey Pilz, P-I-L-Z, and I'm the consumer information specialist with the License Commission.

This is the second version of the rules that we have put before the Board of License Commissioners. The second version is based on feedback we received from yourself and also members of the public.

And just as a reminder, our ultimate goal as we looked at the Rules and Regulations was to modernize them and keep up with changes in the industry.

Essentially what we did was we removed provisions that no longer apply to the industry, and we also built in additional

protections, mainly as a result of a customer satisfaction survey that the License Commission conducted per the order of the City Council.

We also built in policies that the Commission had passed separately in different hearings. And we also wanted to take a look at them as to make sure they were balanced for both the drivers, the owners of the vehicles, and also the members of the public.

MICHAEL GARDNER: Triple members of the public.

COREY PILZ: And members of the public as well and to protect them.

And in the second version in front of you, the major changes we have made besides condensing some rules and changing the flow to make them flow better, was we changed the vintage of the vehicle. So they have reduced the age of the vehicles as approved by the Commission for use by one year. Therefore, no

vehicle shall be approved for use as a Cambridge taxicab when the vehicle begins it's 5th year versus it's 6th year.

We also issued a regulation regarding the use of window tint, which is in accordance with both the state and federal laws.

We have carved our a space for rules for dispatch associations, which is something the Commission was interested in previously, and we will be hearing a draft of those regulations on October 23rd.

And, finally, one of the things we started to look at was the lease rate cap. And in an attempt to do this, we sent a letter to all of the medallion owners, all 257, requesting certain financial information in regards to the maintenance of their vehicles. This included the cost for insurance, the actual cost of vehicles, and what the lease income was received, any credit card processing cost, any medallion licensing cost,

gas cost, and also dispatch cost.

Out of the 257 forms that were sent out, we received only 15 back. And none of these included information for accessible medallions or hybrid medallions, and a lot of the forms were incomplete, to say the least.

So based on that information, it was very difficult for us to gather the necessary information to present to the Commission, but we do have the members of the public, which I'm sure we'll speak on that tonight.

MICHAEL GARDNER: So since receiving the revised proposed Rules, I've given Mr. Pilz some comments, feedback, and also some matters were I would have some potential questions.

And Mr. Pilz, you have prepared then a red-lined version of some proposed changes. And are those generally available to members of the public?

ELIZABETH LINT: Yes.

COREY PILZ: They've been made available all evening.

MICHAEL GARDNER: I had just a question about clarity of one sentence on page 12 that you've made a proposed clarification for. I don't think any of this represents a change in existing policy, as I understand it.

COREY PILZ: No.

MICHAEL GARDNER: And I had a typo change on page 15, which you also made an adjustment to.

On page 17, I think we discussed whether or not the term "shotgun" -- although I think we understand what it means, in terms of trying to be a little less colloquial, we proposed changing that to a "ride-along" requirement in connection with training.

On page 18, there is a reference to hourly wage responsibility. It says, "Unless otherwise agreed between the owner and the driver, the taxicab medallion owner shall pay

each driver a straight hourly wage."

I just raise the question about applicable state and federal law. And you have made a suggested change that it be a straight hourly wage that is "in accordance with applicable local, state and federal laws."

In terms of the issue "straight hourly wage," I must say I do not myself know if the Federal Fair Labor Standards Act would require an overtime premium for hours over 40 in a week. I think that's something that we, both as a regulatory agency and for purposes of clarity to our public industry, we should know that.

I'd also raise the question about -- is it page 20 -- on page 25, the rules regarding external marking requirements, that removable magnetic decals were expressly prohibited unless the License Commission had approved the use of any decals on a particular

cab, I'd ask whether any of those had been, to your knowledge, had been proved, and/or to your knowledge there weren't any, and I just raise the question as to whether there was a purpose to having that exception? You made a proposal that mechanical decals be prohibited.

On Rule 10, I think, proposed broadening the language from "cellular telephone" to "electronic communication devices," if I understand that change or the proposed change.

And on page 37, with respect to Rule 7 regarding the Refusal to Transport a Passenger, the proposed language, after listing a number of reasons why a driver might, in fact, legally refuse to transport any passenger, the proposed rules initially had said, "Drivers are encouraged to make a waybill entry if they encounter any of the above situations and to report it directly to the Hackney Carriage Division with a copy of

the waybill."

I'd asked the question as to whether the word "encouraged" is, in fact, the word we wanted? And you've made a change to propose that they be "required" to make a waybill entry if there is ever a refusal for any of the listed reasons.

