

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER
FEBRUARY 4, 2016

ESTHER HOWLAND CHAMBER

Commission Members Present: Karon Shea, Chairperson
Walter Shea, Commissioner

Commission Members Absent: Anthony Salvidio, Commissioner

Staff Present: Stephen Rolle, Planning & Regulatory Services
Deborah Steele, Planning & Regulatory Services
Alexandra Kalkounis, Law Department
James Foley, Inspectional Services
Lt. James Johnson, Worcester Police Department
Officer Patrick Harrington, Worcester Police Department
Officer Edward Saucier, Worcester Police Department

Approval of the Minutes – January 21, 2016

Upon a motion the Commission voted 2-0 to approve the minutes of January 21, 2016.

NEW BUSINESS

One Day Liquor & Entertainment Requests:

1. Petition: Request for one day liquor license
 - March 13, 2016 – 11:00 a.m.- 6:00 p.m.

Petitioner: Dino Singas, 257 Park Avenue

Dino Singas appeared on behalf of the application. He stated that this event will be for the St. Patrick's Day Parade and they will rope off the parking lot and hire a police detail.

Upon a motion the Commission voted 2-0 to approve the one day license.

Exhibit A: Application for one day liquor license received January 19, 2016 and dated January 19, 2016.

2. Petition: Request for one day liquor license

- March 13, 2016-11:00 a.m.- 6:00 p.m.

Petitioner: Emerald Club of Worcester, 215 Park Avenue

Application was postponed to the February 25, 2016 License Commission meeting.

Exhibit A: Application for one day liquor license received January 16, 2016 and dated January 16, 2016.

3. Petition: Request for 2 one day liquor licenses

- March 13, 2016 – 11:00 a.m. - 4:00 p.m.
- September 18, 2016 – 11:00 a.m. - 7:00 p.m.

Petitioner: Stephen Hopkins, 266 Park Avenue

Stephen Hopkins appeared on behalf of the application. He stated that this event will be for the St. Patrick's Day Parade and will be held in same area as past years and will have his own security plus off-duty police. The September date is for Start on the Street.

Upon a motion the Commission voted 2-0 to approve the one day licenses.

Exhibit A: Application for one day liquor license received January 28, 2016 and dated January 28, 2016.

3a. Petition: Request for entertainment license for live music

- March 13, 2016 – 11:00 a.m. - 4:00 p.m.

Petitioner: Stephen Hopkins, 266 Park Avenue

Taken up contemporaneously with the item above.

Upon a motion the Commission voted 2-0 to approve the entertainment license.

Exhibit A: Application for entertainment license received January 28, 2016 and dated January 28, 2016.

4. Petition: Request for one day liquor license

- March 19, 2016-8:00 p.m.-1:00 a.m.

Petitioner: Paul Barber, 20 Franklin Street

4a. Petition: Request for entertainment license for live music

- March 19, 2016-8:00 p.m.-1:00 a.m.

Petitioner: Paul Barber, 20 Franklin Street

Items 4 & 4a were taken up contemporaneously.

Paul Barber and Paul Giorgio appeared on behalf of the items.

Mr. Barber stated this is for downtown event and it is a speakeasy type of event and they will have a detail officer and security checking ID's.

Chair Shea asked where the event was being held. Mr. Barber stated that it in the new basement of the new QCC building on Franklin Street.

Commissioner Shea asked Mr. Barber to explain where the exits were located.

Mr. Giorgio stated that one exits out to the street and one to the basement and there is signage showing where exits are located.

Upon a motion the Commission voted 2-0 to approve the one day liquor license.

Upon a motion the Commission voted 2-0 to approve the one day entertainment license.

Exhibit A: Application for one day liquor license received January 28, 2016 and dated January 28, 2016.

Exhibit B: Application for one day entertainment license received January 28, 2016 and dated January 28, 2016.

Common Victualer

5. Petition: Request for common victualer license

Petitioner: Hampton Inn & Suites Worcester, 65 Prescott Street

Zachary Germana appeared on behalf of the item. He stated this is for breakfast area located in the hotel.

Upon a motion the Commission voted 2-0 approve the common victualer license.

Exhibit A: Application for common victualer license received January 1, 2016 and dated January 1, 2016.

6. Petition: Request for common victualer license

Petitioner: Pizza The Action/The Pizza Joint, 413 Park Avenue

Dean Stamoulis appeared on behalf of the application. He stated he is taking over the old Domino's Pizza location.

Upon a motion the Commission voted 2-0 to approve the common victualer license.

Exhibit A: Application for common victualer license received January 27, 2016 and dated January 27, 2016.

7. Petition: Request for common victualer license

Petitioner: Whiskey on Water LLC, 97 Water Street

Joe Morin appeared on behalf of the item. He stated that he had received the staff memo and was fine with the conditions outlined in the memo with regard to the food trucks.

