



NORTHAMPTON LICENSE COMMISSION

City Hall, Office of the Mayor
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COMMISSIONERS

Brian Campedelli, Chair
Natasha Yakovlev
Helen Kahn

Executive Assistant

Annie Lesko

alesko@northamptonma.gov

MEETING MINUTES Wednesday, July 22, 2020 Virtual Meeting 4:00 p.m.

The July 22, 2020, License Commission meeting will be held via remote participation.

Join Virtual Meeting

- **Video Conference:** <https://zoom.us/j/93561883297?pwd=TERaaDI3c05VaDhURVNwRkdqdGVjdz09>

OR

- **Telephone, call:** +1-929-436-2866, Meeting ID: 935 6188 3297, Password: 355207

1. **MEETING CALLED TO ORDER** by Commissioner Yakovlev at 4 p.m.
ROLL CALL - Commissioners Yakovlev and Kahn were present. Commissioner Campedelli was absent.
ANNOUNCEMENT OF ZOOM RECORDING made by Commissioner Yakovlev
2. **PUBLIC COMMENT** - None
3. **APPLICATION FOR TRANSFER OF CLASS II CAR DEALER LICENSE #816**
From: Ernie's Garage, LLC d/b/a Ernie's Garage
To: B & M Ventures, Inc. d/b/a Ernie's Garage
Location: 72 King St.

Mike Woodard, owner, and partner Brian DeJordy, were both present for this application and stated they are requesting to transfer ownership of the class II car dealer license from Ernie's Garage, LLC, to B&M Ventures, Inc. Mr. Woodard has worked for Ernie's Garage for 24 years and Mr. DeJordy joined as a partner when the corporation was formed at the beginning of the year.

Commissioner Kahn moved approval of the transfer of the Class II Car Dealers license for B&M Ventures, Inc. Commissioner Yakovlev seconded. The motion passed unanimously 2-0.

4. **APPLICATION FOR CHANGE OF DBA ON AN ANNUAL ALL ALCOHOL BEVERAGES LICENSE**
Rias Baixas, LLC d/b/a Ibiza Tapas
Requested DBA: Homestead

Attorney Dick Evans and Jeremy Werther were both present for this application. Attorney Evans stated his client is requesting a simple change of DBA to reflect the name of the restaurant that is actually doing business and has been for several years. He stated that the tapas formula didn't work out and the new formula is working very well so they'd like to make the license consistent with the actual name of the restaurant.

Commissioner Yakovlev noted that the city awarded Ibiza Tapas an over quota liquor license to Rias Baixas, LLC, d/b/a Ibiza Tapas. The license subsequently started doing business as Seven Strong and ultimately Homestead, except neither of these changes were approved by the License Commission or the ABCC.

Attorney Evans stated that the restaurant has consistently been operating under Rias Baixas, LLC, but there have been changes in ownership over the years. He furthered that if there is something that needs to be done to bring the license into compliance, Attorney Evans and Jeremy Werther will work to make that happen.

Commissioner Yakovlev stated it has been an ongoing issue because at the time of the granting of the license there was acknowledgement of the license restrictions stating that if any changes are made to the license, it must be returned to the City of Northampton with all legal rights.

Commissioner Kahn stated that holding this license is tenuous at best with all of the changes that have occurred and because the special act explicitly indicates the license is given to Rias Baixas, LLC d/b/a Ibiza Tapas. Commissioner Kahn furthered that the situation sounds like it has a potential for revocation.

Attorney Evans stated the immediate question is whether the DBA can be changed to Homestead because the license issued to Rias Baixas, LLC, was not meant to confine the business to a tapas restaurant.

Commissioner Yakovlev stated that she understands the restaurant formula wasn't working but that isn't the issue. The issue is that the Commission expected a conversation about the changes to the license when they were made. The current operation is not in the spirit of the over quota license and there are much bigger issues than a change of DBA.

Attorney Evans stated that a DBA is just an identifier. He questioned whether the business can do business at all if it doesn't do business as Ibiza Tapas?

The clerk stated that the license was issued to Ibiza Tapas and the spirit and interpretation of the special act is that the license was issued to Ibiza Tapas specifically. The loophole was that the Ibiza Tapas sign was left in front of the restaurant and Homestead added a new sign directly below the existing one.

Attorney Evans argued that if the legislature intended to require Ibiza Tapas to maintain the same DBA forever, the language of the special act would have reflected that.

The clerk pointed out that the legislation specifically identifies the DBA name in the language of the special act. If the legislation wasn't intended to restrict the licensee from changing the DBA, it would have only indicated the entity name and nothing else.

