

Minutes for the Lowell License Commission meeting for Thursday, March 28, 2019 at 6:00 p.m., held in the City Council Chamber, 2nd floor, City Hall, 375 Merrimack St., Lowell, MA 01852.

Present: John Descoteaux, Commissioner, Chairman, Commissioners Clifford Krieger, Terry McCarthy, Martha Howe, and Joseph Donahue; Assistant City Solicitor Adam LaGrassa, and Captain James Hodgdon of the Lowell Police Department.

The Commission, on the motion by Commissioner McCarthy, second by Commissioner Howe, voted to approve the meeting minutes for March 14, 2019.

The Commission reviewed the application for special one-day license to sell/dispense malt beverages and wines only, or either one by Wanor P. Decarvalho of Holy Family Parish, at Holy Trinity Parish, 340 High Street, Mother's Day, Saturday, May 11, 2019, 8:00 p.m. to 11:30 p.m. Wanor Decarvalho was present. The Commission, on the motion by Commissioner Howe, second by Commissioner Donahue, voted to approve the license for Wanor Decarvalho for May 11, 2019.

The Commission reviewed the application for special one-day license to dispense wines only by Steve Syverson, President, Arts League of Lowell, for an Artists' reception - Look up, Down and All Around, at 307 Market Street, Thursday, April 18, 2019, 5:00 p.m. to 8:00 p.m. Steve Syverson was present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to approve the license for Steve Syverson for April 18, 2019.

The Commission reviewed the request by House Bear Brewing, LLC, 25 Storey Ave., #238, Newburyport, MA, Carl Hirschfeld, Manager of Record, Elizabeth Borges, LLC Manager, a Farmer Winery FW-LIC-000095, for additional dates for license to sell wine at The Farm Market, premises at 250 Jackson St., Mill No. 5, 4<sup>th</sup> floor, Sundays April 14, 28, May 12, 26, 2019; hours 11:00 a.m. to 3:00 p.m. Original license approved January 10, 2019. Elizabeth Borges was present. Ms. Borges stated that House Bear Brewing was approved for additional dates by the Massachusetts Department of Agricultural Resources and Farm Market of Mill No. 5. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Howe, voted to approve the additional dates of April 14, 28, May 12, 26, 2019.

At the request of Elizabeth Borges, the Commission, on the motion by Commissioner Krieger, second by Commissioner Howe, voted that there be no additional license fee.

The Commission reviewed applications for special events permit for the amplification of sound. Luis Silveria was present for the Holy Ghost Society, 65 Village St., and requesting permit for the sound system for band, public address at the outdoor grounds during events in May, June, July, August, September, Sunday to Wednesday - 10 a.m. to 10 p.m.; Thursday to Saturday - 10 a.m. to 12 midnight. Captain Hodgdon stated to the Commission that Lowell Police have no problem. Commissioner Donahue requested clarification on the summer schedule. Mr. Silveria stated that the activity will continue to be seasonal feast days/holidays. The Commission, on the motion by Commissioner Krieger, second by Commissioner Donahue, voted to approve the special events permit for the Holy Ghost Society.

Vinny Bounnasy appeared before the Commission as the representative for the Wat Lao Mixayaram of New England Inc., for the sound system for band during the Lao New Year Celebration 2019, Sunday, April 14, 2019, 12 noon to 6:00 p.m., fence enclosed grounds of temple at 45 Bernier St. Mr. Bounnasy filed two additional applications for the Annual Fundraising Festival, Saturday, July 6, 2019, 12 noon to 8:00 p.m., and Sunday, July 7, 2019, 12 noon to 8:00 p.m. Captain Hodgdon stated to the Commission that Lowell Police have no problem. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to approve the special events permits for the Wat Lao Mixayaram of New England Inc., April 14, July 6, July 7, 2019.

