

Minutes for the Lowell License Commission meeting for Thursday, October 6, 2016 at 6:30 p.m., held in the Council Chamber, 2nd floor, City Hall, 375 Merrimack St., Lowell, MA 01852.

Present: Commissioners Cliff Krieger, presiding, Terry McCarthy, Martha Howe, and Joseph Donahue; and Deputy Superintendent Jack Webb of the Lowell Police Department, Ken Rossetti, Assistant City Solicitor.

Absent: John Descoteaux, Commissioner

The Commission, on the motion by Commissioner Donahue, second by Commissioner McCarthy, voted to approve the minutes for the meeting of September 15, 2016.

The Commission voted, on the motion by Commissioner McCarthy, second by Commissioner Donahue, to ratify the issuance of the special one-day licenses to sell/dispense malt beverages & wines only on September 29, 2016 to Tabatha Garnett, Catering Manager, Aramark, for events at the Allen House Gallery, 2 Solomont Way: Provost Welcome Reception, Thursday, September 29, 2016, 3:00 p.m. to 7:00 p.m., and Mock Trial Reception, Tuesday, October 4, 2016, 4:30 p.m. to 9:00 p.m.; and on October 4, 2016 for the event at the O'Leary Mezzanine, 61 Wilder Street, Community Conversation Series, Launch Event, Thursday, October 4, 2016, 4:00 p.m. to 8:00 p.m. Tabatha Garnett was present.

The Commission reviewed the applications for special one-day licenses to sell/dispense malt beverages & wines only, or either one:

Allison Turcotte at Mill No. 5, 250 Jackson St., 4th floor, Kerouac Concert event, for Friday, October 7, 2016, 12:00 p.m. to 1:00 a.m. Allison Turcotte was present.

Allison Turcotte at Mill No. 5, 250 Jackson St., 4th floor, Soule Monde Concert, for Saturday, November 12, 2016, 12:00 p.m. to 1:00 a.m.

The Commission was advised by the Executive Secretary about the communication listed on the October 6th agenda from Lowell residents at 240 Jackson St. that entertainment at 250 Jackson St. has been too loud. Commissioner Krieger asked Allison Turcotte if she had a copy of the [City] Noise Ordinance. Ms. Turcotte said she did not; Commissioner Krieger gave her a copy of the Noise Ordinance in-hand. Ms. Turcotte in response to questions from the Commission stated that tomorrow evening the [Kerouac Concert] is part of a City wide event; entertainment is not expected to be loud. Commissioner Howe spoke of the communication from Lowell residents of 240 Jackson St., noting the decibel level referenced in the communication. Commissioner

McCarthy asked if there is an entertainment license for the activity. Commissioner Krieger made the motion to approve the application for malt beverages and wines only for October 7, 2016, but that the application for November 12, 2016 be continued to the next meeting on October 20, 2016, requesting that Allison return to present a plan for entertainment and amplification of music; the motion was seconded by Commissioner Howe; vote – ayes Commissioners Krieger, Howe, Donahue; nay Commissioner McCarthy [3 ayes, 1 nay].

Gunnar Vincens, for a wedding at UTEC, 35 Warren Street, Saturday, October 15, 2016, 4:00 p.m. to 10:30 p.m.

Gunnar Vincens was present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, approved the license for Gunnar Vincens.

Samantha Cail of HyperText Bookstore & Café, 107 Merrimack Street, Halloween Bookstore Monster Mash, Saturday, October 29, 2016, 5:00 p.m. to 8:00 p.m. Samatha Cail was not present. Commissioner Krieger spoke of the matter of the event scheduled for October 29th. The Commission, on the motion by Commissioner Howe, second by Commissioner McCarthy, voted to continue the application to the next meeting, scheduled for October 20, 2016 at 6:30 p.m. in the City Council Chamber.

Tabatha Garnett, Catering Manager, Aramark, Allen House Gallery, 2 Solomont Way, Nursing Department Anniversary, Saturday, October 15, 2016, 6:00 p.m. to 10:00 p.m. Tabatha Garnett was present.

Tabatha Garnett, Catering Manager, Aramark, University Crossing - 260, 220 Pawtucket Street, University Entrepreneurship Celebration, Wednesday, October 19, 2016, 4:30 p.m. to 9:00 p.m.

Tabatha Garnett, Catering Manager, Aramark, Allen House Gallery, 2 Solomont Way, Model Un Reunion, Sunday, October 23, 2016, 12:00 p.m. to 4:00 p.m.

The Commission voted to approve the licenses for Tabatha Garnett on the motion by Commissioner McCarthy, second by Commissioner Donahue.

