

(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 Friday, April 1, 2022 in the Council Chambers, City Hall, 869 Park Ave., Cranston, Rhode Island.

I. CALL MEETING TO ORDER:

The meeting was called to order at 5:35 P.M. by the Chair.

Present: Councilwoman Aniece Germain
Councilman Richard D. Campopiano
Councilman Matthew R. Reilly, Vice-Chair
Councilwoman Nicole Renzulli, Chair
Council President Christopher G. Paplauskas

Absent: Council Vice-President Robert J. Ferri
Councilwoman Lammis J. Vargas

Also Present: Councilman John P. Donegan
Councilwoman Jessica M. Marino
Paul McAuley, Deputy Chief of Staff
John Verdecchia, Assistant City Solicitor
Major Todd Patalano, Police Department
Major Robert Quirk, Police Department
Steven Angell, City Council Legal Counsel
David Dimaio, City Council Budget Analyst
Rosalba Zanni, Assistant City Clerk/Clerk of Committees

II. SHOW CAUSE HEARING:

CLASS BV, VICTUALLING AND PUBLIC ENTERTAINMENT LICENSES

PreGame Lounge
Hamlet Lopez

349 Dyer Ave.

Solicitor Verdecchia stated that this is a Show Cause Hearing which is being held pursuant to a Cease and Desist Order and a notice to appear that was hand-delivered by members of the Cranston Police Department on March 30th. In an effort to expedite this, we set it down for this evening prior to the weekend because there was concern about the business being operational over the weekend. He stated that Attorney Hemond is present by Zoom and is on the call.

Solicitor Verdecchia stated that he would like to put a few things on the record before the hearing starts. He sent a group of documents to Attorney Hemond, which he will be submitting to the Clerk to become part of the record. There are also two small snippets of video which captured part or all of the event, which he also forwarded on to Attorney Hemond. Attorney Hemond stated that he received them today. Solicitor Verdecchia stated that there is going to be testimony of Major Patalano, who is in charge of the investigation. There will also be the aforementioned videos, which he just referred to as well as a package of reports that relate not only to the incident that just occurred but also some past incidents that have taken place at Pregame Lounge. He asked Major Patalano to come forward as the City's first witness. He also stated that, since there is no stenographer present, he asked Major Patalano to make affirmation that he swears under Oath to state the truth, the whole truth and nothing but the truth. Major Patalano stated, he did.

The following questions were asked of Major Patalano:

Solicitor Verdecchia: This past Sunday, at the very early hours after midnight, at that time, did the Cranston Police Department have an occasion to respond to the area of 349 Dyer Ave. and more specifically the Pregame Lounge and what was the reason for the Cranston Police Department responding to that location?

Major Patalano: They received multiple emergency calls in which they indicated that there were multiple shots fired at the Pregame Lounge. Numerous Officers were dispatched and upon arrival they located several people out front and they entered the establishment, which they described to him as chaotic.

Solicitor Verdecchia: As a result of the preliminary investigation, was the Police Department able to determine more specifics in terms of how the incident unfolded?

Major Patalano: Yes, several witnesses had fled the scene as well as people that were alleged to have fired the weapons in front of the Pregame Lounge. When Officers arrived, they observed shell casings on the ground, found a window shot out and two adjacent businesses that had been struck. They then began to interview witnesses who provided descriptions of vehicles as well as potential suspects in which those people were in and broadcasts were put out for these certain vehicles. At one point, they determined that no one had been injured and luckily somehow no one was hit. The Police was able to obtain video footage of the incident. A small snippet one, which will be shown this evening. It was pretty chaotic and they had a lounge full of people which they had to disperse and also interview as they were leaving to try to gather as much information as possible.

Solicitor Verdecchia: Would it be accurate to say that there were two groups of individuals that were shooting at one another right in front of the entrance to the Pregame Lounge?