Attorney Kalkounis asked that the applicant provide an updated plan of the changes to staff.

Upon a motion the Commission voted 2-0 to approve the common victualer license with the conditions outlined in the February 3, 2016 staff memo.

Exhibit A: Application for common victualer license received February 2, 2016 and dated February 2, 2016.

Exhibit B: Memo dated February 3, 2016 outlining conditions for common victualer license.

Alcohol & Entertainment Requests:

8. Petition: Request for entertainment license for tv & radio

Petitioner: Hampton Inn & Suites Worcester, 65 Prescott Street

Zachary Germana appeared on behalf of the item. He stated this is for breakfast area located in the hotel.

Upon a motion the Commission voted 2-0 approve the entertainment license.

Exhibit A: Application for entertainment license received January 1, 2016 and dated January 1, 2016.

9. Petition: Request for restaurant all alcohol license

Petitioner: Shrewsbury Street Restaurant LLC dba Terra Barsilis, 480 Shrewsbury Street

Attorney Steven Boris along with the applicant appeared on behalf of the item. He stated that this is the applicant's third location and they have been in business for 15 years at other locations. He stated that they will do some alterations such a change the carpet and some other minor cosmetic changes.

Commissioner Shea asked how ID's would be check as it states in their application that a package store owned by the applicant had an infraction for selling to a minor.

Mr. Boris stated that they would check ID's as person comes in and that they have had no violations at the restaurant locations.

Mr. Rolle asked how large the deck was. Mr. Boris stated that he thought it was 11' x 6'.

Mr. Rolle stated that he believes from viewing that it looks more like 35' x 20'.

Mr. Boris stated the only access is from inside the restaurant and customers will need to be seated by a hostess and there is no way for people to access that area from parking lot.

Mr. Rolle stated that based on the zoning ordinance the outside deck would need to be limited to an occupancy of 20. Mr. Boris stated that they were fine with that.

Ms. Steele asked if Commission could confirm the closing of the deck area.

Mr. Boris stated that they would be fine with an 11:00 p.m. closing for the deck area.

Upon a motion the Commission voted 2-0 to approve the restaurant all alcohol license with condition that the occupancy of the deck would be limited to 20 people and that the deck area be closed by 11:00 p.m.

Exhibit A: Application for restaurant all alcohol license received December 28, 2015 and dated December 28, 2015.

10. Petition: Request for transfer of package store all alcohol license

Petitioner: ARP Liquors dba Hamilton Street Liquors, 364 Hamilton Street

Attorney Matthew Porter along with the applicant appeared on behalf of the application. He stated that this is for a transfer of the license.

Upon a motion the Commission voted 2-0 to approve the transfer of the package store all alcohol license.

Exhibit A: Application for transfer of package store all alcohol license received January 20, 2016 and dated January 20, 2016.

11. Petition: Request for General on Premises All Alcohol license

Petitioner: The Pint, LLC, 58 Shrewsbury Street

Application was withdrawn.

12. Petition: Request for entertainment license for radio, tv, jukebox

Petitioner: The Pint, LLC, 58 Shrewsbury Street

Application was withdrawn.

Violation Hearings

13. Jasmart Corp. dba Mahoney's Pub, Violations of Rules #1, #7, #13, #14 (2 counts), #27-Open after hours, overcrowding, Sales to person under 21, manager responsible for premises.

Lt. Johnson presented the following:

JANUARY 9, 2016 Incident

1. On January 9, 2016 Officer Patrick Harrington was working on his current assignment as a member of the Worcester Police Alcohol Enforcement Unit.
2. Officer Harrington was in the area of the Licensed Premises and noticed at 2:32 a.m. there was a small crowd standing outside the Licensed Premises, in the area of the front door and observed several people walk into the Licensed Premises.
3. Officer Harrington pulled over to investigate and as he attempted to enter the Licensed Premises he observed several patrons exit and close the front door. Officer Harrington noticed that the front door of the Licensed Premises was closed and locked and while standing at the door another person exited the Licensed Premises.
4. Officer Harrington observed approximately 5-6 people standing inside the Licensed Premises.
5. One of the patrons inside was a male identified as Michael Lewandowski. He was standing in the front door of the Licensed Premises and had an open 12 oz. Michelob bottle of beer.
6. Officer Harrington entered the Licensed Premises and observed two males sitting at the far right corner of the bar. One male had a half full draft beer and the other had 12 oz. bottle of beer.
7. Officer Harrington spoke with the manager, John Bartosiewicz, who apologized and said it was extremely busy earlier and things got crazy.
8. Officer Harrington asked Mr. Bartosiewicz to produce his liquor license as an expired 2014 license was on the wall. Mr. Bartosiewicz produced the 2016 license from his paperwork and Officer Harrington explained that the license needed to be posted immediately.
9. Officer Harrington observed the man with the Michelob bottle was still standing inside and asked why he was still in the bar and the man responded in slurred speech that he was not driving but waiting for Uber.
10. Officer Harrington informed Mr. Bartosiewicz that a report of the incident would be filed and a hearing requested before the License Commission in regards to the violations.

