

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER
MARCH 14, 2019

ESTHER HOWLAND CHAMBERS

Commission Members Present: Anthony Salvidio, Chairman
Walter Shea, Commissioner
Barbara Haller, Commissioner

Commission Members Absent:

Staff Present: Lt. James Johnson, Worcester Police Department
Sergeant Thomas Needham, Worcester Police Department
Officer Patrick Harrington, Worcester Police Department
Officer Steve Sargent, Worcester Police Department
Jennifer Beaton, Law Department
Alexandra Kalkounis, Law Department
Jake Sanders, City Manager's Office
Amanda Wilson, Inspectional Services
Lt. Jeffrey Dubeau, Fire Department
Deborah Steele, Planning & Regulatory Services

Call to Order – 10:00 a.m.

Minutes

February 28, 2019, March 7, 2019

Upon a motion the Commission voted 3-0 to approve the minutes of February 28, 2019 and March 7, 2019.

NEW BUSINESS

Common Victualer Requests

I-1: Philips E&N Seafood, 264 Grafton Street

- Request for common victualer license

Niomi Kpu appeared upon behalf of the application.

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

Exhibit A: Application for common victualer license dated February 26, 2019 and received February 26, 2019

I-2: J&J Pizza Express, 3 Rice Square

- Request for common victualer license

Manda Andrade appeared upon behalf of the application.

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

Exhibit A: Application for common victualer license dated February 26, 2019 and received February 26, 2019

Special One Day Liquor & Entertainment Requests

II-1: Ryan Horgan, 486 Chandler Street

- Request for one day liquor license
 - March 31, 2019 – 10:30 a.m.-12:30 p.m.

Ryan Horgan appeared upon behalf of the application. He stated that this will be the first year they will be holding the event and they will have a beer tent for the event. He stated that Worcester State College security will be present for the event.

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

Exhibit A: Application for common victualer license dated February 25, 2019 and received February 25, 2019

II-2: Matthew Gray, Worcester Common

- Request for one day liquor license
 - May 4, 2019 – Noon.-4:00 p.m.

John White appeared upon behalf of the application. He stated that this will be for the Fifth Annual Brew Races which is held in Downtown Worcester.

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

Exhibit A: Application for one day liquor license dated February 28, 2019 and received February 28, 2019

II-3: Kristen Dyer, 1 College Street

- Request for one day liquor license
 - May 31, 2019 – 7:00 p.m.-1:00 a.m.
 - June 1, 2019 – 6:30 p.m.-1:30 a.m.
 - June 7, 2019 – 5:00 p.m.-1:00 a.m.
 - June 8, 2019 – 5:30 p.m.-1:00 a.m.

Kristen Dyer appeared upon behalf of the application. She stated that these events are for alumni weekend functions.

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

Exhibit A: Application for one day liquor license dated February 28, 2019 and received February 28, 2019.

II-4: Marc Guinette, 236 Franklin Street

- Request for one day liquor license
 - March 16, 2019 – 7:00 p.m.-1:30 a.m.
- Request for one day entertainment license for dancing by patrons, recorded music, amplification system, light show
 - March 16, 2019 – 7:00 p.m.-1:30 a.m.

Marc Guinette appeared upon behalf of the applications. Mr. Guinette stated that this is a fundraiser event.

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

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

Exhibit A: Application for one day liquor license dated March 7, 2019 and received March 7, 2019.

Exhibit B: Application for one day entertainment license dated March 7, 2019 and received March 7, 2019.

Alcohol & Entertainment Requests

III-1: Axe Throwing Massachusetts LLC, dba Axe & Ale House, 179a Grafton Street-LTW

- Restaurant for restaurant all alcohol license
- Request for common victualed license
- Request for entertainment license for radio, amplification system

Upon a motion the Commission voted 3-0 to accept the Leave to Withdraw request.

Exhibit A: Application for transfer of restaurant all alcohol license dated January 13, 2019 and received January 13, 2019.

