

Minutes for the Lowell License Commission meeting for Thursday, April 28, 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, Kristen Hogan, Terry McCarthy, and Nancy McGovern; and Deputy Superintendent Jack Webb of the Lowell Police Department, and Assistant Solicitor Elliott Veloso.

Commissioner Krieger made the motion to approve minutes for meeting April 14, 2016, and to defer approval of minutes for the emergency meeting April 15, 2016, second by Commissioner McCarthy, so voted.

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

Gabby Davis, at Lucy Larcom Park, Friday Nights! Friday, May 13, 2016, 5:30 p.m. to 9:00 p.m.

Gabby Davis, at Point Park/Utopia Park, Friday Nights! Friday, June 10, 2016, 5:30 p.m. to 9:00 p.m.

Gabby Davis, at Lucy Larcom Park, Summer Kick-off, Friday, June 17, 2016, 5:00 p.m. to 9:00 p.m.

Gabby Davis, at Cardinal O'Connell Parkway, Friday Nights! Friday, July 8, 2016, 5:30 p.m. to 9:00 p.m.

Gabby Davis, at Lucy Larcom Park, Friday Nights! Friday, August 12, 2016, 5:30 p.m. to 9:00 p.m.

Gabby Davis, at Cardinal O'Connell Parkway, Friday Nights! Friday, October 14, 2016, 5:30 p.m. to 9:00 p.m. Gabby Davis was present.

Michael Glicksman of Merrimack Repertory Theatre, at Liberty Hall, 50 East Merrimack St., 2.5 Minute Ride (play reading), Monday, May 2, 2016, concession sales/service for forty-five (45) minutes prior to performance, and intermission. Michael Glicksman was present.

Tabatha Garnett, Catering Manager, Aramark, University Crossing, 220 Pawtucket St., 2nd floor, Women's Lacrosse Banquet, Sunday, May 1, 2016, 1:00 p.m. to 5:00 p.m.

Tabatha Garnett, Catering Manager, Aramark, ETIC Atrium, 40 University Ave., Vice Provost Retirement Party, Wednesday, May 4, 2016, 3:00 p.m. to 8:00 p.m. Tracy Martino of Aramark was present as representative.

The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, approved the applications by Gabby Davis, Tabatha Garnett and Michael Glicksman for special one-day licenses for malt beverages and wines only, or either one.

The Commission reviewed the applications for special one-day license to dispense wines only by Patricia Donahue, at Gallery Z, 167 Market Street, for artist reception, Friday, June 3, 2016, from 7:00 p.m. to 9:30 p.m.; and artist reception, Friday, August 5, 2016, 7:00 p.m. to 9:30 p.m. Patricia Donahue was present.

Steve Syverson, President, Arts League of Lowell, Inc., at 307 Market Street, for three (3) applications:

- (a) John Greenwald Retrospective Preview Party, Friday, May 6, 2016, 7:00 p.m. to 10:00 p.m.
- (b) John Greenwald Retrospective Public Reception, Saturday, May 14, 2016, 4:00 p.m. to 6:00 p.m.
- (c) Form to Figure Reception, Saturday, June 25, 2016, 4:00 p.m. to 6:00 p.m. Norman Caron was present as representative. He is the server for the events; he is TIPS certified.

The Commission approved the applications by Patricia Donahue and Steve Syverson for special one-day licenses to dispense wines only on the motion by Commissioner McGovern, second by Commissioner Krieger.

The Commission reviewed the applications for special event permit for amplification of sound for outdoor public entertainment by Gabby Davis of Made In Lowell, for a sound system for live entertainment, Friday Nights! May 13, 2016, 5:30 p.m. to 9:00 p.m., Lucy Larcom Park

Friday Nights! June 10, 2016, 5:30 p.m. to 9:00 p.m., Point Park/Utopia Park

Summer Kick-off, June 17, 2016, 5:00 p.m. to 9:00 p.m., Lucy Larcom Park

Summer Kick-off, June 18, 2016, 12:00 p.m. to 5:00 p.m., Palmer Street

Summer Kick-off, June 19, 2016, 10:00 a.m. to 3:00 p.m., Lucy Larcom Park

Friday Nights! July 8, 2016, 5:30 p.m. to 9:00 p.m., Cardinal O'Connell Parkway

Friday Nights! August 12, 2016, 5:30 p.m. to 9:00 p.m., Lucy Larcom Park

Friday Nights! October 14, 2016, 5:30 p.m. to 9:00 p.m., Cardinal O'Connell Parkway

G & AA, LLC, d/b/a Fuse Bistro, Scott Pelletier, Manager, 45 Palmer Street, sound system for band and/or disc jockey, May thru September - 2016, Sunday to Wednesday - 10 a.m. to 10 p.m.; Thursday to Saturday - 10 a.m. to 12 a.m., enclosed outdoor area in front of 45 Palmer St. @ corner of Middle St. Scott Pelletier was present.

