MINUTES OF THE PROCEEDINGS OF THE LICENSE COMMISSION OF THE CITY OF WORCESTER NOVEMBER 16, 2017

LEVI LINCOLN CHAMBERS

Commission Members Present: Anthony Salvidio, Chairman

Walter Shea, Commissioner Barbara Haller, Commissioner

Commission Members Absent:

Staff Present: Stephen S. Rolle, Planning & Regulatory Services

Deborah Steele, Planning & Regulatory Services

Alexandra Kalkounis, Law Department Jennifer Beaton, Law Department

Sergeant Thomas Needham, Worcester Police Department

John Biancheria, Inspectional Services

<u>Minutes</u>

October 19, 2017, October 26, 2017

Upon a motion the Commission voted 3-0 to approve the minutes of October 19, 2017 and October 26, 2017.

NEW BUSINESS

Common Victualer Requests

I-1: Best Supermarket, 877-883 Main Street

Request for common victualer license

Waifri Rodriguez appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the common victualer license.

Exhibit A: Application for common victualer license dated October 20, 2017 and received October 20, 2017.

I-2: Café Agrizzi, Inc, 250 Commercial Street

Request for common victualer license

Sheila Algrzzi Pului appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the common victualer license.

Exhibit A: Application for common victualer license dated October 31, 2017 and received October 31, 2017.

I-3: Azores Bistro, 35 Blackstone River Road

Request for common victualer license

Carla Soscia appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the common victualer license.

Exhibit A: Application for common victualer license dated November 6, 2017 and received November 6, 2017.

I-4: El Dorado Mexican Grill, 138 Millbury Street

Request for common victualer license

Karen Martinez appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the common victualer license.

Exhibit A: Application for common victualer license dated October 17, 2017 and received October 18, 2017.

Special One Day Liquor & Entertainment Requests

II-1 Saint Spyridon Greek Orthodox Cathedral, 102 Russell Street

Request for one day liquor license

• November 18, 2017 – 7:00 p.m.-Midnight

Michael Dionis appeared upon behalf of the application. He stated that 200 people are expected and TIPS certified bartenders have been hired for the event.

Upon a motion the Commission voted 3-0 to approve the one day liquor license.

Exhibit A: Application for one day liquor license dated October 24, 2017 and received October 24, 2017.

II-2: Joe Bertoletti, 1 College Street, The Hart Center, Bud Ryan Room

Request for one day liquor license

- December 1, 2017 4:30 p.m.-8:00 p.m.
- January 2, 2018 5:00 p.m. 10:00 p.m.
- January 5, 2018 5:00 p.m.-10:00 p.m.
- January 6, 2018 Noon-10:00 p.m.
- January 8, 2018 5:00 p.m.-10:00 p.m.

- January 11, 2018 5:00 p.m.-10:00 p.m.
- January 13, 2018 Noon-10:00 p.m.
- January 14, 2018 11:00 a.m.-4:00 p.m.
- January 17, 2018 5:00 p.m.-10:00 p.m.
- January 19, 2018 Noon-10:00 p.m.
- January 20, 2018 11:00 a.m.-10:00 p.m.
- January 24, 2018 5:00 p.m.-10:00 p.m.
- January 26, 2018 5:00 p.m.-10:00 p.m.
- January 27, 2018 11:00 a.m.-10:00 p.m.
- January 31, 2018 5:00 p.m.-10:00 p.m.
- February 3, 2018 11:00 a.m.-3:00 p.m.
- February 9, 2018 5:00 p.m.-10:00 p.m.
- February 10, 2018 11:00 a.m.-3:00 p.m.

No one appeared for the item. The Commission voted 3-0 to approve the December 1, 2017 event and postponed the other items to the December 14, 2017 License Commission meeting.

Exhibit A: Application for one day liquor license dated October 24, 2017 and received October 24, 2017.

II-3: Mythical Journeys, LLC, 100 Barber Avenue

Request for one day liquor license

• December 2, 2017 – 5:30 p.m-10:30 p.m.

II-3a: Mythical Journeys, LLC, 100 Barber Avenue

• December 2, 2017 – 5:30 p.m.-10:30 p.m.

