

(The following is not a verbatim transcript of comments or discussion that occurred during the meeting, but rather a summarization intended for general informational purposes. All motions and votes are the official records).

SPECIAL SAFETY SERVICES & LICENSES COMMITTEE

A special meeting of the Safety Services and Licenses Committee was held on Thursday, March 12, 2020 in the Council Chambers, City Hall, Cranston, Rhode Island.

I. CALL MEETING TO ORDER:

The meeting was called to order at 8:05 P.M. by the Chair.

Present: Councilmember Steven A. Stycos
Councilmember Edward J. Brady
Councilmember Kenneth J. Hopkins, Vice-Chair
Councilmember Christopher G. Paplauskas, Chair
Council Vice-President Michael W. Favicchio

Absent: Councilmember Lammis J. Vargas

Also Present: Councilmember Paul J. McAuley
Councilmember John P. Donegan
Daniel Parrillo, Director Administration
John Psilopoulos, Deputy Director of Administration
John Verdecchia, Assistant City Solicitor
Major Robert Quirk, Police Department
Stephen MacIntosh, Fire Chief
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Maria Carville, Licensing Clerk
Heather Finger, Stenographer

Chair stated that this meeting was called due to the fact that there were several businesses that did not have licenses or license had expired.

II. SHOW CAUSE HEARINGS:

WASAY MINI MART LLC **280 Atwood Avenue**
d/b/a Bestway Gas Station
Muhammad Shariq
(Operating without a Victualling License)

Councilmember Donegan stated that he had a conversation with Mr. Shariq in the hall before this meeting and stated that he was leaving because he was not feeling well.

Chair asked Solicitor's opinion on how to proceed with this business.

Solicitor stated that his understanding is the applicant has been operating without a Victualling License for approximately one year. This is not a legal question and it is up to the Committee if they want to give this business owner another chance. It is not his call.

On motion by Councilmember Brady, seconded by Councilmember Stycos, it was voted to continue this item.

Under Discussion:

Council Vice-President Favicchio asked Councilmember Donegan if the gentleman appeared to be sick. Councilmember Donegan stated that he was coughing, but given the situation with COVID-19, the slightest inclination to somebody that might be sick, he did seem to be under the weather.

Council Vice-President Favicchio asked how long this business has been operating without a license. Assistant City Clerk stated, approximately one year.

Solicitor stated that, in speaking with the Fire Chief, his understanding of the situation is that from the Clerk's standpoint, this gentleman has been operating without a Victualling License. His understanding is he operates a Bestway, which he believes is sort of a combination of a gas station and convenience store type of operation and his understanding is that the business owner does offer for sale some dairy products, ice cream, in addition to some packaged type foods. Solicitor stated that he feels that the this business owner would come under the Victualling, even though our Ordinances do not define Victualling, he checked with the State Statute and it really is not defined there either. There is a section under food and drugs, which defines food service establishments, which this would clearly fall under. Regardless of what this Committee does this evening, at some point, we would have to examine our own Ordinances and maybe cleanup and clarify some of these definitions, but this business seems to fall clearly within the food service establishments and should have a license. Even though the gentleman is not present, the Fire Chief has some issues, which he can relate to the Committee.

Chief MacIntosh stated that this business and the sister establishment on Park Ave. currently require hazardous material permit to operate for the storage on the property. Mr. Shariq has been delinquent for approximately one year. Permit expired a year ago July. The Fire Department has sent repeated mailings and the mailings are coming back undeliverable. The Fire Department has dropped off and even he personally dropped off invoices when he was in his former capacity to the site to have them forwarded to the owner. They have had conversations with the owner and the business owner told the Fire Department to mail the invoices directly to his home in Tiverton. All this went unresponsive. Due to this, the Fire Department is at a loss as to even get him to pay the fees for the permits to have the fuel tanks, which allow him to operate a gas station.

Councilmember Stycos asked if there is a danger to the public safety by what this business is doing and has he been inspected? Chief MacIntosh stated, not that he's aware of. There is a normal process for an inspection of the property, which would require an invoice to go out. He pays for it and the Fire Department prepares the certificate, the license permit, inspection of certificate. It is then hand-delivered for the fire inspection and barring no problems, the certificate is handed over to the facility.

Councilmember Stycos questioned if we know whether the underground storage tank is safe or not and was it inspected. Chief MacIntosh stated he is not aware of a danger, but there are other inspections that should be done annually and have not been done, such as inspection of canopy and hand held extinguishers to make sure they're operating properly. The gas pump handles have lockout devices on full serve, and self-serve in Rhode Island, lockout devices are not allowed, so, we inspect whether that latching system has been removed or not. If it is, we make note of it and we tell the establishment to fix it and they'll call us to come back. So that inspection has not occurred recently because the steps are falling down on the invoices.

