

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER
OCTOBER 29, 2015

LEVI LINCOLN CHAMBERS

Commission Members Present: Karon Shea, Chairperson
Walter Shea, Commissioner
Anthony Salvidio, Commissioner

Commission Members Absent: None

Staff Present: Stephen S. Rolle, Planning & Regulatory Services
Alexandra Kalkounis, Law Department
Deborah Steele, Planning & Regulatory Services
Jim Foley, Health Department

Approval of the Minutes – October 15, 2015

Upon a motion the Commission voted 3-0 to approve the minutes of October 15, 2015.

NEW BUSINESS

One Day Liquor & Entertainment Requests:

1. Petition: Request for one day liquor license
 - November 12, 2015 – 6:00 p.m.-10:00 p.m.

Petitioner: Our Lady of Mt. Carmel, KOFC, 28 Mulberry Street

Nino Gimay appeared on behalf of the application. He stated that this an annual dinner and 400 people are expected and that they will hire an off duty police officer.

Upon a motion the Commission voted 3-0 to approve the one day liquor license.

Exhibit A: Application for one day liquor license received October 20, 2015 and dated October 10, 2015.

Common Victualer License Requests:

2. Petition: Request for common victualer license

Petitioner: Mustafa Halal Market, 256 Grafton Street

No one appeared for item.

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

Exhibit A: Application for common victualer license received October 15, 2015 and dated October 15, 2015

3. Petition: Request for common victualer license

Petitioner: Pho Bowl Restaurant, 580 Park Avenue

Aivi Oanh Vo appeared on behalf of the application.

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

Exhibit A: Application for common victualer license received October 29, 2015 and dated October 29, 2015

Alcohol & Entertainment Permit Applications

4. Petition: Request for change of manager

Petitioner: Elite Club Enterprises, Inc. dba The Rivera Club dba 241 Southbridge Street

Item was postponed until the November 19, 2015 License Commission meeting.

Exhibit A: Application for change of manager received October 16, 2015 and dated October 16, 2015.

5. Petition: Request for restaurant all alcohol license

Petitioner: Nuve Lounge, LLC, 751 Main Street, #2

5a. Petition: Request for entertainment license for jukebox, tv, radio, dancing by patrons, dancing by entertainers, recorded music, live music, amplification system, moving picture show, floor show, light show, karaoke, any other audio or visual show, whether live or recorded specifically

Petitioner: Nuve Lounge, LLC, 751 Main Street #2

Items 5 and 5a were postponed to the November 19, 2015 License Commission meeting.

Exhibit A: Application for restaurant all alcohol license received October 9, 2015 and received October 9, 2015.

Exhibit B: Application for entertainment license received October 9, 2015 and received October 9, 2015.

6. Petition: Request for general on premises all alcohol license

Petitioner: Whiskey on Water, LLC, 97 Water Street

Michael Elrich appeared on behalf of the application.

He stated that this will be a classic whiskey bar and they have a novel concept. They intend to use food trucks and rotate food trucks to provide different options as their catering service. He stated that the trucks will be on their own private property and they are trying to do something different. He stated that on second floor they plan to have a DJ and will be applying for an entertainment permit at a later date.

Commissioner Shea asked when the anticipated opening date was. Mr. Elrich stated that they are trying for first of year but with build out they are not sure.

Chair Shea stated that she liked the food truck concept.

Ms. Steele asked the Commission to discuss the sidewalk portion of the application.

Mr. Elrich stated that they have a large sidewalk in the front and they would like to do a couple of tables to have some outside service.

Chair Shea asked what would be the hours for the sidewalk café.

Mr. Elrich stated that they usually will not open until 4:00 p.m. and will close at whatever time the City of Worcester rules are for closing the sidewalk café.

Upon a motion 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 October 14, 2015 and dated October 14, 2015.