The Commission opened the public hearing continued from September 15, 2016 on the application by Mariachi Foods Inc., d/b/a El Potro Mexican Grill, Joseph M. Carreiro, Jr., Director, Manager, all alcoholic beverages restaurant licensee at 124 Merrimack Street, for new officer/director, transfer of stock. The following individuals were present: Joseph M. Carreiro, Jr., Elias Interiano, Jason Interiano, and Walter Interiano. The Commission on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted by roll-call, ayes: Commissioners Krieger, McCarthy, Howe, and Donahue, to enter into executive session to comply with,

or act under the authority of, MGL Chapter 6 Section 172. Commissioner Krieger announced at 6:50 p.m. that the Commission would go to the Mayor's Reception Room for the executive session, and would then return to the City Council Chamber to vote to enter regular session. The Commission returned to the City Council Chamber at 6:55 p.m., and on the motion by Commissioner Donahue, second by Commissioner Howe, voted by roll call, ayes: Commissioners Krieger, McCarthy, Howe, and Donahue, to resume the regular session. Joseph Carreiro explained to the Commission a financial transaction where 100 shares are transferred to Elias Interiano as majority shareholder, and minority shareholders are Jason Interiano and Walter Interiano. Jason Interiano is Secretary and Director. Commissioner Krieger opened the hearing for those who wished to speak in favor of the application; there was no one to speak in favor. Commissioner Krieger opened the hearing for those who wished to speak against the application; there was no one to speak against. Commissioner Krieger closed the public comment portion of the hearing. At the conclusion of the hearing, the Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve the application by Mariachi Foods, Inc., d/b/a El Potro Mexican Grill, for the transfer of stock, new officer and director.

The Commission opened the public hearing on the application by The Liquor Shack, Inc., Theanseng Cheam, President, for the transfer of the all alcoholic beverages package store license from Jo & Ni Inc., d/b/a R & M Liquors, Michael J. Rodrigue, President, for premises at 815 Lakeview Avenue, one unnumbered door; first floor-one room, two rooms for storage, 1200 square feet; basement-two rooms for storage. It is requested that Theanseng Cheam be approved as manager of record for The Liquor Shack, Inc. The following individuals were present: Theanseng (Tim) Cheam, Attorney Catherine Joan Flood, legal counsel for The Liquor Shack, Inc., and Joanna Rodrigue of Jo & Ni, Inc. Attorney Flood stated that Tim has worked at the R & M package store, and he has had on-site training in his family's package store. Commissioner Krieger advised that Tim should have T.I.P.S. training. Commissioner Krieger opened the hearing for those who wished to speak in favor of the application; there was no one to speak in favor. Sandra McNamara, a Centraville Neighborhood President, spoke in favor of the current owner of R & M Liquors, and of the license transfer. Commissioner Krieger opened the hearing for those who wished to speak against the application; there was no one to speak against. Commissioner Krieger closed the public comment portion of the hearing. At the conclusion of the hearing, the Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve

the application by The Liquor Shack, Inc. for transfer of license from Jo & Ni, Inc. It was voted to approve Theanseng Cheam as manager of record for The Liquor Shack, Inc.

The Commission opened the public hearing on the application by Louilowell LLC, d/b/a Loui Loui, Jonathan Joo, Manager, for an all alcoholic beverages restaurant license for premises at 11 Kearney Square, first floor, 3750 square feet, seven rooms, one entrance, two exits, proposed seating 128, proposed occupancy 150. It is requested that Jonathan Joo be approved as manager of record for Louilowell LLC. Jonathan Joo was present. Commissioner Howe disclosed to Commissioners Krieger, McCarthy, and Donahue that her law office is located on the second floor at 11 Kearney Square, and noted that the disclosure will not affect her action as Commissioner in the matter of Louilowell LLC. Jonathan Joo stated that “Loui Loui” is for Louisiana. Mr. Joo stated he has experience as manager at the Stoneham restaurant; the new restaurant in Lowell will have the same menu of food, and service. Commissioner Krieger questioned Mr. Joo about T.I.P.S. training; Mr. Joo stated he did not have T.I.P.S. training; he was advised to obtain the certification. Commissioner McCarthy asked about entertainment at the restaurant. Mr. Joo stated there would only be two or three televisions on the premises. The Commission reviewed and ordered to be placed on file the “affidavit of notice of mailing to abutters” filed by Jonathan Joo with the abutters list from the Board of Assessors office, white postal slips, and available green return receipts. Commissioner Krieger opened the hearing for those who wished to speak in favor of the application; there was no one to speak in favor. Commissioner Krieger opened the hearing for those who wished to speak against the application; there was no one to speak against. Commissioner Krieger closed the public comment portion of the hearing. At the conclusion of the hearing, the Commission, on the motion by Commissioner Donahue, second by Commissioner Howe, voted to approve the application by Louilowell LLC for an all alcoholic beverages restaurant license for premises at 11 Kearney Square. It was voted to approve Jonathan Joo as manager of record for Louilowell LLC. The Commission approved a common victualler license for Louilowell LLC for said premises.

