

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER
September 5, 2013

ESTHER HOWLAND CHAMBERS

Commission Members Present: Karon Shea, Chairperson
Paul Mullan, Commissioner
Anthony Salvidio, Commissioner

Staff Present: Deborah Steele, Planning & Regulatory Services
Lt. James Johnson, Worcester Police Department
Officer William Stout, Worcester Police Department
Alexandra Haralambous, Law Department
James Foley, Inspectional Services
James Sansoucy, Inspectional Services

Call to Order –

Chair Shea called the meeting to order at 10:00 A.M.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the minutes of April 25, 2013 and August 8, 2013. The May 9, 2013 & May 25, 2013 minutes were held.

New Business

One Day Liquor Requests

1. Petition: Request for one day liquor license – September 14, 2013, 8:00 p.m. – 1:00 a.m., September 21, 22, 2013 – Noon- Midnight

Jim Economou appeared on behalf of the applications. He stated the first event is a church event and second event is for their annual food festival.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the three one day liquor permits.

Exhibit A: Application for three one day permits received on August 7, 2013 and dated August 7, 2013.

Petitioner: Assyrian Orthodox Cathedral – 102 Russell Street

2. Jim Economou appeared on behalf of the application. He stated this will be for a church event.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the one day liquor permit.

Exhibit A: Application for one day permit received on August 7, 2013 and dated August 7, 2013.

3. Petition: Request for one day liquor license – October 26, 2013, 5:00 p.m. – 9:00 p.m.

Petitioner: Children’s Smile Coalition, 65 Tainter Street

MaryEllen Wessell appeared on behalf of the application. She stated 100 to 150 people are expected at the event.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the one day liquor permit.

Exhibit A: Application for one day liquor permit received on August 5, 2013 and dated August 5, 2013.

4. Petition: Request for one day liquor license – October 19, 2013, 6:00 p.m. – 9:00 p.m.

Petitioner: The Boys & Girls Club of Worcester, 65 Tainter Street

Chair Shea stated she was recusing herself from this item.

Ken Coughlin appeared on behalf of application. He stated this was for the Art in Fashion show and 150 people were expected.

Upon a motion by Commissioner Mullan the Commission voted 2-0 to approve the one day liquor permit.

Exhibit A: Application for one day liquor permit received on August 5, 2013 and dated August 5, 2013.

Chair Shea resumed as Chair

5. Petition: Request for four one day liquor licenses –
- October 8, 2013 – 4:30 p.m. – 8:00 p.m.,
 - September 28, 2013 – 6:30 p.m.- 9:00 p.m.,
 - September 28, 2013, Noon-2:30 p.m.
 - September 27, 2013, - 4:30 p.m.-9:00 p.m.

Petitioner: Chartwells Catering

Bill Battelle appeared on behalf of the applications. He stated the October 8, 2013 event is a reception for Mass Pharmacy College. The other events are for homecoming events at WPI.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the four one day liquor permits.

Exhibit A: Application for four one day liquor permits received August 26, 2013 and dated August 26, 2013.

6. Petition: Request for one day liquor license – September 21, 2013, 6:00 p.m. – 12:10 a.m.

Petitioner: Paul Hanlon, 16 Cambridge Street

Paul Hanlon appeared on behalf of the application. He stated this is for their annual cookout and there will be security at the establishment along with Worcester Police.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the one day liquor permit.

7. Petition: Request for one day liquor license – September 13, 2013, 4:00 p.m. – Midnight, October 13, 2013, Noon – 9:00 p.m.

Petitioner: Paul Barber, 280 Shrewsbury Street

Paul Barber appeared on behalf of the applications. He stated that one event is an outdoor event and soft music will be played and the other event is for the Columbus Day Parade.

Ray Perrone stated that he will be coordinating the music for the September 13, 2013 event and it will be country music.

Paul Giorgio stated the Columbus Day parade event is an event that he helps coordinate for the Shrewsbury Street area and it's an older demographic that attends the event.

Joe Simone, abutter to the property, stated he is very unhappy about the amount of outdoor events that Flying Rhino has been having and the events keep growing. He stated the music is extremely loud and events do not end when they are required to.

Donald Morse, an abutter to the property, stated the music is extremely loud and city has a noise ordinance and Flying Rhino does not adhere to it. Commissioner Mullan asked Mr. Morse if he had any evidence showing that Flying Rhino was not adhering to the noise ordinance such as decibel readings. Mr. Morse stated no but he had called the police to complain about the noise and he also presented petition from other abutters complaining about the noise.

Commissioner Mullan read an email from Officer Edward Saucier that stated there have been eight noise complaints since January 2013.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the one day liquor license for September 13, 2013 with provision that all music must end at 10:00 p.m. and off duty police officer be hired.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the one day liquor license for October 13, 2013 with condition that an off duty police officer be hired.

Exhibit A: Application for two one day permits received on August 30, 2013 and dated August 30, 2013

Exhibit B: Electronic email from Officer Edward Saucier re: Flying Rhino received September 3, 2013.

