

MINUTES OF THE PROCEEDINGS OF THE  
LICENSE COMMISSION OF THE CITY OF WORCESTER  
**JANUARY 21, 2016**

ESTHER HOWLAND CHAMBER

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

**Commission Members Absent:** None

**Staff Present:** Alexandra Kalkounis, Law Department  
Deborah Steele, Planning & Regulatory Services  
Stephen Rolle, Planning & Regulatory Services  
James Foley, Inspectional Services  
Lt. James Johnson, Worcester Police Department  
Sergeant Thomas Needham, Worcester Police Department  
Officer Patrick Harrington, Worcester Police Department  
Officer Shane Marcotte, Worcester Police Department

**Approval of the Minutes – January 7, 2016**

Upon a motion the Commission voted 3-0 to approve the minutes of January 7, 2016.

**OLD BUSINESS**

1. Petition: Request for transfer of restaurant all alcohol license

Petitioner: Kobe Enterprises, Inc., 60 Shrewsbury Street

Attorney Chung Lee along with Laurel Gulha XIC appeared on behalf of the application. Attorney Lee stated that this is a transfer of license from 7 Nana Steakhouse. Attorney Lee stated that Mr. Soong Peng who was the cook of 7 Nana will continue on in the new corporation and at the restaurant but the other owners are all gone and starting other interests elsewhere.

Lt. Johnson stated that there was an issue at the location last weekend with a stabbing and the location used to have a detail officer and would recommend that a detail should be reinstated for Thursday, Friday and Saturday nights.

Several neighbors spoke about their concern that violence may escalate at the restaurant.

Joannae Colombo stated that 7 Nana brings a rough crowd late nights, and there is always screaming and yelling and stated that the residents of Mt. Carmel apartments are afraid that a stray bullet will go through their windows and noted that seniors were more susceptible to dangers from interrupted sleep patterns or sudden noises, and stated that the residents are living in fear.

District 2 City Councilor Candy Mero-Carlson stated that this is the second time in 14 months there was an incident and that is completely unacceptable.

Ms. Colombo brought a group of seniors from neighboring Mt. Carmel Apartments along with a 65 signature petition asking the license board to deny 7 Nana an entertainment license.

Commissioner Salvidio stated that an entertainment application was not before the Commission at this time and stated that he would not be in favor of allowing 7 Nana to stay open late at night if one was applied for.

Commissioner Salvidio stated that there is no way the Commission is going to allow this to continue in what is a nice residential neighborhood as well as a vibrant commercial district.

Attorney Lee stated that the ownership change was the start of a new beginning and a new culture at the restaurant and stated that changes were going to be made.

Chair Shea stated that the problem is that when the restaurant had been changing into a nightclub later in the evening and that is when the problems start occurring.

The Commission discussed that an early closing would be beneficial as the neighbors are not concerned with dining it is when the establishment started turning into a nightclub when the problems started occurring.

Lt. Johnson stated that if the closing was going to be at Midnight he would not see the need for the off-duty officers.

Upon a motion the Commission voted 3-0 to approve the transfer of the license with condition that establishment will close at Midnight.

Exhibit A: Application for transfer of restaurant all alcohol license received November 24, 2015 and dated October 21, 2015.

Exhibit B: Petition for neighbors received January 21, 2016.

2. Petition: Request for alteration of premises, change of manager, change of dba

Petitioner: Fusion Entertainment LLC, 2 Washington Square

Commissioner Salvidio recused himself and left the meeting room.

Attorney Todd Brodeur, Selim Lahoud and Morgana Hayck appeared on behalf of the application.

Attorney Brodeur stated that this is a change of manager, change of dba and alteration of premises to relocate the bar.

Chair Shea stated that she along with Commissioner Shea and Lt. Johnson had viewed the site and were very impressed with the work that was going to be done.

Upon a motion the Commission voted 3-0 to approve the change of manager, change of dba, and alteration of premises.

