

Minutes for the Lowell License Commission meeting for Thursday, September 15, 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, Martha Howe, and Joseph Donahue; and Deputy Superintendent Deborah Friedl of the Lowell Police Department, Elliott Veloso, Assistant City Solicitor.

The Commission, on the motion by Commissioner Krieger, second by Commissioner McCarthy, voted to approve the minutes for the meeting of September 1, 2016.

The Commission reviewed the applications to dispense wines only:

Steve Syverson, President, Arts League of Lowell, Inc., at 307 Market Street:

Artists reception - City on the River, Saturday, September 17, 2016, 4:00 p.m. to 6:00 p.m.

Artists reception - Exposed 2016, Saturday, October 15, 2016, 4:00 p.m. to 6:00 p.m.

Artists reception - Small Winter Wonders, Saturday, December 3, 2016, 6:00 p.m. to 8:00 p.m.

Steve Syverson was present.

Barbara L. Gagel, Ayer Lofts Art Gallery, 172 Middle St., Art Exhibit - Kerouac Exhibit, Friday, October 7, 2016, 4:00 p.m. to 7:30 p.m. Barbara Gagel was present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to approve licenses to dispense wines only for Steve Syverson and Barbara Gagel.

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

Gabby Davis - Made in Lowell, Point Park, Oktoberfest, Friday, September 30, 2016, 5:00 p.m. to 10:00 p.m.

Gabby Davis - Made in Lowell, Point Park, Oktoberfest, Saturday, October 1, 2016, 5:00 p.m. to 10:00 p.m.

Gabby Davis was present. Gabby Davis stated the Oktoberfest is a low-key event; there will be a couple of food trucks at Point Park.

Marc Clermont of Miracle Providers Northeast, Inc., The Onyx Room, 122 Western Ave., Artful Beer Garden Charity, event for The Miracle Providers, Saturday, October 1, 2016, 11:00 a.m. to 12:00 midnight;

Marc Clermont of Miracle Providers Northeast, Inc., The Onyx Room, 122 Western Ave., Artful Beer Garden Charity, event for The Miracle Providers, Sunday, October 2, 2016, 11:00 a.m. to 5:00 p.m.;

Marc Clermont of Miracle Providers Northeast, Inc., The Onyx Room, 122 Western Ave., Rocky Horror Halloween Party Fundraiser, Saturday, October 15, 2016, 7:00 p.m. to 12:00 midnight.

Marc Clermont was present. Marc Clermont stated the Miracle Providers are hoisting fundraisers to help children who need medical care.

Rosemary Agbede of Nigeria Association of Merrimack Valley, at UTEC, 35 Warren Street, Nigerian Independence Celebration, Saturday, October 1, 2016, 8:00 p.m. to 12:00 midnight.

Rosemary Agbede was present.

The Commission, on the motion by Commissioner Krieger, second by Commissioner Howe, voted to approve licenses to sell and dispense malt beverages and wines only for Gabby Davis, Marc Clermont and Rosemary Agbede.

The Commission reviewed the application for special one-day license to sell/dispense all alcoholic beverages by Marc Clermont of Miracle Providers Northeast, Inc., The Onyx Room, 122 Western Ave., Charity Fundraiser Halloween Party, Saturday, October 22, 2016, 7:00 p.m. to 12:00 midnight. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to approve the license to sell and dispense all alcoholic beverages for Marc Clermont.

The Commission reviewed the applications for special event permits for amplification of sound for outdoor public entertainment by Gabby Davis of Made In Lowell, for sound system for live music at Oktoberfest, Friday, September 30, 2016, 5:00 p.m. to 10:00 p.m., and Saturday, October 1, 2016, 12:00 p.m. to 10:00 p.m. at Point Park. The Commission, on the motion by Commissioner Krieger, second by Commissioner Donahue, voted to approve the special event permits for amplification of sound for Oktoberfest at Point Park on September 30 and October 1, 2016 to be issued to Gabby Davis of Made In Lowell.

