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July 28, 2011

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Copy to: City Manager
City Clerk

Time: 10:00 a.m.
Room: Esther Howland Chamber

License Commissioners Present
Peter Lukes, Chairman
Karon Shea, Commissioner
Paul Mullan, Commissioner

City of Worcester Staff Present
Lt. James Johnson, Worcester Police Department
Sergeant Donald Larange
Jennifer Beaton, Law Department
Jim Foley, Health Department
Deborah Steele, Planning & Regulatory Services

Views: 9:00 a.m. Pho Dako, 593 Park Avenue
9:15 a.m. Conchaguas, 118 Cambridge Street
9:30 a.m. Wal Mart, 25 Tobias Boland Way
9:45 a.m. 7 Nana Steak House, 60 Shrewsbury Street

Peter Lukes called meeting to order at: 10:03 a.m.

Approval of minutes of License Commission meeting of June 30, 2011
Peter Lukes made motion to approve. Karon Shea seconded. Commission voted 3-0 to approve the minutes.

Special All Alcoholic
license requested by:

Tim Friend
257 Park Avenue
August 27, 2011
4:00 p.m. – Midnight

Applicant has requested continuance until August 11, 2011 meeting

Kevin Zona
183 Shrewsbury Street
August 25, 2011
Noon – 9:00 p.m.
September 22, 2011
6:00 – 11:00 p.m.
October 9, 2011
Noon – 9:00 p.m.

Kevin Zona appeared on behalf of the applications and stated they were for the Walk and Rock and OctoberFest on Shrewsbury Street.

Peter Lukes made motion to approve. Karon Shea seconded. Commission voted 3-0 to approve the applications.

Special Malt & Wine
license requested by

Higgins Armory Museum
100 Barber Avenue
September 24, 2011
6:00 p.m. – 9:00 p.m.

James Nelson appeared on behalf of application and stated it is for the eleventh annual festival of ale.

Peter Lukes made motion to approve. Karon Shea seconded. Commission voted 3-0 to approve the application.

David Papazian
Dzian Gallery

65 Water Street
August 18, 2011
7:00 p.m. – 10:00 p.m.
August 20, 2011
7:00 p.m. – 11:00 p.m.

David Papazian appeared on behalf of application. August 18 is a fundraiser for Petrock and August 20 is event for art of wine and local artists will display their artwork. 75 people expected at each event.
Peter Lukes made motion to approve. Karon Shea seconded. Commission voted 3-0 to approve the application.

Pho Dako

593 Park Avenue

Request for alteration of premises for outdoor seating

Commissioners had viewed the site prior to meeting.

Hiep Pham appeared on behalf of application and stated request for outdoor seating.

Mr. Lukes stated that the left side of area must be blocked so patrons must enter the outside area through the restaurant.

Peter Lukes made motion to approve. Karon Shea seconded. Commission voted 3-0 to approve the application.

7 Nana Steak House Inc.

60 Shrewsbury Street

Request for common victualer all alcoholic license and entertainment license to include radio, tv, cd player

Atty Chung Lee appeared to represent 7 Nana Steak House

The Commissioners viewed premises prior to meeting and stated that place looks amazing.

Attorney Lee stated plans is for upscale Japanese Steak house.

Mei Cheng, who was present, at the meeting will be manager.

There will be parking for 40-50 cars and applicant is working with landlord to also have backup parking.

Peter Lukes stated that he wants applicant to bear in mind that area is mix of commercial and residential and doesn't want establishment to turn into nightclub. It is to remain upscale restaurant.

Paul Mullan asked for clarification of what type of entertainment.

Mr. Lee stated entertainment would be radio, tv, cd player and karaoke.

Commission members stated that they would be fine with radio, tv, cd for entertainment.

Karon Shea stated she was excited to see this project coming to City of Worcester.

Lt. Johnson stated that manager had passed the background check.

Peter Lukes made motion to approve. Karon Shea seconded. Commission voted 3-0 to approve the application.

Conchaguas Restaurant

118 Cambridge Street

Request for common victualer all alcoholic license

Commissioners viewed premises prior to the meeting

Pedro Pomales appeared on behalf of application and stated it will be for home-style type of restaurant with Dominican and Cuban food.

Mr. Lukes asked about the hours for the restaurant.

Mr. Pomales stated hours would be Monday thru Thursday 11:00 to 1:00 a.m. and food will stop at 10:00 p.m.

Friday and Saturday closing hour would be 1:00 a.m. and Saturday 1:30 a.m.

Lt. Johnson stated Worcester Police would recommend 11:00 p.m. closing

Mr. Lukes stated he would agree with Police and like to see how establishment is run for a few months and then applicant could come back and request extension of hours.

Commission members agree that closing hour should be 11:00 p.m.

Mr. Lukes reminded applicant to make sure employees know that they have to be closed at 11:00.

Peter Lukes made motion to approve. Karon Shea seconded. Commission voted 3-0 to approve the application.

