

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER

APRIL 14, 2016

ESTHER HOWLAND CHAMBER

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

Commission Members Absent: None

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 Edward Saucier, Worcester Police Department
Officer Samuel Rivera, Worcester Police Department
Lt. Brian McGurl, Fire Prevention Division
Lt. Jeffrey Dubeau, Fire Prevention Division

Approval of the Minutes – March 31, 2016

Upon a motion the Commission voted 3-0 to approve the minutes of March 31, 2016.

Old Business

1. Petition: Request for one day liquor license

- May 7, 2016 – Noon – 7:00 p.m.

Petitioner: Javier Sanchez, 387 Cambridge Street-

Mr. Sanchez stated that he would like to do event in parking lot and bring the alcohol from inside the restaurant outside. The Commission explained that would not be allowed and Mr. Sanchez stated that he would be fine if people from the car show could just go inside to drink. The Commission stated that would be fine and the one day liquor permit would not be needed.

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

Exhibit A: Application for one day liquor license received March 3, 2016 and dated March 3, 2016.

2. Petition: Request for one day entertainment license for car show and DJ

- May 7, 2016 – Noon-7:00 p.m.

Petitioner: Javier Sanchez, 387 Cambridge Street

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

Exhibit A: Application for one day entertainment license received March 3, 2016 and dated March 3, 2016.

3. Petition: Request to amend conditions on liquor license

Petitioner: Danana, 387 Cambridge Street

Mr. Sanchez stated that he would like to amend the conditions on his liquor license so that he could be allowed to open on Monday, Tuesday, Wednesday and Thursday without a police detail officer as condition currently does not allow him to open without a police officer those days.

Lt. Johnson stated that there are police details required Thursday, Friday and Saturday and the police would not be willing to lift those sanctions.

The Commission stated they would be amenable to Monday, Tuesday and Wednesday with a 1:00 a.m. closing and Thursday, 1:30 with a detail officer and the remaining conditions from 2002 to remain in place.

Upon a motion the Commission voted 3-0 to allow the establishment to open Monday, Tuesday and Wednesday with a 1:00 a.m. closing and Thursday, 1:30 with a detail officer and the remaining conditions from 2002 to remain in place.

Exhibit A: Request to amend conditions on liquor license dated March 3, 2016 and received March 3, 2016.

4. Petition: Request for sidewalk café

Petitioner: CJ, LLC, dba Frank's, 274 Shrewsbury Street

Applicant withdrew petition.

Exhibit A: Application for sidewalk café received March 23, 2016 and dated March 23, 2016.

NEW BUSINESS

One Day Liquor & Entertainment Requests:

5. Petition: Request for one day liquor license

- May 5, 2016 – 6:00 p.m.-10:00 p.m.

Petitioner: A.G.S.F. Artists Group of the Sprinkler Factory, 38
Harlow Street

Luis Fairie appeared on behalf of the item. He stated that this is a fundraiser for the artist group.

Lt. McGurl stated that there should be a crowd manager at event. Mr. Fairie stated that he would be happy to do that.

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

Exhibit A: Application for one day license received March 29, 2016 and dated March 24, 2016.

6. Petition: Request for one day entertainment license for dancing
by patrons, recorded music, live music

- May 5, 2016 -6:00 p.m.-10:00 p.m.

Petitioner: A.G.S.F. Artists Group of the Sprinkler Factory, 38
Harlow Street

Luis Fairie appeared on behalf of the item

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

Exhibit A: Application for one day entertainment license received March 29, 2016 and dated March 24, 2016.

7. Petition: Request for one day entertainment license for live and
recorded music

Petitioner: Cars of Summer Car Show, Green Hill Park

Gary Cooper appeared on behalf of the application. He stated that this is of car show at Green Hill and that this is a family event with a car show, bouncy house and entertainment.

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

Exhibit A: Application for one day entertainment license received April 5, 2016 and dated April 5, 2016.

Common Victualer Requests:

8. Petition: Request for common victualer license

Petitioner: Sabor Criollo Restaurant, 148 Chandler Street

Yakiri Campeelano appeared on behalf of the item.

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

Exhibit A: Application for common victualer license received March 28, 2016 and dated March 28, 2016.

9. Petition: Request for common victualer license

Petitioner: Eddie Plaza, Inc., 300 Pleasant Street

No one appeared for item- Postponed until April 28, 2016 License Commission meeting.

Exhibit A: Application for common victualer license received March 28, 2016 and dated March 28, 2016.

Alcohol & Entertainment Requests:

10. Petition: Request for change of manager/change officers/directors

Petitioner: Worcester Country Club, 2 Rice Street

No one appeared for the item.

