

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER
DECEMBER 4, 2014

LEVI LINCOLN CHAMBERS

Commission Members Present: Karon Shea, Chairperson

Commission Members Absent: Anthony Salvidio, Commissioner

Walter Shea, Commissioner

Staff Present:

Deborah Steele, Planning & Regulatory Services

Stephen Rolle, Planning & Regulatory

Alexandra Haralambous, Law Department

Lt. James Johnson, Worcester Police Department

Sgt. Faith Roche, Worcester Police Department

Officer Mike Sacco, Worcester Police Department

Officer Mark Jolin, Worcester Police Department

Officer Ed Saucier, Worcester Police Department

Commission Site Views - 9:30 a.m. – Counterpoint, Inc., 90 Commercial Street

Call to Order – 10:00 a.m.

Chair Shea informed people in attendance that Commissioner Shea would be late to the meeting.

Approval of the Minutes – November 13, 2014 - Held

NEW BUSINESS

One Day Liquor & Entertainment Requests:

1. Petition: Request for one day liquor license, December 6, 13, 2014

Petitioner: Kim McElroy, 950 Main Street

Kim McElroy appeared on behalf of the item. She stated that one event is for a wedding and the other event is for a YMCA men's health event.

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

Exhibit A: Application for one day liquor permits received November 8, 2014 and dated November 8, 2014.

2. .Petition: Request for one day liquor license December 18, 2014

Petitioner: James Nicas, 446 Main Street

Bill Ritter appeared on behalf of the application. He stated that this is for an open house for the law firm.

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

Exhibit A: Application for one day liquor license received November 29, 2014 and dated November 29, 2014.

Common Victualer License Requests:

3. Petition: Request for common victualer license

Petitioner: Wingtown Pizza, 153 Stafford Street

Ms. Steele stated that she had been informed that applicant is requesting to postpone until the next meeting.

Exhibit A: Application for common victualer license received November 6, 2014 and dated November 6, 2014.

4. Petition: Request for common victualer license

Petitioner: Chickpea, 589B Park Avenue

Julie Cohen appeared on behalf of the application and stated that this will be for a vegetarian restaurant.

Chair Shea asked what would the hours operation be. Ms. Cohen said 11:00 a.m. to 3:00 a.m.

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

Exhibit A: Application for common victualer license received November 19, 2014 and dated November 19, 2014.

Alcohol & Entertainment Permit Applications:

5. Petition: Request to open at 10:00 a.m. on Sunday's

Petitioner: Burncoat Store, LLC, 369 Burncoat Street

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

Exhibit A: Application for change of hours received November 21, 2014 and dated November 21, 2014.

6. Petition: Request for general on premises all alcohol license

Petitioner: Counterpoint, Inc., 90 Commercial Street

Exhibit A: Application for general on premises liquor license received November 10, 2014 and dated November 10, 2014.

Petition: Request for entertainment license for, jukebox, tv, radio, dancing by patrons, dancing by entertainers, recorded music live music, amplification system, play, moving picture show floor show, light show, theatrical exhibition, karaoke, any other audio or visual show, whether live or recorded specifically

7. Petitioner: Counterpoint, Inc., 90 Commercial Street

Exhibit A: Application for entertainment license received November 12, 2014 and dated November 12, 2014.

Lt. Johnson requested that these two items be postponed until the next meeting.

8. Petition: Request for Change of manager, new officer/director, transfer of stock

Petitioner: Jianhui Group, Inc., 50 Southwest Cutoff

Exhibit A: Application for change of manager, new officer/ director, transfer of stock received November 5, 2014 and dated November 5, 2014.

Ms. Steele stated that legal counsel had requested continuance until the next meeting.

9. Petitioner: Randell Package Store, Inc., 108 Canterbury Street

Petition Request for transfer of stock and change of manager

Bill Randell appeared on behalf of the application and stated that his mother is currently the manager and he was taking over that position and they are also doing a change of stock.

Upon a motion the Commission voted 2-0 to approve the change of manager and change of stock.

Exhibit A: Application for transfer of stock and change of manager received November 3, 2014 and dated November 3, 2014.

Violation Hearings

10. High Class Limo Services, Inc., 72 Ward Street – Violation of Livery Ordinances

Jorge Alvarez along with George Alvarez appeared on behalf of the violation and waived their right to counsel.

Sgt. Faith Roche presented the following

Sgt. Faith Roche presented the following facts:

September 22, 2014

1. On Monday September 22, 2014, Officer Ryan Caneen responded to Stop & Shop at 949 Grafton Street.
2. The Loss Prevention Associate, Robert Straight, reported that the suspect entered a Toyota SUV, Massachusetts Registration 1FV733.
3. The incident was recorded on Stop & Shop's surveillance system.
4. The operator of the Toyota SUV, Eduardo Aviles, later returned to Stop & Shop and spoke with Officer Caneen and stated he was a livery driver for High Class Livery and was using his own vehicle during this pick up.
5. Mr. Aviles is licensed as a livery operator – LV Operator #12186.
6. The vehicle was being operated as a livery vehicle, without livery plates or registering the motor vehicle with the Worcester Police Licensing Division.
7. High Class Limo Services had no record in their base for this call.
8. Operator Aviles did not have a call logged in the vehicle log.
9. Officers Sacco and Quinn, Worcester License Division, requested Jorge Alvarez produce the base call logs and he was unable to produce them for the days in question.