Wal-Mart Supercenter #4387

25 Tobias Boland Way

Request for package store malt & wine license

Commissioners view the premises prior to meeting

Attorney Michael Angelini, Donna Truex and David Ebbeling the proposed manager appeared on behalf of the application.

Mr. Angelini stated request is for a package store malt & wine license. There will be only 200 square feet aisle in rear of the store to and it is not intention of Wal-Mart to compete with local package stores. Wal Mart would just like to offer as service to their existing customers.

There will be no advertising in any media or flyer. No display platforms.

Mr. Angelini stated he had a petition signed by 1500 customers in support of application..

The cash registers do not allow sale during restricted hours and cashiers must id anyone under age 40.

Mr. Angelini stated that some of the other WalMart's sell alcohol and the beer and wine is sold at market or above market price so it does not undercut the small business owners.

Mr. Mullan stated he would like to see the following: no end cap vending display. No refrigerated stock. Limit amount of items that can be purchased.

Gary Brackett presented a letter representing Robert Kirsh and several package store holders.

Mr. Brackett stated the primary concern is if there a public need and is there potential to expand from 200 feet.

Mr. Brackett stated he does not believe the 1500 signatures satisfies requirement for public need.

Mr. Brackett stated there are ten package stores in area. 33 in 2/12 miles therefore no public need as there are plenty of stores in the area to purchase alcohol.

Mr. Brackett asked how many of 1500 on petition are residents of Worcester.

Bob Kirsch stated he doesn't think 200 sq ft is small and that may be small to WalMart but makes big difference to small business owners and there is no need for the little amount of space they are asking as there are plenty of stores in the area to serve the public .

Mr. Kirsch asked if WalMart plans to give up one of their other liquor license in state if they get one in City of Worcester.

Mr. Lukes stated the level of competition is not issue Commission can consider. Commission is looking at matter of public need.

Ms. Myola of West Boylston asked if WalMart is family retailer why do they need beer and wine and worried they will be applying for licenses throughout the state.

Bob Largess stated the area is adequately served.

Nick Vasialdis stated he agrees with everyone else. There is no public need.

Robert Vardersian stated there is no public need. His business created jobs and WalMart is not creating jobs.

Mr. Vardersian stated they are asking for 200 square feet but then they will ask for more.

William Talcott stated there is no public need.

Mike Anderson stated there is no public need.

Steve Murphy stated he owns a store in Millbury and use to have one in Worcester and Commission has denied requests in past for new package store licenses as there is no public need.

Walter McGovern stated there is no public need.

Mr. Angelini stated Wal-Mart has two licenses in state but this would be third and final license.

Mr. Ebbeling stated he did visit package stores in area and invited questions.

Mr. Angelini stated this request is designed to be convenience to the public.

Mr. Angelini stated with regard to restrictions he have to discuss with his client.

Mr. Mullan asked if applicant would be agreeable to a limit of three cases?

Mr. Angelini stated that would be agreeable but needs to know what volume would be.

Mr. Mullan stated he doesn't want people to buy cases.

Mr. Angelini stated he has to consult with client but will consider reasonable restrictions.

Mr. Mullan stated he would be looking at restriction of three cases of beer and three bottles of wine.

Mr. Angelini stated application would agree to not more three cases of beer and ten bottles of wine.

Ms. Shea stated she likes Walmart but doesn't think alcohol should be available there.

Mr. Lukes stated Commission has to look at public need and the saturation level. In the past the Commission has looked that if there are six other licenses in two mile radius to determine if area is saturated. This location there are ten in 2 mile area. 33 in 2 1/2 and therefore cannot support the application, The Commission voted 2-1 to deny the request for package store malt & wine license. Mr. Mullan voted to approve.

765 Realty LLC
765 Main Street

Request for lodging house license

Atty Finkelstein appeared on behalf of 765 Main Realty LLC.

Mr. Finkelstein stated that new owners have provided new security plan (attached) and have addressed majority of code repairs and are working on completing the rest.

The location will be converting heating from oil to gas.

James O'Rourke will be one of the proposed managers.

Three weeks ago the location has started having off-duty police at premises and a new key system will be implemented. There will always be someone at front door and no visitors after 8:00 p.m.

Mr. Mullan stated his issue is who is the resident manager and will tenants/police know who he is and be able to contact him.

Sgt. Petrone stated that changes have been made for the better. Calls for service to the building have declined over past three months.

Sgt. Petrone stated there is still problems with application and that will need to be corrected.

Attorney Finkelstein stated that owners are looking for an in house resident manager but Mr. O'Rourke can be reach 24 hours a day.

Mr. Lukes stated he is glad that progress is being made and location is on way to redemption.

Sgt. Petrone stated that here is problem with Mr. Reinker being on the property and a lot of the problems stem from him being at location.

Attorney Finkelstein Mr. Reinker will no longer be at property.

Commission members agreed to hold for two weeks so applicant can make changes to application.