And then you had made a typo correction on, Article 17, Rule 2, with respect to Reports on Complaints.

COREY PILZ: Yes.

MICHAEL GARDNER: On page.

SERGEANT KEOUGH: 1, Rule 13 with respect to credit cards, the proposed rules, as I understand it, repeat the existing requirements of the Commission that "if a medallion is transferred or sold, a credit card system must be provided in the new vehicle."

My understanding is that this is a policy that was approved a number of years ago

by the Commission.

COREY PILZ: Yes, correct.

MICHAEL GARDNER: And I wanted to take this opportunity of, not with respect to proposing any additional change here, but at least raising the issue of whether or not in addition to such a requirement that at some point in the future we consider again trying to encourage the industry to move to the more consumer-friendly mode of broader access to credit card payments by in the future contemplating that whenever a vehicle is replaced in the fleet, even if it's held by the same owner, we be requiring credit card capacity.

Again, not something I'm making a proposal about, I think that, in fact, requires more study, but I do believe it's a ripe time to consider whether or not we can move this along.

And regarding credit cards, do we

currently have information about the number or percentage of vehicles which, in fact, have credit card capacity.

ELIZABETH LINT: Every Checker cab, which is, I believe 24, has credit card capability. Every Ambassador Brattle cab has credit card capability. And Ambassador says that they require all drivers to use them; however, we know that they don't.

And then certainly many of the independent them have available.

COREY PILZ: We are going to try to gather that number during October inspections since we call every vehicle in for inspection during that period.

I will check with Hackney and obviously I will check off whether or not they actually have a credit card machine.

MICHAEL GARDNER: A couple of other questions I had. Related to one was some general information about the effectiveness an

actual compliance with the requirements that new drivers receive hands-on, in-vehicle instruction.

What used to be referred to as "shotgun," which you are now trying to proffer this as "ride-along."

And I was also interested in the history of compliance with the requirement for a waybill to be completed for every shift, as a generally question.

COREY PILZ: In terms of the waybill issue, the Hackney officer actually performed a series of compliance checks in January through February to ensure that all the vehicles did have waybills within them.

During that period, he issued about 30 citations for drivers who failed to have them within the vehicle.

During the inspections, which occur both in the fall and in the spring, it's a requirement that they actually have waybills

in the vehicle during that period or else they do not pass inspection.

So it's just a matter of catching them in between times, which the License Commission has indicated it's time to take a look at.

In terms of the compliance with the ride-along requirement, that is something that was recently instituted, and we are in the process now of going back through the complaints to review them to see whether or not new drivers are being issued citations or whether or not it's the old drivers. So we are in that process along with the Commission to determine that.

MICHAEL GARDNER: And I take it with respect to the waybills, although we definitely can't complete them unless you have got them in the cab. The fact that they are in the cab, may not be dispositive of whether or not they are being completed.

And the auditing capacity for that is the waybills are supposed to be turned in to the owner or to the company. Do I understand that right?

COREY PILZ: Yes.

MICHAEL GARDNER: And they are required to keep them for some period, either a year or more?

COREY PILZ: Correct.

MICHAEL GARDNER: So those were the general comments I had.

And with respect to the lease rate, the way this is published, there is no proposed change in the dollar amount or the procedures, but it's something which you will continue to review?

COREY PILZ: Correct.

MICHAEL GARDNER: Any other questions or comments of the Commission?

ROBERT HAAS: We just talked about the notion of footwear. I don't know if there

was a change or --

COREY PILZ: I haven't had a chance to look at the footwear requirement rule --

ELIZABETH LINT: I believe it says something along the lines of that it has to not impede your ability to safely drive the vehicle.

I think it would be appropriate to say something like "including flip-flops and bear feet."

MICHAEL GARDNER: Flip-flops is -- there is language about flip-flops in here because I read it.

COREY PILZ: Right. I believe it's inherent in the Rules of Interpretation that you must have footwear, but you can't have footwear that obstructs.

ELIZABETH LINT: And I think it should be --

COREY PILZ: But we can make it clearer.

GERARD MAHONEY: But what are the regulations with respect to the Commonwealth --

ROBERT HAAS: You must have some type of footwear and you should not be allowed to wear footwear that --

GERARD MAHONEY: Shouldn't it just reflect -- shouldn't it mirror that requirement?

ROBERT HAAS: It should be suitable footwear so it doesn't obstruct your ability to operate the vehicle.