Exhibit C: Petition received at 9/5/2013 License Commission meeting

Common Victualer – Food Only:_____

8. Petition: Request for alteration of premises for outside seating

Petitioner: Tutti Frutti, 121 Gold Star Boulevard

Seung Kim appeared on behalf of application. Commissioner Mullan stated the Commissioners had viewed the site prior to the meeting.

The Commission members remind Mr. Kim that tables & chairs need to be put away when not in use.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the alteration of premises for outside seating.

Exhibit A: Application for alteration of premises received on August 8 2013 and dated August 8, 2013.

9. Petition: Request for common victualer license

Petitioner: Loving Hut – Kwong Hoang, 56 Hamilton Street

Kwong Hoang appeared on behalf of the application. He stated this will be a restaurant.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the common victualer license.

Exhibit A: Application for common victualer license received on August 21, 2013 and dated August 21, 2013.

10. Petition: Request for common victualer license

Petitioner: Krishiv Sub Shop Inc, 151 Highland Street

Ms. Steele stated the applicant needed to talk to Officer Quinn as application needed to be amended.

Exhibit A: Application for common victualer license received August 26, 2013 and dated August 26, 2013.

11. Petition: Request for common victualer license

Petitioner: Tommyboys Pizza, 229 Canterbury Street

Ms. Steele informed Commission that applicant needed to contact Officer Quinn relative to application.

12. Petition: Request for common victualer license

Petitioner: JMM&A Inc dba Honey Dew, 747 Plantation Street

Joseph Ashafa appeared on behalf of application. He stated this is for a Honey Dew franchise.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the common victualer license.

13. Petition: Request for common vicualer license

Petitioner: Morrisson Management Specialists, 1 Eaton Place

Lisa Gibney appeared on behalf of the application. She stated this for restaurant at St. Vincent hospital.

Exhibit A: Application for common victualer license received on August 29, 2013 and dated August 29, 2013.

Alcohol Permit Applications

14. Petition: Request for restaurant all alcohol license

Petitioner: Sugar After Dark, Inc. dba Sweet, 72 Shrewsbury Street
Alina Eisenhauer manager

Alina Eisenhauer and Robert Bronca, Jr. appeared on behalf of the item.

Ms. Eisenhauer stated this is for a new restaurant and that upon this location opening she will close her other restaurant located on Shrewsbury Street

Commissioner Mullan asked when the plan opening of new restaurant was. Ms. Eisenhauer responded she was looking to open sometime in October.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the restaurant all alcohol license.

Exhibit A: Application for restaurant all alcohol license received on August 9, 2013 and dated August 9, 2013.

15. Petition: Request for restaurant malt & wine

Petitioner: Safari NE, Inc. dba Safari Café, 215 Chandler Street,
Jane Ndegwa

Jane Ndegwa appeared on behalf of application.

Commissioner Mullan stated that the Commissioners viewed the premises prior to meeting and it was one of the cleanest restaurants they have ever visited.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the restaurant malt & wine license.

Exhibit A: Application for restaurant malt & wine license received on August 5, 2013 and dated August 5, 2013.

16. Petition: Request for General On Premises All Alcohol license

Petitioner: Club Milon, LLC, 41 Pleasant Street, Michelle Rose

Michelle Rose appeared on behalf of the application.

Commissioner Mullan asked Ms. Rose to review the ownership of the business

Ms. Rose stated she will have 50% ownership. Dieu Ly and Donald Ly will each have 25% ownership.

The Commission members asked about what type of security will be at establishment and Ms. Rose stated they plan to hire three off duty police officers on Thursday, Friday and Saturday.

Commissioner Mullan stated he believes two off duty police officers will be sufficient and License Commission can revisit the condition if problems occur at the premises.

Commissioner Mullan asked what will the third floor of building be used for. Ms. Rose responded that it will be closed off and one the detail officers will be located there so patrons cannot access.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the general on premises all alcohol license.

Exhibit A: Application for general on premises all alcohol license received on June 25, 2013 and dated June 24, 2013.

17. Petition: Request for change of manager

Petitioner: Plaza Azteca Lincoln Plaza, LLC dba Plaza Azteca –
539 Lincoln Street, Stephanie Aguilar

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the change of manager application.

Exhibit A: Application for change of manager received August 8, 2013 and dated August 8, 2013.

Entertainment Applications

18. Petition: Request for entertainment license for tv, recorded music, live music amplification system

Petitioner: Sugar After Dark, Inc. dba Sweet, 72 Shrewsbury Street
Alina Eisenhauer manager

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the entertainment license.

Exhibit A: Application for restaurant all alcohol license received on August 9, 2013 and dated August 9, 2013

19. Petition: Request for entertainment license for tv, dancing by patrons, Recorded music, live music, amplification system, theatrical exhibition and karaoke

Petitioner: Club Milon, LLC, 41 Pleasant Street, Michelle Rose

Exhibit A: Application for entertainment license received on June 25, 2013 and dated June 24, 2013.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to approve the entertainment license.

Violation Hearings

20. Plaza Azteca Lincoln Plaza LLC
dba Plaza Azteca
539 Lincoln Street

Violation of Rules #7, #11, 204 CMR 204, M.G.L. 138,§34 – Sale to minor

David Gil and Stephanie Aguilar appeared on behalf of the item.