Commissioner Krieger made the motion, second by Commissioner McCarthy, to approve the special event permits for amplification of sound for Gabby Davis, Made In Lowell, and G & AA LLC, Scott Pelletier, Manager, so voted.

The Commission reviewed the application by Aaronap Cellars LLC, Noel A. Powell, Manager, a Farmer Winery, for a license to sell wine at a Farmer's Market at the premises of 250 Jackson St., Mill No. 5, 4th floor, on Sundays, June 5 thru December 25, 2016, 11:00 a.m. to 3:00 p.m. each Sunday. Noel Powell was present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner McGovern, voted to approve the license for Aaronap Cellars LLC to sell wine at a Farmer's Market.

The Commission opened the public hearing on the application by G & AA, LLC, dba Fuse Bistro, Scott Pelletier, Mgr., all alcoholic beverages restaurant licensee at 45 Palmer St. for transfer of stock from Melissa Haley to Scott Pelletier. A legal notice was published April 15, 2016 in the Lowell Sun newspaper. Scott Pelletier was present. Chairman Descoteaux questioned Mr. Pelletier about the transaction. Mr. Pelletier stated that he purchased the minority shares of his business partner. Chairman Descoteaux opened the hearing for public comment. There was no one present to speak in favor of the application, and there was no one present to speak against the application. The public commentary portion of the hearing was closed. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to approve the application for transfer of stock by G & AA, LLC.

The Commission opened the public hearing on the application by Chang Li, Inc., Lirong Zheng, President, for the transfer of the all alcoholic beverages restaurant license from Mandarin Lowell Chinese Cuisine Incorporated, premises at 1590 Middlesex St. It is proposed that Lirong Zheng be approved as manager of record for Chang Li, Inc. Chang Li, Inc. has filed application for license for common victualler. A legal notice was published April 15, 2016 in the Lowell Sun newspaper. The following

individuals were present: Lirong Zheng, a corporate officer of Chang Li, Inc., and Attorney Chris Coleman, legal counsel for Chang Li, Inc. Attorney Coleman addressed the Commission about the application for license transfer; he stated that Ms. Lirong Zheng is TIPS trained. Chairman Descoteaux opened the hearing for public comment. There was no one present to speak in favor of the application, and there was no one present to speak against the application. The public commentary portion of the hearing was closed. The Commission, on the motion by Commissioner Krieger, second by Commissioner McGovern, voted to approve the application for transfer of license by Chang Li, Inc. The Commission approved Lirong Zheng as manager of record for Chang Li, Inc. The Commission granted a license for common victualler to Chang Li, Inc. for premises at 1590 Middlesex St.

The Commission reviewed the application by NAI Entertainment Holdings LLC, d/b/a Showcase Cinema Lowell, all alcoholic beverages restaurant licensee at 32 Reiss Ave. for change of manager from Sonya Grady to David Maloney of Raymond, NH. David Maloney was present. Mr. Maloney stated that he has fifteen (15) years' work experience with Showcase Cinema. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, approved David Maloney as manager of record for NAI Entertainment Holdings LLC, d/b/a Showcase Cinema Lowell.