COREY PILZ: That is, for reference purposes, on page 35, Rule 15.

MICHAEL GARDNER: Are there any other comments, questions --

ROBERT HAAS: I think you got most of the other things.

MICHAEL GARDNER: Chief, any comments or questions?

GERARD MAHONEY: No, I think it was

very thoroughly done.

MICHAEL GARDNER: I think it's worth repeating that this has been a long-standing and in-development process of the Commission's staff.

COREY PILZ: Yes.

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

AUDIENCE MEMBER: We didn't hear anything that you discussed here. We can't hear anything.

MICHAEL GARDNER: So why -- if you have comments, I'm going to ask you to come forward and state and spell your name for the record, and then you can either make your comments or ask your questions.

JEAN LARRAME: My name is Jean Eugene Larrame, J-E-A-N, E-U-G-E-N-E, L-A-R-R-A-M-E. I am the manager of Medallion No. 172 and have since been 1984.

On this page here that I have here, I see that we are talking about the amendment and also there's something that has been added.

The only thing that has really interested me is where it says that "The owner of the medallion shall" --

MICHAEL GARDNER: What page are you on?

JEAN LARRAME: -- "the owner of the medallion shall pay to the driver for compensation."

MICHAEL GARDNER: So, as I understand it, some operators pay an hourly wage as opposed to a commission to drivers?

JEAN LARRAME: Yes.

MICHAEL GARDNER: And the proposal here is that if there is an hourly wage being paid, that it shall be in compliance with local, state and federal law.

Now, that is, as far as, at least,

I'm not really aware of any local requirements governing wages for taxicab drivers.

We have a living wage ordinance in the city which applies to certain public functions, but I don't think it's currently interpreted to apply to this industry.

The state law is probably the minimum wage, and the federal law is the Fair Labor Standards Act which basically has its own minimum wage, although the state minimum wage is higher. And the federal law has some requirements with respect to overtime payments, which may or may not be applicable in these circumstances.

JEAN LARRAME: I understand that. But in this industry itself, I don't see the reason why it should be presented here in the first place because no one hires a driver like you pay the driver by the hour.

The driver rents the taxi, he goes out and he makes his money. And you charge

the driver the price the License Commission has in the book for the shift, it's per shift, we two a 12-hour shift, we don't go by the hour. So this shouldn't be here in the first place. It doesn't apply here in the taxi industry. I don't know if there is any other city that it goes like this, but here in Cambridge it doesn't go like this.

MICHAEL GARDNER: Well, our understanding was different, that some businesses, some operators, in fact, pay an hourly wage. If that's wrong, it may be wrong, and I am not sure if you can speak for all owner.

Do you have any other comments?

JEAN LARRAME: Yes. Another thing where it says, "No taxi that is more than five years should be on the road." What happened to the grandparent rules?

ELIZABETH LINT: That is what the rule is. That it's not saying that anyone

what who has a vehicle already on the road has to replace it. It says that "when" you replace it, it can't be more than five years old.

JEAN LARRAME: And also, to the question of the credit card, I hear that you were trying to say that anyone that has to replace a car has to move up and put in a credit card, even though they don't feel like they have to have the credit card.

It's not something you're saying you'd like to do now, but it's something you are planning, you have in mind that you would like to do.

I can understand that you really would like everybody to have credit cards, but not everybody is comfortable with credit cards. And also the way it is already, and I understand, if somebody is buying a car -- I mean, not a car, a medallion, you can come up with it and -- say it is a something need, in

order for you to get this the medallion, you need to have your credit card. This is mandatory like this.

But the other way around, to me, it doesn't seem to be really all right. It might be all right for you, but I don't think it's all right for me.

Because myself, personally, I am not too for the rules of credit cards, there's too many fees and too many transactions. I only have one medallion which I deal with, I don't have time for all these transactions that cost me. That is where I have to protect my family. I don't have to go to the bank knowing that I make \$50 today, and I have to go to back to get the \$50 after two or three days sometimes because the person doesn't have the money on the credit cards.

So I think we have to consider that a little more deeply. That's what I want to say.

MICHAEL GARDNER: Are there any other members of the public who would like to be heard to speak about the proposed rules.

(Audience member)

MICHAEL GARDNER: Please come forward and state and spell your name.

EMILIO LORMIL: My name is Emilio Lormil, E-M-I-L-I-E, L-O-R-M-I-L. I own the Medallion 200.

