

Minutes for the Lowell License Commission meeting for Thursday, March 10, 2016 at 6:30 p.m., held in the Council Chamber, 2nd floor, City Hall, 375 Merrimack St., Lowell, MA 01852.

Present: John Descoteaux, Commissioner, Chairman, Commissioners Cliff Krieger, Terry McCarthy, and Nancy McGovern; and Deputy Superintendent Jack Webb of the Lowell Police Department, and 1st Assistant Solicitor Ken Rossetti. Absent: Commissioner Kristen Hogan.

The Commission voted to approve the minutes for meeting of February 25, 2016 on the motion by Commissioner Krieger, second by Commissioner McGovern, with corrections, page 1, line 3, to add “and;” page 2, line 20, “seconded;” page 3, line 16, “and additional parking across the street.”

Chairman Descoteaux, speaking for the License Commission, offered congratulations to Deputy Superintendent Webb for being recently appointed as Deputy Superintendent of the Lowell Police Department by City Manager Kevin Murphy.

The Commission reviewed the application for public amusement license for carnival by Dean & Flynn Inc., d/b/a Fiesta Shows of Seabrook, NH, John A. Flynn, representative, at Welcome/Festival Field, 381-501 Pawtucket Blvd., Fiesta Shows Carnival, Wednesday, May 25, 2016 to Saturday, May 28, 2016, and Monday, May 30, 2016. John Flynn was present. Mr. Flynn stated that Fiesta Shows will have the annual carnival at the Regatta Field. The Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, approved the license for carnival.

The Commission reviewed applications for special one-day licenses to sell/dispense malt beverages & wines only, or either one from the following individuals’: Richard S. Barrett of Kilkenny Pub, for an enclosed area at parking lot adjacent to Kilkenny Pub, 660 Rogers Street, for St. Patrick's Day, Thursday, March 17, 2016, 1:00 p.m. to 12:00 midnight. Richard Barrett was present.

Marc Clermont of Miracle Providers Northeast, Inc., 122 Western Ave., wedding/fundraiser, Friday, April 1, 2016, 6:00 p.m. to 12:00 midnight; wearable art extravaganza, Friday, May 6, 2016, 12:00 noon to 11:00 p.m.; and wearable art extravaganza, Saturday, May 7, 2016, 12:00 noon to 11:00 p.m. Marc Clermont was present.

Tabatha Garnett, Catering Manager, Aramark, at ETIC - Atrium, 40 University Ave., for Foster-Miller Reunion, Monday, March 14, 2016, 4:00 p.m. to 9:00 p.m.; Cumnock Hall, 31 University Ave., for graduate student event, Thursday, March 31, 2016, 4:00 p.m. to 8:30 p.m.; and at ETIC - Atrium, 40 University Ave., for Engineering event workshop, Wednesday, May 11, 2016, 4:30 p.m. to 8:30 p.m. Tabatha Garnett was present. Chairman Descoteaux questioned Mr. Barrett about the St. Patrick's Day event, and Deputy Superintendent Webb about any past issue effecting security concerns for the Lowell police. The Commission was advised that Kilkenny Pub has been good with the event in the past. The Commission, on the motion by Commissioner Krieger, second by Commissioner McCarthy, voted to approve the licenses for Richard Barrett of Kilkenny Pub, Marc Clermont of Miracle Providers Northeast, Inc., and Tabatha Garnett of Aramark.

The Commission reviewed the application for special event permit for amplification of sound for outdoor public entertainment by Richard S. Barrett, Kilkenny Pub, Inc., sound system for band, disc jockey, St. Patrick's Day, Thursday, March 17, 2016, 4:00 p.m. to 10:00 p.m., in an enclosed area at the parking lot adjacent to Kilkenny Pub, 660 Rogers St. The Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, voted to approve the amplification permit for Richard Barrett of Kilkenny Pub.

The Commission, on the motion by Commissioner Krieger, second by Commissioner McGovern, voted to ratify change in date, as amended March 1, 2016, the special one-day license 6SPW2016 granted and issued to dispense wines only to Patricia Donahue, Gallery Z, 167 Market Street, for art opening reception from the date of March 6, 2016 to the date of Friday, March 4, 2016 from 6:30 p.m. to 8:30 p.m.

The Commission reviewed the application by Patricia DeStefano Donahue, d/b/a Gallery Z, for a common victualler license for premises at 167 Market Street. Patricia DeStefano Donahue was present. Ms. Donahue stated she has interest in having entertainment such as live acoustic music, literature readings, and theatrical performances. Ms. Donahue stated that there are additional rooms in which to have a café. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to

approve the license for common victualler to Patricia DeStefano Donahue, d/b/a Gallery Z, for premises at 167 Market Street.

