

**MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER
SEPTEMBER 20, 2012**

ESTHER HOWLAND CHAMBERS

Commission Members Present:

Karon Shea, Commissioner
Paul Mullan, Commissioner
Anthony Salvidio, Commissioner

Staff Present:

Joel Fontane, Division of Planning & Regulatory Services
Deborah Steele, Planning & Regulatory Services
Lt. James Johnson, Worcester Police Department
Alexandra Haralambous, Law Department
Jim Foley, Inspectional Services

COMMISSION SITE VIEWS:

2 Rice Street – Worcester Country Club
81 Water Street – Divmar LLC

CALL TO ORDER:

Commissioner Shea called the meeting to order at 10:00 a.m.

Approval of the Minutes:

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the minutes of September 6, 2012.

Unfinished Business

1. 123 Summer Street – Dean Stamoulis

Petition: Request for one day liquor license – September 20, 2012

Dean Stamoulis appeared on behalf of application. He stated this is for a cancer fundraiser at St. Vincent's Hospital and about 200 people are expected. The hours of event will be 5:30 p.m. – 7:30 p.m. and hospital will have public safety present for event.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approved the one day liquor permit for 123 Summer Street.

Exhibit A: Application for one day liquor permit received on August 23, 2012 and dated August 20, 2012.

2. 187 Washington Street – Jackson Mejia – Martwi, Inc. dba Rincon

Petition: Request for general on premises all alcohol license & entertainment license to include: DJ, TVs, jukebox, pool table, dart boards, radio

Attorney Al Esposito appeared along with the applicant Jackson Mejia on behalf of the application.

Mr. Esposito stated that Mr. Mejia will be taking over establishment at 187 Washington Street and will have alcohol and entertainment.

Commissioner Shea stated the Commission was unable to make the view at this location and asked that Lt. Johnson view the property to see if there are any concerns about the property.

Commissioner Mullan asked whether Mr. Martinez who was mentioned in the promissory note in application will have any ownership in business.

Mr. Esposito stated no and that Mr. Martinez is just providing a loan for the start up of the business.

Commissioner Shea asked what the hours of the operation would be.

Mr. Esposito stated initially 5:00 p.m. to Midnight and then over time business would open earlier.

Commissioner Mullan stated that the Commission would need specific hours.

Mr. Esposito stated they would request hours be 2:00 p.m. to 2:00 a.m.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the general on premises all alcohol license with the conditions that hours be 2:00 p.m. to 2:00 a.m.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the entertainment license with the conditions that hours be 2:00 p.m. to 2:00 a.m.

Exhibit A: Application for liquor license and entertainment license received on September 5, 2012 and dated August 29, 2012.

New Business

3. 16 Cambridge Street – Paul Hanlon

Petition: Request for one day liquor license & entertainment on October 6, 2012

Paul Hanlon appeared on behalf of the applications and stated this is for annual outside event that they do at establishment and that two off duty police will be hired and the hours of event will be 6:00 p.m. – Midnight.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the one day liquor permit for October 6, 2012.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the entertainment permit for October 6, 2012.

Exhibit A: Application for one day liquor permit received on August 30, 2012 and dated September 5, 2012.

Exhibit B: Application for one day liquor permit received on August 30, 2012 and dated September 5, 2012.

4. 100 Institute Road – Bill Battelle

Petition: Request for one day liquor licenses on October 4, 2012, October 6, 2012, November 1, 2012

Bill Battelle appeared on behalf of the applications. Mr. Battelle stated at the October 4 event 50 people are expected to attend. October 6 event about 60 people in attendance and the November 1, 2012 event 50 people are expected to attend.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approved the three one day liquor permits for October 4, 2012, October 6, 2012 and September 5, 2012.

Exhibit A: Application for three one day liquor permits received on August 30, 2012 and dated August 30, 2012.

5. 231 Lake Avenue – Megan Lolly Memorial Fund, Inc.