Lt. James Johnson from the Worcester Police presented the following report.

On May 25, 2013, Officers Mark Jolin and William Stout conducted compliance checks at various liquor establishments throughout the city. A 20 year old male accompanied the officers and was instructed to enter an establishment and attempt to purchase two bottles of Miller Lite beer without providing identification.

The minor was instructed to politely state he did not have identification if asked, not to be confrontational at any time and to walk out of the place of business calmly with or without making a purchase. He was given these instructions each time he entered a different establishment.

The officers observed the minor both entering and exiting the premises.

Prior to going out, the 20 year old male was given a breathalyzer test in the cell room and again upon his return to the station.

The minor was not allowed to carry identification on his person.

At around 3:35p.m., the 20 year old male entered Plaza Azteca, 539 Lincoln Street, and purchased two Miller Lite (bottles) for \$8.03 without being asked for identification.

Officer Jolin called the Licensed Premises and advised them of the violation stating that the manager would be notified to appear before the License Commission for the violations.

At the License Commission public hearing on August on August 20, 2013, Edy Barhona appeared on behalf of the Licensee.

At the hearing the Commissioners explained to Mr. Barhona that since he was not the Manager on record they could not hold the hearing for the violation.

Mr. Barhona called the Manager on record, David Gil, who spoke with Officer Stout who explained to him that the hearing could not be held because Mr. Barhona was not the manager on record.

On August 20, 2013, a Notice of Violation Hearing was sent to the licensee for a hearing on the violations on September 8, 2013.

Mr. Gil admitted that the violations occurred and that a minor was served without properly asking for identification. He further explained that since the time of the violation the corporation has taken steps to ensure this does not happen again. Some of the changes since the violation are as follows: the assistant manager no longer works at the Licensed Premises, all staff have gone through a serve safe bartending class which was given at the Licensed Premises and paid by the Licensee on August 19, 2013, resulting in a majority of the bartenders being TIPS certified, full implementation of security cameras and the appointment of Stephanie Aguilar as manager of the Licensed Premises.

Lt. Johnson noted that Plaza Azteca is known in the City as one of the easiest places to get a drink if you are underage but he acknowledged the steps the corporation has taken since the violation and thinks the reputation can be easily changed if the correct measures are taken.

The Commissioners acknowledged that Mr. Gil admitted to the violation and took steps to correct the violation. They urged the Manager to ensure that the establishment implements the new measures so that there are no violations in the future.

Upon a roll call the Commission voted 3-0 that a violation of Rule #7 had occurred.

Upon a roll call the Commission voted 3-0 to issue a warning.

Upon a roll call the Commission voted 3-0 that a violation of Rule #11 did not occur.

Exhibit A: Police Report dated May 25, 2013

Other Business

21. 278 Shrewsbury Street, Flying Rhino – Noise complaints

Filed.

22. 27 Pleasant Street – International Lounge – Request to have 18+ on Wednesdays and Sundays

Andre Mikhael appeared on behalf of the item. He stated he would like to expand his 18+ nights to include Wednesday and Sundays and there have been no incidents at location.

Upon a motion by Commissioner Mullan the Commission voted 3-0 to expand 18+ nights for International Lounge to include Wednesday and Sundays.

Exhibit A: Electronic email from Roland Georges; dated August 8, 2013.

23. 70 Winter Street, Universal I Productions & Entertainment LLC dba Boiler Room – Status of license

Attorney Joseph Lussier appeared on behalf of the item.

Mr. Lussier stated a cease and desist had been issued to location but the matter has been resolved.

Joseph Sansoucy from Inspectional Services stated that there are still problems at location and to his knowledge the cease and desist is still in place.

Mr. Lussier stated there are still some issue with the landlord complying with conditions relative to the elevator.

Commissioner Mullan stated that the landlord and tenant need to work those issues out.

Mr. Lussier stated they will work on that but they are planning to reopen and Paul Abody will run establishment until the new manager is approved.

Commissioner Mullan pointed out that several months back Mr. Lussier had submitted a letter to License Commission stating that Mr. Aboody was no longer involved with business and therefore cannot run establishment.

Commissioner Mullan stated that according the secretary of state's web-site this corporation does not exists and was dissolved in June, 2013.

Mr. Lussier stated that paperwork will be filed to revive corporation and he will get in complete change of manager application in by end of the day.

The Commission members stated they will await to hear back from him on the cease and desist, the corporate paperwork and the change of manager application.

24. 192 Harding Street- Ziti's – Relinquishing of liquor license.

Ms. Steele stated they had received a communication from owner of Ziti's relinquishing the liquor license.

Exhibit A: Fax dated August 27, 2013 received from Ziti's Italian Trattoria.

Communications

Electronic Mail from Donald K. Morse; Re: Excessively loud music Flying Rhino; dated August 7, 2013
Refer to Item #7

A.B.C.C. communication; Re: Farmer-Breweries, dated July 11, 2013
Filed

Adjournment

Upon a motion by Commissioner Mullan the Commission voted 3-0 to adjourn the meeting at 11:25 a.m.