Major Patalano: The Police was told that they hired a promoter for the lounge and it attracted a large number of people from all around and out of State and the place was absolutely full and at capacity and at some point, two groups had an altercation believed to be over a woman inside the Pregame Lounge that spilled out into the streets which they dispersed themselves. A short time later, someone came by, as you will see in the video, driving by and began shooting at one of the individuals, actually two of the individuals. They returned fire and a volley of shots went back and forth and we believe it happened there and it started with inside the Pregame Lounge.

Solicitor Verdecchia: Have you reviewed the Officer's report of Michael Rocchio and Officer Rocchio indicated that a Mr. Lopez, which he believes is one of the principals, if not the principal of the Club, was interviewed pursuant to this incident. Is that a fair statement?

Major Patalano: Yes, he interviewed and they did speak to Mr. Lopez.

Solicitor Verdecchia: Did he describe a group of individuals who had left the Pregame Lounge just prior to the shooting taking place?

Major Patalano: He believes so. He provided some information to that fact.

Solicitor Verdecchia: Mr. Lopez indicated that there was a group of males who walked outside and he thought it was unusual because it occurred during peak hours. Do you recall Officer Rocchio stating that in his report?

Major Patalano: Yes, and he also told him that and he was also on the scene that night.

Solicitor Verdecchia: As a result of the investigation, and he realizes that this is an ongoing investigation, were you or any members of the Cranston Police Department able to determine if any of the individuals who were inside the Pregame Lounge were involved in this shooting after they left the Pregame Lounge?

Major Patalano: The only place open at that time in that area on that night was the Pregame Lounge. You will see in the video that there are vehicles parked along the street and side streets. The Police received calls from neighbors saying that there was loud music at that Pregame Lounge. There was nothing else open in that area. When you reviewed the videotapes, you will see people coming out of the Pregame Lounge involved in this and they fired weapons, so that would lead the Police to believe that they had the weapons inside the Pregame Lounge prior to the shooting.

Solicitor Verdecchia stated that before the videos are shown, he would like to go over some of the past incidents, if any, that the Cranston Police Department has investigated with regard to the Pregame Lounge.

Solicitor Verdecchia: Within the past two years, has the Cranston Police Department been called upon to respond to the Pregame Lounge for any other type of incidents?

Major Patalano: Yes, they have been there before for several nuisance complaints and loud music and disturbance, but one that does stick out is on September of 2020, the Police Department had another report of shots fired from the Pregame Lounge.

Solicitor Verdecchia: What were the results of that investigation and were any charges brought or what were findings, if any?

Major Patalano: The Police Department was not notified of that. They learned that from neighbors and they responded so it was never reported to the Police by Pregame Lounge. They were told it was outside of the Pregame Lounge, but the Police was unable to determine who it was that was involved in the shooting, but the Police did get a report of that.

Solicitor Verdecchia: Apart from that prior shooting, are there any other incidents besides the vandalism or the disorderly conduct occasions that were just spoken of and were there any other serious felony-type investigations involving the Pregame Lounge within the last couple of years that you can recall?

Major Patalano: That is the two that he recalls.

Solicitor Verdecchia: Do you know of your own personal knowledge if Pregame Lounge was ever cited by the Department of Business Regulations or the Department of Health for certain violations of the COVID rules while they were in effect?

Major Patalano: Yes, they were. He believes that, at the time, they had too many people in the establishment and they were violating the mandates set forth by the State. He is not sure of the exact date of it.

Solicitor Verdecchia stated that he will make the document part of the record, but that incident occurred approximately in October of 2020.

Solicitor Verdecchia: In addition to the characterization of being cited for overcrowded, were they also cited for not comply with the mask mandate?

Major Patalano: Yes, he believes they were.

Solicitor Verdecchia: Is the investigation into this particular incident still ongoing?

Major Patalano: Yes, that is correct and there are still some details that cannot be revealed at this point.

Solicitor Verdecchia asked that the videos be shown.

Major Patalano explained what is occurring in the videos being shown.

Solicitor Verdecchia: The first video shown was obtained from a local business right next to the Pregame Lounge. Is that correct?