Request for one day entertainment license for dancing by patrons, live music, amplification system

Items #3 and 3a were taken contemporaneously

Brian Harvard appeared upon behalf of the items. He stated that the event is being held at Higgins Armory and it is a Victorian Christmas ball.

Upon a motion the Commission voted 3-0 to approve the one day liquor license.

Upon a motion the Commission voted 3-0 to approve the one day entertainment license.

Exhibit A: Application for one day liquor license dated November 10, 2017 and received November 10, 2017.

Exhibit B: Application for one day entertainment license dated November 10, 2017 and received November 10, 2017.

II-4: Wise Holiday Committee of Assumption College, 500 Salisbury Street

Request for one day liquor license

• December 12, 2017 – 11:30 a.m.-1:30 p.m.

Susan Perschbacheher appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the one day liquor license.

Exhibit A: Application for one day liquor license dated November 13, 2017 and received November 13, 2017.

Alcohol & Entertainment Requests

III-1 Brewski's Pub, LLC, 413 Park Avenue

Request for entertainment license for jukebox, tv, radio, dancing by patrons, live music, recorded music, amplification system, karaoke

Attorney Sean Murray and Stacey Blanchette appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the entertainment license.

Exhibit A: Application for entertainment license dated October 24, 2017 and received October 24, 2017.

III-2: Ballott Box Bar, LLC, 1 Kelley Square

Request for change of manager

Guy Glodis appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the change of manager application.

Exhibit A: Application for change of manager dated October 23, 2017 and received October 23, 2017.

III-3: Basil n Spice, LLC, 299 Shrewsbury Street

Request for change of manager

Tal Lachman appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the change of manager application.

Exhibit A: Application for change of manager dated October 27, 2017 and received October 27, 2017

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Commissioner Shea recused himself from Item III-4 and left the meeting room.

III-4: Carter Realty Group, Inc. dba Brooks's Pub, 251 Lincoln Street

Request for change of manager

Upon a motion the Commission voted 3-0 to approve the change of manager.

Exhibit A: Application for change of manager dated November 3, 2017 and received November 3, 2017.

Commissioner Shea returned to the meeting room.

III-5: Colwen Management, Inc. dba Courtyard by Marriott, 72 Grove Street

Request for change to Management/Operating Agreement

Albert Denapoli, Esq. appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the change to the management/operating agreement.

Exhibit A: Application for change to management/operating agreement dated October 31, 2017 and received October 31, 2017.

III-6: Simjang, LLC, 72 Shrewsbury Street, Unit 1

Request for restaurant all alcohol license

Sean Woods and Jared Forman appeared upon behalf of the application.

Mr. Forman stated that they will be opening a Koren restaurant at the location.

Chairman Salvidio stated that they could not get to the site view this a.m. but Sergeant Needham will view the premises and set up a time with the applicant.

Upon a motion the Commission voted 3-0 to approve the restaurant all alcohol license subject to police inspecting the premises.

Exhibit A: Application for restaurant all alcohol license dated October 2, 2017 and received October 2, 2017.

III-7: Thanh Phan dba Pho Bowl, 580 Park Avenue

Request for restaurant all alcohol license

Upon a motion the Commission voted 3-0 to allow for Leave to Withdrawn for the restaurant all alcohol license application.

Exhibit A: Application for restaurant all alcohol license dated October 11, 2017 and received October 11, 2017.

III-8: Greater Good Imperial Brewing Co., Inc., 55 Millbrook Street

Request for general on premises all alcohol license including outside patio area

III-8a: Greater Good Imperial Brewing Co., Inc., 55 Millbrook Street

Request for entertainment license for tv, radio, live music

Items # III-8 and III-8a were taken contemporaneously.

Paul Wengender appeared upon behalf of the application.

Chair Salvidio stated that the Commission had viewed the site prior to the meeting and it is a nice investment into the area.

Upon a motion the Commission voted 3-0 to approve the general on premises all alcohol license including outside patio area.

Upon a motion the Commission voted 3-0 to approve the entertainment license.