Upon a motion the Commission voted 3-0 to approve the change of manager and officers/directors.

Exhibit A: Application for change of manager/officers & directors received March 17, 2016 and dated March 17, 2016.

11. Petition: Request for package store malt & wine license

Petitioner: Seven Hills Convenience, Inc., 1326 Main Street

Item was postponed until the April 28, 2016 License Commission meeting.

Exhibit A: Application for package store malt & wine license received March 29, 2016 and dated March 29, 2016.

Lodging House

Commissioner Salvidio recused himself from items #12, #13

- 12.** Petition: Request for transfer of ownership 7 Marston Way

Petitioner: Hampton Properties, LLC

Russ Haims appeared on behalf of the application. He stated that he is taken over the lodging house at 7 Marston Way and his plan is to rent to Becker College students. He stated that he has several properties in the City of Worcester and has very strict rules.

Upon a motion the Commission voted 2-0 to approve the transfer of the lodging house license.

Exhibit A: Application for lodging house received March 29, 2016 and dated March 29, 2016.

- 13.** Petition: Request for transfer of ownership 4-6 Marston Way

Petitioner: Hampton Properties, LLC

Rush Haims appeared on behalf of the application. He stated that he is taking over the lodging house at 4-6 Marston Way.

Upon a motion the Commission voted 2-0 to approve the transfer of the lodging house license.

Exhibit A: Application for lodging house received March 29, 2106 and dated March 29, 2016.

Violation Hearings

- 14.** John Fresolo dba Rocky's Food and Spirits, 139 Water Street
Violation of Rule #14 – manager responsible for the premises

Exhibit A: Police report dated January 18, 2016.

John Fresolo appeared on behalf of the violation and waived his right to counsel.

Lt. Johnson presented the following:

On January 9, 2016 route officers were dispatched to Rocky's for a report of underage kids drinking alcohol. Officers Edward Saucier, Patrick Harrington and Casey Onuibo responded to the call. Officer Harrington arrived first and notified Officer Saucier that he observed several patrons in the Licensed Premises who appeared to be under 21 years old. Upon Officer Saucier's arrival he went to speak with the owner John Fresolo who was standing outside the Licensed Premises and advised Mr. Fresolo of the call that the police had

received. Mr. Fresolo stated that he had been checking ID's and he doesn't let anyone under 21 inside.

Officer Harrington asked Officer Saucier to stop two females who quickly left the bar when they saw the police arrive. Both females were identified by their Massachusetts Driver's licenses as being 20 years old and both stated that they had no other ID's and that they were not asked for ID when they entered the Licensed Premises. Both stated they had been drinking but they would not say they were drinking alcohol inside the Licensed Premises.

The officers asked Mr. Fresolo about the two girls and he stated that he must've been busy or away from the door when the two females entered. The officers advised Mr. Fresolo that he needed to be more diligent after his recent violations and suspension for underage drinking.

Mr. Fresolo testified that he disagreed with what was stated in Lt. Johnson's report and stated that he was at the door all night long except for a few minutes and did not allow anyone under 21 in. Furthermore, he testified that he had the ropes up so people could enter and exit one way. He testified that when the officers showed up he was outside and the police told him that they received a phone call that he was serving minors. Mr. Fresolo thought it was peculiar that someone would call police at that hour. He made some allegations the WPD is out to hurt his business and he questions whether the two girls were in his establishment and stated that they do not serve to underage people.

Lt. Johnson stated that he has never heard of anyone being out to try and get Mr. Fresolo or his business.

Officer Saucier stated that he went to Mr. Fresolo's business because a call went into dispatch regarding underage drinking and that call was put out to a route officer but Officer Saucier heard the call and because of the nature of the call he responded.

Chair Shea asked if the call made to dispatch is recorded. Lt. Johnson stated that it was.

Commissioner Salvidio stated that he wanted transcript of the call.

Commissioner Shea stated that he would like this clarified.

Officer Saucier stated that the police receive these types of calls all the time.

The Commission voted 3-0 to continue the item until the May 12, 2016 License Commission.

- 15.** Maywood Associates dba Blarney Stone, 79 Maywood Street
Violations of Rules #14, #27-manager responsible for premises,
occupancy violation

Item Postponed to May 26, 2016

- 16.** The Van Le, Vietnamese Dragon Restaurant, 744 Main Street
Violations of Rules #1, #6, 14, #20-manager responsible for premises,
Alcohol records must be maintained, no window obstructions

The Van Le and Vu Le appeared to answer to the complaint and waived their right to counsel

Lt. Johnson presented the following

On March 25, 2016 Officer Edward Saucier along with Officers Samuel Rivera and Patrick Harrington (the “Officers”) went to the Licensed Premises at approximately 10:45 p.m. and observed a lit neon sign in the window stating that the business was open but the curtains in the window completely shielded the view of the inside of the Licensed Premises. The Officers observed a disco ball inside but it did not appear any customers were inside. The Officers attempted to enter the Licensed Premises but the door was locked and after knocking several times a woman identified as Mrs. Van Le opened the door and her husband came out to assist the Officers. Mr. Le told the Officers that they were open but kept the doors locked to keep the bad people out and their customers knock on the door if they want to enter.

