

Minutes for the Lowell License Commission meeting for Thursday, March 31, 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, and Nancy McGovern; and Deputy Superintendent Jack Webb of the Lowell Police Department, and 1<sup>st</sup> Assistant Solicitor Ken Rossetti.

Absent: Commissioners John Descoteaux, and Kristen Hogan.

The Commission reviewed the minutes for meetings March 10, 2016, and March 24, 2016. Commissioner Krieger made the motion to approve minutes, subject to two corrections, to wit: March 10<sup>th</sup> page 3, lines 9 and 10, add “There was no one to speak for or against the application . . . ;” March 24<sup>th</sup> page 1, line 26, add “should not have.” Commissioner McCarthy seconded the motion, so voted.

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

Nathan T. Kilbride of the Lowell Fire Fighters Association, fence enclosed area outside club premises at 362-364 Fletcher Street, at Willie & Cross Sts., Lowell Fire Fighters road race, Sunday, May 15, 2016, 10:30 a.m. to 2:30 p.m. Nathan Kilbride was present.

James O'Hearn of Pollard Library Foundation, Memorial Hall, Pollard Memorial Library, 401 Merrimack St., 10th Annual Meet the Author Night, Thursday, April 21, 2016, 6:00 p.m. to 8:00 p.m. James O'Hearn was present.

The Executive Secretary stated the application by Dr. Linda Trouville of St. Louis School was withdrawn at Dr. Trouville's request for the St. Louis School Center, Boisvert and W. Sixth St., a silent and live auction, fundraiser for St. Louis School, Saturday, April 9, 2016.

Tabatha Garnett, Catering Manager, Aramark, at the Lowell Community Health Center, 151 Jackson Street, an Evening with Sanama Naroghi-Anderlini, Wednesday, April 6, 2016, 5:00 p.m. to 10:00 p.m.

Tabatha Garnett, Catering Manager, Aramark, Allen House Gallery, 2 Solomont Way, pre-event reception to recognize Sue Kim, Friday, April 8, 2016, 4:30 p.m. to 8:00 p.m. Tabatha Garnett was present.

Tabatha Garnett, Catering Manager, Aramark, Bellegarde Boathouse, 500 Pawtucket Blvd., Rowing Alumni event, Saturday, April 9, 2016, 10:00 a.m. to 2:00 p.m.

Tabatha Garnett, Catering Manager, Aramark, University Crossing, 220 Pawtucket St., Senior Day - Cap & Gown event, Monday, April 11, 2016, 2:00 p.m. to 9:00 p.m.

The Commission voted to approve the applications by Nathan Kilbride, James O'Hearn, and Tabatha Garnett on the motion by Commissioner McCarthy, second by Commissioner McGovern.

The Commission reviewed the application for special one-day license to sell/dispense all alcohol beverages by Edward Janeczak of Holy Trinity Parish for parish dance on Sunday, April 17, 2016 from 1:00 p.m. to 6:00 p.m. at the parish hall located at 330 High Street. Edward Janeczak was present. The Commission voted to approve the application by Edward Janeczak on the motion by Commissioner McCarthy, second by Commissioner McGovern.

The Commission reviewed the application for special one-day license to dispense wines only by Ted Lavash, President, Ayer Lofts Art Gallery, for Artists reception - Walks of Life Photography, at 172 Middle Street, Saturday, June 4, 2016, 1:00 p.m. to 5:00 p.m. Ted Lavash was present. The Commission voted to approve the application by Ted Lavash on the motion by Commissioner McGovern, second by Commissioner McCarthy.

The Commission reviewed the applications for public amusement license, as follows:

Chaotic Wrestling Incorporated, Walter J. Jamitkowski, President, for a wrestling event at Lowell Catholic High School located at Stevens Street on Friday, April 8, 2016 from 8 p.m. to 11 p.m. Walter Jamitkowski was present.

St. Margaret School, Carol Wemmitt, representative, located at 486 Stevens Street for family festival weekend April 21 to April 23, 2016. Carol Wemmitt was present.