Attorney Evans questioned what the benefit to the public would be to deny the DBA change.

Commissioner Yakovlev stated the Commission is focused on understanding the language of the legislation and proceeding correctly based on the interpretation of it. Commissioner Yakovlev noted that she wants to proceed correctly and doesn't want to give Homestead a hard time but that she can't support a DBA change at this time because there is not a full understanding of the legislation because of the opposing views.

Commissioner Khan pointed out that there is a sense of unfairness to other license holders because Homestead is essentially a new restaurant with new owners. She stated that the license technically should have come back to the city so now the Commission wants to do the right thing and rectify the issue.

Commissioner Yakovlev stated she is not inclined to make a decision without further discussion with the City Solicitor.

Attorney Evans requested a written decision and basis for denial from the Commission so that it can be appealed to the ABCC.

Commissioner Yakovlev moved to deny the application for the request of change of DBA. Commissioner Kahn seconded. The motion to deny the request passed unanimously 2-0.

Attorney Seewald joined the call and reiterated his opinion that the special act license was issued to Rias Baixas, LLC d/b/a Ibiza Tapas, and not doing business as Homestead or anything else. He furthered that the legislation wouldn't have indicated the DBA name if they didn't intend to require the same DBA as when the license was granted.

Attorney Evans questioned what the public purpose is by confining Rias Baixas, LLC, to do business as a tapas restaurant.

Attorney Seewald stated that when the Mayor petitioned for the special legislation, he fought for licenses for specific restaurants so as to benefit their operation at the time. However, he restricted the licenses so that the restaurant didn't have the benefit of transferring the license or using it for another purpose.

Attorney Evans questioned whether it was the Mayor's intent to lock Rias Baixas, LLC, into being a tapas restaurant.

Attorney Seewald stated that was the intent for the specific restaurant.

5. APPLICATION FOR NEW CLASS I CAR DEALER LICENSE

TNM Auto Corp. d/b/a Volvo Cars Pioneer Valley
48 Damon Rd.

Carla Zayac and Tommy Cosenzi were present for this application. Ms. Zayac stated that she is hoping to be moved into the new location on September 1, 2020. Volvo Cars is currently in South Deerfield with the hopes of relocating to 48 Damon Rd., Northampton.

The clerk noted that she spoke with the Planning and Sustainability department which informed her that TNM Auto Corp. applied for a special permit and the hearing in front of the Planning Board will be on August 13, 2020. Carolyn Misch, Senior Land Use Planner, stated she did not see any issues with the applicant receiving the special permit.

Commissioner Yakovlev moved approval of the Class I Car Dealer license contingent upon approval of the special permit by the Planning Board. Commissioner Kahn seconded. The motion passed unanimously 2-0.

6. REVIEW AND APPROVAL OF APPLICATION FOR EXTENSION OF PREMISES ONTO PUBLIC SPACES

Fortune Creative, LLC d/b/a Oriental Taste
41 Main St.

Mr. Zheng was present for this application and stated he is hoping to place two tables in front of his restaurant on the sidewalk and three or four small tables in the street area that was cordoned by the city.

Commissioner Kahn moved approval of the application for extension of premises onto public spaces for Fortune Creative, LLC, to include two small tables on the facade of the building along with four tables placed in the cordoned off street area provided by the city and to include the sidewalk in between

limited to transportation of alcoholic beverages, as shown on plan on file with the License Commission. Commissioner Yakovlev seconded. The motion passed unanimously 2-0.

7. APPROVAL OF MINUTES

- February 5, 2020
- March 4, 2020
- July 6, 2020

Commissioner Yakovlev moved to approve the minutes for February 5, 2020, March 4, 2020, and July 6, 2020, as written. Commissioner Kahn seconded. The motion passed unanimously 2-0.

8. NEW BUSINESS

In early March, it was brought to the attention of Commissioner Yakovlev that Highbrow was serving non-cordial alcohol and promoting such on the menu. Now that regular meetings are being held, Commissioner Yakovlev would like a discussion because of the potential violation.

Commissioner Yakovlev believes the Commission should send a letter to Mr. Brow stating that the Commission is aware of the cocktails being served and must cease and desist immediately until further investigation.

The Commission agreed to send a cease and desist letter to Mr. Brow and include an invitation to the August 5, 2020, for a formal discussion.

9. ADJOURN

Commissioner Yakovlev moved to adjourn at 5:04 p.m. Commissioner Kahn seconded. The motion passed unanimously 2-0.