October 15, 2014

10. On October 15, 2014, suspicious vehicle activity, Massachusetts Registration 1MM665, was reported to the Worcester Police Department.
11. The investigation revealed that Florentino Paredes was operating a livery vehicle without livery plates or registering the vehicle with the Worcester Police Department Licensing Division.
12. Mr. Paredes is licensed as a livery operator – LV Operator #12470.
13. High Class Limo Services had no record in their base for this call.
14. Operator Paredes did not have a call logged in the vehicle log.

15. Officers Sacco and Quinn, Worcester License Division, requested Jorge Alvarez, owner of High Class Limo Services, produce the base call logs and he was unable to produce them for the days in question.

DISCUSSION

Sgt. Roche testified that since the violations the WPD licensing division has conducted unannounced inspections of the business and things are better. She suggested that the owner hire a staff person to help with the paperwork and keeping the books and logs organized.

Mr. Alvarez testified that he has tried to do a better job since the incidents and understands that the violations were his fault and he needs to keep better record of the calls. However, since the violations the WPD Licensing Division has put a freeze on the business so that it may not hire any new drivers until further notice and this is affecting his business.

Sgt. Roche testified that she was willing to lift the freeze off the business and impose a seven (7) day suspended suspension; however, she clarified that if there are any violations within the year the business must serve the seven day suspension.

Commissioner Salvidio asked Sgt. Roche if the livery owners are starting to understand the new rules and she responded that they have seen improvement.

Chair Shea told Mr. Alvarez that he has to take control of the business and all its records and documents.

City of Worcester Revised Ordinances, Chapter 11, § 17(c) states, "No person shall drive a livery vehicle in the city until that person has obtained from the chief of police a license to drive such livery service vehicle.

Worcester Police Department Taxi & Livery Regulations, Article 7, Section 10 requires owners of a livery service to keep a daily log at the livery base for each scheduled pick up. Furthermore, Article 7, Section 10 requires livery drivers to keep a daily log in their vehicle with the names of their passenger(s) two hours prior to scheduled pick up.

Commissioner Salvidio asked Sgt. Roche if the Commission imposes the 7 day suspended suspension would the WPD agree on lifting the freeze from the business to allow them to hire additional cars. Sgt. Roche agreed.

CONCLUSION

Upon a roll call vote the Commission voted 2-0 to find the licensee violated the Chapter 11, §§ 15-17 of the WRO of 2008 and Article 10, Section 7 of the Worcester Police Department Taxi & Livery Regulations and imposes a seven (7) day suspension to be suspended for a one (1) year period. If there are any violations within the year the licensee must serve the 7 days. Moreover, the freeze on hiring new drivers is lifted.

Exhibit A: Police Report dated October 31, 2014.

11. Seven Hills Bay State, Inc., 65 Water Street – Violation of Rules #14, #27, Manager responsible for premises, occupancy violation

Ms. Steele stated Attorney Finkelstein is representing this applicant and unsure why they did not appear but would follow up and Commission continued item until the next meeting.

Exhibit A: Police Report dated

12. Mambo Drinks, Inc., 105 Water Street – Violation of Rules #1, #14 Manager responsible for premises, hours violation
1. On August 12, 2014 at 2:00 a.m. Sergeant John Lewis observed about twenty vehicles parked on the street in front of Mambo Drinks.
 2. Sergeant Lewis also observed from outside that several people were drinking and dancing inside the Licensed Premises.
 3. Sergeant Lewis reports he went inside the Licensed Premises and spoke with the owner (vice president of the corporation), Henry Luna, who appeared to be intoxicated. Mr. Luna's speech was slurred and his eyes were bloodshot according to Sergeant Lewis.
 4. Sergeant Lewis requested additional officers come to the Licensed Premises.
 5. Officers Donahue and Onuigbo assisted Sergeant Lewis and observed between 20 and 50 people still inside the Licensed Premises drinking alcoholic beverages after 2:00 a.m.
 6. On August 15, 2014, Officer Edward Saucier went to speak with Mr. Luna at Mambo Drinks. Mr. Luna stated he was sorry that it had happened and that he didn't have security present that night. Mr. Luna informed Officer Saucier that he had since requested police details and will have security present every night.

Mr. Luna, owner and registered manager of the Licensed Premises, appeared at the December 4, 2014 License Commission meeting and waived his right to legal counsel. Mr. Luna admitted to the violations, stating he wasn't expecting that large of a crowd the night of the incident and it got out of hand. Since the incident, he has police details, Friday, Saturday and Sunday and only allows 21+ inside.

