

(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).

SAFETY SERVICES & LICENSES COMMITTEE

A special meeting of the Safety Services and Licenses Committee was held on Wednesday, November 4, 2020 via Zoom webinar.

I. CALL MEETING TO ORDER:

The meeting was called to order at 6:06 P.M. by the Chair.

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

Also Present: Daniel Parrillo, Director of Administration
John Verdecchia, Assistant City Solicitor
Captain Vincent McAteer, Police Department
Leanne Zarrella, City Clerk
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

II. SHOW CAUSE HEARINGS:

Pho Sai Gon Restaurant and Bar **1106 Pontiac Avenue**
(Violation of R.I.G.L. 3-8-1, R.I.G.L. 3-8-4, R.I.G.L. 3-8-5, R.I.G.L. 3-8-14 and Cranston Ordinance 5.04.070)

Solicitor stated that there are a few housekeeping matters he would like to address before the meeting starts:

Councilmember Vargas had indicated to him that she has concerns that she would like to place on the record before the meeting starts. He asked Councilmember Vargas to address the Committee.

Councilmember Vargas stated that she is not sure if she must recuse herself from discussion and vote on this item since her husband is employed by the Warwick Police Department as a Detective and the Warwick Police Department is mentioned in this report. Although her husband has probably minor to do with this case, but on the Warwick side, the Warwick Police Department report on their side shows or has a minimal write up where her husband has added to the report. She is fine if she has to recuse. That is up to the Solicitor and the Committee.

Solicitor stated that he discussed this with Attorney Flaherty, who represents the applicant and he does not believe that he would have any objections to Councilmember Vargas participating in these proceedings and deliberating. He asked Attorney Flaherty to state if in fact that is the case. Attorney Daniel Flaherty appeared to speak and stated that he has no objections with Councilmember Vargas listening to testimony and participating.

Solicitor stated that the second housekeeping matter is he submitted on behalf of the City a package of documents copies were sent to the Clerk as well as Attorney Flaherty and, to his understanding, the Clerk circulated these documents to all the members of the Committee. He did have a conversation with Attorney Flaherty with regards to submitting these documents as full exhibits and they will become part of the record, specifically with the narrative of Detective Robert Lindsey rather than take Captain McAteer, who is present on this call, through all eight to ten pages of this report. He asked Captain McAteer to authenticate this report and he is going to rely on this report. Then he will turn it over to Attorney Flaherty. When he is completed, the Committee will go into Executive Session to discuss this matter, the legal ramifications and so forth and the Committee will make its decision and come back into Public Session and can announce its findings and sanctions, if any. He asked Captain McAteer to speak.

Solicitor asked Captain McAteer, the record that he provided to him specifically the narrative from Detective Lindsey, was this report generated from an investigation conducted by the Cranston Police Department? Captain McAteer stated, yes, that is correct. Solicitor asked Captain McAteer if this report is referred to CR#20-60662-0F. Captain McAteer stated, yes that is correct. Solicitor asked Captain McAteer if it is fair to say that this report is sort of a synopsis of an incident that took place at Pho Sai Gon Restaurant. Captain McAteer, stated, yes, that is correct. Solicitor asked Captain McAteer how this investigation was initiated and by whom. Captain McAteer stated that the Department started this investigation in response to a request by the Warwick Police Department the afternoon of October 26th to assist them with the serving of a search warrant at Pho Sai Gon Restaurant and the Detectives accompanied Warwick Detectives to that location and were with them when they obtained the video evidence. Solicitor asked Captain McAteer if it is fair to say that the information contained in this report was from the video which was obtained from the search warrant. Captain McAteer stated that that is correct. Solicitor asked Captain McAteer, to the best of his knowledge, if it is his testimony that this report is a true and accurate recitation of the facts and what was contained in the video in question. Captain McAteer stated, yes, it is.

Solicitor noted that this is an ongoing investigation and he certainly does not want to compromise the investigation being conducted either by Cranston or Warwick by delving into this anymore than necessary. He asked that this report, in addition to the other documents provided to him by the Captain and he previously mentioned be admitted as full exhibit and become part of the record. He asked Attorney Flaherty if he had any questions of Captain McAteer and he can also state whether or not he can stipulate that this report and other documents can be received as full exhibits.

Attorney Flaherty asked Captain McAteer if he is aware that this is Pho Sai Gon's first offense. Captain McAteer stated, yes, he is aware of that. Attorney Flaherty asked if there is audio on the surveillance tape. Captain McAteer stated that there is no audio, video only. Attorney Flaherty questioned if this would be the Officer's best attempt to interpret what he saw on the video to the best of his ability and not necessarily a perfect narration. Captain McAteer stated that it is to the best of his ability. Attorney Flaherty asked if there was anything on the video that showed the party with the underage people leaving Pho Sai Gon. Captain McAteer stated, yes. Attorney Flaherty asked Captain McAteer if he is aware that they left with an Uber. Captain McAteer stated, yes he is. Attorney Flaherty stated that with that being said, he has no objections to the narrative being admitted.

Solicitor stated that he spoke to Attorney Flaherty approximately a half hour before the meeting and his understanding is he does not intend on presenting his client as a witness or to give testimony. His understanding is he is going to speak on behalf of his client, however, his client is available if necessary. At this point, if the Committee members have questions to ask Attorney Flaherty now is the time to do it. At the conclusion of that, Attorney Flaherty will be given the opportunity to address the Committee and then the Committee can go into Executive Session to decide what action it would like to take against this restaurant.