Major Patalano: Yes, that was provided to the Detectives a few days later.

Solicitor Verdecchia: The second video was provided by the proprietor of the Pregame Lounge. Is that correct?

Major Patalano: Yes, the proprietor was cooperative and let the Officers view the video in an attempt to determine who these shooters were and the fact that several rounds had gone astray and hit nearby businesses, one which was occupied.

Solicitor Verdecchia: Have you been able to determine up to this point roughly or approximately how many shots may have been fired in total?

Major Patalano: He believes or they know there were at least eight shots. They believe there was a lot more than eight shots because they have only recovered a certain number of rounds. Two surrounding businesses were struck.

Solicitor Verdecchia: To your knowledge, were any residences or windows of residences struck by stray bullets?

Major Patalano: On the corner of Farmington and Dyer, there is a building on the Southwest corner and that building was struck, which is almost a block away. A bullet pierced through the window and went into the establishment. The Police was able to speak with the owner who was actually inside when the bullet went through the window.

Solicitor Verdecchia: is it fair to say that that area is pretty much congested not only with commercial buildings but also residential units and apartments?

Major Patalano: Yes, several of those businesses have apartments above them.

Solicitor Verdecchia: Have you discussed this entire incident with Colonel Winquist and has he been apprised of what we discussed this afternoon?

Major Patalano: Yes, he has, today.

Solicitor Verdecchia: Based on those discussions with him, do you have an opinion as to whether keeping Pregame Lounge operational poses a threat to the health, safety, welfare or morals to the people of Cranston, particularly in that area?

Major Patalano: We did discuss, including with Major Quirk, and we came to the absolute conclusion that this business should not be allowed to stay open. They believe it faces an imminent danger to all the people in that area and that is evidenced them the calls they have been receiving from loud music to gunshots. People in that area are afraid to come forward and to make complaints

and put their names on complaints. The Police Department feels that based on the acts that have taken place over the past few nights there, it needs to be closed and that is why they were so prompt in getting this hearing going before this weekend because they felt that something could certainly transpire at this place.

Solicitor Verdecchia asked Chair to give Attorney Hemond the opportunity to ask Major Patalano questions if he so desires.

Attorney Hemond stated that he hopes that the Cranston Police Department is able to locate all of these people and hope they are able to arrest them and hope that they all go to jail for their actions. He stated that he has been provided with two Police reports, one of which is prepared by Officer Michael Rocchio, which is a two-page narrative. The other report is a supplemental narrative provided by Jameson or drafted by Jameson Wheatley. He asked Major Patalano if those are the only two reports that have been generated in this case. Major Patalano stated that, currently, those are the initial first reports, but the investigative reports have not been released yet. Attorney Hemond asked Major Patalano if he has reviewed both of these reports. Major Patalano stated, yes. Attorney Hemond indicated to Major Patalano that he stated under direct examination that an altercation occurred inside of the establishment on the evening of the incident. He asked what kind of altercation he is saying happened inside the establishment. Major Patalano stated that the Police believe it was a verbal altercation. Attorney Hemond asked Major Patalano if that supposed altercation is documented at all in Michael Rocchio's report. Major Patalano stated that it is the Officer's first report. Attorney Hemond asked if there is another report that is available. Major Patalano stated that it is an ongoing investigation. It is not something that that we will release with intimate knowledge and details at this type of hearing. Attorney Hemond stated to Major Patalano that he made it a point to reference an altercation inside because presumably he believes that to be important in a licensing case. He asked if that is correct. Major Patalano stated that he is trying to provide as much information as possible without getting in too deep without jeopardizing the investigation, a criminal investigation rather than a hearing. Attorney Hemond asked if the video that was just shown is all from the exterior of the building. Major Patalano stated, yes. Attorney Hemond stated that that video shows absolutely no interaction between the people involved in the shooting inside the establishment. He asked Major Patalano if that is correct. Major Patalano stated that the video does not show anything inside the establishment. Attorney Hemond stated to Major Patalano that when he testified that there was an alleged altercation inside that evening. The first time that that was brought to his attention was right here in this meeting, not in advance. He asked if that is correct. Solicitor Verdecchia objected. He stated that this is a very very informal hearing. We are not here under the strict rules of evidence. There is cross-examination allowed to a certain extent. Attorney Hemond stated that he will not waste any of the Committee's time or his time with any cross-examination. He will just make his closing arguments.