The Commission reviewed the application by LCRC, Inc., d/b/a Dudley's, all alcoholic beverages restaurant licensee at 19 Merrimack Street for change of manager from Matthew J. McCarthy to Matthew J. Murphy of Lowell. The following individuals were present: Matthew J. Murphy, Jason Downs, Attorney Michael Zaim, and Attorney Marc Middleton. Attorney Zaim, legal counsel for LCRC, Inc., presented to the Commission the resume of Matthew Murphy. Chairman Descoteaux questioned Assistant Solicitor Veloso about the legality of the proxy vote filed with the application for change of manager. Assistant Veloso stated that upon review of Massachusetts law, in [his] opinion, nothing [in the law] to invalidate the proxy vote included with application. Attorney Zaim addressed the matter of the submission for License Commission review the copies of purchase orders by LCRC, Inc., d/b/a Dudley's of alcohol beverages. Matthew Murphy addressed the Commission about his experience at Dudley's and other licensed establishments. Deputy Superintendent Webb stated Lowell Police had no concern about

Mr. Murphy. Commissioner Krieger stated he is still concerned that Mr. [Matthew] McCarthy is disqualified of any activity [appointing] a new manager. Attorney Marc Middleton addressed the Commission, speaking on behalf of his client, Jason Downs. Attorney Middleton questioned the resume of Mr. Murphy, his record as a manager. Attorney Zaim stated there is Mr. Murphy's tax return as proof of his employment at Ward 8; citing their meeting at Ward 8. Attorney Zaim filed a copy of a letter that he received from James Cook [Executive Director of the Lowell Development & Financial Corporation]. Attorney Middleton stated that the letter from Mr. Cook is hearsay and requests that the Commission strike from the record. Chairman Descoteaux asked Assistant Solicitor Veloso about the letter. Asst. Solicitor Veloso stated the License Commission is not a court of law; the letter may be taken into account as hearsay; any ownership dispute is not before the Commission. After discussion, the Commission voted on the motion by Chairman Descoteaux, second by Commissioner McCarthy, to approve Matthew Murphy as manager of record for LCRC, Inc., d/b/a Dudley's, premises at 19 Merrimack Street. Vote record of the Commission on said motion: ayes – Chairman Descoteaux, Commissioner Hogan, Commissioner McCarthy, Commissioner McGovern; no – Commissioner Krieger.

The Commission reviewed the application for special one-day license to sell/dispense all alcohol beverages by Francey Slater of Mill City Grows, at UTEC, 41 Warren Street, Farm to Cocktail Party, Thursday, June 16, 2016, 5:30 p.m. to 8:00 p.m. Francey Slater was present. The Commission, on the motion by Commissioner McGovern, second by Commissioner Hogan, approved the application by Francey Slater for special one-day license for all alcoholic beverages.

Joel Asadoorian, manager of record for Mill City Ballroom, all alcoholic beverages restaurant licensee at 74 Merrimack St., third floor, filed applications for promoter licenses for the following individuals:

- (a) Ronnie Carignan Jr. for the dates April 30, May 1, May 14, May 21 – 2016 from 2:00 p.m. to 10:00 p.m., each date;
- (b) Nicholas B. Lewis for every Friday from 10:00 p.m. to 2:00 a.m.
- (c) Johnathan Guzman, GO HARD Entertainment Inc., 440 North Ave., Haverhill, MA for every Saturday from 10:00 p.m. to 2:00 a.m.

(d) Shayne Cranmore, Savanna Entertainment, 176 Brush Hill Rd., Milton, MA for every Saturday from 10:00 p.m. to 2:00 a.m.

Jan Mistrik appeared before the License Commission per request of Mr. Asadoorian. Mr. Asadoorian was absent. Jan Mistrik is the manager of record for Mill City Suds, Inc. Ronnie Carignan and Nicholas Lewis was present. Deputy Superintendent Webb advised the Commission that the Lowell Police Department objects to Johnathan Guzman, GO HARD Entertainment Inc., because of Mr. Guzman's record of arrest and imprisonment as an accessory to a homicide. Jan Mistrik told the Commission that he was not aware of Mr. Guzman's criminal record. Commissioner Krieger questioned the applications for Nicholas Lewis and Shayne Cranmore, each for every Saturday. Mr. Mistrik stated the type of event is called "social Saturday," and will change every week. The Commission, on the motion by Commissioner Krieger, second by Commissioner Hogan, voted to approve the promoter licenses for Ronnie Carignan Jr. for the dates April 30, May 1, May 14, May 21 – 2016 from 2:00 p.m. to 10:00 p.m., each date; Nicholas B. Lewis for every Friday from 10:00 p.m. to 2:00 a.m.; and Shayne Cranmore, Savanna Entertainment, 176 Brush Hill Rd., Milton, MA for every Saturday from 10:00 p.m. to 2:00 a.m. The Commission, on the motion by Commissioner Krieger, second by Commissioner Hogan, voted to deny the promoter license application for Johnathan Guzman, GO HARD Entertainment Inc., 440 North Ave., Haverhill, MA for every Saturday from 10:00 p.m. to 2:00 a.m.

