

Minutes for the Lowell License Commission meeting for Thursday, July 25, 2019 at 6:00 p.m., held in the City Council Chamber, 2nd floor, City Hall, 375 Merrimack St., Lowell, MA 01852.

Present: Commissioners Clifford Krieger, presiding, Terry McCarthy, Joseph Donahue; Asst. Solicitor Adam LaGrassa, and Captain Paul Laferriere of the Lowell Police Department.

Absent: Commissioners John Descoteaux, Martha Howe

The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve meeting minutes for July 11, 2019.

The Commission reviewed the applications for special one-day license to sell/dispense malt beverages and wines only, or either one by Ashley Roper, Catering Manager, Aramark, who was present, for the following events:

Lila Lorrey Retirement Celebration, Wednesday, August 7, 2019, 1:00 p.m. to 6:00 p.m. at University Crossing, 220 Pawtucket St.;

ROTC Reception, Monday, August 19, 2019, 2:00 p.m. to 7:00 p.m. at the Allen House, 2 Solomont Way;

Eames Hall Time Capsule Unveiling, Saturday, October 19, 2019, 11:00 a.m. to 6:00 p.m. at the Alumni Hall Lounge, 84 University Ave.

The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve licenses for Ashley Roper of Aramark.

The Commission reviewed applications for special events permit for the amplification of sound for the following:

Alan F. Kaplan, present, The Middle Street Village, Inc., d/b/a The Village Smokehouse, 92-98 Middle Street, sound system, for the Lowell Folk Festival, Friday, July 25, Saturday, July 27, Sunday, July 28, 2019, enclosed outdoor area in front of 92-98 Middle Street;

Joseph M. Carreiro, Jr., present, Mariachi Foods Inc., d/b/a el potro mexican grill, 124 Merrimack Street, sound system, for the Lowell Folk Festival, Saturday, July 27, 2019, enclosed outdoor area in front of 124 Merrimack Street

Christopher Glenn Hayes, present, of Lowell Waterways Vitality Initiative, for the Canalside Arts Series, spoken word, cultural/pop music, 2-speaker amp PA, at the following venues:

Lucy Larcom Park, Friday, August 2, 2019, 6:00 p.m. to 9:00 p.m.;

Ecumenical Plaza, Friday, August 16, 2019, 5:00 p.m. to 9:00 p.m.; and

Kerouac Park, Friday, September 20, 2019, 5:00 p.m. to 9:00 p.m.

Nicholas Petrakos, present, of Blue Shamrock, Inc., sound system for live music, d. j., and radio, during July, August, September, October - 2019, at the sidewalk seating area of Market Street and Palmer St.

The Commission, on the motion by Commissioner Donahue, second by Commissioner McCarthy, voted to approve special event permits for amplification for Alan Kaplan of The Middle Street Village Inc., Joseph Carreiro of Mariachi Foods Inc., Christopher Hayes of Lowell Waterways Vitality Initiative, and Nick Petrakos of Blue Shamrock, Inc.

The Commission reviewed Sidewalk Stand applications from Alaina & Doug Brackett, d/b/a Purple Carrot Bread Co., 107 Merrimack Street, for Lowell Folk Festival July 26, 27, 28, 2019; and, SSG Donald R. Thurman, U. S. Army, US Army Recruiting Center, insured 105-107 Merrimack St R E Trust LLC, at 107 Merrimack Street, for Lowell Folk Festival July 26, 27, 28, 2019. The following individuals were present: Alaina Brackett of Purple Carrot Bread Co., and SSgt John Goldthrite of the US Army Recruiting Center. The Commission, on the motion by Commissioner Donahue, second by Commissioner McCarthy, approved Sidewalk Stand permits for Alaina & Doug Brackett at 107 Merrimack St., and SSG Donald Thurman, U.S. Army, at 105-107 Merrimack St. for Lowell Folk Festival July 26, 27, 28, 2019.

Peter Tamajong, LLC Manager of MBOA Alliance LLC, all alcohol beverages restaurant licensee at 135 Central Street appeared before the Commission to state that progress on construction has been made,

sprinkler will be in place after next week, and a follow-up inspection. Commissioner McCarthy asked about the restaurant opening. Mr. Tamajong stated he anticipates a September opening. Commissioner Krieger stated the Commission's appreciation of the report from Mr. Tamajong. The Commission continued review of the matter to September 2019.

