



CITY OF TAUNTON  
LICENSE COMMISSION MEETING  
MINUTES OF THE MEETING

July 20, 2016

7:00 p.m.

PRESENT:

Chairman Peter Lamb  
Commissioner Brendan Mullen  
Commissioner Bruce Thomas

For the Police Department:

Detective Lt. McCabe  
Detective Dennis Smith

Meeting was called to order at 7:14 p.m. by Chairman Lamb.

1. Minutes of the meetings from June 15, 2016. Motion made by Commissioner Mullen to accept the minutes. Motion was seconded by Commissioner Thomas. Motion passed unanimously.
2. **Clube Cabo Verde** – Appearing before the Board is John Paul Thomas who represents the club. Attorney Thomas stated that the officers and directors were changed a few years ago and were approved by the Secretary of State but that the change did not go through the ABCC. Attorney Thomas explained that he spoke with Boston and that this matter needed to be approved before the ABCC could rule on the pending transactions before them. Commissioner Mullen made a motion to approve the application for the change of officers and directors. Commissioner Thomas seconded the motion. Motion passed unanimously.
3. **Police Reports** – Marilyn Edge Director of the Western Bristol County & Foxborough Tobacco & Alcohol Prevention Collaborative. Ms. Edge gives background information regarding the program and states that her program is funded by Massachusetts Department of Health for tobacco enforcement and education. One of the things that her program does is that it will have a minor, usually a high school

student, go to a store to purchase tobacco products. If they are successful, then the store is cited for selling tobacco products to a minor. We have had several public hearings with the Board of Health and most of the establishments that are here today have had numerous hearings with the Board of Health. Back in June of 2015, there were 11 establishments that had received a second offense for selling to a minor. At the time, the Board of Health decided not to suspend any of the licensees. Then, one of the enforcement officers came to the City with a 17 year old minor and one on Friday, conducted over 70 compliance checks with 21 sales. At that time, I requested a hearing with the Board of Health for any one of those 21 establishments who had previous multiple offenses. The hearing was held on May 3, 2016 and for the first time the Board of Health suspended all of the establishments that had a 2<sup>nd</sup> offense and suspended them for 7 days which is the maximum amount. Any establishment with a third offense lost their license for 14 days. Mrs. Edge further explained that when there are these violations and suspensions, she notifies Chief Walsh, who in turn notifies Det. Lt. McCabe to handle anyone who may have an alcohol violation. Chairman Lamb asked if the procedures for the compliance checks are set by the State. Yes; they are similar to alcohol checks, the stores are notified the same day or within 24 hours. Chairman Lamb asked if anyone denied that they had sold tobacco. No. Chairman Lamb asked who provides the signage with the store about the legal age to sell tobacco. Mrs. Edge states that her office does. Commissioner Thomas asked if the minor leaves the establishment with a product and a receipt. Not always a receipt. Mrs. Edge stated that it is state regulation that the store clerk asks for identification for any individual who looks younger than 28 years of age. Commissioner Thomas asked if the establishments that were coming before the Board tonight were on their fourth offense. Yes, or multiple offenses. Chairman Lamb asked if Mrs. Edge found a difference from establishments that sell alcohol or those that don't. No. Ms. Edge states that out of the four establishments that are before the Board this evening, none of them asked for identification. Chairman Lamb asked if the minor they used in the compliance checks looked to be 17 years of age. Mrs. Edge believed that they did. There are assigned checks by the State; we need to do so many each year. Commissioner Thomas asked if the checks were advertised. No. We are not required to do so.

**KCB Liquor Corp. – Police Report #16008606.** Appearing before the Board is Mr. Tusha Patel who is the owner of the establishment. Chairman Lamb asked Mr. Patel if he had received a copy of the report. Yes. Chairman Lamb asked Mr. Patel if he understood it and accepted it as written. Yes. Chairman Lamb asked Mr. Patel if he had anything he wanted to add to the record. Mr. Patel stated that his employee didn't check the identification and has since been terminated. We have everyone check identifications no matter how old they look – whether they are 17 or 90. Chairman Lamb asked if Mr. Patel had any type of education program. Yes, I have been trained but the employees haven't. I am going to have them do it now. Commissioner Thomas asked how long had your employee worked for you. 6 months. Commissioner Thomas asked if the employee had training. Yes– yes, he did. Detective Lt. McCabe goes over the regulations and the statutes, fines, etc. City of Taunton Board of License Commissioners - Meeting Minutes 07/20/2016

Commissioner Mullen stated that in layman's terms, part of your alcohol license conditions state that no crimes can be committed and by selling tobacco to minor is a legal offense against your alcohol license. Commissioner Thomas recommended that you get some kind of system in place. Mr. Patel stated that he is going to get a scanner. Commissioner Mullen made a motion that the Board issue a warning and hold a one day of alcohol suspension in abeyance for a period of one year. If you come before us again for a violation of tobacco sales, you will be issued a one day alcohol suspension. Commissioner Thomas seconded the motion. Motion passed unanimously.

