

Minutes of the May 2, 2019 Meeting of the Chelsea Licensing Commission

Chairman Rossi called the meeting to order at 6:01 p.m.

Present were Chair Rossi, Commissioners McAteer, Vega, Guido and City Solicitor Fisher; absent was Commissioner Bongiovanni.

Minutes of the April 3, 2019 meeting motioned to be accepted by McAteer, seconded by Vega and voted unanimously.

City Solicitor Fisher provided Clerk's updates on communications which resulted in the following:

Communication from Attorney Brian McNelis regarding withdrawal of ABCC Appeal for Fine Mart, 260 Broadway – Accept and File per Guido

Communication from Attorney John Larsen Dodge notifying Commission of appeal of decision #2019-5 for Chelsea Walk Pub, 416 Broadway – Accept and File by Guido. Discussion involved notification that an injunction for denial of stay had been granted and they were now reopened and had served three of the ten weeks of the closure.

Communication from Attorney John Larsen Dodge notifying Commission of appeal to the ABCC of decision #2019-6 for Wings/El Corral, 408 Broadway.

Communication from Attorney Dodge asked for reconsideration of the rollback of hours and two day suspension. Attorney Dodge also asked for consideration of having the same hours on both the alcohol and amusement/entertainment license. Motioned made by Guido as to the stay which then prompted Vega to revise the motion and make hours of both licenses 10 a.m. – 11 p.m., seconded by Guido, voted Guido-yes, McAteer-yes, Vega-yes, Rossi-no; motion passed pending appeal.

Communication from CPD for Tu Casa Restaurant, 403 Broadway regarding violation of Chelsea Licensing Rules & Regulations #2.08(p) – motion by Rossi to move to public hearing, seconded by Guido, voted unanimously.

Communication for CPD for Sabor Especial Foods II, 390 Beacham Street regarding violation of M.G.L. c138 serving alcohol without a license; serving alcohol to minors and over occupancy of the premises – motion by Rossi to move to public hearing, seconded by Guido, voted unanimously.

Communication from CPD for Lama Entertainment LLC d/b/a Populas Tapas & Bar, 5 Everett Avenue regarding violation of #2.11(b) and over occupancy violation – motion by Guido to move to public hearing, seconded by Rossi, voted unanimously.

Public Hearing for Tu Casa Restaurant, 403 Broadway – violation of Chelsea Regulations Section 2.09(e) and 2.14 as reported on Chelsea Police Report #19-641-OF. Chair Rossi read the notification of the public hearing and opened the public speaking portion. Carlos Alvarado of Tu

Casa Restaurant made an opening statement. Officer Farden of the Chelsea Police gave a brief overview stating that a patron was assaulted and pushed down the stairs by the security staff on duty. The video of the incident was shown and it was noted that there is no history of prior discipline in the files. Mr. Alvarado said patron was unruly all night, kept taking shirt off and on, patron appeared to be over-served and was shutoff. Chair Rossi opened and since no one came forward to speak, closed the public speaking portion of the hearing. Commissioner Rossi questioned Mr. Alvarado about several issues which included was the patron asked to stop his behavior, was Mr. Alvarado familiar with the Commission's Rules & Regulations, did he know to call the police, was he aware that security could not touch the patrons; to which he replied no to all. When asked the name of his security company, he could not answer except to say owner's name was Jose. Commissioner stated that a motion was in order. Guido motioned that Tu Casa apply to amend Amusement/Entertainment license to include their dance floor, and to issue a verbal warning, place it on file, note it in the docket/records, seconded by McAteer, voted and pass unanimously.

Public Hearing for Torres Angulo LLC d/b/a Los Agaves, 950 Broadway, application for change of manager from Jose Torres to Maria Rojas. Chair Rossi read the notification of the public hearing and opened the public speaking portion. Present for Mr. Torres was Atty. Miryam Cissero; for Ms. Rojas and Teodora Angulo, was Atty. Derek Sullivan and Atty. Anthony Metaxas. CPD reported no concern during the last month. After much discussion between the parties regarding issues of ownership, accusations from both parties against the other, and references to the Superior Court case, it was the consensus that the Licensing Commission would let that matter play out in court. City Solicitor Fisher outlined why the change of manager application was filed and the responses of the parties and/or their attorneys. Attorney Metaxas stated that it was felt that Mr. Torres was looking for a liquor license for his new establishment and misrepresented information to the City; he filed false affidavits, definite conflict of interest, and asked that this piece play out in court and let them handle it. Chair Rossi opened and since no one came forward to speak, closed the public speaking portion of the hearing. As of this writing, Mr. Torres is the manager on record; CPD spoke of an unreported fight between patrons of the restaurant. Guido asked if Mr. Torres was trying to leave the business and Mr. Torres stated no. Guido then stated that Mr. Torres should have said something beforehand as to the violations or issues over management. Attorney Metaxas stated that there are three equal owners and it is their belief that there's been a breach of fiduciary by Mr. Torres. McAteer and Vega both stated that all three owners should be managers and operate as a restaurant with no alcohol until matter is resolved. Attorney Cissero representing Mr. Torres spoke about Rojas hiring untrained staff, over-serving patrons, observing over-served patrons but serving anyway. Chair Rossi spoke about a stop gap measure until this all settled and pointed out that Ms. Rojas is not TIPS certified, does not have managing experience. The Chair then asked if the parties felt they could arrive at an independent individual to manage establishment by June 6 2019 and they all agreed yes as long as it's not a relative of any of the owners. Chair Rossi motioned that this matter will be continued and the current manager is Jose Torrres and will be reviewed again on June 6, 2019, seconded by Vega and voted unanimously.