Exhibit A: Application for general on premises all alcohol license dated October 17, 2017 and received October 17, 2017.

Exhibit B: Application for entertainment license dated October 17, 2017 and received October 17, 2017.

III-9: Great Walk, Inc. dba Great Wall, 521 Main Street

Request for restaurant malt & wine license

Attorney Dan Cotton appeared upon behalf of the application.

Chair Salvidio stated that the Commission had viewed the premises prior to the meeting and it fell short. He stated that there was conflicting conversation with the applicant during the view as to where the liquor storage would be and whether the restaurant is primarily a takeout or a sit down restaurant. He suggested a two week continuance so Attorney Cotton could meet with his client to discuss better details on the proposed plan for the restaurant.

Roberta Brien and Troy Siebels stated that they both have serious concerns about ability of the owner to handle a liquor license.

Upon a motion the Commission voted 3-0 to continue the application to the December 14, 2017 License Commission meeting.

Exhibit A: Application for restaurant malt & wine license dated October 30, 2017 and received October 30, 2017.

III-10: The Juice Seafood, Inc., 1269 Main Street

Request for restaurant all alcohol license

III-10a: The Juice Seafood, Inc., 1269 Main Street

Request for entertainment license for tv, radio, recorded music

Items #III-10 and III-10a were taken contemporaneously.

Attorney Chris Coleman along with Key Lim appeared upon behalf of the application.

Chair Salvidio stated that the Commissioners had viewed the premises prior to the meeting.

Mr. Coleman stated that this will be a full service restaurant and Mr. Lim has been an assistant manager at a restaurant with a liquor license so has experience in the industry.

Upon a motion the Commission voted 3-0 to approve the restaurant all alcohol license.

Upon a motion the Commission voted 3-0 to approve the entertainment license.

Exhibit A: Application for restaurant all alcohol license dated October 30, 2017 and received October 30, 2017.

Exhibit B: Application for entertainment license dated October 30, 2017 and received October 30, 2017.

III-11: AADHYAC, LLC, 1454 Grafton Street

Request to transfer package store malt and wine license from the IceBox

Attorney Henry Levin along with Mr. Patel appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the transfer of the package store malt & wine license.

Exhibit A: Application for package store malt & wine license transfer dated October 30, 2017 and received October 30, 2017.

Other Business

IV-1 Café Neo, Inc., 97 Millbury Street

Request to open at 9:00 a.m. on Sundays for breakfast

Catherine & Peter Tsigas appeared upon behalf of the request.

Ms. Tsigas stated that they would like to open early on Sunday for breakfast and would like to amend request to 8:00 a.m.

Upon a motion the Commission voted 3-0 to approve the request with amendment that opening time be 8:00 a.m.

Exhibit A: Electronic communication dated October 24, 2017.

IV-2: La Terraza Corporation, 591 Park Avenue

Request to open at 6:00 a.m. for breakfast

Romero Runez appeared upon behalf of the request.

Upon a motion the Commission voted 3-0 to approve the request.

Exhibit A: Letter dated October 18, 2017 and received October 18, 2017.

IV-3: The Broadway Catering Restaurant, Inc. 100 Water Street

Request to open at 8:00 a.m. on Sundays for breakfast

No one appeared for item and item as postponed to the December 14, 2017 License Commission meeting.

Exhibit A: Letter dated October 1, 2017 and received October 1, 2017.

IV-4: Dubai Restaurant and Lounge, 27 Pleasant Street

Request to amend condition on entertainment license to have entertainment go to 2:00 a.m.

Attorney Dan Cotton along with Julio Alcartane and Lisa Rodriguez appeared upon behalf of the item.

Mr. Cotton stated that this request is economically driven as competitors for this business are allowed to stay open to 2:00 a.m. and they are asking to be treated the same way.

Upon a motion the Commission voted 3-0 to approve the request based on rationale that license holders in the area are all open to 2:00 a.m.

Exhibit A: Electronic communication received October 24, 2017.

IV-5: Mambo Drinks, Inc.,

Request from licensee to amend hours of operation

Maximo Nuez, Juan Pena, Homero Arroniz and Henry Luna appeared upon behalf of the request.