Petition: Request for one day liquor license & entertainment on October 14, 2012

David Grey and Terri Sacco appeared on behalf of the application. The event is a benefit for Metastatic Breast Cancer Research to be conducted at UMASS Memorial Cancer of Excellent in memory of Megan Lally who lost her battle to metastatic breast cancer at age 30.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the one day liquor permit for October 14, 2012.

6. 440 Grove Street – Timothy MacDonald

Petition: Request for one day liquor license on October 13, 2012

Timothy MacDonald appeared on behalf of the application. Mr. MacDonald stated this is event that will be held in parking lot in conjunction with a 5K run that is taking place that day.

Commissioner Mullan stated that on application submitted it stated that alcohol would be stored on-going and that is not allowed. He explained that applicant should have the alcohol distributor deliver the day of the event to the designated area for event and that any unused alcohol the applicant should have distributor pick up after event is over.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the one day liquor permit for October 13, 2012.

Exhibit A: Application for one day liquor permit received on September 10, 2012 and dated September 6, 2012.

Common Victualer – Food Only:

7. 610 Lincoln Street – Lelhonera Pincho

Petition: Request for common victualer license

Lelhonera Pincho appeared on behalf of application and stated this is a family style restaurant and her father was in restaurant business.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the common victualer license for 610 Lincoln Street.

Exhibit A: Application for common victualer license received on September 13, 2012 and dated September 13, 2012.

Alcohol Permit Applications

8.316 Main Street – Blush Yogurt

Petition: Request for common victualer all alcohol license

Tina Nguyen appeared on behalf of the application. Ms. Nguyen stated that they opened this establishment a few months ago and they would now like to expand and add alcohol in order to attract the Hanover Theatre customers in the evening hours.

Commissioner Mullan asked what hours of operation for the alcohol would be.

Ms. Nguyen stated that alcohol would probably be from 5:00 p.m. – 9:00 p.m.

Commission stated that since most evening shows at Hanover Theatre don't get out until after 9:00 p.m. that they would suggest the hours be 5:00 p.m. to 11:00 p.m.

Ms. Nguyen stated those hours would be fine.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the common victualer all alcohol license for Blush Yogurt with the following conditions

Conditions: Hours for alcohol service are 5:00 p.m. – 11:00 p.m.

Exhibit A: Application for common victualer all alcohol license received on September 21, 2012 and dated September 21, 2012.

9.638 Chandler Street – High Noon LLC

Petition: Request for common victualer all alcohol license & pledge of license

Larry Noon appeared on behalf of application. Mr. Noon stated that he has gone before Zoning Board of Appeals and received permission from that Board for the use and now needs License Commission approval for the liquor license.

Commissioner Mullan stated that application shows a Florida address for Mr. Noon.

Mr. Noon stated he has moved from Florida and lives in Worcester.

Commissioner Mullan stated that Mr. Noon will need to amend application to reflect correct address.

Jo Hart, city resident, stated that she would be in support of this application as there is no sit down restaurant with alcohol in area being applied for.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the common victualer all alcohol license with the following conditions:

Conditions:

- The bar seating is limited to 18;
- No outdoor seating or other retail activity allowed at rear of the building;
- Hours of Service:
 - Monday thru Thursday there will be no service after 11:00 p.m.
 - Friday thru Saturday there will be no service after 12:30 a.m.
 - Sunday there will be no service after Midnight.

Exhibit A: Application for common victualer all alcohol license dated September 4, 2012 and received on September 1, 2012.

10. 1181 West Boylston Street – Drake Petroleum

Petition: Request for package store malt & wine license

Attorney Robert Longden along with Conrad Decker appeared on behalf of the application.

Commissioner Shea stated that the Commission members along with Lt. Johnson viewed the site prior to the meeting.

Mr. Longden stated this is a gas station with a Honey Dew Donuts at 1181 West Boylston Street in a commercial area. He stated that there are security cameras inside and outside the store and that the hours of liquor sales would be 8:00 a.m. to 11:00 p.m. and during the hours when alcohol cannot be sold the coolers would be locked and covered.

Mr. Longden stated the store employees 10-12 employees and that during hours of alcohol sales there will always be two employees on duty and none of the staff is under the age of 18.