Public Hearing for Palmer Food & Fuel LLC d/b/a EZ Mart, 177 Washington Avenue to consider Application for Transfer of Retail Package/Wines & Malts License. City Solicitor Fisher explained that this matter cannot be heard because there was no notice to abutters which is required. Motion by Guido to continue the matter until June 6, 2019, McAteer seconded and voted unanimously.

Public Hearing for Molinas Brothers d/b/a Latinos Falcons, 158 Broadway, violation of M.G.L. c138 §69 and Chelsea Regulations 2.08, 2.12(e) and 2.12(f). Chair Rossi read the notification of the public hearing and opened the public speaking portion. Present for owners was Attorney Ali Manigat who made an opening statement. He highlighted on the fact that they have had no prior violations, have taken major steps prior to this hearing to correct cited behaviors and providing much needed training of staff. He also referenced how the patrons were greeted as cultural. CPD Officer Farden outlined how these violations were discovered and will show that one of the patrons was drinking at this establishment for six hours. Officer Farden proceeded to show video clips from both upstairs and downstairs of the establishment which clearly show all of the violations that they have been cited for and perhaps more. Officer Farden testified throughout the video pointing out what he observed to be violations to the Commission and Licensee. He pointed out the arrestee and the length of time he was in Latinos Falcons drinking. The video showed the arrestee in the establishment for approximately six hours drinking, drinking with a waitress (also drinking) and in appropriately aggressively touching/kissing the waitress several times. Officer Farden then stated that during his review of the video of Latinos Falcons he observed several other violations and inappropriate conduct. The second video showed the owner, waitresses and the bartender all consume alcohol. Several waitresses were accosted sexually by patrons, security guards and the Owner. Officer Farden testified that there is an ongoing investigation into a sexual assault and battery. The video further shows the Owner/Manager himself grabbing a waitress by her hips and thrusting his groin into her buttocks.

Officer Farden even found that the social media accounts had ads for discounted and free drinks in violation of Section 2.08 a. Attorney Manigat stated that the social media accounts were removed or changed to compliance.

Officer Farden pointed out that one of the security guards were molesting a waitress at the door and one even bit a waitress in her chest area as depicted in the video. Commissioner Vega retaliated Attorney Manigat's comment about cultural with what was seen was disrespectful of her culture and she was offended by his remarks. Attorney Manigat apologized. The Chair opened the meeting for public speaking; City Councilor Avellaneda spoke about what was seen on the videos and referred back to when he was a Commissioner 2014/15 and this behavior is nothing new; is prevalent in Chelsea, some of the waitresses have

been on the radar for a while and hopes that this Commission's action will be a message to all and hopes that the Commission acts strongly. City Councillor Vidot supports the business but was shocked at the treatment of women taking place at this establishment. These violations are not to be tolerated and advises that the Commission act strongly against. Officer McLaughlin of CPD stated that this behavior was disheartening and appalling and there were a lot of incidents outside of the establishment. Kimberly Martinez who has been working there for six months stated that she was never encouraged to act like what was seen on this video; she has been helping to move them forward and retraining staff by translating for the other waitresses. Chair Rossi closed the public speaking portion of the hearing. Commissioner Guido stated that what he had just seen was outrageous, out of line and appalling; would seek motion to address closing the establishment. Chair Rossi stated that this predatory behavior was shocking, staff was looking like they were soliciting and he wouldn't feel safe in this environment. Attorney Manigat countered that measures have been taken and they are being pro-active to correct but obviously that wasn't sufficient. As for the security guard issues, this is a problem that the City is currently working on. Motion made by Guido to suspend license for thirty (30) days and rollback closing hours to 11 p.m., seconded by McAteer, voted Guido-yes, McAteer-yes, Rossi-no, Vega-no, motion failed. Vega motioned for ten (10) weeks suspension and rollback of hours with no possible future expansion of such to 11 a.m. – 11 p.m. seven days per week, effective immediately, McAteer seconded and voted unanimously. Attorney Manigat countered with an offer of 2 p.m. – 1 a.m. and the answer was no. Attorney Manigat was told you have five (5) days to appeal to the ABCC and he requested a Stay of the Discipline with was denied unanimously.

Vote of Commission to adopt City of Chelsea's Revised Licensing Rules and Regulations so that they may be codified and added to online regulations was presented by City Solicitor Fisher. The major changes include Security, Marijuana, and Staff Drinking. There needs to be a move for adoption of these revisions. Guido motioned to amend 1.11 to include 24 hours to file for reconsideration, Rossi seconded, voted unanimously. Rossi motioned to amend 2.09A Security Personnel to change color of shirts to be worn to "RED" with SECURITY/LA SEGURIDAD printed front and back. Discussion as to whether staff drinking was against State law and all thought it was. Also added that all security staff cannot display badges at any time or in any way appear to have an affiliation with Chelsea Police and amendments/changes to this rule is effective immediately but establishments will be allowed up to sixty (60) days to comply; seconded by Guido and voted unanimously.

Meeting adjourned – next meeting will be Thursday, June 6, 2019 at 6 p.m. in the City Council Conference Room.