The Commission opened the hearing on the allegations of misconduct as charged by Raymond Kelly Richardson, Superintendent of Police, against the licensee LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill, Abigail Murphy, Manager, all alcoholic beverages restaurant at 76-78 Merrimack St. The allegations of misconduct occurred on the licensed premises June 30, 2019 at approximately 2:07 a.m. as noted in the Superintendent's communication dated July 9, 2019. The following individuals were present: Abigail Murphy, Manager of Record, and Attorney Travis Jacobs, legal counsel for LD Holdings, LLC, Captain James Hodgdon and Officer Danny Perrin Jr., of the Lowell Police Department. Captain Laferriere presented introductory statement about the facts of the incident of June 30, 2019, and questioned Officer Perrin and Captain Hodgdon. Captain Hodgdon stated that he was Supervisor of the Downtown Patrol from 11:00 p.m., June 29 to 3:00 a.m., June 30, 2019. Officer Perrin stated to the Commission that he was one of two officers with Captain Hodgdon walking the downtown streets. Captain Hodgdon stated that police were monitoring licensed establishments for crowd management. At 1:50 a.m., Captain Hodgdon had officers at fixed posts, strategically placed to observe patrons exiting licensed establishments. Captain Hodgdon stated that at approximately 2:07 a.m., two (2) females were allowed to enter Bar 74 Lounge & Grill [Licensee premises at 76-86 Merrimack St.]. When Captain Hodgdon with Officer Perrin and a second officer approached the front door, Scotty Foreman, Head of Security for the Licensee, opened the door. Captain Hodgdon addressed Mr. Foreman, and asked to speak to the manager of record, Abigail Murphy. While waiting for the manager to appear, Captain Hodgdon observed twelve (12) individuals seated at Bar 74. When Manager Murphy arrived at the door, she spoke to Captain Hodgdon, and answered his questions about the people inside the establishment. Captain

Hodgdon stated to Manager Murphy that 2:00 a.m. is the official closing time. Captain Hodgdon stated that there were patrons on the premises but there was no drinking of alcohol. Attorney Jacobs objected to the Commission's change of procedure, not allowing direct questioning of police officers. Commissioner Krieger acknowledged the objection. Attorney Jacobs proceeded to recite questions to the Commission for response by Lowell police, to wit: why did police do that, how did they know it was a member of staff. Attorney Jacobs stated [Bar 74] has an entertainment license, there was no promoter; none of the [individuals] were drinking. Attorney Jacobs questioned Abigail Murphy, her prior work experience, and asked about her location inside the bar. Ms. Murphy spoke of her conversation with Captain Hodgdon. Ms. Murphy identified the two females who re-entered the establishment at 2:07 a.m., as employees of the disc jockey. They had moved the vehicle closer to the entrance on Merrimack Street. The disc jockey worked at Bar 74 from 10:00 p.m. until closing. Ms. Murphy stated to the Commission that the disc jockey had an entourage of assistants to help with sound equipment; Bar 74 does not maintain sound equipment for the licensed premises. Commissioner McCarthy questioned Attorney Jacobs about the DJ with staff. Attorney Jacobs stated the 2 females left at 1:45 a.m., and then came back in. Commissioner Donahue questioned Attorney Jacobs. Commissioner Krieger questioned Captain Hodgdon about the two officers. Captain Hodgdon stated when we asked patrons to leave, there was nothing mentioned about personnel, we [police] counted 11 patrons who left, and 6 employees remained. Attorney Jacobs cites rebuttal. Commissioner Krieger made a general comment about concern for underage people. Captain Hodgdon stated what we [police] were clarifying [matter of personnel on the premises] in the conversation with Ms. Murphy. Commissioner Donahue questioned Captain Hodgdon about what had transpired; Captain Hodgdon stated he asked patrons to leave, and 11 patrons left. Commissioner Donahue asked Captain Hodgdon if patrons were in the establishment inappropriately. Captain Hodgdon stated yes. Commissioner McCarthy stated there is a lack of leadership, the owner is not there. Attorney Jacobs disagreed, the licensee, whose owner is not present, referencing other licensed establishments