JANUARY 22, 2016 Incident

11. On January 22, 2016 Officers Mark Jolin, Ed Saucier and Pat Harrington were working on their assignment as members of the Worcester Police Alcohol Enforcement Unit (collectively referred to as “the officers”), and were with Worcester Fire Inspectors Kevin Vescera, William Ekberg, Jeff Dubeau and Lt. Brian McGurl (collectively referred to as the “fire inspectors”). Along with them was Casey Burlingame of Inspectional Services and John Araujo of the State Fire Marshal’s Office (collectively referred to as “the inspectors”).
12. At 12:05 a.m. (January 23, 2016) the group went to the Licensed Premises and observed a line of about 30 people waiting to get inside.
13. The Licensed Premises’s occupancy is 49.
14. As the officers entered the Licensed Premises they could not move due to the number of people inside.
15. Officer Jolin asked a young female holding a drink in a plastic cup how old she was and she stated that she was 21. When Officer Jolin asked to see her identification she could not produce one and at that time the lights came on and people began to leave and the young girl blended into the crowd.
16. Officer Jolin asked another female that was drinking a draft beer how old she was and she stated 21. Officer Jolin asked her for identification and she admitted that she was 20 years old and stated that no one had asked her for identification when she entered the bar.
17. The fire inspectors remained outside the front door and counted the patrons as they left the Licensed Premises.
18. The fire inspectors witnessed most of the patrons exit through the front door.
19. Mr. Burlingame counted 350 patrons come out the front door.
20. When the Licensed Premises was cleared of patrons the officers observed nip bottles of Fireball littering the floor.

Attorney Richard Kalinowski appeared on behalf of the Licensee along with Mr. Bartosiewicz, the owner and manager. Attorney Kalinowski admitted to the violations and stated that Mr. Bartosiewicz takes the violations very seriously and there have been some past infractions but Mr. Bartosiewicz has taken steps to address these issues. Since the violations, Mr. Bartosiewicz has continued his staff meetings to train his employees on how to check for underage patrons. Furthermore, he is open to any suggestions as to how to stop this from happening again in the future. Regarding the overcrowding on January 23rd Mr. Bartosiewicz testified it was a flash mob that just showed up that night.

Mr. Bartosiewicz testified that since the violations, staff has taken additional precautions by signing up for classes which offer detailed training on events that may occur at an establishment and how to properly respond in certain types of situations. One of these online classes is called

Crime Doctor. Additionally, since the violations he now has a staff person at the door counting the patrons as they come in.

Commissioner Shea stated that in the past five years that Mr. Bartosiewicz has owned the Licensed Premises he has had three violations and a pending violation before the ABCC and Commissioner Shea is really concerned about Mr. Bartosiewicz's ability as a manager. Moreover, Commissioner Shea was really concerned about the number of patrons that were inside the Licensed Premises and their safety. Not only are there safety and fire concerns with that many patrons but the underage selling of alcohol is a big concern.

Fire Inspector Dubois testified that this is the second time the Licensed Premises has been cited for overcrowding. This is a crime in the state of Massachusetts and the manager needs to be more serious about these violations.

Chair Shea asked Mr. Bartosiewicz if he was there on the night of January 23rd and what did he do to control the crowd. Mr. Bartosiewicz testified that it was a flash mob that showed up and in hindsight he needed more staff to control the crowd. Since that day they have a crowd manager. Chair Shea asked if crowd manager was there that evening and Mr. Bartosiewicz responded that he was.

Chair Shea stated that she doesn't believe that Mr. Bartosiewicz is taking his job as owner of the Licensed Premises seriously.

The Fire Inspectors strongly urge Mr. Bartosiewicz to take the crowd manager class online, or hire someone who has taken the online course and has been certified in crowd management.

Based on the evidence, the Commission finds the Licensee violated Rules #1, #7, #13, and #14 (2 counts) of the Worcester License Commission Rules and Regulations for liquor licenses, 204 CMR 2.05 (2) and M.G.L. c.138, § 34, on January 9 and 23, 2016 and imposes a seven (7) day suspension with five (5) days to be served and two (2) days to be held in abeyance for one year from the date of this hearing. The Licensee shall serve the suspended days on: March 24, 25, 26 and March 30 and 31st, 2016. If any violations occur within a year from the date of the hearing you will serve the two days along with any other penalty the Commission imposes.

Exhibit A: Police report dated January 23, 2016.

Communications

14. Electronic communication dated January 26, 2016-Resignation of Red Lantern manager - No comment.

ADJOURNMENT

Meeting adjourned at 11:12 a.m.