The Commission opened the public hearing on the application by Mariachi Foods Inc., d/b/a El Potro Mexican Grill, Joseph M. Carreiro, Jr., Director, Manager, all alcoholic beverages restaurant licensee at 124 Merrimack Street, for new officer/director, transfer of stock; legal notice published Friday, September 2, 2016, Lowell Sun newspaper. Further, the License Commission will vote on whether to enter into executive session to comply with, or act under the authority of, MGL Chapter 6 Section 172. Joseph Carreiro was present to represent Mariachi Foods Inc. Chairman Descoteaux made the motion for the Commission to vote by roll-call on whether

to enter into executive session to comply with, or act under authority of, MGL Chapter 6 Section 172. The Executive Secretary requested the Commission postpone action on the vote to go into executive session due to the absence of other corporate officers and shareholders proposed for License Commission approval. Assistant Solicitor Veloso advised the Commission that a corporate official was notified to appear at the hearing, the person is absent and, the Commission may either reject the application and request that a new application be filed or continue the hearing and require all people be present. Mr. Carreiro addressed the Commission in answer to Chairman Descoteaux inquiry about the corporate officials. The Commission voted to continue the hearing to October 6, 2016 on the motion by Commissioner Donahue, second by Commissioner McCarthy, and that all corporate officials are to be present.

The Commission opened the public hearing on the application by New Excel Package Store, Inc., Himansu Patel, President, for the transfer of the all alcoholic beverages package store license from Excel Package Store, Inc., John N. Tavoularis, President, for premises at 611-613 Merrimack St., one unnumbered door; first floor-one room, two rooms for storage, approximately 2,367 sq. ft.; cellar for storage; legal notice published Friday, September 2, 2016, Lowell Sun newspaper. It is requested that Himansu Patel be approved as manager of record for New Excel Package Store, Inc. The following individuals were present: John Tavoularis of Excel Package Store, Himansu Patel and Malay Patel of New Excel Package Store, Inc., and Attorney Andrew Zaroulis, legal counsel for New Excel Package Store, Inc. Chairman Descoteaux opened the hearing for public comment. There was no one present to speak in favor of the application, that portion of the hearing was closed; there was no one present to speak in opposition to the application, that portion of the hearing was closed. Attorney Zaroulis presented an introduction to the Commission of the corporate officers for New Excel Package Store, Inc., the applicant for license transfer. The hearing was declared closed, and the following action taken: on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted unanimously to approve the transfer of the all alcoholic beverages package store license from Excel package Store, Inc. to New Excel Package Store, Inc.; to approve Himansu Patel as manager of record for New Excel Package Store, Inc.; to approve the pledge of stock and inventory from New Excel Package Store, Inc. to Excel Package Store, Inc. as collateral.

The Commission reviewed the application by The Liquor Shack, Inc., Theanseng Cheam, President, for the transfer of the all alcoholic beverages package store license from Jo & Ni Inc., d/b/a R & M Liquors, Michael J.

Rodrigue, President, for premises at 815 Lakeview Avenue, one unnumbered door; first floor-one room, two rooms for storage, 1200 square feet; basement-two rooms for storage. The License Commission, on the motion by Commissioner Howe, second by Commissioner Donahue, voted to schedule a public hearing on said application for October 6, 2016 at 6:30 p.m. in the City Council Chamber. Legal notice will be published in the Lowell Sun newspaper for Friday, September 23, 2016.

The Commission reviewed the application by Louilowell LLC, d/b/a Loui Loui, Jonathan Joo, Manager, for an all alcoholic beverages restaurant license for premises at 11 Kearney Square, first floor, 3750 square feet, seven rooms, one entrance, two exits, proposed seating 128, proposed occupancy 150. The License Commission, on the motion by Commissioner Howe, second by Commissioner Donahue, voted to schedule a public hearing on said application for October 6, 2016 at 6:30 p.m. in the City Council Chamber. Legal notice will be published in the Lowell Sun newspaper for Friday, September 23, 2016.