City Instyle

41 Pleasant Street

Request to be heard relative to 18 plus license

Attorney Brian Forts representing Club Instyle stated there was condition on license about whether establishment could be 18 plus and at initial hearing for license City Instyle stated they would be trying to attract the 35 and older crowd but all the competitors in the area are 18 plus and Club Instyle will not survive as 21 and older crowd.

The last three Thursday's there were only 10 patrons.

Mr. Forts stated bulk of the incidents are in parking lot used by Instyle and other clubs. There are fights in parking lot that require Police to respond.

Attorney Forts requested for a probationary period that Club Instyle allowed to be 18+ and would be willing to pay for a detail for the parking lot.

Lt. Johnson agreed that most of the problems are stemming for the parking lot area.

Mr. Mullan stated he does not want to see problems at location.

Lt. Johnson stated if they agree to obtain a police detail from 10:00 p.m. – 3:00 a.m. and have the cruiser parked in parking lot it may alleviate the problems

Mr. Mullan suggested a probationary period of six months that on Thursday evenings Club Instyle be allowed to be 18+ as long as they agreed to paid detail.

Mr. Lukes stated the previous condition of two officers inside still remains. Therefore for six months it will be two paid details inside and one outside in the parking lot.

Attorney Beaton stated that Club Instyle will need to get letter of permission from parking lot owners.

Commission voted 3-0 to approve:

18+ on Thursday evenings, 21+ rest of week. Two details inside premises. One outside in parking lot.

HEARINGS

City Instyle

41 Pleasant Street

Violation of Rule #14 and MGL c. 138, § 12

Attorney Brian Forts, Farhad Khaledi and Hitesh Harjani appeared at hearing.

Lt. Johnson presented following report:

The undersigned License Commission Investigator requests that the License Commission notify Club In Style located at 41 Pleasant Street, Farhad Khaledi 08-19-71, manager, to appear before a hearing of the License Commission to answer to Police complaints of violations of Rule #14 and Rule #17 of the Rules and Regulations of the License Commission which occurred on 06-10-11.

Rule #14- Managers of all licensed Liquor establishment shall be responsible for all violations or infractions of the law occurring on the premises whether present or not. The licensee is responsible for any disorder, disturbance or illegality of any kind taking place on licensed premises whether present or not. On 06-10-11 Officer Mark E Jolin was working in his current position as a member of the Worcester Police Departments Alcohol Enforcement Unit. He was wearing plain clothes and operating an unmarked Police Cruiser.

He was assisting with crowd control at 41 Pleasant Street the Club In-Style. It was approximately 0130 hours and the club was letting out. On Thursday, Friday and Saturday nights numerous Police Officers from Operations, Alcohol Enforcement, Gang, Anti-Violence and Bar Impact have to respond to this location for numerous fights, assaults and disorderly patrons.

On this particular occasion he heard Sgt Donald Larange call out to a male to stop. He saw the male that Sgt Larange was referring to throw something. He assisted the Sgt to stop the male. Sgt Larange's report from that incident is as follows:

On Friday, June 10, 2011 at approximately 1:34am, I had the occasion to be working in full uniform in a marked police cruiser in the area of 41 Pleasant St, the Club N-Style when I observed a male, later identified as Rafael E. Rivera, to be walking west on the public sidewalk of Pleasant St. My attention was drawn to him as I observed him to be drinking from a clear bottle the resembled a beer bottle. As I approached Mr. Rivera, he saw me and threw the bottle into a bush along the edge of the sidewalk. I retrieved the bottle and observed it to be a half full bottle of Corona beer. I stopped Mr. Rivera and placed him under arrest (handcuffs double locked) for V.C.O. Open Container of an Alcoholic Beverage. He stated that he had just left the Club N-Style.
He was transported to the station via the wagon w/o incident.

End of report. While awaiting the Patrol Wagon to transport Mr Rivera to the Police Station Rivera claimed that the club staff allowed him to take the bottle. I am fully confident that Mr Rivera hid the Corona Bottle as he left the bar. The reason for this violation is that this is incident illustrates that the Club is extremely busy and is in need of additional staff.

**Attorney Forts stated the upon receipt of the letter regarding the violation hearing the owners had meeting with in-house security team to ensure that this type of incident does not occur again. They are replacing the bathroom attendants and adding extra security at front door from opening to closing.
Attorney Forts stated establishment does hire off-duty police at premises.
A review of file showed no previous violations.
The Commission voted 3-0 that violation had occurred
The Commission voted 3-0 to issue a warning.**

Communications:

ABCC decisions:

**Salty Dog, 1 Kelley Square – Five Day suspension
Carter Realty Group, 251 Lincoln Street – Five Day Suspension
Department of Revenue – Notice of Seizure – SSBY, 18 Grafton Street**

Upon a motion by Peter Lukes and seconded by Karon Shea, the Board voted 3-0 to adjourn the meeting at 11:50 a.m.