Councilmember Brady withdrew his motion to continue and Councilmember Stycos withdrew his second to the motion.

Council Vice-President Favicchio stated that he thinks it is a dangerous condition that could cause the City some exposure and also would cost us a lot of money if there was a fire and there's some issue there. He would like to move to terminate the license, but since there is no license at this point, he would ask that we serve notice to Cease and Desist.

Chair stated that he has a deep concern regarding this. It has been a year and there have been no inspections done at this business. He deferred to the Solicitor and Fire Chief.

Solicitor stated that he did not know about any of the Fire Chief's concerns until just recently. Clearly, this is a health, safety, welfare and moral issue of the community and that puts this in a different category. He thinks Council Vice-President Favicchio's suggestion to immediately issue a Cease and Desist Order is well taken and that will actually cover the City and then he would suggest a very short continuance or call it a rescheduling, but he would not go out very far and he would get the business owner back before this Committee. If he still refuses to comply, then we're going to have a hard decision to make to make at that point. We may have to resort to more drastic measures.

Chair asked Clerk if a Cease and Desist Order could be issued tomorrow morning and set up another date to have applicant back before this Committee and what the next available date would be. Clerk stated that there is a joint meeting of the City Council and School Committee scheduled for March 23rd at 6 pm prior to the regular Council meeting so that date would not be available. Chair asked if March 19th is available and if Committee members would agree to that.

Council Vice-President Favicchio stated that the only concern with that is the burden is on the applicant now at this point to do something. It has been a year. If it was two months, that would be one thing, but it has been a year. The applicant was here and decided he did not think he could stay.

Chair stated that we should just issue a Cease and Desist and set the date.

Councilmember Brady agreed with Council Vice-President Favicchio and stated that this business has not had a license for a year and he does not think we should be giving him special privileges. If we could have him come back in April, so be it.

Councilmember Stycos stated that he also agrees with Council Vice-President Favicchio and stated that as Councilmember Brady stated, it is the applicant's problem, not our problem.

Councilmember Stycos motioned to have a Cease and Desist Order issued to the business preventing him to operate until he applies for the appropriate licensing. Councilmember Hopkins seconded the motion. Motion passed unanimously.

On motion by Council Vice-President Favicchio, seconded by Councilmember Stycos, it was voted to issue a cease and desist notice until proper license is applied for. Motion passed unanimously.

CLARK'S AUTO REPAIR **364 Wellington Ave.**
Jerome Correy
(Operating without a Used Car License since 3/31/2018)

Jerome Correy, 65 Webb St., Providence, appeared to speak.

Chair indicated that the reason for this Show Cause hearing is this business is operating without a Used Car License.

Mr. Correy stated that he does not sell used cars any longer. He just does auto repair. He stated that he told the City approximately one and a half year ago that he was not doing auto sales and just does auto repair.

Solicitor referred to the Clerk and stated that his understanding was that there are back taxes owed for several years and that the Used Car License has been renewed. He asked applicant if he has engaged in used car sales and if not, how long. Mr. Correy stated that he has not been doing auto sales since 2017. Solicitor asked Clerk, with regard to the auto repair issue, are there any issues with the Auto Repair License? Clerk stated that the renewal applications will be sent out soon. As far as the auto sales, the last time the applicant had a license was in 2018. The Clerk's Office tried numerous times to contact the applicant with phone calls and mailings regarding this issue. The applicant never advised her office that he was not doing auto sales anymore. Mr. Correy stated that he personally called himself to advise the Clerk's Office he was not doing auto sales anymore and he never received any mailings. Clerk handed the applicant a renewal application for Auto Repair for this coming year and asked that he confirm with the License Clerk what address he would like all correspondence to be mailed to. She also indicated that this business is currently operating without an Auto Repair License due to the tangible taxes owed. She asked that Mr. Correy contact Rossi Law to make arrangements to pay those taxes.

Solicitor addressed the applicant and stated that the problem is the City has no way of knowing that he was not selling cars in 2018 or 2019. The burden is on him. If he is going to discontinue a business, he would need to go into the office and surrender or terminate the license and let the Clerk's Office know that he is no longer in that business.

Solicitor indicated to the applicant to file the renewal application with the Clerk's Office as soon as possible and get the taxes cleared through Rossi Law and he is sure the Committee will work with the applicant and can reduce this to some type of figure and make an arrangement to pay so much on a schedule and the Committee has in its power to allow applicant to operate once he does that. He also suggested that the Committee allow the applicant to operate under those conditions and place this issue down for the next meeting for review.