The Commission opened the public hearing on the allegation of misconduct as charged by William M. Taylor, Superintendent of Police, against LCRC, Inc., d/b/a Dudley's, Matthew J. Murphy, Interim Manager, all alcoholic beverages restaurant licensee at 19 Merrimack St., as set out in Superintendent Taylor's communication dated August 2, 2016. Matthew J. Murphy was present. Attorney Michael Zaim was present as legal counsel for LCRC, Inc. Commissioner Howe made a public disclosure that she had been an attorney for the mother of Matthew J. Murphy in a matter pertaining to probate, and that she did not think there would be a conflict of interest for her as Commissioner to hear the allegation filed against LCRC, Inc. Attorney Zaim acknowledged the disclosure by Commissioner Howe with no objection. Attorney Zaim addressed the Commission first on the matter of application for change of manager for LCRC, Inc. which is pending approval from the Alcoholic Beverages Control Commission; LCRC, Inc. is working with an accountant to resolve a tax issue with the Department of Revenue and the Department of Unemployment Assistance. Attorney Zaim stated a request for "reconsideration" will be filed with the Executive Secretary once the tax issue is settled. Attorney Zaim, on the matter of the Superintendent of Police allegation of misconduct, waived the reading of the complaint. Attorney Zaim stated there is no evidence other than the word of the sisters who are identified in the incident report filed by Lowell Police Detective Jason Burd. Lowell Detective Burd was present. Michaela Smyth and Shelby Smyth were present. Chairman Descoteaux took the oath of Michaela Smyth and Shelby

Smyth as witnesses in the incident of July 30, 2016. Assistant City Solicitor Veloso advised the Smyth sisters of their right to invoke the right under the 5th amendment of United States Constitution against self-incrimination as witnesses. Chairman Descoteaux questioned the witnesses Michaela and Shelby Smyth, and Detective Burd. Commissioner Donahue questioned Michaela and Shelby Smyth about the issuance of bracelets. Commissioner Howe questioned the witnesses about the approximate number of hours that Michaela and Shelby Smyth had been at Dudley's. Michaela stated she did not have a drink at Dudley's; Shelby stated that she had one drink in the approximate three hours spent at Dudley's; each sister stated that their ID's had not been checked at the front door of Dudley's or at any time while on the premises by management and staff. Commissioner Krieger noted that one drink was served to Shelby Smyth who is 22 years of age, but that ID's had not been checked. Chairman Descoteaux warned Matthew Murphy as Interim Manager of his responsibility to check IDs in order to identify underage patrons so that they are not served or allowed to consume alcohol beverages on the premises. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted unanimously to place the Superintendent's letter on file.

The Commission, on the motion by Chairman Descoteaux, second by Commissioner Krieger, voted unanimously to open the public 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., as set out in Superintendent Taylor's communication dated August 12, 2016. Joel Asadoorian was present. Mr. Asadoorian did not have legal counsel present; he waived the reading of the complaint. Chairman Descoteaux requested Mr. Asadoorian to respond to the allegations. Mr. Asadoorian stated that the night of August 6, 2016 was not an under 21 event, that there may have been a security failure but that no staff remembers the young girl who had been assaulted on the licensed premises; there were approximately 165 to 175 patrons; three bartenders were working that night. Mr. Asadoorian stated he was told that an ice bucket had been thrown [into the area where patrons had been]. Commissioner Krieger questioned the matter of the presence of two underage patrons to which Mr. Asadoorian stated that it was possible. Commissioner Howe questioned Mr. Asadoorian and Mr. Olivera, a member of the staff at Mill City Ballroom, about security and screening of patrons prior to entering the premises. Sergeant Joseph Murray of the Lowell Police Department was present to offer testimony. Officer Murray stated that the