The Commission opened the public hearing continued from February 25, 2016 on the application filed by Navigation Brewing Company, Inc., Robert A. Johnson, President, a Farmer-Brewery licensee at 122 Western Avenue, Lowell, for a "Farmers Series Pouring Permit" for premises at 122 Western Avenue. Amendment filed requesting Paul (PJ) Mercier Jr. be approved as manager of record for Navigation Brewing Company, Inc. Legal notice was published in Lowell Sun newspaper on February 12, 2016. Applicant sent notice to abutters of public hearing in accordance with M.G.L. Chapter 138, section 19C. Paul (PJ) Mercier was present. There being no one to speak for or against the application, the hearing was declared closed, and the Commission, on the motion by Commissioner Krieger, second by Commissioner McCarthy, approved the "Farmers Series Pouring Permit" for Navigation Brewing Company, Inc. for premises at 122 Western Avenue. It was voted to approve Paul (PJ) Mercier as manager of record for Navigation Brewing Company, Inc.

The Commission reviewed the application by Routha Sim, d/b/a Jimmy's Auto, for a license to buy and sell, for premises at 45 Marshall St., 12-16 Carlton St., Open lot approx. 4,490 sq. ft., two (2) single story buildings, approx. 1,200 sq. ft., and 1,500 sq. ft., for auto body and repair, office. The licensee for 2016 is Cuc Van Le, d/b/a Jimmy's Auto Sale. Conditions governing licensed premises: maximum number of motor vehicles for sale/storage is 8 per License Commission; no junk motor vehicles or parts thereof on the premises. The following individuals were present: Routha Sim, Cuc Van Le, and Attorney James Flood. Attorney Flood addressed the Commission about the change of ownership of the business from Cuc Van Le to Routha Sim, and of a proposed amendment to the description of the premises. After discussion, the Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to approve a license for Second Hand Motor Vehicles, used car Dealer, Class II, to Routha Sim, d/b/a Jimmy's Auto, for premises as amended, to wit: 45 Marshall St., 14 Carlton St., an open lot approx. 4,490 sq. ft., single story building, approx. 1,525 sq. ft., for auto body and repair, office; conditions are maximum number of motor vehicles for sale/storage is eight (8), no junk motor vehicles or

parts thereof on the premises. It was voted to cancel the used car Dealer license for Cuc Van Le, d/b/a Jimmy's Auto Sale, # 712-B, for license year ending January 1, 2017.

At 6:48 p.m., Commissioner McGovern recused herself from the public hearing for Vannak Kann, d/b/a The Crown, due to a conflict of interest.

The Commission opened the public hearing regarding Vannak Kann, d/b/a The Crown, 74 Middlesex St., to consider the public need in accordance with Massachusetts General Laws Section 12, Chapter 138, to review the License Commission's decision of February 11, 2016 to decrease the closing time of operation of The Crown, located at 74 Middlesex Street, from 2:00 a.m. to 12:30 a.m. for the sales of alcoholic beverages during the calendar week (Sunday to Saturday); to review the revised business plan for The Crown. Vannak Kann was present. Chairman Descoteaux requested of Mr. Kann a revised business plan. Mr. Kann submitted a revised business plan for the Commission to review. Chairman Descoteaux asked Mr. Kann if he had met with Deputy Superintendent Webb about the business plan. Mr. Kann stated he had not met with Deputy Superintendent Webb. Commissioner Krieger made the motion, seconded by Commissioner McCarthy, to continue the hearing to the next meeting when Mr. Kann has met with Deputy Superintendent Webb. Assistant Solicitor Rossetti recommended to the Commission that they allow speakers to address the License Commission. Chairman Descoteaux opened the hearing to those who wish to speak in favor of a 2:00 a.m. closing time for The Crown. The first speaker stated he is in charge of security at The Crown and three (2) individuals also spoke to advocate for a 2:00 a.m. legal closing time at The Crown. Chairman Descoteaux closed that portion of the hearing; and opened the hearing for those individuals who wish to speak in opposition to a 2:00 a.m. closing time for The Crown. There was no one to speak in opposition, that portion of the hearing was closed. Chairman Descoteaux spoke of the safety of citizens, and of The Crown; [the premises] can be a safe environment, but [Mr. Kann] still hasn't spoken to the Lowell Police. Deputy Superintendent Webb cites the Lowell Police report from Superintendent Taylor to the Commission regarding calls to Lowell Police Department of incidents at The Crown. Deputy Supt. Webb stated that Saturday evening, March 12th there is a [*Fresh Boyz*] promotion at The Crown without a promoter's license; Lowell Police are concerned about