Council Vice-President Favicchio addressed the Solicitor and stated that there are two issues. One being, whether or not Rossi Law accepts payments, it does not mean we have to issue a license if the taxes are not up to date, and also he questioned if the Committee is within the Charter and do we have this authority? Solicitor stated that the way he reads the Ordinance, is that you can issue or renew, allow a renewal of a license if there is money owed provide that the applicant enters into an agreement to make payments. So the Committee has it in their discretion. You can do that on a conditional basis. The question is do you want to do that?

On motion by Council Vice-President Favicchio, seconded by Councilmember Hopkins, it was voted to continue this Show Cause to the April 6th meeting. Motion passed unanimously.

R & R AUTO **125 Niantic Ave.**
Santo Martinez
(Operating without an Auto Repair License since 2017)

Interpreter appeared to speak for applicant.

Solicitor stated that he conferred with the Assistant City Clerk this morning on this matter and his understanding is that the applicant is basically all set. He has complied with everything required of him and his understanding is that the only holdup is that the City is waiting for BCI clearance. Clerk stated that BCI is cleared. She also stated that the applicant did file the proper application and is scheduled to appear before the April 6th meeting.

LEGENDS PUB & GRUB, LLC **1458 Park Ave.**
d/b/a Legends Pub & Grub
(Operating without a Liquor License since 12/1/2019)

Erica McKnight, 38 Chestnut Hill Ave., appeared to speak.

Solicitor stated that Cease and Desist Order was issued because the liquor license was not renewed because of State taxes due and from the City's standpoint, that is just a situation that the City cannot overlook. The City has no control over what the State does, but before the City can issue a renewal or a new liquor license, these requirements, which are set by the State, have to be met. The City and this Committee had no choice, but the risk of liability to the City when someone is serving liquor without the appropriate license is just an unacceptable risk for the City of Cranston.

Ms. McKnight stated that they paid over \$35,000 in sales taxes to the Division of Taxation and they owe \$6,021.28 in interest. That is the reason the State will not release their letter of good standing. She has been in contact with them. She indicated that she has always been in compliance the last six years. They fell on hard times and can't magically make \$6,000 appear. She also stated that the Division of Taxation refuses to set up any form of payment plan. She has closed her business over \$6,000. She stated that it is frustrating because she was in contact with City Hall and she actually spoke to someone Monday and here she is on Wednesday with customers at the bar and she was issued a Cease and Desist Order. She thinks this was very unprofessional of the City. Someone could have called her telling her to not open instead of embarrassing her in front of her clientele and customers. They have looked into small business loans offered by the City, unfortunately, they were not able to apply for anything through the City for grants.

Councilmember Stycos asked Ms. McKnight if she lives in Cranston. Ms. McKnight stated, yes. Councilmember Stycos suggested Ms. McKnight contact her State Representative, which is Charlene Lima. She could possibly help her with the issue with Division of Taxation.

Clerk clarified that when she spoke to Ms. McKnight on the phone after the Cease and Desist Order was issued, Ms. McKnight stated to her that she spoke to Maria Wall, City Clerk, on Monday. Clerk asked Ms. McKnight if that was correct. Ms. McKnight stated that she was not going to mention any names, but she spoke to multiple individuals. Clerk indicated to Ms. McKnight that Maria Wall is no longer with the City and the first time she knew about a conversation she had with Ms. Wall was when applicant told her two days later. She indicated to Ms. McKnight that the burden is on her, as the business owner, and that she is aware that come December 1st at midnight, her liquor license expires. She also indicated to Ms. McKnight that she has been operating for three months without a liquor license and taking a chance, as the Solicitor stated earlier, on something happening. Ms. McKnight stated that if that's the case, the City should have shut her down in December.

Solicitor stated that the problem with this situation is let's say something did happen and the City was sued, and the only evidence the City had was notified this business was an oral communication. In a Court of law, that would not stand up. That is why it has to be in writing.

Chair stated that the City's and this Committee's hands are tied. He asked if anyone had any suggestions in the meantime. He indicated to the applicant that if she gets her taxes cleared, a special meeting can be called right away. Ms. McKnight stated that they are so far beyond a payment plan at this point that she does not know what they are going to do.

Council Vice-President Favicchio stated that there may be some relief that the applicant could bail herself out of. Representative Lima may be able to help with that. He also suggested to the applicant for her to consult with an attorney perhaps there is something that can stop the State from preventing her to open. It is not really this Committee's authority.

The meeting adjourned at 8:55 p.m.

Respectfully submitted,

/s/ Rosalba Zanni
Assistant City Clerk/Clerk of Committees