Mr. Longden presented a petition with 790 signatures of customers of 1181 West Boylston Street who were in support of location obtaining a liquor license.

Commissioner Salvidio asked about the proposed display racks and whether they could be removed during hours when liquor is not allowed to be sold.

Commissioner Mullan asked whether establishment would consider not having an end display.

Commissioner Mullan asked what type of signage would be proposed.

Mr. Longden stated a sign inside and maybe neon sign outside but not sure at this point as would have to consult with Inspectional Services as to what would be allowed.

William Talcott of Greendale Liquors spoke in opposition to application. He stated there is a package store in West Boylson Street less than mile from this proposal and there is no need for a new one.

Walter McGovern of McGovern's Package store spoke in opposition to application. He stated there is no public need as area is already well served by the existing package stores.

Chris Meolo of West Boylston Package Store spoke in opposition to the application. He stated the area is currently well served by the existing package stores.

Commissioner Salvidio stated that he had reviewed the map and memo provided by Department of Planning & Regulatory Services and felt that application should be approved as location would only have few shelves for alcohol and area is not saturated by package stores.

Upon a roll call voted the Commission voted 2-1, Paul Mullan and Anthony Salvidio voting to approve and Karon Shea voting to disapprove the package store malt & wine license at 1181 West Boylston Street with the following conditions:

Conditions

During hours when alcohol cannot be sold the doors the coolers be locked and covered and that all end displays be removed from the interior of the store.

- Dumpster to be emptied between the hours of 8:00 AM and 6:00 P.M, Monday and Saturday.
- Delivery and fuel trucks not allowed to idle.
- Sign erected according to sign detail provided in application.
- Location to be built according to plan submitted and approved and in compliance with all governmental codes.

Exhibit A: Drake Petroleum application; received, 9/4/2012; prepared by Frank Eastman.

Exhibit B: Map entitled "City of Worcester, MA - Off Premise Liquor Licenses (Package Stores) within 0.5 mile buffer radiuses from 118 West Boylston parcel"; prepared by City staff; dated, 3/27/2012.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the License Commission; re: 1181 West Boylston Street; dated, 9/18/2012.

Exhibit D: Quick Guide to Temporary Signs.

Exhibit E: Petition signed by people in support of application. Not dated.

11. 139 Green Street – Smokestack, Inc.

Petition: Request for transfer of location from 90 Harding Street

Richard Romaine appeared on behalf of application. Mr. Romaine stated he currently operates at 90 Harding Street but cannot remain at that site as unable to negotiate a new lease with new landlord. He stated he has entered into a lease with landlord at 139 Green Street and will run the same type of establishment that he runs at 90 Harding Street.

Commissioner Mullan asked what would be the hours of operation.

Mr. Romaine stated the hours would be Noon to Midnight.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the transfer of location with the following conditions:

Conditions

Hours of operation will be Noon to Midnight.

Exhibit A: Application for transfer of liquor license received on September 4, 2012 and dated September 4, 2012.

12. 50 Southwest Cutoff – 99 Restaurant

Petition: Request for Transfer of Stock of a liquor license

The Alcoholic Beverages Control Commission has approved all the transfers for all 99 Restaurants and just requires local vote to complete process.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the transfer of stock.

13. 1394 Main Street – Alidemi, Inc.

Petition: Request for common victualer all alcohol license

Attorney Glen Mattheson along with Oriola Kochia appeared on behalf of application. Mr. Mattheson stated that Ms. Kochia has taken over this establishment and is running a restaurant and would like to add alcohol. Mr. Mattheson did note that the Zoning Board of Appeals has several conditions that had been placed on site and that they plan to go back before that Board to request some items be amended.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the common victualer all alcohol license with the following conditions of approval:

Conditions:

- That there would be no outdoor seating at any time of the year.
- That there will be no seated service at the bar.
- That the Special Permit for food service with alcohol consumption use is for a restaurant use where alcohol is served in addition to and as an enhancement of the predominant food service use only.
- That the restaurant use does not exceed 48 seats.
- That the establishment closes no later than 11:00 p.m.
- That the proposed wall sign be externally lit, not internally illuminated.
- That additional ornamental grasses, shrubs, and/or perennials be added along the front façade and that landscaping buffering is enhanced on the easy boundary of the property adjacent to the 1348 Main Street parcel.
- That a six foot stockade fence matching the existing fence is placed along the entire line of the eastern property boundary adjacent to the 1348 Main street parcel.
- That any unscreened dumpsters be screened with a six foot stockade fence.
- That prior to the issuance of a building permit for a Special permit, two copies of a revised plan be submitted to the Division of Planning and Regulatory Services that include a landscaping table indicating number of species of plants to be used.
- That the proposed front renovations be done substantially in accordance with the submitted rendering of the building.

Exhibit A: Application for common victualer all alcohol license received on September 4, 2012 and dated September 4, 2012.

Status Hearings

14. 102 Green Street – Blackstone Pizza & Grill

Status of alteration of premises

Lisa Rodriguez appeared on behalf of item and stated that License Commission had approved the alteration for outdoor area several months ago but application was denied by state due to a tax issue but in next 1-2 days they would have certificate of good standing to provide to state.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to continue the item until the November 8, 2012 License Commission meeting.

15. 265 Park Avenue – Leitrim’s, Inc.

Status of transfer of license

Rebecca Laramee appeared on behalf of item and stated that License Commission had approved transfer of license few months ago but was denied by state due to tax issue but in next 1-2 days they would have certificate of good standing to provide to state.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to continue the item until the November 8, 2012 License Commission meeting.

Violation Hearings

16. 139 Green Street – Square One Sports Bar & Grille

Cessation of Business hearing

Ms. Steele informed the Commission that she had been notified by current landlord that he has terminated the lease for Square One Sports Bar & Grille.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to revoke the liquor license for 139 Green Street due to cessation of business.

17. 1394 Main Street – Pho 2000 Inc

Cessation of business hearing

Ms. Steele informed the Commission that the landlord at 1394 Main Street has terminated the lease for Pho 2000 Inc.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to revoke the liquor license for Pho 2000, Inc.

18. 557 Southwest Cutoff - Kwik Pik, Inc.

Violation of Rule #6, M.G.L. c. 138, §34 – Sale to underage person

Anal Patel appeared on behalf of Kwik Pik Inc. to answer to the violation.

Lt. Johnson stated On May 25, 2012 Officer Edward Saucier and Officer Bill Stout of the Alcohol Enforcement Unit of the Worcester Police Department and a 20 year old male conducted an underage sting at various package stores throughout the City.

The underage male was given a breathalyzer test at the Worcester Police Station prior to going out and did not carry identification on him.

The underage male was instructed to enter the package store and attempt to purchase a six pack of beer and walk out calmly and courteously with or without a purchase.

At approximately 9:15 p.m. the underage male entered the licensed premises and purchased a six pack of 12 ounce Budweiser bottles for \$6.35 without being asked for identification.

At approximately 9:30 p.m., the same evening, Officer Saucier went into to the licensed premises to notify the employees of the violation.

There was one (1) employee in the store who remembered selling the beer to the male and apologized for not asking for identification.

The employee was told that the manager would be notified to appear before the License Commission for the violation.

Mr. Patel admitted to the violation and stated he has review security procedures with staff.

Upon a roll call the Commission voted 3-0 that a Violation of Rule #6, M.G.L. c. 138, §34 – Sale to underage person did occur.

Upon a roll call the Commission imposed a one day suspended suspension.

Exhibit A: Police report dated May 30, 2012

19. 278 Millbury Street – Millzan, Inc.

Violation of Rule # 6, M.G.L. c. 138, §34 – Sale to underage person

Item was postponed until November 8, 2012 License Commission meeting

20. 41 Pleasant Street – City Instyle dba Club Instyle

Violation of Rule #14, M.G.L. c. 138, §34 – Failure to comply with condition on liquor license

Item was postponed until the October 11, 2012 License Commission meeting.

ADJOURNMENT

The Commission adjourned the meeting at **11:45 a.m.**

DRAFT