Solicitor Verdecchia stated that, as part of the record, he handed the Clerk a package of reports he referred to earlier and incorporate both videos as part of the record along with the Cease and Desist Order.

On motion by Council President Paplauskas, seconded by Councilwoman Germain, it was voted to make part of the record all documents presented by Solicitor Verdecchia as stated by him. Motion passed on a vote of 5-0. The following being recorded as voting "aye": Councilwoman Germain, Councilmen Campopiano, Reilly, Councilwoman Renzulli and Council President Paplauskas -5.

Solicitor Verdecchia addressed the Committee and stated that we have not done very many of these hearings because we usually try to call people in when there is an issue and we do not want to take the drastic step if we do not have to and in this particular case and with this particular license holder, we have done that in the past. Major Patalano testified as to an incident which occurred last year involving a shooting and as a result, we brought the license holder in and he believes he was represented by Attorney Hemond then and we discussed some of the issues regarding security and regarding some of the other issues that were taking place there and he thought that things had been worked out and things were pretty quite for a while, unfortunately, that did not last and there is absolutely no question that a shootout occurred on Dyer Ave. There is absolutely no question that people who were inside Pregame Lounge participated at some point in this exchange of gunfire. It is not up to the City, it is not up to the Police Department to figure out motives and the why or the wherefore. That is not why we are here. That is not our task and it is not your task. It is sufficient unto itself that this type of extraordinarily dangerous activity took place immediately in front of a license holder's business establishment. He reviewed the law and the Supreme Court has made it very clear that when you obtain a license, for better or for worse, you are responsible for not only what goes on inside that establishment, you are responsible for what goes on outside that establishment. What occurred there was contemporaneous in time and geographically. It took place literally a couple of feet in front of the entrance and it took place nearly when these people walked out of the Pregame Lounge, obviously, something was going on. Unlike some of the other cases we have had in the past where we have had things like underage drinking or rowdy crowds, this rises to a whole other level and in the time he has been with the City, he has never requested revocation of a license, but this incident, he thinks everyone would agree, put people's lives in danger. This is not even like a random act of shooting between two people arguing. It was not just a gun going off. This was a gun battle and it is a miracle no one was struck by a stray bullet. There was a business owner who was in his business and a bullet came through the window. It is unfortunate, but the license holder, whether it is fair or unfair, justified or unjustified, the Court has made it clear under these types of circumstances that you are responsible and we are going to pin the responsibility on you. Pregame Lounge holds three licenses so at this point in time, we feel that the Mayor, the Police Chief, in conjunction with the Solicitor's Office, feel that to allow this business to continue to operate at this juncture simply poses too great a threat to the people of Cranston and particularly to the people in that area. This is really a pretty egregious situation and he thinks it is one that really calls for the most severe sanctions and that would be at this point revocation. If the Department of Business Regulations wants to review it, which he is sure that they are going to at some point, be that as it may, let them do it, but he thinks that at this point we really need to protect the people of Cranston and keep this business closed and this is what he will be asking for on behalf of the Administration.

Attorney Hemond stated that there is a lot of case law on this. Unfortunately, these things happen far more than they should. In a Supreme Court case, Ceceroni, the Supreme Court defined disorderly conduct in use in the licensing context as contemplating conduct within a premises where liquor is dispensed under a license that causes either directly or indirectly conditions in a neighborhood an annoyance of or disturbance of the residents thereof.