Spectra Venue Management, Keith Vaske, General Manager, for scheduled events at Lowell Memorial Auditorium located at 50 East Merrimack Street. Keith Vaske was present.

- WWE NXT, Thursday, April 21, 2016 from 7:30 p.m. to 11:30 p.m.
- MCC Celebrity Forum, Friday, June 3, 2016 from 8:00 p.m. to 10:00 p.m.

- Celtic Woman, Tuesday, June 28, 2016 from 7:30 p.m. to 10:30 p.m.
- The Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, voted to approve the licenses for public amusement for Chaotic Wrestling, St. Margaret School, and Spectra Venue Management.

The Commission reviewed the applications for special event permit for amplification of sound for outdoor public entertainment, as follows:

Clemente Park Committee, Joan Chun, representative, for the Annual Cambodian New Year Celebration, Saturday, April 23, 2016 from 11:00 a.m. to 8:00 p.m. to be held at the Palin Volleyball Complex at Roberto J. Clemente Park, 803 Middlesex St. Joan Chun was present.

JAMBRA – Jackson, Appleton, Middlesex Business & Residents’ Association, Bethany Therriault, representative, for Jambraree, Wednesday, June 1, 2016 from 4:30 p.m. to 7:30 p.m. to be held on Jackson Street, between Marston and Canal. Bethany Therriault was present.

Commissioner McCarthy asked Ms. Chun if a police detail would be present at the New Year Celebration. Ms. Chun stated detail officers have been requested for the April 23<sup>rd</sup> event. The Commission, on the motion by Commissioner McGovern, second by Commissioner McCarthy, voted to approve the special event permits for amplification of sound.

The Commission reviewed the application by Mill City Suds Inc., d/b/a Mill City Suds, Jan Mistrik, Manager, all alcohol beverages restaurant licensee for license for automatic amusement device, four (4) coin operated devices, for premises at 76-86 Merrimack St. Jan Mistrik was present. Mr. Mistrik filed application requesting license in 2016 for the following coin-operated amusement devices: Golden Tee - M3796; Pool Table - M2826; 2 - Nexus table-top touch screens - M3744. The Commission, on the motion by McCarthy, second by Commissioner McGovern, voted to approve a license for automatic amusement device for Mill City Suds Inc.

The Commission reviewed the application by Amal Fuel Inc., malt beverages & wines only package store licensee at 1299 Westford Street, for change of manager from Richard Elkhoury to Nathan Dorow of Lowell. Nathan Dorow was present. Mr. Dorow stated that he has worked at the store for five years. The

Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, voted to approve Nathan Dorow as manager of record for Amal Fuel, Inc.

The Commission reviewed the application by Chelmsford Street Quick Mart, Inc., malt beverages & wines only package store licensee at 299 Chelmsford Street, for change of manager from Johnny Kayrouz to Baddouh Y. Ishak of Lowell. The following individuals were present: Baddouh Y. Ishak and Atty. Michael Zaim, legal counsel for Chelmsford Street Quick Mart, Inc. Attorney Zaim spoke to the Commission of Ms. Ishak's prior experience as store a manager. The Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, voted to approve Baddouh Y. Ishak as manager of record for Chelmsford Street Quick Mart, Inc.

The Commission opened the hearing for Camila, LLC, d/b/a Reservations, Mariano Centeno, Manager, premises at 179 Central Street, to determine if Camila, LLC has ceased to conduct the licensed business. There was no one present to represent Camila, LLC. The Executive Secretary advised the Commission that Mr. Centeno responded to an email sent to him from the Office of the Lowell License Commission, dated March 22, 2016, by calling the License Commission Office on March 31, 2016 to state that he was no longer working for the licensee. Mr. Centeno stated he had not been in contact with the manager members of Camila, LLC about the restaurant being closed. Assistant Solicitor Rossetti, citing section 77 of chapter 138 of the Massachusetts General Laws, stated that there is no certificate of inspection for the premises; there has been an absence of activity. The Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, voted to cancel the all alcoholic beverages restaurant license for Camila, LLC in accordance with M.G.L. c. 138, s. 77 for having ceased to conduct the licensed business.