Exhibit B: Application for common victualer license dated January 13, 2019 and received January 13, 2019.

Exhibit C: Application for entertainment license dated January 13, 2019 and received January 13, 2019.

Exhibit D:

III-2: Petrogas Group New England, LLC, 350 Greenwood Street

- Request for package store malt and wine license

Attorney Mark Borenstein along with Naomi Davenport, Matthew Scalley and Keith Callahan appeared upon behalf of the application.

Chairman Salvidio stated that he wanted the record to reflect that this location had appeared before the License Commission in 2018 and the Commission denied the license at that time.

The denial was appealed to the Alcoholic Beverages Control Commission who upheld the City of Worcester's denial.

Mr. Borenstein stated that in 2018 the location was denied a license as the Commission had determined that there was no public need for another establishment in the area. He stated that since that time circumstances have changed.

Chairman Salvidio stated that none of the liquor stores in immediate vicinity of the location have moved or closed.

Mr. Borenstein stated that since 2018 the Petrogas Group store is operational and the store has done a survey with 140 customers over the course of a month who stated that they would like to buy beer/wine at the location.

Mr. Borenstein stated that the proposed location is on Route 20 and near the Mass Pike and there is a need for amenities on both side of the road. He stated that there is a proposed development at 133 Granite Street for 48 new residential units, which is a seven minutes from this location.

Chairman Salvidio asked how many people live in the area. Mr. Borenstein stated that he did not have that specific count today but there hasn't been a significant amount of development in that area in the past several years and the proposed development at 133 Granite Street highlights the public need.

Mr. Borenstein stated that there are two licensees within two miles of this proposed location and after reviewing License Commission minutes both have been in violation several times. The proposed manager of Petrogas Group, Naomi is trained and will have all staff trained in proper liquor training. Petrogas Group will also have a scanner which will require everyone person no matter of age to have their ID scanned.

Chairman Salvidio stated that in 2018 the Commission found that density was the issue and there was a license right across the street and that has not changed.

Mr. Borenstein noted that on two separate occasions, when applications for package store requests have come before the License Commission, additional residential units have been cited as indicative of a public need.

Chairman Salvidio stated that the 48 units have not been built yet.

Mr. Borenstein stated that there is enough traffic in the area to support another store and he'd be happy to supplement this application with more information.

Anal Patel stated that he owns the Kwik Pik which is less than 1,000 feet across from the location and he would oppose the application. He stated that the owner of Day & Nite would also oppose the application but was unable to attend this meeting.

Jaigesh Patel from Boston Liquor Mart stated that he would be in opposition to the application.

Commissioner Shea stated that after hearing the presentation he doesn't see anything different except that some residential units are being built and at this time the area adequately served.

Chairman Salvidio stated that he would suggest that the application be withdrawn and be brought back before Board once the residential development is built.

Attorney Borenstein requested that the application be withdrawn.

Upon a motion the Commission voted 3-0 to allow for Leave to Withdraw for the package store malt and wine license.

Exhibit A: Application for package store malt and wine license dated February 25, 2019 and received February 25, 2019.

Other Business

Chairman Salvidio recused himself from item IV-3 and left the room.

IV-1: Good Chemistry of Massachusetts, Inc., 9 Harrison Street

- 30 day Crowd/Traffic Control Plan

Attorney Mark Donahue appeared upon behalf of the petition and presented the following:

During the first thirty (30) days of operation for adult use marijuana, Good Chemistry shall comply with the following conditions:

1. The hours of operation for adult use sales shall be 11:00 a.m. to 6:45 p.m. Monday through Sunday.
2. Good Chemistry of Massachusetts shall require that every customer for adult use pre-register for an appointment on an internet based reservation system. Customers presenting themselves for entry to the facility at 9 Harrison Street without a reservation will not be provided service. Good Chemistry agrees to adjust the reservation system, including limiting the number of allowed reservations per hour as set forth below, to prevent queuing of customers of Harrison Street.
3. During the first seven (7) days of operation for adult use sales, Good Chemistry shall limit the number of appointments scheduled to forty five (45) per hour. The purpose to be achieved by the limitation on the number of appointments is to minimize the risk of queuing of patrons having an appointment along Harrison Street due to the limited capacity for occupancy of the building.
4. Good Chemistry shall adhere to the established occupancy limits at all times.
5. Through the first (1st) weekend of operation for adult use (beginning on “opening day” and ending on Sunday) Good Chemistry shall be required to hire four (4) police detail officers and one (1) supervisor. The cost of these details will be paid by Good Chemistry.
6. Commencing on the Monday following the first (1st) weekend of adult use operation, Good Chemistry shall hire and pay for a minimum of two (2) detail officers during all hours of operation for the remainder of the first thirty (30) days of operation, unless directed otherwise in writing by the Worcester Police Department.
7. Good Chemistry shall not be permitted to operate without the required police details.
8. Good Chemistry shall employ four (4) full time security guards during the first thirty (30) days of operation, two (2) of whom shall be located in front of 9 Harrison Street or in the lobby of the establishment and separate security guards at the intersections of Harrison Street and Green and Harrison Street and Harding Street. The security guards will be equipped with information advising any passerby as to the location of parking facilities and the need for a reservation in order to be served at Good Chemistry.

9. One Good Chemistry employee shall be located outside, in front of 9 Harrison Street, during all hours of operation. This employee shall ensure all patrons walking up to the establishment provide proof of a reservation.
10. Good Chemistry shall provide not less than five (5) business days advanced written notice to the Worcester Department and Division of Planning & Regulatory Services of the scheduled date for opening for adult use sales.
11. Good Chemistry has secured parking for the first thirty (30) days of operation at the Wyman Gordon lot, north of Madison Street and west of Ash Street, and will direct its customers to that lot for parking. This information shall be made available on Good Chemistry's website and in the pamphlets provided by employees to patrons.
12. Good Chemistry may request to appear before the License Commission for a modification of these conditions at any time.

Upon a motion the Commission voted 2-0 to accept the plan.

Chairman Salvidio returned to the meeting room.

Hearings

V-1: Kenichi 168, Inc., 268-270 Shrewsbury Street

- Violation of Rules #7, #14 – Sale to under 21, manager responsible for premises

Jian Hu appeared to answer to the violation and waived his right to counsel.

Lt. Johnson presented the following:

On February 2, 2019 members of the Worcester Police Department Alcohol Enforcement Unit were conducting compliance checks throughout the City of Worcester.

A nineteen year old male was instructed to enter Kenichi, sit with an accompanying officer at the bar area and attempt to order an alcoholic beverage without providing identification.

At 2:30 p.m. Officer Patrick Harrington and the underage male entered Kenichi and both ordered a Bud Light 12 oz. bottle. Both were served by the male bartender and neither one was asked to provide identification.

Mr. Hu stated that he was sorry that the incident happened and it was a huge mistake and he will do his best so it doesn't happen again.

Chairman Salvidio asked if Mr. Hu now checks all IDs. Mr. Hu stated that he does.

The Commission noted that there was a violation from a few years ago for keeping the sidewalk café open past closing hours.

The Commission recommended that Mr. Hu take advantage of the liquor server training course that the Worcester Police offers.

Upon a motion the Commission voted 3-0 that the violation had occurred.

Upon a motion the Commission voted 3-0 to issue a warning.

Exhibit A: Police report dated February 5, 2019.

**V-2: The Branch Investment Enterprise, LLC dba Scal's Sports Bar, 3 Mill Street-
Permitting illegality on the premises, manager responsible for premises**

- Violation of Rules #14, 204 (2), M.G.L. c. 138, Sec. 23 – December 1, 2018
- Violation of Rule #1 – Hours – February 15, 2019

Ryan Scalley appeared to answer to the violation and waived his right to counsel.