Mr. Luna stated that at the last hearing the Commission voted to have the establishment close at 1:00 a.m. Mr. Luna claimed this has hurt them economically and they have not made any money, that their customers arrive at 12:15 a.m. and they used to have 100 to 150 people, but now by closing at 1:00 a.m. no one comes in.

Commissioner Shea stated that this condition had only been implemented two weeks ago after the license holder had appeared before the Commission for a violation. He also noted that the condition was agreed upon by the license holder and that it was to be in place to six months.

Sergeant Needham reiterated that this was only implemented two weeks ago and doesn't think it is an accurate assessment of how things are progressing, and whether there has been any impact

Chair Salvidio stated that he'd like to continue the item for a month to give it more time before reassessing.

Upon a motion the Commission voted 3-0 to allow establishment to open to 2:00 a.m. on November 18, 2017 only and to continue the request to the December 14, 2017 License Commission meeting.

Exhibit A: Electronic communication dated October 24, 2017.

IV-6: Bottle Service Rule

Upon a motion the Commission voted 3-0 to advertise the item for the December 14, 2017 License Commission meeting.

Lodging Houses

V-1: South Middlesex Non-Profit Community Housing, 26 Dayton Street Request for change of manager

Amaryllis Chaves appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the change of manager.

V-2: South Middlesex Non-Profit Community Housing, 14 Duxbury Street

Request for change of manager

Amaryllis Chaves appeared upon behalf of the application.

Upon a motion the Commission voted 3-0 to approve the change of manager.

V-3: Chris Valeri, 39-41 Irving Street

Status of lodging house

Chris Valeri along with Amaryllis Chaves appeared upon behalf of the item.

Amanda Wilson gave an overview of the property, citing overall improvement, but identifying multiple issues that have yet to be addressed.

The Commission reviewed with Mr. Valeri the plans for securing the building. Mr. Valeri stated that he has a couple that now resides at the property and since that has happened the police and fire have not been to the property.

Chair Salvidio stated that the having on site management seems to have helped to take care of the problems at the property.

Ann Flynn stated that things have improved and hopes it remains that way.

Commissioner Haller stated that she has spoken with neighbors who have said that the property has improved.

Upon a motion the Commission voted 3-0 to continue the item for a six month status report.

V-4: New Albion, LLC, 765 Main Street

Six month status hearing

Attorney Jonathan Finkelstein and Michael O'Rourke appeared upon behalf of the item.

The Commission stated that everything has been going well since Mr. O'Rourke has been managing the property and feels that the owner does not need to come back for another status hearing.

Upon a motion the Commission voted 3-0 to file the item.

Public Hearing

VI-1: Proposed amendment to License Commission Rules and Regulations for alcoholic beverages to be drunk on the Premises relevant to Nightclubs.

Mr. Rolle provided an update on the proposal which was as follows,

AN AMENDMENT TO THE WORCESTER LICENSE COMMISSION RULES AND REGULATIONS RELATIVE TO THE SALE OF ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES

WHEREAS, there has been a recent increase in the number of underage drinking, occupancy violations and illegal activity occurring at licensed liquor establishments; and

WHEREAS, the City of Worcester seeks to promote a vibrant and safe nightlife which will promote economic development in the city; and

WHEREAS, best management practices at licensed liquor establishments will ensure a vibrant and safe nightlife thereby reducing underage drinking and illegal activity; and,

NOW THEREFORE, be it adopted by the License Commission of the City of Worcester as follows:

- Section 1. The City of Worcester License Commission Rules and Regulations for the Sale of Alcoholic Beverages to be Drunk on Premises is hereby amended by inserting the following new sections 30 through 36:
 - 30. Licensed premises with a occupancy over 99 occupants must have a certified crowd manager and must comply with the following:
 - a. One crowd manager for every 250 occupants.
 - b. The crowd manager Certificate of Successful Completion should be kept at the Licensed Premises at all times and shall be submitted to the License Commission.
 - c. Crowd managers must fill out the Crowd Manager Fire and Building Safety Checklist every day the Licensed Premises is open for business and keep the documents on file at the Licensed Premises for three (3) years.
 - 31. Licensed premises must comply in all respects with the requirements of the Massachusetts State Building Code including concerning occupancy limits, egress requirements and sprinkler system requirements.
 - 32. Any establishment that has received an A2/NC (assembly use nightclub) designation on the certificate of occupancy from the Building Commissioner, or allows admission to persons under the age of twenty-one (21) years after midnight, shall submit a plan to the License Commission describing how persons under the age of twenty-one (21) years will be identified and prevented from consuming alcoholic beverages on the licensed premises. Licensees who choose to permit minors onto the licensed premises shall employ sufficient security personnel to enforce said identification plan. The License Commission may restrict admission at any such establishment, so that persons under the age of twenty-one 21 are not allowed on the licensed premises, if underage drinking violations occur or where the approved identification plan is not followed. Licensees who do not have the ability to adequately monitor the

- activities of minors at the premises may voluntarily agree to limit admissions to persons age twenty-one (21) or older.
- 33. Any licensee that has received an A2/NC designation, as defined herein, shall provide security personnel during all hours of operation and shall conduct background investigations for security personnel and at a minimum must comply with the following:
 - a. Licensees must CORI check all applicants for security positions.
 - b. Licensees may not employee as security personnel a person who has a felony conviction in the past seven (7) years.
 - c. Licensees must provide the License Commission with a list of all security personnel and must update the list with the Commission every time there is a change.
- 34. All licensed premises that have received an A2/NC designation, and employ security personnel shall provide training to security staff on an annual basis.
- 35. Live entertainment, including dancing, must be confined to the designated area provided for in the plan submitted with the application to the License Commission. No alterations shall be made the floor plan without the approval of the License Commission.
- 36. Any licensee holding a promoted event must notify the License Commission and the Worcester Police Department fourteen (14) days prior to the event. A promoted event shall include when a person or entity ("Promoter") contracts with a licensee to hold an event at the licensed premises, including performing artists, advertising services, and entertainment performances such as live performances and amplified presentations, and said Promoter has a financial interest in the event by receiving a portion of the profit by renting the licensed premises from licensee, or by receiving a portion of gross receipts from the door or bar.
 - a. Promoters must use the licensed premises' security staff; they may not bring in their own staff.
 - b. Licensees shall, on a monthly basis, email a list of all events to be held at the licensed premises to the Worcester Police Department at alcohol@worcesterma.gov.

FREQUENTLY ASKED QUESTIONS

1. Why is the city imposing these new rules?

The city wants to promote and encourage a safe and vibrant nightlife scene that will contribute economically, socially and artistically to the community as a whole.

Amid growing concerns about nightlife safety and in response to a number of large-scale incidents, the city has taken steps to evaluate the licensing, permitting and inspection procedures for bars, restaurants, nightclubs and entertainment venues.

As a result, revisions to licensing requirements are proposed that will encourage best management practices at licensed liquor establishments and reduce instances of underage drinking, occupancy violations and illegal activity. The proposed changes are intended to reward responsible management of establishments while facilitating necessary measures to address public safety.

2. What is a nightclub?

State Building Code

A nightclub is a "use and occupancy" classification under the Massachusetts State Building Code.

Pursuant to 780 C.M.R. 303.1.1 of the Massachusetts State Building Code, *Use and Occupancy Classification*, a "**night club**" is defined as "an occupancy generally characterized by a combination of any of the following: no theatrical stage accessories other than raised platform; low lighting levels; entertainment by a live band or recorded music generating above-normal sound levels; later-than average operating hours; tables and seating arranged or positioned so as to create ill defined aisles; a specific area designated for dancing; service facilities for alcoholic beverages with limited food service; and high occupant load density.

License Commission Rules and Regulations

The License Commission does not have a "nightclub" definition however; an establishment that has received an A2/NC (assembly use nightclub) designation on the certificate of occupancy from the Building Commissioner, or allows admission to persons under the age of twenty-one (21) years after midnight, will be required to create an identification policy for the admission of persons under the age of 21 and adhere to additional requirements for the provision and training of security staff.