Attorney Hemond stated that in this case, you have a drive-by shooting, criminal conduct, eight shots fired, two groups of people all who belong in jail, but just because one of those groups is shown to have been a patron on video, where customers of an establishment, is not in and of itself enough to take their criminal conduct and transfer it over to a licensee and revoke their liquor license. That is crystal clear case law. He understands that you are all going to do what you are going to do, what you think is

right for your constituents you serve, he understands that, but he has been through these cases before. He has had worse situations than this, more egregious facts than this where the Department of Business Regulations has said this is a criminal case not a licensing case and that is because the other piece of this puzzle is a AJC Enterprises, the Supreme Court also said that while it is true that a licensee is responsible for the conduct of its patrons outside of his establishment, there must be a causal nexus therein. He had to prepare a case here having received Police reports, thanks to Mr. Verdecchia getting them to him, just two hours before this hearing. That Police report contains only one statement related to what happened or did not happen inside. It is all he has notice of and it says two unnamed witnesses in the report he has because it is redacted and it states “both indicated there were not issues inside the club prior to the event” and it goes on to state that “there were people outside not at closing, not rushing out, not spilling out into the street” as it was alleged with no named witness, no basis at all, not in a Police report, but it gets thrown out in a hearing that people had an argument over a woman inside. stood around outside for fifteen minutes with no issues and then a care comes out and fires shots. You cannot hold a licensee responsible for that. You might, but the law won’t support it. There is no legal basis to do so. He shared some cases, such as Ciello LLC d/b/a Love vs. City of Providence, CAG Productions Club Euphoria vs. City of Providence, where similar circumstances have been considered. He has handled many of these cases. He urged everyone to look at the Vibe case, which is a recent one because Solicitor Verdecchia makes a point that maybe the Department of Business Regulations will start looking at these cases. They do look at them and often they disagree with municipalities. In Vibe, they have begun to award attorney fees because of making decisions that are in clear violation of the case law that they and the Supreme Court have been handed down. He understands that this is serious and these people should all go to jail. They all committed crimes and they put people in danger, but that was not because of anything that happened inside his client’s establishment. You do not have the evidence of that. His client has turned over internal video and has been fully cooperative and Major Patalano did note that. There is a body of law that has been developed, particularly, in the last ten years with very simple circumstances that show you do not have enough here to revoke these licenses and he urged the Committee to consider that case law in making their decision.

On motion by Council President Paplauskas, seconded by Councilman Reilly, it was voted to remove the Entertainment License, Victualling License and Liquor License.

Under Discussion:

Councilman Donegan stated that he believes that one of the last times this establishment was before this Committee, he mentioned that if there were issues like this again, personally his personal opinion, he would not be as forgiving. As the Councilman for the area, he takes the safety and welfare of the constituents he represents to heart and he cannot in good conscience continue to think that this business can continue to operate and uphold the safety of the people in the area. It is clear with this incident and incidents in the past and daily disturbances, that constituents reach out to him about this business for a safety to their well being and he fully agrees that the licenses should be revoked and he urged everyone on this Committee to vote in favor of the motion this evening.

Councilman Reilly stated that we have seen this business before this Committee numerous times and have received numerous calls from constituents of what goes on there and it is not the Cranston that we want to put out to the public. They do not deserve that in that neighborhood. There are a lot of case laws on this, but he thinks that we are within our rights to revoke the licenses of this establishment. They have definitely created an atmosphere that has put the safety and welfare of residents in that area at risk. For that reason, he will be voting in favor of revoking these licenses.

Chair stated that this is not the first time that a disturbance like this occurred in this area and outside this establishment and it is our responsibility to be thinking of the safety and welfare of our residents and she is in favor of revoking these licenses at this time.

Roll call was taken on motion to revoke all three licenses and motion passed on a vote of 5-0. The following being recorded as voting “aye”: Councilwoman Germain, Councilmen Campopiano, Reilly, Councilwoman Renzulli and Council President Paplauskas -5.

The meeting adjourned at 6:30 p.m.

Respectfully submitted,

/s/ Rosalba Zanni
Acting City Clerk