underage patrons used the first floor entrance; Precious Perea was struck in the back of her head with an ice bucket [on the third floor premises]; each patron paid a \$10.00 cover charge; spoke with a friend and sister of Precious Perea, and with Mr. Asadoorian who believed that nothing happened; the entertainer that night is 12 years of age. The following witnesses appeared before the Commission: Precious Perea, 18 years of age, Rosalee Sanchez, 16 years of age, Maryah Rosario, 25 years of age, and Jasmin Perea, 23 years of age, sister of Precious. Chairman Descoteaux took the oath of Precious Perea, Rosalee Sanchez, Maryah Rosario, and Jasmin Perea as witnesses in the incident of August 7, 2016. Precious Perea stated that she had shown her ID at the entrance, but did not remember who saw the ID; she requested a “fruity drink” two times, each contained alcohol; she said she did not ask for alcohol; she said she was hit in the back of her head, lost her eyeglasses, and no one helped me. Chairman Descoteaux questioned Precious Perea about what time she went to the hospital; Precious stated by 1:30 a.m. Rosalee Sanchez stated she paid \$10.00 cover charge, and no one asked for her ID in response to a question by Commissioner Donahue. Commissioner Howe questioned Rosalee about helping Precious Perea. Rosalee stated she carried Precious out, blood on her hands; she asked for help but no one assisted. Maryah Rosario stated there were approximately 70 people on the dance floor when the [ice bucket struck Precious Perea]. Jasmin Perea stated drinks were thrown. Commissioner Donahue asked if the girls came in by way of the back door; the girls stated that they never saw the back door. Assistant City Solicitor Veloso asked Precious if the police officer spoke to you at the hospital; she said yes. Commissioner McCarthy questioned Mr. Asadoorian about the performer; Mr. Asadoorian stated the performer didn’t get there until 1:10 a.m. Sergeant Murray stated in answer to a question from Chairman Descoteaux that Little Poopy left at 1:15 a.m., and in response to a question from Commissioner Donahue six (6) police cruisers from other parts of the City were called to Mill City Ballroom. Chairman Descoteaux stated that Mill City Ballroom has five (5) days suspension that are held in abeyance from a decision of the License Commission in March 2016. Commissioner Krieger made the motion to find the licensee in violation of Regulations of the Commission 1.16, 1.20, Massachusetts General Law Chapter 138, section 34, and A.B.C.C. regulation 204 CMR 2.05 (2), and to suspend the all alcoholic beverages restaurant license for four (4) days. There was no second to the motion. Commissioner McCarthy made the motion to suspend said license for ten (10) days, and to hold three (3) days in abeyance. Commissioner Donahue noted that the five (5) days held in abeyance from the previous decision may

be served by the licensee. The motion by Commissioner McCarthy, amended by Commissioner Donahue, to wit: to suspend the all alcoholic beverages restaurant license for ten (10) days, three (3) days of which are to be held in abeyance until September 30, 2017, and that five (5) days of suspension, held in abeyance following the Commission's March 31, 2016 decision be served following the seven (7) days suspension, second by Commissioner Donahue; Chairman Descoteaux asked for a vote by roll-call – ayes Chairman Descoteaux, Commissioners McCarthy and Donahue; nays Commissioners Krieger and Howe. Following the vote, 3 ayes, 2 nays, to suspend the all alcoholic beverages restaurant license granted and issued to Mill City Ballroom, Inc., Chairman Descoteaux ordered the suspension to commence Friday, September 30, 2016 at 8:00 a.m. to Wednesday, October 12, 2016 at 2:00 a.m.

The Commission opened the public 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., as set out in Superintendent Taylor's communication dated August 11, 2016. Joel Asadoorian was present. Deputy Superintendent of Police Friedl read the Superintendent of Police William M. Taylor's letter to the Commission dated August 11, 2016. The incident took place on July 30, 2016. Mr. Asadoorian stated he had no knowledge of the incident; he stated that a police officer was angry, and that he had no additional information. Lowell Police Detective Nick Laganas appeared before the Commission. Detective Laganas stated that he had been inside the Mill City Ballroom to speak to members of the Asian Boyz gang, while standing outside the establishment later that night, a large group of people began to fight. Chairman Descoteaux asked about corridor of space outside the establishment. Detective Laganas stated the [fighting] was 20 feet from the front. Mr. Asadoorian stated there is 10 feet of frontage for Mill City Ballroom. Chairman Descoteaux asked Mr. Asadoorian if he filed an incident report with the License Commission office; Mr. Asadoorian stated he did not have knowledge of the incident. Asst. City Solicitor Veloso spoke of Sergeant Lombard's report of the fighting that took place on July 30th. Sergeant Thomas Lombard appeared before the Commission. Sgt. Lombard spoke of the fighting that night and of his concern for the safety of police. Sgt. Lombard stated, in response to a question from Commissioner McCarthy, the people fighting came out from [Mill City] Ballroom. Deputy Superintendent Friedl stated patrons came out of Mill City Ballroom at 1:30 a.m., it was weekend of the Folk Festival which ended at 11:00 p.m. Assistant

Solicitor Veloso stated a crowd surge at 1:30 a.m. from the establishment, fight breaks out right in front of the establishment, adjacent premises, submit order and decorum [is not maintained], no security, reasonable inferences, no notification to the Commission and to the Police Department. Commissioner Howe, citing police officer testimony, 20 feet in the immediate area is a violation. Commissioner Krieger states a jurisdictional issue. Asst. Solicitor Veloso states security was inside, but should be outside, speaks of a lack of security. Commissioner Krieger acknowledged the seriousness of the incident. The Commission, on the motion by Commissioner Krieger, second by Commissioner Howe, found Mill City Ballroom, Inc. in violation of Regulation of the Commission 1.16, voted to suspend the licensee's all alcoholic beverages restaurant license for two (2) days, and to hold in abeyance the two days suspension for one year [September 15, 2017]. The vote was by roll-call: ayes - Chairman Descoteaux, Commissioners Krieger and Howe; nays – Commissioners McCarthy and Donahue [3 ayes, 2 nays].