**Royal Liquor Co Inc. – Police Report #16008607.** Appearing before the Board is John Paul Thomas, Vui Le and Lan Kim Le. Chairman Lamb asked if they had received a copy of the police report and accepted it as written. Yes. Attorney Thomas stated that was a violation in 2014, 2015 and one in 2016, all one year and one month apart. The most recent offense, as Mrs. Edge indicated, was a 17 year old boy was approximately 6 feet tall. I have not seen him, I have not seen pictures of him. There was a store employee, not that this is an explanation, but things were moving very quickly in the store and they did not believe there was a question as to whether this individual was 18 years old. My clients accept what they did when they sold to a minor and they failed to check the identification. We did discuss the computer scanner and my clients are going to look into it. It isn't the answer but it helps. My clients tell me that they have had numerous compliance checks, which in my opinion means more than one and my clients have failed one per year over the last three years. Commissioner Mullen asked what the current policy now to check identifications. Mr. Le stated that if they look under 40 years of age, then we check the identification. Mr. Le stated that this has caused them to relook at their procedures and to look at the scanner again. Attorney Thomas informs the Board that his clients are in the process of selling both of their businesses. Chairman Lamb stated that he sees 5 violations in the last 3 years of identification checks; 3 tobacco violations and two alcohol violations. Mrs. Edge stated that the first violation was in 2008. Chairman Lamb asked Mrs. Edge if she had a list of all the compliance checks since 2013. Yes; we have been in 5 times and the FDA has been in 5 times. Commissioner Thomas stated that this Board can now attach violations against their tobacco violations. We would rather you have a better system than coming before us again. Commissioner Mullen stated that you had 5 days last year wherein you were unable to sell alcohol due to failed compliance checks. Then you were unable to sell tobacco for 3 weeks. Commissioner Mullen stated that unfortunately we still have 2 days held in abeyance. Attorney Thomas asked if the Board would entertain the idea of not having them serve the 2 days but perhaps add a day since this is their first tobacco violation. Chairman Lamb stated that he didn't look at it as a first violation but an 8<sup>th</sup> time between the two. They have served minors, which appears to be an ongoing pattern. Commissioner Mullen rereads the previous decision and states that there are 3 days held in abeyance. Commissioner Thomas suggested adding more days and extending the abeyance period so that they don't have to close down – extending the 3 days for an additional 2 years and adding 2 more days for a total of 5.

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Commissioner Mullen stated that with the understanding that if there is any violation whatsoever, you will serve the entire 5 days. Mrs. Edge stated that their last violation was in March 2016 and it has been extended to March 2018. They have served 7 nights and 14 days previously. Mrs. Edge added that Mr. and Mrs. Le did not appear at the hearing in June of 2015. Commissioner Mullen made a motion that we issue a new warning and add 2 days to the 3 days held in abeyance and that we extend the period for an additional 2 years for a total of 5 days held in abeyance for a period of 2 years. If there is any violation on the premise that takes place, those five days held in abeyance will be served to expire on July 20, 2018. Commissioner Thomas seconded the motion. Motion passed unanimously.

**Taunton Liquors, Inc. – Police Report #16008608.** Appearing before the Board is John Paul Thomas, Vui Le and Lan Kim Le. Chairman Lamb asked if Mr. Le if he had read the report and accepted it as written. Yes. Chairman Lamb stated that this licensee has had several violations. In this case there are 2 days held in abeyance from March 2015. Chairman Lamb asked if the same facts and circumstances held for this establishment. Yes. Attorney Thomas stipulates to that. Chairman Lamb asked Mrs. Edge how many violations there were. Mrs. Edge states that in the last three years, they have had three but one was an FDA violation. Commissioner Mullen stated that the Board's concern is that you have 2 establishments, multiple violations for alcohol and multiple violations for serving tobacco. This is a huge problem and not the normal. Commissioner Thomas asked the cost of the scanner machines. Attorney Thomas stated that he wasn't sure, but we will be looking into it. Commissioner Mullen stated that he would make a suggestion that the gentleman previously before us is now checking everyone's identification. You have several violations. There is a lack of education and training. You need to start checking everyone's licenses. You have too many holes in your system. Commissioner Mullen made a motion to issue a warning and we will issue the 2 day alcohol suspension to be held in abeyance for 2 years and we will also extend the previous 2 days held in abeyance for a period of 2 years with an expiration date of July 20, 2018. Commissioner Thomas seconded the motion. Motion passed unanimously. Chairman Lamb asked Detective Lt. McCabe if this violation would transfer with the license. Yes, it does. Attorney Thomas suggested the digital clock. Commissioner Mullen stated that they have to check the license. They have to. Commissioner Thomas agreed.