What I understand is the proposal on page 2 --

MICHAEL GARDNER: You are talking about the proposed amendments, this sheet (indicating)?

EMILIO LORMIL: Yes. Page 2 of the Amendments, Article VIII, Rule 6. Drivers are in independent contractors. They don't work for us; they work for themselves. That means, that any amount they make daily or whatever, after paying the owner what the city requires them to pay, the balance is theirs.

MICHAEL GARDNER: Let me try to be clear about this text here. As I understand the rule that they contemplate, I understand that there are a variety of ways in which drivers can be compensated.

Some drivers are compensated by taking all of the proceeds minus what they have to pay to the medallion owner for daily or weekly or monthly lease; some drivers are paid a percentage of gross revenues; and some drivers, perhaps not many, but some are or may be treated essentially as employees and paid an hourly wage.

Now, we understand that doesn't apply to every one, and the proposed rules themselves outline the variety of ways in which drivers can be compensated.

It's just that on this short three or four page sheet, just because we were proposing some change in the text from the bigger set, that it happened to be there.

But this does not imply that we are proposing that the only way drivers are paid is by an hourly wage.

Did I state that fairly?

ELIZABETH LINT: Yes.

MICHAEL GARDNER: So we're not meaning to confuse the issue.

EMILIO LORMIL: It's confusing. We got here workers' compensation, and I think the answer you gave us applies on this one, too, because we do not deal with workers' compensation.

And the next step is the credit card. The credit card, me, personally, credit cards help me because it increases my business. But I pay taxes for the company, the device, the machine company who provide the credit card, at the end of the year, the tax that should be paid to the government, they send to me and tell me we already get it from your account. That means I pay taxes for them.

Some people don't want to deal with the credit card, and I don't blame them. I don't blame them. Because we have to pay taxes here, taxes there. We pay for the machine, we pay for the bank fee, we pay for everything.

When we -- when I got a job for like \$20, for example, what comes in my pocket is like \$15. I have to pay \$5 taxes from here to there.

MICHAEL GARDNER: Well, you do have to pay the taxes, but in terms of the additional cost, that actually results from the fact that you are generating the bill through a credit card, my understanding is you can charge a 5 percent surcharge on the bill to compensate for the bank fees.

EMILIO LORMIL: No, it's not allowed. The customer can give something, but the driver cannot ask for tax.

MICHAEL GARDNER: No, not for tax,

you have to pay the tax one-way or another. The credit card may result in a better record-keeping than cash, but the tax is still due.

EMILIO LORMIL: Right, I understand that. But we can't charge customers -- like if somebody has a ride to Boston and the sale is \$20, the driver can't say, "because of the taxes, you have to give me \$21.50." I can't say that because it's totally illegal. But then at the end of the year, I have to pay tax for the machine for the company and to the government.

GERARD MAHONEY: Is that a tax or a fee?

EMILIO LORMIL: No, we pay for the machine, we pay for wireless -- wireless because we do it --

ELIZABETH LINT: It's a fee.

GERARD MAHONEY: It's a fee. It's not a tax.

EMILIO LORMIL: It's not a tax, it's a fee.

GERARD MAHONEY: Well, you were calling it a tax.

MICHAEL GARDNER: Okay. I think we understand your point.

EMILIO LORMIL: Right. I'm sorry, it's a fee.

MICHAEL GARDNER: Do you have any other comments on the rules?

EMILIO LORMIL: No, that's it for now.

MICHAEL GARDNER: Thank you very much.

Any other members of the public who haven't been heard yet and would like to speak?

AUDIENCE MEMBER: Yes.

MICHAEL GARDNER: Good evening. Would you state and spell your name, please.

ABEL JAN: My name is Abel Jan,

A-B-E-L, J-A-N. I am on 159 medallion.

The credit card that was, when I come in here years ago. And the credit card is not like when you change the new vehicle, it's a new -- for people who buy new medallions automatically have the credit card.

MICHAEL GARDNER: And there is no proposal here to change that procedure.

ABEL JAN: What I heard is a little confusing. It's talking about a new car, it's not clear for everyone.

MICHAEL GARDNER: All I meant to say by that is that it seems to me worth exploring in the future as to whether or not we would make such a change.

The proposed rules here only restate the existing requirement that the credit card machine be added if there is a transfer of a medallion.

ABEL JAN: And hang on. Sometime when you come in here every month, Ms. Lint,

we are talking about the owner, the driver, she said, the rate is supposed to be owner and the driver. Now that changes everything. That's what she said.