The Commission reviewed the application by EBN Auto Sales Inc., Edward Bou-Nassif, President, for transfer of Second Hand Motors Vehicles license, Class II, license # 758-B, from Kaymand Auto Brokers LLC, Edward Bou-Nassif, Manager, previously Michael Kamade, Manager, for premises at 165 Cushing Street, open lot approx.. 6375 sq. ft. with office trailer 36 ft. x 11 ft. Edward Bou-Nassif was present. Chairman Descoteaux questioned Mr. Bou-Nassif about his application, whether he is requesting a license transfer to be approval as the LLC Manager for Kaymand Auto Brokers LLC, or an original license for the corporation EBN Auto Sales Inc. as the sole corporate officer/director. After a

brief exchange on the process of a new license and that for license transfer, Mr. Bou-Nassif stated he requests a new license for EBN Auto Sales Inc. The Commission stated that there will be a license fee. Commissioner Donahue stated that he did a site inspection, and saw a collection of material that should be removed from the lot. Mr. Bou-Nassif agreed to clean the lot within two weeks. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to grant a Second Hand Motor Vehicles, Class II license [# 765-B] to EBN Auto Sales Inc., Edward Bou-Nassif, President, for premises at 165 Cushing Street. The license fee is \$200.00 to be paid upon the surrender for cancellation the Class II license for Kaymand Auto Brokers LLC.

The Commission reviewed the application by Pedro Wireless Services Corp., Pedro Cruz Garcia, President, for a Second Hand Articles license for premises at 163 East Merrimack St. The license year expires April 30, 2019, renewal effective May 1, 2019. Pedro Cruz Garcia was present. The Commission, on the motion by Commissioner Donahue, second by Commissioner Krieger, the license for Second Hand Articles was approved for Pedro Wireless Services Corp.

Chairman Descoteaux requested Assistant Solicitor LaGrassa address the matter of the notice received by the Law Department about the continuance request for the hearing on the allegations of misconduct as charged by Raymond Kelly Richardson, Superintendent of Police, dated February 20, 2019, against The Last Safe, Inc., d/b/a The Last Safe & Deposit, 160 Merrimack St. Asst. Solicitor LaGrassa stated that legal counsel for the licensee, Attorney John J. Hartigan, received copies of Lowell Police Department audio transmissions from the Law Department this morning. Attorney Hartigan addressed the Commission, confirming having received the records, but has not listened to the audio transmissions with his clients. Chairman Descoteaux made the motion to continue the hearing to April 11, 2019, seconded by Commissioner Howe, so voted.

The Commission opened the hearing on the allegations of misconduct as charged by Raymond Kelly Richardson, Superintendent of Police, dated February 26, 2019, against The Last Safe, Inc., d/b/a The Last Safe & Deposit, 160 Merrimack St., Timothy Regan, Manager. The following individuals were present: Timothy Kelleher, Alan Kaplan, Collin Matthews, and Attorney John J. Hartigan, legal counsel

for The Last Safe, Inc. Lieutenant Steven Coyle of the Lowell Police Department was present. Chairman Descoteaux requested Captain Hodgdon read the Superintendent's letter alleging misconduct. Captain Hodgdon read the letter dated February 26, 2019 from the Superintendent of Police to Chairman of the License Commission. Captain Hodgdon questioned Lt. Steven Coyle about the incident at The Last Safe and Deposit the night of February 23, 2019. Lt. Coyle described the entrance to the basement; the stairs crowded with patrons, at the bottom of the stairs, Lt. Coyle saw an estimated crowd of 120 to 150 patrons on the premises. Commissioner Howe and Chairman Descoteaux questioned Lt. Coyle. Lt. Coyle stated he did not see a bouncer on the premises. Atty. Hartigan directed a question to the Chair for Lt. Coyle. Chairman Descoteaux stated that there were eight (8) confirmed minors inside the bar. Commissioner Krieger commented on the fake IDs recovered by police at The Last Safe. Chairman Descoteaux stated that the issue of capacity and no one checking IDs. Timothy Kelleher addressed the Commission. Chairman Descoteaux questioned Collin Matthews, the doorman for The Last Safe on February 23, 2019. Asst. Solicitor LaGrassa addressed the Commission about the alleged violations of regulations sent to the licensee in the notice of hearing. Commissioner Krieger questioned Atty. Hartigan about a wand to check IDs. Commissioner McCarthy questioned Atty. Hartigan. Commissioner Howe questioned Mr. Matthews. Commissioner Donahue questioned Captain Hodgdon about the purchase of fake IDs on-line. Chairman Descoteaux questioned Asst. Solicitor LaGrassa about the Law department reaching out to the Alcoholic Beverages Control Commission (A.B.C.C.) regarding policy the cities and towns can adopt for fake IDs, stating there is a real problem with IDs. Commissioner Donahue stated the licenses are great; expect more and more from the bars. Chairman Descoteaux requested a communication be sent to the A.B.C.C. Lt. Coyle stated that two 18 year old patrons had no ID, twin sisters. There was no one with a passport. Mr. Kelleher stated that the twin sisters are twenty (20) years of age, one sister is a friend of an employee, and neither sister was drinking. Captain Hodgdon described the disciplinary action the Dean of Students at UMass-Lowell will take when students have been identified for drinking alcohol beverages. The action is preferable to criminal prosecution. Commissioner Krieger made the motion to suspend the all alcoholic beverages restaurant license for The