The Commission opened the hearing continued from September 15, 2016 regarding allegations of misconduct as charged by William M. Taylor, Superintendent of Police, against Mill City Ballroom, Inc., d/b/a Mill City Ballroom, Joel Asadoorian, Manager, all alcoholic beverages restaurant licensee at 74 Merrimack St., as set out in Superintendent Taylor’s communication dated August 9, 2016. Joel Asadoorian was present. Derek Sawyer

was present. Joel Asadoorian waived the reading of the Superintendent's letter citing misconduct by Mill City ballroom on May 2, 2016. Mr. Asadoorian stated that he was not present at the time an employee and patron were involved in an altercation in the back staircase. Commissioner Krieger read the oath to Mr. Sawyer that he would tell the truth as an eyewitness, and noted that he [Sawyer] may invoke his constitutional right under the 5th amendment not to say anything that may be used against him in a court of law. Mr. Sawyer stated with his right hand raised that he would tell the truth. Mr. Sawyer explained that on May 1, 2016 he was a patron at Mill City Ballroom to listen live music performed by friends in a band. It was later in the evening that Mill City Ballroom bartender Derek Iraheta became argumentative, and then accusatory about a matter to do with a personal relationship that Mr. Iraheta had with another person. Mr. Sawyer related the altercation he had with Mr. Iraheta which Mr. Iraheta started. Mr. Sawyer stated he walked home from Mill City Ballroom having sustained facial injuries as a result of the altercation, and was later taken to the hospital. Mr. Sawyer gave his account of the altercation to Lowell Police at the hospital. Commissioner Howe questioned Mr. Sawyer about receiving a concussion; Mr. Sawyer said there was no concussion. Commissioner Donahue questioned Mr. Sawyer if he knew the name of his assailant. Mr. Sawyer had difficulty remembering his assailant's name, but did confirm when Commissioner Krieger mentioned the name Mr. Iraheta, that Mr. Iraheta was the person who assaulted him at Mill City Ballroom. Commissioner McCarthy questioned the Executive Secretary if Joel Asadoorian sent an incident report by email. The Secretary stated there were two incident reports sent in May and June 2016 by Joel Asadoorian. Commissioner Howe stated that she found Mr. Iraheta's testimony not credible [on September 15, 2016], and she finds Mr. Sawyer's testimony credible, and that the licensee, Mill City Ballroom, Inc. is in violation of the regulations as cited. Commissioner McCarthy asked Mr. Asadoorian when Mill City Ballroom is open; Mr. Asadoorian stated every night. Commissioner Donahue made the motion to find the licensee, Mill City Ballroom in violation of the regulations cited in the notice of hearing, and to suspend the all alcoholic beverages restaurant license for five (5) days commencing October 18, 2016. The motion was seconded by Commissioner McCarthy. The Executive Secretary requested the Commission consider the five days the licensee has the right in which to file an appeal of the decision with the Alcoholic Beverages Control Commission upon receipt of the written notice of decision. After a discussion in which Mr. Asadoorian made a recommendation to serve three days suspension and not appeal the decision, Commissioner Donahue

amended his motion that the five days suspension is to commence October 20, 2016 at 8:00 a.m., second by Commissioner McCarthy, vote – ayes Commissioners Krieger, McCarthy, Donahue, Howe.

The Commission reviewed the application by Alexander, LLC, Alexi Torres, LLC Manager, for an all alcoholic beverages restaurant license for premises at 179 Central Street, first floor, two rooms, 1600 square feet, 2 entrances, 3 exits, 200 square feet for patio/deck/outdoor area. The Commission, on the motion by Commissioner Donahue, second by Commissioner McCarthy, voted to ratify the publication of legal notice for Friday, October 7, 2016 in Lowell Sun newspaper; and to hold the public hearing for October 20, 2016 at 6:30 p.m. in the City Council Chamber.

The Commission reviewed the communications from William M. Taylor, Superintendent of Police, dated September 29, 2016, regarding allegations of misconduct on September 1, 2016 against Akshar Sales Corporation, d/b/a Chuck's Variety, Himansu Patel, Manager, malt beverages & wines only package store licensee at 641-643 School St., and the allegations of misconduct on September 23, 2016 against The Middle Street Village, Inc., d/b/a Village Smokehouse, Alan F. Kaplan, Manager, all alcoholic beverages restaurant licensee at 92-98 Middle St. The Commission, on the motion by Commissioner Donahue, second by Commissioner McCarthy, voted to schedule hearings for Akshar Sales Corporation and The Middle Street Village, Inc. for Thursday, October 20, 2016 at 6:30 p.m. to be held in the City Council Chamber.

The Commission reviewed the communication from Elena Vyunskovskaya, Randy Mathiew, 240 Jackson St., dated 9-30-2016 re: entertainment at 250 Jackson St. too loud for residents of 240 Jackson St. Commissioner Krieger recommended a letter be sent to the residents at 240 Jackson Street that they are welcome to appear before the Commission, so voted.

On a motion by Commissioner McCarthy, second by Commissioner Howe, the Commission voted to adjourn the meeting at 7:50 p.m.

Respectfully submitted by Ryan Wynn, Executive Secretary, present at meeting.