The Commission opened the hearing on the allegations of misconduct from William M. Taylor, Superintendent of Police, dated April 5, 2016, regarding The Middle Street Village, Inc., d/b/a The Village Smokehouse, Alan F. Kaplan, Mgr., all alcoholic beverages restaurant licensee, premises at 92-98 Middle St., for violation of law and regulation on March 10-11, 2016, to wit:

- (a) Selling or delivering an alcoholic beverage to a person under 21 years of age in violation of M.G.L. chapter 138, section 34;
- (b) Selling or delivering alcoholic beverages to an intoxicated person in violation of M.G.L. chapter 138, section 69; and

(c) 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 following individuals were present: Alan Kaplan and Tim Kelleher of The Middle Street Village, Inc., and Attorney John J. Hartigan, legal counsel for The Middle Street Village, Inc.; from the Lowell Police Department, Officer Patrick MacDonald and Detective Steven Alexander.

Chairman Descoteaux addressed Attorney Hartigan. Attorney Hartigan stated an 18 year old purchased a fraudulent [Maine] license; had been with friends at Merrimack College, and at 11:05 p.m. with Maine license in-hand enters the [Village Smokehouse]. The Village Smokehouse has a [identification card] scanner, a model 310, which is priced at \$1400.00. The [Lowell] police report is redacted, there is no supportive evidence, the woman has never been charged. Chairman Descoteaux questioned Officer MacDonald. Officer MacDonald stated at quarter to one [12:45 a.m.], the time the officer entered The Village Smokehouse. Chairman Descoteaux questioned Detective Alexander. Detective Alexander stated from the video obtained from Village Smokehouse it is difficult to determine where [the 18 year old patron] is in the video. Attorney Hartigan questioned as whether there may be a finding of a sale and delivery of alcohol beverages. Chairman Descoteaux questioned Assistant Solicitor Veloso about the police report and video. Asst. Solicitor Veloso stated an un-redacted police report and video as a public records request, [requester] not entitled; a medical record is a privacy exemption in accordance with the public record law. Detective Alexander stated from the front door camera, the video at 23:05 has recorded the 18 year old entering. Chairman Descoteaux states from reading the report the 18 year old passed out 97 minutes after entering . . . [18 year old] was drinking somewhere. Attorney Hartigan states there is no evidence [the licensee] delivered an alcohol beverage. Detective Alexander states there is no sighting in the video [the 18 year old] had an alcohol drink. Officer MacDonald stated when he arrived the 18 year was lying down, incoherent, highly intoxicated. Commissioners Krieger, McCarthy, and Hogan questioned the conduct of the 18 year old, the use of a second ID, after 97 minutes, had she been drinking, and was she alone. Asst. Solicitor Veloso stated he disagreed with the testimony of Attorney Hartigan

about the redacted report . . . [18 year old] was intoxicated, the License Commission can infer intoxicated on the premises, she was served, she was underage, submit as reasonable to infer infractions on the premises. Attorney Hartigan submits a copy of the decision of the Alcoholic Beverages Control Commission dated January 12, 2010 regarding Raysa Toppi, Inc., dba Willie Topps, 731 Lakeview Ave., Lowell. Attorney Hartigan states that the decision finds that there is no evidence of a sale and/or delivery of alcohol beverages. Chairman Descoteaux noted that the establishment has been well run in the last two years. Deputy Superintendent Webb noted that management has been cooperative with Lowell Police. At the conclusion of the hearing, Commissioner Krieger made the motion, second by Commissioner Hogan, to find the following:

To place on file the allegation of misconduct, to wit (a) selling or delivering an alcoholic beverage to a person under 21 years of age in violation of MGL chapter 138, section 34;

To find the licensee in violation of (b) selling or delivering alcoholic beverages to an intoxicated person in violation of MGL chapter 138, section 69, and to suspend for one (1) day the all alcoholic beverages restaurant license, and to hold in abeyance for one (1) year the one (1) day suspension to April 28, 2017;

To place on file the allegation of misconduct, to wit (c) 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 Commission voted unanimously on the motion.

The Commission voted to adjourn the meeting at 7:55 p.m. on a motion by Commissioner Hogan, second by Commissioner Krieger.

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