Exhibit A: Application for alteration of premises, change of manager and change of dba received January 13, 2016 and dated October 31, 2015.

## **NEW BUSINESS**

### **One Day Liquor & Entertainment Requests:**

3. Petition: Request for one day liquor license
- February 7, 2016 – 7:00 p.m.-Midnight

Petitioner: Our Lady of Vilna Parish, 151 Sterling Street

Application was withdrawn.

Exhibit A: Application for one day liquor license received December 3, 2015 and dated December 3, 2015.

4. Petition: Request for one day liquor license
- January 27, 2016 – 5:00 p.m. – 7:00 p.m.

Petitioner: Struck Catering, 138 Green Street

Derek Grillo appeared on behalf of the application. He stated that is for an event for the Worcester Business Journal and they are expecting about 125 people.

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

Exhibit A: Application for one day liquor license received January 13, 2016 and dated January 13, 2016.

5. Petition: Request for one day liquor license
- February 5, 2016 – 5:00 p.m.-8:00 p.m.

Petitioner: City of Worcester, City Manager's Office, 455 Main Street

Eric Batista from the City Manager's office appeared on behalf of the item. He stated that this will be an event to celebrate the Blizzard of 1978 and the City of Worcester has partnered with Wormtown Brewery to hold the event on the common. He stated that they will have a detail officer and identifications will be checked.

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

Exhibit A: Application for one day liquor license received January 14, 2016 and dated January 14, 2016.

### **Common Victualer**

6. Petition: Request for common victualer license

Petitioner: Zharick Subway, Inc., 1 Kelley Square

Daviela Perez appeared on behalf of the application. She stated that she is opening a Subway location at 1 Kelley Square.

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

Exhibit A: Application for common victualer license received December 31, 2015 and dated December 31, 2015.

7. Petition: Request for common victualer license

Petitioner: Dogfather Vending, LLC, 5 Harrison Street

Mark Gallant appeared on behalf of the application. He stated that this will be behind the Crompton Collective on Green Street.

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

Exhibit A: Application for common victualer license received December 31, 2015 and dated December 31, 2015.

### **Alcohol & Entertainment Requests:**

8. Petition: Request for restaurant all alcohol license and permission to open at 10:00 a.m. on Sundays

Petitioner: The Hangover Pub, LLC, 102-110 Green Street

Exhibit A: Application for restaurant all alcohol license and permission to open on Sunday at 10:00 a.m. application received December 22, 2015 and dated January 21, 2016.

9. Petition: Request for entertainment license for tv, radio, recorded music, live music

Petitioner: The Hangover Pub, LLC, 102-110 Green Street

Items #8 and #9 were postponed until the February 25, 2016 License Commission meeting.

Exhibit A: Application for entertainment license received December 22, 2015 and dated December 22, 2015.

### **Violation Hearings**

10. Albino's Grocery & Deli, Inc., 90-92 Belmont Street – Violation of Rules #6, #21 – Sale to minor

Carmen Ortiz and John Robles appeared on behalf of the violation with their Attorney Sean Murray.

Lt. Johnson presented the following:

1. On June 27, 2015, Officers of the Worcester Police Department Alcohol Unit conducted compliance checks at various package stores throughout the city of Worcester.
2. An underage male accompanied the officers and was instructed to enter a package store and attempt to purchase alcohol without providing identification.
3. At around 12:50 p.m., June 27, 2015, the underage male entered Albino's Grocery & Deli and purchased a six pack of Bud Light bottles for \$6.89 and was not given a receipt.
4. The male stated that a Hispanic female with black hair sold him the beer without asking for any identification.
5. Sgt. Thomas Needham notified the clerk of the violation.

Attorney Sean Murray was present; representing Albino's Grocery & Deli, and stated that his client admits to the violation and the facts as presented. Furthermore, it was the employee's first day working and she was terminated the day of the incident. Attorney Murray stated that Ms. Ortiz takes the business very seriously and there has

not been a violation in four years since they opened the business and stated that this will not happen again.