The Commission opened the hearing for TR Enterprises, Inc., d/b/a El Rincon, Rey Serrano, Manager, all alcoholic beverages restaurant licensee for premises at 135 Central Street, to determine if TR Enterprises, Inc. has ceased to conduct the licensed business. Rey Serrano and Ed Cantres were present. Mr. Serrano stated that he expects to open the establishment. A certificate of inspection from the Office of Development Services will be issued once it is returned from the Fire Prevention office. There was

discussion about the corporation having been dissolved by the Secretary of State Corporations Division. Commissioner Krieger asked Assistant Solicitor Rossetti about the corporation. Asst. Solicitor Rossetti stated that administrative dissolution of a corporation can be revived upon payment of fees and filing of forms requesting re-instatement [by a corporate officer]. The Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, voted to continue the hearing for TR Enterprises, Inc. to April 14, 2016.

The Commission opened the hearing on the 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. 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.

Joel Asadoorian was present. Officer Johnny Sann of the UMass-Lowell Police Department was present. Mr. Asadoorian waived the reading of the Superintendent of Police communication about the alleged violations. Mr. Asadoorian stated that Mill City Ballroom was rented to a music group, and that the main act did not show until late, and at that time the crowd was upset, but there were no violent incidents. Mr. Asadoorian stated that he had fourteen (14) security guards, and a detail from UMass Lowell to work at Mill City Ballroom. Mr. Asadoorian stated the national act [DMX] with a special security team arrived at

ten minutes before 2:00 a.m.; they were told that there would be no performance because it was too late. It took twenty minutes for the performer and security to leave once outside. Mr. Asadoorian stated it was very stressful, there were 420 people, and there were 15 to 20 police officers who arrived to monitor crowd activity on Merrimack St. Commissioner Krieger asked Mr. Asadoorian if there was a promoter? Mr. Asadoorian spoke of the promoter regulation, that there is a lot of room for review. Mr. Asadoorian submitted a rental agreement for the License Commission's review. Commissioner Krieger spoke to Deputy Superintendent Webb. Deputy Supt. Webb stated there were no detail police present for the *DMX* event; 300 people were expected . . . at 12:30 a.m. crowd became angry, and at 1:30 a.m. crowd demanded money back . . . *DMX* was escorted in at 2:00 a.m.; police officers cleared the establishment at 2:00 a.m., a large crowd was in the street, 17 police officers responded. Deputy Supt. Webb stated that social media sites were shadowed; advertisement [read] *DMX* at Mill City Ballroom . . . for tickets another individual was listed "Chrissy" as promoter . . . Mr. Asadoorian knows what a promoter is. Commissioner Krieger asked Asst. Solicitor Rossetti about the promoter regulation of the License Commission. Asst. Solicitor Rossetti stated Regulation 2.12 is clear, a 3<sup>rd</sup> party promoting the event was in fact what occurred, licensee didn't seek the [promoter] license. Commissioner Krieger commented by renting out . . . Asst. Solicitor Rossetti stated it is cause for concern . . . rented facility. Commissioner McCarthy asked Mr. Asadoorian what is the capacity? Mr. Asadoorian stated 465; at the event there were 390 people and with staff 420 people present; when Lowell police detail was not available we asked for UMass Lowell detail police. Commissioner McCarthy stated you should have notified Lowell Police department when a crowd of 400 was expected. Commissioner McGovern asked about the rental agreement, and of ticket [sales]. Mr. Asadoorian stated we rent out other [activity] for baby showers. Commissioner McCarthy stated there is a difference between baby showers and having a promoter for an event. Mr. Asadoorian stated we put several things in place, run with it . . . show went bad . . . strain on Lowell Police, handled it well. Commissioner Krieger questioned Mr. Asadoorian. Mr. Asadoorian stated his interpretation . . . Commissioner Krieger stated [Mill City Ballroom] rented . . . promoting ticket sales . . . [*DMX*] was performer . . . given regulation, it should apply to all promoters. Commissioner Krieger