Last Safe, Inc. in violation of License Commission regulation 1.06 (2 Counts) for two (2) days to be held in abeyance for one (1) year. The motion was seconded by Commissioner Howe, so voted. Commissioner Donahue made the motion to suspend the all alcoholic beverages restaurant license for The Last Safe, Inc. in violation of A.B.C.C. regulation 204 CMR 2.05 (2) (1 Count) for two (2) days to be held in abeyance for one (1) year. The motion was seconded by Commissioner Howe, so voted.

The Commission opened the hearing on the allegations of misconduct as charged by Raymond Kelly Richardson, Superintendent of Police, dated February 26, 2019, against The Middle Street Village, Inc., d/b/a The Village Smokehouse, 92-98 Middle St., Alan F. Kaplan, Manager. The following individuals were present: Timothy Kelleher, Alan Kaplan, and Attorney John J. Hartigan, legal counsel for The Last Safe, Inc. Lieutenant Steven Coyle of the Lowell Police Department was present. Chairman Descoteaux requested Captain Hodgdon read the Superintendent's letter alleging misconduct. Captain Hodgdon read the letter dated February 26, 2019 from the Superintendent of Police to Chairman of the License Commission. Captain Hodgdon questioned Lt. Steven Coyle about the incident at The Village Smokehouse the early morning of February 24, 2019. Lt. Coyle stated that detectives in Special Investigations were conducting an alcohol compliance check of licensed establishments. There was one 19 year old male patron in possession of an open container of beer, carrying a false Maine driver's license. There was one 19 year old female patron in possession of an alcohol beverage, carrying a false Massachusetts Driver's license. She was arrested for several offenses by Lowell police detective. Lt. Coyle stated that prior to entering The Village Smokehouse, a police officer observed a minor in possession of an open container of beer on the sidewalk in an area of The Village Smokehouse. The minor was placed under arrest for public drinking. There was discussion by Chairman Descoteaux and Commissioner Howe with Attorney Hartigan about the matter of the minor in possession on the public way. Attorney Hartigan stated he had video to show the Commission of the entrance to The Village Smokehouse. There was no discussion by the Commission. Commissioner Donahue stated that the Massachusetts IDs submitted for examination by Lt. Coyle are of good quality. Chairman Descoteaux stated the 19year old had a fake Mass. ID, in possession of alcohol beverage, intoxicated according to

the police detective's report. Asst. Solicitor LaGrassa sated the violation as minor in possession. Chairman Descoteaux made the motion to suspend the all alcoholic beverages restaurant license of The Middle Street Village, Inc. for one (1) day to serve on Friday, April 19, 2019 on one (1) count of permitting service of an alcohol beverage in violation of A.B.C.C. regulation 204 CMR 2.05 (2), seconded by Commissioner Howe, so voted.

The Executive Secretary read the following agenda item: Executive Session – Regarding Matter of Litigation, Namely LD Holdings d/b/a Bar 74 Lounge & Grill v. Lowell License Commission, Public Discussion Of Which Could Have A Detrimental Effect On The City's Position. Chairman Descoteaux stated that he will recuse himself from the matter on the advice of the Law department. Commissioner Krieger made the motion to enter into executive session, second by Commissioner McCarthy. Roll call vote: Commissioner Krieger – yes; Commissioner McCarthy – yes; Commissioner Howe – yes; Commissioner Donahue – yes. The vote is four (4) yeas to enter executive session. The Executive Secretary announced at 7: 40 p.m. that the Commission will not return to regular session.

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

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