The License Commission may restrict admission at any such establishment, so that persons under the age of twenty-one 21 are not allowed on the licensed premises, if underage drinking violations occur or where the approved identification plan is not followed.

Licensees who do not have the ability to adequately monitor the activities of minors at the premises may voluntarily agree to limit admissions to persons age twenty-one (21) or older.

When are sprinklers required to be installed?

If your establishment is classified as a "night club" under the Massachusetts State Building Code then you are required to have a sprinkler system if your occupancy is above 49 persons.

For all other assembly uses, such as restaurants, bars, banquet halls or taverns, a sprinkler system is required if your occupancy is above 99 persons.

3. Who issues alcohol and entertainment licenses in the City?

The License Commission is responsible for issuing alcohol and entertainment licenses. You may apply for a section 12 "pouring" license for liquor to be drunk on the premises (i.e. restaurant, hotel, club, tavern, war veterans, club, general on-premises).

You may apply for a full entertainment license or a basic entertainment license for year round or one day entertainment.

Basic licenses include the following types of entertainment: recorded audio (IPod, CD player); dartboards, TV's.

Full entertainment licenses include the following types of entertainment: dancing by entertainers, dancing by patrons, DJ, floor show, karaoke, vocal music, bands.

The applications are available at the City's Division of Planning & Regulatory Services.

- 4. If I am restaurant and want to have occasional live music, does that mean I need to comply with the licensing requirements for nightclubs/establishments with A2/NC designation? No, as long as, you are primarily engaged in food service rather than the sale of alcoholic beverages and do not have a designated area for dancing or assembly use with limited seating.
- 5. What if I want to operate a restaurant until 10p.m. and then operate as a nightclub with live entertainment and dancing until 2:00 a.m., is that permitted?

Yes, as long as, you comply with the License Commission rules and regulations relative to establishments with an A2/NC designation and comply with the Massachusetts State Building Code relative to nightclubs. You are not permitted to have two use and occupancy classifications at the same location and therefore, the more restrictive nightclub requirements will apply.

6. How has the application process changed?

The staff will now be reviewing all applications and premises prior to the License Commission hearing and making a recommendation based on the information submitted with the application (floor plan, occupancy, and business proposal), as to whether the nightclub provisions apply. If your establishment receives an A2/NC designation on its certificate of occupancy, you must adhere to the state regulations for nightclubs and the license commission regulations for A2/NC uses.

If the premises is not constructed when you apply for the license, the License Commission will approve based on plans and there will be a final inspection and sign off when construction is complete.

7. What are compliance checks and when will they occur?

The police department, fire department, and inspectional services will conduct compliance checks throughout the year to ensure licensees are complying with all applicable laws and local rules and regulations.

During the fall of every year, 304 inspections will occur. A liquor license may not be renewed if the licensee has not passed the 304 inspection.

8. What can I expect to take place at a compliance check? Fire

Fire inspectors will look for the following during compliance checks: the establishment does not exceed its occupant load limit; exits are unlocked and accessible; crowd manager paperwork, where applicable, is present and kept on the premises; illuminated exit signs and emergency lights function, and; any fire protection equipment (sprinkler system, fire alarm system, fire extinguishers, kitchen hood system) is in working order and routinely maintained.

Police

The police will primarily focus on public safety violations such as, underage drinking, overserving, and security and management issues. This includes violations of the Massachusetts General Laws specifically related to alcohol, such as tampering with alcohol.

The police will also focus on ensuring licensees are complying with the conditions set forth by the License Commission regarding the operation of the business including management and operational issues, such as updated manager paperwork and compliance with any conditions on the license.

All public safety violations will be addressed immediately and in all cases will result in a report to the License Commission.

Inspectional Services

Inspectors will be concerned with the following: blocked egresses; emergency lights and exit signs in good working condition; occupant load; sprinkler report, and; food permits.

10. When will these rules become effective?

The anticipated start date is January 1, 2018.

Several license holders spoke regarding the proposal.

Upon a motion the Commission voted 3-0 to adopt the proposal.

Violations

None

Communications

Meeting schedule 2018-held

Adjournment

Upon a motion the Commission adjourned the meeting at 12:15 p.m.