**Prestige Car Wash & Gas of Taunton, Inc – Police Report #16008609.** Appearing before the Board is Sharon Smith, district manager of Prestige Car Wash. She is here on behalf of the licensed owner, but it not the named manager. Chairman Lamb asked if Ms. Smith had received and read a copy of the police report. Yes. Chairman Lamb asked if she had any questions or comments. No. You accept it. Yes. In your case, you have a violation for serving an 18 year old. Chairman Lamb asked what steps have been taken to rectify this issue. Ms. Smith stated that have a training policy in place. All new employees are trained. Ms. Smith goes into detail about their other businesses and their over 21 sales in other communities. Their Taunton location

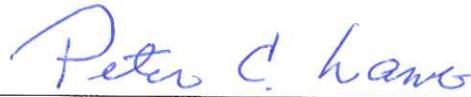
is the only one that does not have a 21 over sale policy for tobacco. She is hopeful that this doesn't happen again and the management is doing everything they can to ensure that their employees are fully trained. Mrs. Edge goes over the compliance checks for this establishment for the past 3 years. Ms. Smith stated that after the 3<sup>rd</sup> violation it was a wake-up call for them; they brought the managers in for retraining. Commissioner Mullen made a motion to issue a warning and a one day alcohol suspension to be held in abeyance for a period of 1 year from today's date, July 20, 2017. Commissioner Thomas seconded the motion. Motion passed unanimously.

4. **Nutel Communications** – Chairman Lamb stated that February 2016, the Board had several establishments come before us and asked permission to install Nutel Communications devices and they showed us what they were, led us to believe that they were just playing machines, but unbeknownst to us, or rather a lack of due diligence on our part, these machines were not what they appeared to be. Nutel Communications did produce some documentation from the Commonwealth that said that these machines were allowed, but that communication ran counter to the ABCC regulations, Section 204. We did receive communication from Chief Walsh that was directed to the Municipal Council and Mayor Hoyer pointing out that there was a violation in issuing these licenses and allowing these machines in establishments that have liquor licenses. Commissioner Mullen stated that we should not issue any more licenses. Chairman Lamb stated that one of the key issues that Chief Walsh's pointed out was that the return to the player cannot be greater or of equal value to the amount deposited. So, if you put in \$1.00 you can't win more than \$1.00 but from the minutes of our record, it appears that was not what was presented to us. Attorney Fagan who was representing the applicants mentioned that there was a \$2.00 return or something like that. Commissioner Mullen asked what was the outcome of the municipal council meeting. The recording secretary stated that it was her opinion that the council wanted the Board, the Police Chief and the City Solicitor to appear but she has not received a communication from the City Clerk yet. Discussion ensues regarding the Chief's letter, the city ordinances and the game. Commissioner Thomas suggested that we get a written opinion from the City Solicitor. Commissioner Mullen stated that if this is in fact a violation of the city ordinances, then the games are out. There isn't anything to discuss. Chairman Lamb stated that the Board can ask for an opinion from the City Solicitor and have it furnished before the August meeting so that we can discuss it then. Commissioner Mullen made a motion for an official written opinion from the City Solicitor's office regarding the Nutel devices and whether or not the Nutel Communication games are in violation of City ordinance and 204 CMR 2.051(a) and if possible to be prepared by our August meeting. Commissioner Thomas seconded the motion. Motion passed unanimously.

New Business – Commissioner Thomas has a question regarding BYOB. Someone had a party and charged admission but it was a BYOB so they could avoid coming before this Board for a special alcohol permit. Chairman Lamb asked what the BYOB rules were. Detective Lt. McCabe stated that there were no state wide rules. Detective Lt. McCabe stated that if a business delivers alcohol to a member of the

public, then that is a sale. Detective Lt. McCabe suggested asking the City Solicitor for some guidance. Commissioner Thomas made a motion to ask the City Solicitor for his opinion on whose jurisdiction a BYOB regulation would fall under within the City. Commissioner Mullen seconded the motion. Motion passed unanimously.

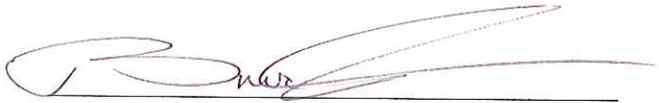
Commissioner Thomas made a motion to adjourn. Commissioner Thomas seconded the motion. Meeting adjourned at 8:49 p.m.



Peter C. Lamb, Chairman



Brendan P. Mullen, Commissioner



Bruce M. Thomas, Commissioner