stated manager of record in violation of rules. Commissioner McCarthy stated to Mr. Asadoorian that you are responsible, you did not do it [file for promoter license] . . . Lowell police did not have officers available. Deputy Supt. Webb stated [police] cleared the establishment . . . security staff allowed *DMX* into the establishment when he arrived. UMass Lowell Police Officer Johnny Sann spoke to the License Commission. Officer Sann confirmed what he wrote in his police report, [Ref: 16-133-OF], that after 12:30 a.m., the crowd inside Mill City Ballroom became angry because D.M.X. had not arrived; D.M.X. and his entourage did not arrive until just before 2:00 a.m., the legal closing time for the licensee when all patrons are to be off the licensed premises. The hearing was declared closed, and on the motion by Commissioner McCarthy, second by Commissioner McGovern, the Commission voted to find Mill City Ballroom, Inc. in violation of the regulations of the Lowell License Commission and the Alcoholic Beverages Control Commission (“A.B.C.C.”) on February 19-20, 2016

- (1) Failure to maintain order and decorum in the licensed premises, Section 1.16 of the Regulations of the Commission;
- (2) 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 Commission;
- (3) Use of a promoter without obtaining a separate promotion license from the Commission, in violation of Section 2.12 of the Regulations of the Lowell License Commission, and;
- (4) A.B.C.C. regulation 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.

Furthermore, to suspend the all alcoholic beverages restaurant license for five (5) days; the five (5) days of said suspension are to be held in abeyance until April 23, 2017. Furthermore, the Commission ordered five (5) days suspension, held in abeyance as a result of three (3) decisions rendered in calendar year 2015, to be served by the licensee commencing Tuesday, April 19, 2016 at 8:00 a.m. to Sunday, April 24, 2016 at 2:00 a.m.

The Commission opened the hearing on the allegation 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. 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. Joel Asadoorian was present. Lowell Police Sergeant Christopher Panagiotakos was present. Sgt. Panagiotakos presented his eyewitness account of the incident that took place in front of 66 Merrimack Street adjacent to Mill City Ballroom on January 1, 2016 at 1:42 a.m. Sgt. Panagiotakos stated a male employee of Mill City Ballroom assaulted another man who had been a patron of the licensed establishment by throwing [the patron] to the ground. As a result of the incident, Sgt. Panagiotakos placed the Mill City Ballroom employee under arrest for assault and battery. Mr. Asadoorian stated that the employee is no longer employed at Mill City Ballroom. The patron tried to get back into the establishment for five to ten minutes but security staff kept boxing him off . . . the pavement was very icy, the guy slipped, and hit his head . . . security tried to keep him out. Commissioner Krieger asked Deputy Supt. Webb about the incident. Deputy Supt. Webb stated Lowell police are concerned about activity at this establishment; Lowell police department did not receive a call about this incident, man was thrown to the ground. Commissioner Krieger and Commissioner McCarthy stated to Mr. Asadoorian that you have problems at the club and it suggests a lack of respect for what the Commission is trying to do. The hearing was declared closed, and on the motion by Commissioner Krieger, second by Commissioner McGovern, to find Mill City Ballroom, Inc. for violation of Section 1.16 of the Regulations of the Lowell License Commission, to wit: failure to maintain order and decorum in the immediately surrounding area adjacent to the licensed premises. Furthermore, to suspend the all alcoholic beverages restaurant license for two (2) days April 29, and April 30, 2016. Mr. Asadoorian requested that the suspension not take place on April 30<sup>th</sup> due to the scheduling of a \$20,000 show; there would be no promoter. Commissioner Krieger motioned for reconsideration of the suspension period, second Commissioner McCarthy, that the suspension period be May 6, and May 7, 2016, so voted.



The License Commission voted to continue the matter 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 8, 2014, May 15, 2014, and December 4, 2014.

Rey Serrano of TR Enterprises requested and was granted time to address the Commission about appearing before the Commission on April 14<sup>th</sup>. After some discussion, the Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, voted to allow Mr. Serrano and his attorney to file documents with the Executive Secretary, and to waive his appearance before the License Commission on April 14<sup>th</sup>.

The Commission voted to adjourn the meeting at 8:17 p.m. on a motion by Commissioner McCarthy, second by Commissioner McGovern.

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