Councilmember Stycos suggested Attorney Flaherty address the Committee first and then the Committee can ask questions.

Attorney Flaherty stated that no one feels worse about the young lady passing than Mr. Nguyen. The background of what happened on this night is that Mr. Nguyen was working at his restaurant and he was taking care of guests who had a birthday party going. While he was working with that small party, the four young people came in, one of whom Mr. Nguyen knew and was a regular customer there and Mr. Nguyen knew he was of full age. The other three people Mr. Nguyen did not know. They sat at a table. Mr. Nguyen saw of the parties going to the bar and order drinks. The bartender, Melissa, is the one who is supposed to check ID and he thought she had. After the birthday party was over, Mr. Nguyen went to a different table in the restaurant and sat down with his wife, who is listed as the unidentified female in the Police report and had their own dinner. While they were there, the person that Mr. Nguyen knew as an over 21 regular customer, had a bottle of screwball liquor with him. Mr. Nguyen told him he could not have that and is not allowed to bring it in and being friendly, the customers told him that that was what they really liked and they hoped he could bring it into his restaurant and wanted him to taste it. He did make a mistake and had a taste with them and the other people did have a taste of the screwball liquor. That was not served after that. He took a picture of that because he intended to order that for the customers next time they came in. The customers entertained themselves and they ordered some jinro strawberry, a type of Korean saki. These people were not driving, they left in an Uber. The Police report clearly states that they left before 1 a.m. This accident happened at almost 4 a.m. Somehow, one of the people that left in Uber got behind the wheel of a car and a tragic accident happened. He asked the Committee to make a judgement on the violation based upon the authority of your Ordinance and the State Statute and not upon any emotion or public perception. The 3.81 violation, the sale of underage person, Mr. Nguyen though the ID's were checked and it is his responsibility and he owns it. The 3.84, that does not have a penalty, drinking of underage person, same thing. 3.85 has a penalty of \$250 for first offense period. 3.4.18, you can sell liquor by the bottle if it is sold for ethnic tradition. The biggest matter is the revocation that he is being put on notice

for this first offense. City's Ordinance 5.04.070 "revocation of breach of peace, safety and general welfare" has three sub-sections: (a) disrupts the peace and order within the municipality. That would be within Cranston. Nothing happened in Cranston and they were not disorderly. They had their party, left in an Uber and that was the end of it. The second sub-section is (b) it threatens the health, safety and general welfare of the inhabitants of the municipality. This accident happened three hours later in Warwick almost on the North Kingstown line. In sub-section (c), it eliminates the quiet enjoyment, comfort and convenience of the municipality and again, of Cranston and its inhabitants. This was closed party, not that many people in the restaurant and surely did not disturb any households nearby or become a nuisance. Attorney Flaherty also stated that this is a first offense and asked that the Committee have some consideration for the mitigation offered by Mr. Nguyen and asked for a sanction that would hold up for review or accepted by the licensee. There is no plausible connection between the drinking that happened up until 1 in the morning and the accident three hours later by people that left his client's establishment responsibly by Uber.

Council Vice-President Favicchio asked if there is any evidence of the Uber transaction. Attorney Flaherty stated that his client would not have that. That would be on the credit card of whoever paid for the Uber. That is acknowledged by the Police.

Council Vice-President Favicchio asked Captain McAteer if he has information of who charged the Uber. Captain McAteer stated that he does not. The Warwick Police Department would have that information. Council Vice-President Favicchio stated that the information of who charged for the Uber is critical to know.

III. EXECUTIVE SESSION: Pursuant to R.I.G.L. Section 42-46-4 (Closed Meetings)

Chair asked Solicitor who would be allowed to go into Executive Session. Solicitor stated himself, the Committee and the Clerks.

On motion by Council Vice-President Favicchio, seconded by Councilmember Hopkins, it was voted to go into Executive Session pursuant to RIGL 42-46-4. Motion passed unanimously.

Meeting went into Executive Session at 6:35 p.m.

Meeting came out of Executive Session at 7:19 p.m.

On motion by Council Vice-President Favicchio, seconded by Councilmember Brady, it was voted to seal the minutes of Executive Session. Motion passed unanimously.

Councilmember Stycos stated that he finds this incident very troubling and what is very clear is that three minors were repeatedly served drinks in the presence of the owner of the restaurant and a lot of alcohol was consumed by these minors. Obviously the owner was aware of this and participated. He thinks the proper course to take with this is to revoke the liquor license of the establishment.

Councilmember Stycos motioned to revoke the Class BV39 Liquor License from this establishment. Council Vice-President Favicchio seconded the motion for discussion:

Under Discussion:

Council Vice-President Favicchio stated that he thinks the obligation of a bar or restaurant owner with regards to liquor really go beyond just checking the ID. You have to worry about TIP certification and keeping an eye out on how much the patrons are drinking. He thinks the revocation of just the liquor license is warranted.

Chair stated that there is a lot of negligence. A lot of things took place at this establishment that should not have taken place and a lot of responsibilities that were not followed.

Roll call was taken on motion to revoke the Class BV39 Liquor License and motion passed on a vote of 5-0. The following being recorded as voting “aye”: Councilmember Stycos, Vargas, Brady, Paplauskas and Council Vice-President Favicchio -5. Councilmember Hopkins was not present for roll call vote.

The meeting adjourned at 7:28 P.M.

Respectfully submitted,

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