MICHAEL GARDNER: I'm not sure I quite got the point, sir, if you could restate it for me.

ABEL JAN: And she said the lease have to be the owner and the driver. If it say \$71 or \$72 to the driver, the driver say yes. She said somewhere between the driver and the owner. She change everything.

ELIZABETH LINT: I think what was said was that we were exploring --

ABEL JAN: Thank you.

ELIZABETH LINT: No, wait. That was one of the things that we were exploring, whether or not it should just be between the owner and the driver or it it's something that we should be regulating.

And at the last subcommittee meeting

I think back in June, Peter Sheinfeld, who was a medallion owner in Boston, and I believe he testified here also, that how Boston does it and that it's, say, an extra \$18 a week. So that's also one of the proposals that we were looking at in determining what would be appropriate.

And I know at one point we talked about something even higher, and that wasn't what the owners really wanted, it was just a certain amount that made it better for them.

So that's all, we are exploring all of that. And come to the meeting tomorrow.

ABEL JAN: I'm always here.

ELIZABETH LINT: Yes, you are.

ABEL JAN: And that's very important. When you come in discussing something and the next day again it's a different story. Like me, we come and waste time.

ELIZABETH LINT: Well, I hope that's not true.

COREY PILZ: And just to give some additional clarification on how the City of Boston operates, are these rates compared to the City of Boston are slightly lower. And the City of Boston does impose what they called a premium on a daily, weekly, and monthly lease. And these are only imposed on vehicles that are driven that are a certain number of years old. It's four years old. That's when they imposed that or allow them to charge those certain increases.

And one of the reasons that we are looking at it is that we have a much higher rate in terms of meter rates than the City of Boston. So even though their rates are lower than ours, they have a lower rate.

ABEL JAN: I have one last question. I would like you, specifically to the owners, what your job is? Specifically your job in the Hackney license? Are you for the customer or for the driver?

COREY PILZ: I'm guide by the numbers and I'm guided by what people inform us.

MICHAEL GARDNER: He represents the City. So he is not a -- he is definitely not a representative of the drivers, and he is definitely not a representative of any particular public.

He works for the regulatory agency which is responsible for regulating the industry under the City charter and state law. He works for all the people.

ELIZABETH LINT: Our job is public service.

MICHAEL GARDNER: Are there any other members of the public who would like to be heard specifically on the proposed rules?

Seeing none, and given the late hour -- I guess, you know, when we had the earlier hearing, I believe it was the fire chief who was here?

ELIZABETH LINT: Yes.

MICHAEL GARDNER: I ask the pleasure of the Commission with respect to whether or not you feel ready to either vote on the rules as proposed or vote on the rules as proposed with the changes which are in the red-lined remarks this evening, or if you want to hold the matter open for any further comment?

ROBERT HAAS: I just want to be clear that you all understand that nothing is really changed with respect to the credit card requirements, right, according to these rules that we are proposing, and there has been no change with respect to -- the other concern you had with respect to the cars. I know that issue was brought up.

So we are saying that any cars that are on the road right now still have the six-year requirement, but as you move into other cars now, it's shortened to a five-year period. All right?

And I think the other issue that came

up -- and I just want to make sure that we are clear about this -- is that the hourly wage is really to talk about a variety of classes of drivers that are going to be operating the vehicle.

So if you are leasing your vehicle out, that still remains the same. If you employ employees and you are paying them by the hour, we're saying you got to pay them a certain hourly rate. If you are not doing that, that provision doesn't apply to you. So I just want to make sure that we are all clear about that.

And I want to make sure there are no other outstanding issues that we haven't heard about tonight before we vote on the proposed regulations. Are there any other questions at all?

ABEL JAN: I think the increase is supposed to be divided with the medallion increase rate we paid several months ago

(inaudible).

MICHAEL GARDNER: We've decided to defer pending getting further economic data any action on the lease rate provision other than to include here a restatement of what the existing standard is.

I appreciate the Commissioner's clarifying remarks here, and I apologize if I have confused anything by raising the credit card question but I at least learned something by doing so.

ROBERT HAAS: And I want to make sure you are comfortable with what we are proposing since you took the time to come here, all right, before we go ahead. I just want to make sure that we haven't missed anything before we consider the regulations.

You know, you took the time to come and I just want to make sure we are respectful of your time and make sure that we've answered your questions before we take any vote or

action on this.

EMILIO LORMIL: One thing that bothers me is that when we have to have the information like how much we pay for insurance, repair and price on a new car and so and so, some of us pay a high amount of money for insurance, depending on who drives the car.