Lt. Johnson presented the following:

On December 1, 2018 members of the Alcohol Enforcement Unit along with members of the Worcester Fire Department were conducting compliance checks and went to Scal's Sports Bar.

Officer Patrick Harrington and members of the fire department observed upon arrival a male carrying two cases of beer that he removed from the pick-up truck parked directly next to Scal's Sports Bar.

Officer Harrington asked the male where the beer came from and he told Officer Harrington he would get the owner, then placed the cases of beer on the floor behind the bar.

Officer Harrington spoke with Ryan Scalley, the owner of Scal's Sports Bar, and asked him where the beer had come from and Mr. Scalley stated that he was just storing them in the back of his truck.

Mr. Scalley became increasingly nervous while being questioned as to where he stores the beer that is required to be delivered by a licensed distributor. Mr. Scalley stated that he stored the beer in the basement cooler but it was currently broken and he was going to get it fixed.

After further discussion Mr. Scalley admitted to Officer Harrington that he recently had problems with the alcohol distributors and they shut him off so when he ran out of alcohol this evening he went up to Stafford Liquors and bought the cases of beer just to keep the doors open.

On February 15, 2019 Sergeant Thomas Needham was assigned to the Alcohol Enforcement Unit when he observed people inside Scal's Sports Bar after 2:00 a.m.

At 2:00 a.m. Sergeant Needham observed five individuals inside Scal's Sports Bar and continued to monitor the Licensed Premises. Sergeant Needham observed Enrique Goodrich the bartender clearing glasses and bottles from the bar area while patrons continued to consume alcoholic beverages.

At 2:20 a.m. Sergeant Needham entered Scal's Sports Bar and upon entering Mr. Goodrich told the patrons that that it was time to close but none of the patrons left.

Sergeant Needham asked Mr. Goodrich if any of the individuals inside Scal's Sports Bar were employees and Mr. Goodrich informed Sergeant Needham that none of them were.

Sergeant Needham asked the four patrons to leave Scal's Sports Bar.

Sergeant Needham asked Mr. Goodrich if Scal's Sports Bar had a video system. He responded it did but was not operational.

On February 15, 2019 Sergeant Needham spoke with Ryan Scalley the owner of Scal's Sports Bar about the video surveillance system and Mr. Scalley informed Sergeant Needham that the video system was not operational and hasn't been for quite a while.

Mr. Scalley stated that for the December 1, 2018 violation he admits that he did buy alcohol from a package store and did not contest anything that was said and it will not happen again.

Mr. Scalley stated that the night before they had a busy night so he wanted to make sure that on the evening in question he had enough products on hand. Mr. Scalley stated that he is working with the distributors and all alcohol is being bought from distributors.

The Commission noted that there was a violation last year and noted that this is three violations in the two years that the premises has been open.

Upon a motion the Commission voted 3-0 that that the December 1, 2018 violation had occurred.

Upon a motion the Commission voted 3-0 to impose a two day suspension.

Mr. Scalley stated that with regard to the February 15, 2019 that the second assistant manager was in charge that night and he was reprimanded and no longer a manager. He stated that they have also started closing the establishment Sunday thru Thursday at 1:00 a.m. to alleviate problems like this from occurring again.

Upon a motion the Commission voted 3-0 that the February 15, 2019 violation had occurred.

Upon a motion the Commission voted 3-0 to impose an additional two day suspension.

The four days to be served are April 4, 5, 18, and 19, 2019.

Exhibit A: Police report dated January 1, 2019.

Exhibit B: Police report dated February 16, 2019.

V-3: Bull Mansion Equity LLC, dba Bull Mansion, 55 Pearl Street

- Rule #14 of the Worcester License Commission Rules and Regulations for liquor licenses and 204 CMR 2.05 (2); to WIT: M.G.L. c. 94c §32 Distribution of Class D Substance (Marijuana) – December 29, 2018 and January 4, 2019.

Victoria Mariano appeared to answer to the violation and waived her right to counsel.