Based on the evidence, the Commission finds the Licensee violated Rules #6 and #21 of the Worcester License Commission Rules and Regulations for liquor licenses, 204 CMR 2.05 (2) M.G.L. c.138, § 34, on June 27, 2015 and imposes a one day suspended suspension.

Exhibit A: Police report dated June 27, 2015.

11. Moynagh's Tavern, Inc., 25 Exchange Street – Violation of Rules #1, 13, #14, #17- Sales after hours, sale to intoxicated individual, no alcohol to leave licensed premises

Robert Moynagh appeared on behalf of the violation and waived his right to counsel.

Lt. Johnson presented the following:

1. On November 26, 2015 Sergeant Thomas Needham was working as a member of the Worcester Police Alcohol Enforcement Unit.
2. Sergeant Needham was working in plain clothes capacity, operating an unmarked police vehicle, and was in the area of 25 Exchange St. Monitoring Moynagh's Bar, regarding a complaint of suspected after hours consumption of alcohol.
3. At around 1:55 a.m. Sergeant Needham observed a number of individuals exit the Licensed Premises.
4. At 2:05 a.m. Sergeant Needham was on foot on Exchange St. and could observe the interior of the Licensed Premises through the street level window.
5. Sergeant Needham observed the bartender, later identified as Kristen Yesket, standing behind the bar.
6. Sergeant Needham observed four (4) individuals also inside the Licensed Premises.
7. One of these individuals, later identified as Shane Keefe was in possession of a 12 oz. bottle of beer. Sergeant Needham observed Mr. Keefe consuming the contents of the bottle while in the bar after the 2:00 a.m. closing time.
8. Sergeant Needham observed that Mr. Keefe appeared to be significantly under the influence of alcohol and appeared unsteady on his feet, his movement appeared uncoordinated, and he appeared lethargic.
9. While Sergeant Needham was observing Mr. Keefe he saw him walk away from the Licensed Premises in possession of the bottle of beer, open a side door leading to the parking lot/driveway next to the Licensed Premises, and walk outside into the parking lot/driveway

while still in possession of the bottle. While this was happening Ms. Yesket was at the bar and had a clear view of Mr. Keefe's activities and took no action.

10. Sergeant Needham informed Ms. Yesket to notify the owner/manager Robert Moynagh of the incident and that a report of the incident would be filed and a hearing requested for the owner/manager to appear before the License Commission in regards to the violations.

Robert Moynagh read a statement from Kristen Yesket-Hershey stating that she did not serve any patron past 2:00 a.m. and that she did not serve the male who stopped by the police that night.

Sergeant Needham testified that Mr. Keefe was in possession of the beer bottle and Ms. Hershey should have easily observed him as there were only four people inside the Licensed Premises at that time.

Mr. Moynagh testified that he denied the facts of the allegations based on his employee's statement. Furthermore, he disagreed with the Commission and the police in that he would never risk the safety of a female bartender and advise them to leave the Licensed Premises in order to stop a patron.

Sergeant Needham stated that it was after 2:00 a.m. and no one should have been inside the Licensed Premises.

Commissioner Salvidio stated that patrons shouldn't be inside the licensed premises after 2:00 a.m. and it is Mr. Moynagh's responsibility as manager and owner to ensure that his employees abide by the law.

Based on the evidence, the Commission finds the Licensee violated Rules #1, #13, #14, #17 of the Worcester License Commission Rules and Regulations for liquor licenses, 204 CMR 2.05 (2) and M.G.L. c.138, § 34, on November 26, 2015 and imposed a two day suspension with one day suspended and one day to be served on March 7, 2016.

Exhibit A: Police report dated November 27, 2015

### **Communications**

ABCC Communications – Jasmat Corporation dba Mahoney. ABCC hearing – March 15, 2016-Filed.

### **ADJOURNMENT**

Upon a motion the Commission adjourned the meeting at 11:15 a.m.