The Commission opened the public 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., as set out in Superintendent Taylor's communication dated August 10, 2016. Joel Asadoorian was present. Deputy Superintendent of Police Friedl read the Superintendent of Police William M. Taylor's letter to the Commission dated August 10, 2016. The incident took place on June 26, 2016. Mr. Asadoorian stated there was a group of ten participated in an altercation, security tried to intervene, one of the security said to go get the police. Lowell Police Officer John Spinney was present. Officer Spinney stated he was outside at the crosswalk of John and Merrimack Streets when told of an incident taking place at Mill City Ballroom. Several police cruisers arrived, having been called by Officer Quinn. Officer Spinney stated he went to the third floor of the premises, and detected a strong odor of OC spray. Sergeant Christopher Panagiotakos was present. Sgt. Panagiotakos stated he was officer in charge at the time, and he went to the third floor, detected the odor of OC spray, and spoke with Mr. Asadoorian. Sgt. Panagiotakos asked Mr. Asadoorian if he called for the police; Mr. Asadoorian stated yes. Sgt. Panagiotakos stated he later checked with dispatch, and found out there was no record of a call having been made by anyone from Mill City Ballroom. Mr. Asadoorian stated he sent an incident report to the License Commission office. An employee of Mill City Ballroom, identified by Mr. Asadoorian as head of security, stated to the Commission

that everything happened so quick[ly]. Commissioner Howe stated the violations, and not calling the police, is outrageous. Mr. Asadoorian stated he agreed; gang came in to cause trouble. Commissioner McCarthy stated the establishment is out of control. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Howe, found the licensee, Mill City Ballroom, Inc., in violation Regulation of the Commission 1.16, 1.20, and ABCC Regulation 204 CMR 2.05 (2), voted unanimously to suspend the all alcoholic beverages restaurant license for five (5) days, and the five days suspension is to be served commencing Wednesday, October 12, 2016 at 8:00 a.m. to Monday, October 17, 2016 at 2:00 a.m.

The Commission opened the public 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., as set out in Superintendent Taylor's communication dated August 9, 2016. The incident took place on May 2, 2016. Joel Asadoorian was present. Mr. Asadoorian waived the reading of the complaint. Mr. Asadoorian stated there is not a lot of security in the back stairwell; I was not present that evening but was told of the incident when Derek Sawyer was injured while a patron of Mill City Ballroom. Derek Iraheta, an employee of Mill City Ballroom, was present. Asst. Solicitor Veloso advised Mr. Iraheta of the pending criminal matter and of his 5th Amendment rights regarding self-incrimination. Mr. Iraheta offered to the Commission his explanation of the incident. Asst. Solicitor Veloso stated that Derek Sawyer did not comply with the subpoena to appear before the Commission as a witness. Lowell Police Officer Felix Gonzalez was present. Officer Gonzalez stated he was dispatched to take a report, saw Mr. Sawyer with facial wounds; the incident took place around 10:30 p.m. Chairman Descoteaux asked Mr. Asadoorian if he filed an incident report with the License Commission office. Mr. Asadoorian stated yes. Chairman Descoteaux stated he would like to have Mr. Sawyer back [before the Commission] in two weeks. Commissioner Howe stated there was a disturbance, a violation of Regulation of the Commission 1.16; for not notifying the police department Regulation of the Commission 1.20, and ABCC Regulation 204 CMR 2.05 (2). The Commission, on the motion Commissioner Krieger, second by Commissioner Donahue, voted to continue the hearing to October 6, 2016 in order to have Mr. Sawyer appear before them to offer testimony of the incident of May 2, 2016. The vote was by roll-call: ayes - Chairman Descoteaux, Commissioners Krieger, McCarthy, and Donahue; nay – Commissioner Howe [4 ayes, 1 nay].

On a motion by Commissioner Krieger, second by Commissioner Howe, the Commission voted to adjourn the meeting at 9:55 p.m.

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