Mr. Luna further testified that he was not drunk the night of the incident and that he wears contacts and that is why his eyes could have looked red.

Lt. Johnson stated that the establishment has been doing better since the incident and has been trying to do the right thing.

Based on the evidence, the Commission finds the Licensee violated Rules #1 and #14 of the Worcester License Commission Rules and Regulations for liquor licenses, 204 CMR 2.05(2) and M.G.L. c. 138, §12, on August 12, 2014 and issued a warning.

Exhibit A: Police report dated August 15, 2014.

Commissioner Shea arrived at 10:20 a.m.

- 12.** Diamond Inn the Rough, LLC, dba the Diamond Inn, 269-271 Grafton Street, Violation of Rule #14 – Manager responsible for the premises

Mark Webber appeared on behalf of the violation and waived his right to counsel.

Lt. Johnson presented the following:

1. In the past year Worcester Police have responded to the Diamond Inn for multiple incidents.
2. A search by the Worcester Police identified 64 distinct incidents that have been called in referencing the Diamond Inn.
3. The report by the Worcester Police was broken down as follows:

a) Fight calls	-	20
b) Disorderly calls	-	16
c) Assault & Battery	-	4
d) Drug violations	-	1
e) Assignment	-	2
f) Warrant Arrests	-	6
g) Gunshots	-	2
h) Stabbings	-	2
4. On November 14, 2014 Officers on patrol witnessed a male being shot in front of the Diamond Inn.
5. On March 8, 2014 during a city wide undercover operation an undercover officer purchased crack cocaine at the Diamond Inn.

Mr. Webber testified that none of the violations are liquor related and these problems are occurring due to the people in the neighborhood. Moreover, each time something happens in the area he upgrades with more security and cameras inside the Licensed Premises. He testified that after the first stabbing he added more security guards.

Mr. Webber testified that there are other bars in the city that gang members go to and when those bars close the gang members come to his establishment, as it is open to 2:00 a.m. At this point in the night the patrons cause problems, even when they have only been served one drink at the Licensed Premises. Mr. Webber suggested reducing the hours and closing at midnight.

Sgt. Roche testified that the gang unit did a city wide operation and an undercover officer was able to purchase crack cocaine at the Licensed Premises on March 18, 2014.

Moreover, Sgt. Roche testified that the police have observed Diamond Inn staff smoking marijuana outside the premises. Sgt. Roche testified and Mr. Webber agreed that staff has not been properly trained in using the security wand at the entrance to the Licensed Premises and are allowing people inside with large capacity firearms. There is evidence of this because the undercover operatives were going inside the Licensed Premises with firearms.

Mr. Webber testified that the person who was working the front door and using the wand is no longer employed at the Diamond Inn. Additionally, Officer Cummings, who patrols the area, has offered to show Mr. Webber's staff the proper techniques on how to wand correctly and he has accepted this offer.

Commissioners Salvidio and Shea stated that it sounds like a lot of the problems are occurring past midnight. Commissioner Shea commended Mr. Webber for the good he has done to the neighborhood but both Commissioners were disturbed at the seriousness of the incidents occurring inside the Licensed Premises and in the surrounding area.

Mr. Webber testified he currently has twelve cameras on the Licensed Premises and will add more after the holidays.

Lt. Johnson reminded Mr. Webber that he needs to police his employees; if employees are smoking marijuana there should be consequences. Mr. Webber has the ultimate responsibility and needs to make sure that his employees are enforcing the law inside his establishment. Mr. Webber agreed. Lt. Johnson also requested a report on the wand class that will be offered by Officer Cummings.

The Commissioners acknowledged the difficulties of the neighborhood and accept that Mr. Webber is making reasonable efforts to make the Licensed Premises a safe establishment and to follow the rules; therefore, they support a reduction in hours, as offered by Mr. Webber, in which the Diamond Inn will close at midnight.

Based on the evidence, the Commission finds the Licensee violated Rule #14 of the Worcester License Commission Rules and Regulations for liquor licenses, 204 CMR 2.05(2) and M.G.L. c. 138, §12 between 11/1/13-11/5/14 and reduces the hours of operation on the License for a term of one (1) year. The License of Diamond Inn the Rough d/b/a The Diamond Inn shall reflect a midnight closing Monday through Sunday. In one year the licensee may request a hearing on the reduced hours of operation.

Exhibit A: Police report dated November 16, 2014.

Communications

- a. ABCC communication – OM Harsh - No comment
- b. ABCC communication – Keiko Bar & Lounge - No comment.
- c. Writ of attachment – Milzan Inc. - No comment
- d. EBT Card restriction letters-The Commission reviewed material presented.
- e. Park Avenue Parking Letter - No comment.

Executive Session

Upon a motion the Commission voted to go into Executive Session at 10:20 a.m. and voted to adjourn immediately after.

ADJOURNMENT

Meeting was adjourned at 11:35 a.m.