retaliation from an incident in Lawrence at the March 12th event. Mr. Kann stated that *Fresh Boyz* called me up. Chairman Descoteaux stated to Mr. Kann . . . this can't happen. Commissioner Krieger questioned when the next meeting is. The Executive Secretary stated March 31st. Commissioner McCarthy asked the head of security at The Crown about the event for March 12th. The Crown security employee stated he had no idea of the fundraiser. Commissioner Krieger stated that the manager of record is the Captain of the ship . . . serious responsibility. After a discussion about scheduling a continuance of the hearing, on the motion by Commissioner Krieger, second by Commissioner McCarthy, the Commission voted to continue the hearing to Thursday, March 24, 2016 at 12:00 noon in the Mayor's Reception Room.

Commissioner McGovern returned to the regular meeting at 7:40 p.m.

The Commission reviewed two communications from William M. Taylor, Superintendent of Police, the first communication, dated February 24, 2016, regarding allegations of misconduct against Mill City Ballroom Inc., d/b/a Mill City Ballroom, Joel Asadoorian, Manager, all alcoholic beverages restaurant licensee at 74 Merrimack St. for violations of regulations which took place on the licensed premises at 74 Merrimack St. on February 19-20, 2016, to wit:

- (a) Failure to maintain order and decorum in the licensed premises and in the immediately surrounding area adjacent to the licensed premises, in violation of Section 1.16 of the Regulations of the Lowell License Commission;
- (b) Allowing patrons to enter, or re-enter, the licensed premises less than one-half (½) hour prior to closing time, in violation of Section 2.02 of the Regulations of the Lowell License Commission;
- (c) Use of a promoter without obtaining a separate promotion license from the Lowell License Commission, in violation of Section 2.12 of the Regulations of the Lowell License Commission, and;
- (d) Violation of 204 CMR 2.05(2): No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance, or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not.

The second communication reviewed by the Commission from William M. Taylor, Superintendent of Police, dated February 25, 2016, regarding allegation of misconduct against Mill City Ballroom Inc.,

d/b/a Mill City Ballroom, Joel Asadoorian, Manager, all alcoholic beverages restaurant licensee at 74 Merrimack St. for violation of regulation which took place in front of 74 Merrimack St. on January 1, 2016, to wit: failure to maintain order and decorum in the immediately surrounding area adjacent to the licensed premises, in violation of Section 1.16 of the regulations of the Lowell License Commission. The Commission, on the motion Chairman Descoteaux, second by Commissioner Krieger, voted to schedule a hearing for each communication from Superintendent Taylor for Mill City Ballroom, Inc. for Thursday, March 31, 2016 at 6:30 p.m. in the Council Chamber.

The Commission reviewed the Executive Secretary report:

(a) Gary's Tipico, Inc., Gary De Los Santos, President, filed application on March 2, 2016 for entertainment in a licensed restaurant for live music, disc jockey, juke box for 2016 for premises at 26 Andover St.; application for all alcoholic beverages restaurant license approved 2-25-2016, ABCC approval pending.

(b) The following licensees, Reservations and El Rincon, have not been issued certificates of inspection by the Department of Development Services, the renewal of the certificate of liquor liability insurance has not been filed, and the all alcohol beverages restaurant licenses have not been issued for 2016: Camila, LLC, d/b/a Reservations, Mariano Centeno, Manager, 179 Central Street; and TR Enterprises, Inc., d/b/a El Rincon, Rey Serrano, Manager, 135 Central Street.

(c) Massachusetts State Fire Marshall's Office cited Back Page Jazz & Comedy Club LLC, d/b/a The Back Page, Robert J. Ramirez, Manager, 15 Kearney Square, unit # 2, for fire code violations on February 26, 2016.

The Commission, on the motion by Commissioner McGovern, second by Commissioner McCarthy, voted to schedule hearings for the managers of Reservations and El Rincon for Thursday, March 31, 2016 at 6:30 p.m. in the Council Chamber.

The Commission, on the recommendation of Commissioner Krieger, decided to postpone a vote on whether to enter into executive session to comply with, or act under the authority of, MGL Chapter 30A,

Section 22, in light of Motion by Commissioner Krieger to review License Commission executive session minutes for executive sessions of May 7, 2014, May 15, 2014, and December 4, 2014.

The Commission voted to adjourn the meeting at 7:48 p.m. on a motion by Commissioner Krieger, second by Commissioner McGovern.

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