The Officers observed a couple cases of Heineken beer bottles and a case of Corona beer bottles on the floor behind the counter. They also observed about a case of Heineken and Corona bottles in the glass door refrigerator next to the counter. Officer Saucier asked Mr. Le to show him invoices for the delivery of the beer but Mr. Le stated that he did not have any invoices. When Officer Saucier asked who the distributor was for the Licensed Premises Mr. Le stated that business wasn’t that great and that he doesn’t get deliveries and he bought the beer at a package store. Officer Saucier asked how often he bought the beer from package stores and Mr. Le stated that he buys it from the store whenever he needs any.

Officer Saucier advised Mr. Le that he can only purchase alcohol from a wholesale distributor and that it was unlawful to store improperly purchased alcohol on the Licensed Premises. Mr. Le was also advised that he needed to open the curtains in the front windows to allow the premises to be viewed from the outside.

Mr. Vu Le testified that the door was locked as his parents who run the restaurant are in their sixties and they have homeless people coming in asking for money and to use the bathroom so they kept the door locked except for their customers. He stated that with regard to the blinds they keep them close as they have karaoke and the participants need to be able read the music and can’t if blinds open.

Mr. Vu Le stated that his father Mr. Van Le did purchase the alcohol from a package store but has cleared up his accounts with the distributors and is ordering from the distributors again. He provided supporting documentation to the Commission.

The Commissioners stated that the police need to see in and the fire department requires that door be kept unlocked.

Based on the evidence, the Commission finds the Licensee violated Rules #1, #6,#14 and #20 of the Worcester License Commission Rules and Regulations for liquor licenses, 204 CMR 2.05 (2) and M.G.L. c.138, § 34, on March 25, 2016 and imposed a one day suspended suspension.

Exhibit A: Police report dated March 26, 2016.

17. Whiskey on Water, LLC, 97 Water Street

Violations of Rules #14, #27-manager responsible for premises,

Joseph Morin and Kurt Friel appeared on behalf of the violation and waived their right to counsel

Lt. Johnson presented the following:

On March 25, 2016 Officer Samuel Rivera along with the Fire Prevention Unit, City Code Inspection Unit and the State Fire Marshal's Office were conducting compliance checks on businesses within the city of Worcester. At 1:10 a.m. they entered the Licensed Premises as they observed a line of people waiting to enter. Upon entering they determined that the occupancy for the Licensed Premises is 240 persons for the two floors. Fire Prevention Officers determined that there were too many patrons inside the Licensed Premises and the manager, Vincent Michael Metzler, was advised to clear out the Licensed Premises and get it back to its legal and safe occupancy number. Fire Prevention along with the State Fire Marshall counted 440 people exit the Licensed Premises.

Lt. McGurl stated that the establishment was given a temporary occupancy which has expired and needs to be rectified.

Mr. Morin testified that this was their fifth day open and they weren't expecting such a large crowd and they admit fault and they will not allow this to happen again. Since that night, Mr. Morin testified that they have a clicker at the door as well as one at the top of the stairs so that they can better regulate the number of people on the first and second floor. Moreover, 100 percent of the staff is now crowd manager certified. He stated that with regard to the occupancy he will go and speak with Inspectional Services this afternoon and take care of the matter.

The Commission told Mr. Morin to make sure they keep the numbers down to what is on the occupancy permit.

Based on the evidence, the Commission finds the Licensee violated Rules #14 and #27 of the Worcester License Commission Rules and regulations and 204 CMR 2.05 (2) and imposed a one day suspended suspension. If any violations occur within a year from the date of the hearing the one day will be served along with any other suspension the Commission imposes.

Exhibit A: Police report dated March 26, 2016.

Other Business

Meeting schedule 2017-No comment.

Communications

ABCC Communication – The Pint LLC, 58 Shrewsbury Street, Notice of Dual Conditions-No comment.

ABCC Communication-Elite Club Enterprises, 241 Southbridge Street, 4 day suspension-No comment.

ABCC Communication-Mahoney's, 413 Park Avenue, 38 day suspension-No comment.

ADJOURNMENT

Meeting adjourned at 11:04 a.m.