[whose ownership is absent]. Commissioner McCarthy stated the Manager of Record is qualified, [but] individuals should not be in there, there is no evidence that [they were employees]. Ms. Murphy addressed matter of personnel on premises, they were involved with the entertainment [provided by DJ]. Attorney Jacobs questioned what evidence the City has that [individuals] were not employees; the police officers did not question individuals. Commissioner Donahue questioned Captain Hodgdon about the other nine patrons; Captain Hodgdon stated there was no answer [by manager] about the nine patrons present. Commissioner Krieger stated there is a difference in testimony. Attorney Jacobs stated there is no evidence of the nine patrons [on premises after 2 a.m.]. Commissioner Donahue stated [the Commission] has been concerned about [Bar 74] for a long time, after legal discussion [Bar 74] was to operate again; refers to Manager's resume, should have known. Commissioner Donahue stated there is not sufficient evidence that the 2 females who re-entered after 2 a.m. is a violation of Commission regulation 2.02 Patron Entry Hours, but patrons should not have been there. Commissioner McCarthy stated that he agrees with Commissioner Donahue that there is no violation on the second allegation.. Commissioner McCarthy questioned why nine people have to be there to assist the D.J.; it is the manager's responsibility to get them out. Commissioner Krieger agreed with the finding on the second allegation, there is no violation; the [licensee] is getting back on its' feet, recommending for discussion a day suspension to be held in abeyance for one year. Commissioner Donahue made the motion for a one day suspension to serve on a Friday in August. Commissioner McCarthy made the motion for a three day suspension, one day to serve, two days to be held in abeyance for one year. Commissioner Donahue seconded the motion by Commissioner McCarthy. Attorney Jacobs stated the preponderance of evidence is in favor of the licensee, not a shred of evidence without sufficient fact. The Commission voted in the affirmative, Commissioners Krieger, McCarthy, Donahue, to find LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill, in violation of Regulation 2.01 Hours of Operation on June 30, 2019. The three day suspension period shall

commence on Friday, August 30, 2019 at 8:00 a.m., two days are to be held in abeyance for one year [July 25, 2020].

The Commission opened the public hearing continued from July 11, 2019 on the application by Renay M. Wolterding, d/b/a Mill City BBQ & Brew, an all alcoholic beverages restaurant licensee at 1018 Gorham Street, for change of location to 11 Kearney Square, 3,750 square feet, 2 entrances, 2 exits, first floor dining and kitchen, basement storage only. Renay Wolterding was present. The Commission reviewed the record on abutters being notified by the applicant, and found sufficient proof that the applicant did not include a cover letter to the published legal notice [June 28, 2019] that public hearing was continued from July 11, 2019 to July 25, 2019 when sending notification to abutters by certified mail, return receipt request. The Commission, on the motion by Commissioner Donahue, second by Commissioner McCarthy, voted that a legal notice be published for August 2, 2019 in the Lowell Sun newspaper, and the public hearing the application by Renay Wolterding be held on Thursday, August 22, 2019 at 6:00 p.m. in the City Council Chamber.

The Commission reviewed the communication from Raymond Kelly Richardson, Superintendent of Police, dated July 11, 2019, re: allegation of misconduct charged against the licensee Centraville Social Club, David Burns, Manager, all alcoholic beverages club at 364 West Sixth St. The Commission voted to notify the licensee of the hearing to be held on Thursday, August 22, 2019 at 6:00 p.m. in the City Council Chamber regarding the alleged misconduct.

The Commission reviewed the communication from Raymond Kelly Richardson, Superintendent of Police, dated July 23, 2019, re: recommendation for consideration review of ABCC decision finding The Last Safe in violation; and that The Last Safe serve the two-day suspension held in abeyance per License Commission. The Commission voted to notify the licensee of the hearing to be held on Thursday, August 22, 2019 at 6:00 p.m. in the City Council Chamber regarding the review of the ABCC decision, and the two-day suspension held in abeyance per License Commission.

The Commission, on the motion by Commissioner Donahue, second by Commissioner McCarthy, voted to adjourn the meeting at 7:30 p.m.

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