Some of us, depending on which car I'm driving, I can go to the repair shop two times maybe a month or a week. But that figure cannot really apply for a majority of cars out there. But I don't know how the City, the License Commission, can compare which one would deserve to -- maybe I understand it wrongly.

ELIZABETH LINT: What we are looking for is if we have financial information in terms of how much it costs to operate a cab in the course a year, we are going to look at all the ones that we get and average it out.

Because, obviously, some years you are going to pay more, some years you're going to pay less. So if we do an average, then we can come up with a better number. And so then we have a baseline to work off of.

MICHAEL GARDNER: Unfortunately, the response so far has been so meager that we don't really have very good data to work with, and we encourage all of the people who are owners to supply that information so we can better regulate it.

COREY PILZ: And the information is also available on the website and you can download it.

EMILIO LORMIL: Right. But the reason why I think the drivers or owners don't bring it or return that, the License Commission used to give us heads-up on anything that they proposed to do.

And now just suddenly we see the form and we are required to return it. Just we

need to know.

MICHAEL GARDNER: I think that came out of the last hearing in July, and our realization at that hearing that we needed more information on which to act.

So it didn't come out of the blue, it was the subject of a discussion at a public hearing in which, I believe, at that time we made the request of the staff that they gather the information for us.

EMILIO LORMIL: But we got the form probably two weeks ago.

COREY PILZ: And that was all stated -- also on the form it says to please contact me if you have any problems. And the goal is to get all this information in. And I got to tell you, one person has called me.

MICHAEL GARDNER: And we are still open and anxious to receive the information.

ELIZABETH LINT: It is to your benefit.

EMILIO LORMIL: Thank you.

MICHAEL GARDNER: The pleasure of the Commission?

GERARD MAHONEY: Motion to adopt the Rules and Regulations as amended.

MICHAEL GARDNER: Okay. So there is a motion on the floor to adopt the Proposed Regulations, which are the thick set of documents that you have, along with the Proposed Amendments to those regulations.

So you take the original set here, and then there are these proposed changes which are in the red print or the red-lined ones.

And this is still understanding that we are going to be looking at the lease rate issue, and we also intend to look at the matter of the radio dispatch and whether additional regulations will be required in there.

And those, before any changes would

be make on those things, that would also be subject to public hearing and the opportunity for members of the public and all interested parties, including the owners and operators and drivers.

So the motion having been made -- Commissioner, do you feel comfortable in proceeding?

ROBERT HAAS: Yes.

MICHAEL GARDNER: So I'll second the motion and -- before we submit it to a vote, I would just want to express appreciation to Corey and Ms. Lint and the other members of the Commission staff who have worked on this, and also to the members of the industry, including the people who were so willing to stay here so late this evening to give us comments and feedback.

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

ROBERT HAAS: Aye.

GERARD MAHONEY: Aye.

MICHAEL GARDNER: None opposed. So the proposed changes to the regulations have been passed. They will be collated into a single document and available for both distribution and on the website, I assume, as quickly as I can get them.

ELIZABETH LINT: And effective date?

MICHAEL GARDNER: And does the staff have a preference with respect to an effective date?

(Discussion off the record.)

ELIZABETH LINT: October 1st.

MICHAEL GARDNER: So we'll accept as a late and friendly amendment then to the Chief's motion that the regulations will be effective as of October 1st.

Can I have just a roll call on that?

GERARD MAHONEY: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: So we've agreed that these changes will be effective on October 1st. Okay.

Thank all of you for your participation this evening. I wish you well.

Ms. Lynn, do we have any further business?

ELIZABETH LINT: We do not.

MICHAEL GARDNER: Motion to adjourn is always in order.

ROBERT HAAS: Second the motion to adjourn.

MICHAEL GARDNER: Motion to adjourn having been made -- and it's not necessary to have a second, I don't think -- all those in favor, signify by saying aye.

ROBERT HAAS: Aye.

GERARD REARDON: Aye.

MICHAEL GARDNER: And we adjourn at approximately 9:45 p.m.

(Whereupon, the Hearing was adjourned
at 9:45 p.m.)

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS.

I, Evelyn M. Slicius, a Certified Shorthand Reporter and Registered Professional 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, skills and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of September, 2012.

Evelyn M. Slicius
Notary Public
Certified Shorthand Reporter
License No. 127193
My Commission Expires:
May 15, 2013

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