Lt. Johnson presented the following:

On December 29, 2018 Officer Patrick Harrington of the Alcohol Enforcement Unit received information that there was going to be a promoted event involving marijuana smoking at **Bull Mansion Equity**. Officer Harrington, through social media, confirmed that **Bull Mansion Equity**, LLC was having an event hosted by Infuzed Productions.

Officer Harrington along with Vice Officer Nathan Reando went to **Bull Mansion Equity** and observed a table set up by Infuzed Productions where they appeared to be selling and collecting tickets along with handing out wrist bands.

Security staff informed Officer Harrington that Mike Thomasson from Infuzed Productions was running the event.

Officer Harrington walked around Bull Mansion Equity and noticed a strong smell of burnt marijuana coming from the second and third floor and observed a sign that read “smoking room”.

Officer Harrington entered the “smoking room” and observed burnt marijuana cigarettes.

Officer Harrington stated on the night in question he went to the premises and Infuzed Productions was running the show and the bartender on site was not helpful at all. He stated that he went to the second floor and observed ashtrays and ashes on wooden tables and there was a sign directing people to go to the smoking area.

Ms. Mariano stated that she apologized for any trouble this event has caused and does not know why the bartenders did not step up that night and identify themselves to the police. She stated that the room where people were smoking is just a break room.

Chairman Salvidio asked about the sale of the marijuana. Ms. Mariano stated that she had worked with a lawyer and all vendors had signed a contract that they were not allowed to sell anything illegal. It was just supposed to be legal products. It was scheduled to be a showcase event where there is no sale of illegal products. She worked with Infuzed Productions lawyer and they hired a police officer to make sure the law was enforced. She stated that it was still her mistake.

Chairman Salvidio asked if at an event like that, can a person sell and display products. Ms. Kalkounis stated that there is no sale of marijuana by anyone except by a licensed marijuana establishment and you cannot smoke or consume marijuana in a public place and the Bull Mansion is a public space.

Commissioner Haller asked if there were any Bull Mansion employees on the premises the night this event happened. Ms. Mariano stated that there were two bartenders and one assistant manager, and she does not know why they didn't step up that night and identify themselves.

Upon a motion the Commission voted 3-0 that the December 29, 2018 violation had occurred.

On January 4, 2019, the Worcester Police Department was again informed of a marijuana event occurring at the Bull Mansion. Two undercover Vice Squad officers entered Bull Mansion in response to social media postings by Infuzed Productions promoting the marijuana event.

One of the undercover officers made contact with a vendor displaying several jars full of marijuana each containing well over an ounce of marijuana in various strains. The undercover officer asked the vendor how much of a "donation" he would have to make for 3 pre-rolled marijuana cigarettes and the vendor stated \$15.00.

Another undercover Vice Squad officer had conversation with another vendor who was selling the marijuana for \$10.00 a gram.

A criminal complaint for Distribution of a Class D Substance (marijuana) was applied for against the vendor.

Officer Steve Sargent stated that on January 4, 2019 he went to the premises and there were several booths and on the second floor there were vendors that had large jars of marijuana. No one was smoking but people could obtain marijuana for a monetary donation.

Officer Harrington stated that patrons paid general admission at the door and there was cash currency exchange for the event.

Ms. Mariano stated again she was sorry and she stated that she has signed contracts from the vendors that they weren't going to sell and as soon as she found out they were doing it they canceled everything.

Chairman Salvidio asked if any more like events like this are planned. Ms. Mariano stated no and will not do them anymore.

Upon a motion the Commission voted 3-0 that the January 4, 2019 violation did occur.

The Commission noted that this location is only open for special events and does not have regular hours and voted that Ms. Mariano will send a list of scheduled events to staff for the month of April and no other events may be scheduled for the month of April.

Exhibit A: Police report dated January 9, 2019.

Exhibit B: Police report dated January 15, 2019.

Communications

None

Adjournment

Upon a motion the Commission voted 3-0 to adjourn the meeting at 11:30 a.m.