7. Petition: Request for transfer of general on premises all alcohol license & entertainment license

Petitioner: Peregrine Endeavors, Inc., 107A Water Street

Attorney Wayne Leblanc and Attorney Robert Arakelian appeared on behalf of the item.

Mr. LeBlanc stated that they haven't filed the entertainment application yet but will file and they intend to just transfer the general on premises all alcohol license to the new owner.

Upon a motion 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 October 19, 2015 and dated October 19, 2015.

8. Petition: Request to amend entertainment license to include live music, amplification system, karaoke and request to amend entertainment and liquor license to remain open until 2:00 a.m.

Petitioner: Magalys Rodriguez, 27 Pleasant Street

Magalys Rodriguez along with Luiz Ramon appeared on behalf of the application.

Chair Shea asked what time they close now.

Mr. Ramon stated that they close at Midnight.

Lt. Johnson stated that he would not support the petition and the police have received complaints and would suggest that applicant meet with the neighbor.

Mr. Ramon stated that the problem was the old sound system was also heard outside and they have taken that down and they have soundproofed and have spoken with the gentlemen next door and they are asking for 2:00 a.m. as they are not doing that well.

Commissioner Salvidio asked what was the original petition and believed they had discussed when initially approved that they didn't want another bar.

Mr. Ramon stated that right now they have a little restaurant and a bar and they open at 11:00 a.m. and close at 12:00 and at 10:00 p.m. people come in and people like the music and there is another speaker outside but isn't from their business.

Lt. Johnson stated that originally the location was proposed to be a restaurant and now he wants to morph into a nightclub.

Commissioner Salvidio stated that his concern is that the establishment is going to turn into a nightclub if it's open until 2:00 a.m.

Mr. Ramon stated that it would not.

Commissioner Shea asked on average night how many customers in establishment.

Mr. Ramon stated that between 15-20 customers.

Commissioner Shea asked how many people after dinner is done sit in the restaurant and listen to the music.

Mr. Ramon stated about 10 people and this is a family restaurant and they are getting blamed for stuff done by the previous owner and that was not them.

Lt. Johnson stated that he understands that but he has gotten several complaints and doesn't know if those have been addressed.

Commissioner Shea stated that nothing good happens after midnight.

Mr. Ramon stated that the other restaurants go past time they have and their place is big and they need revenue to make it work.

Lt. Johnson stated that those are bars.

Chair Shea and Commissioner Shea both stated they are concerned about going from Midnight to 2:00 a.m.

Commissioner Salvidio stated his concern was that it was originally going to be restaurant and now it's turning into a barroom but since they are trying to be good neighbors maybe they can try 1:00 a.m. and if they receive noise complaints then they will be back before the Commission.

Mr. Ramon stated that they didn't know how it was when they opened.

Chair Shea stated that if approved to go to 1:00 a.m. then a complaint can't come in about the hours or staying open after hours.

Commissioner Salvidio stated that they need to be careful with the late night crowd as this is a restaurant and the biggest problem is between 1:00 a.m. and 2:00 a.m. but when this establishment was opened the Commission told them they were in a hot spot.

Mr. Ramon stated that he would be.

Upon a motion by Commissioner Salvidio and seconded by Commissioner Shea the Commission voted 3-0 to approve closing time as 1:00 a.m. and amending the entertainment license to include the additional entertainment requested.

Exhibit A: Petition to extend hours and entertainment received October 6, 2015 and dated October 6, 2015.

Violation Hearings

9. OM Shree Krishnay, Inc. dba H&B Wines & Liquors, 725 Grafton Street

Violation of Rules #6, #21, 204 CMR 2.05-Sale to minor

Jignesh Pachani appeared on behalf of the item and waived his right to counsel.

Lt. Johnson reported the following.

On June 27, 2015, Officers of the Worcester Police Department Alcohol Unit conducted compliance checks at various package stores throughout the city of Worcester. An underage

male accompanied the officers and was instructed to enter a package store and attempt to purchase alcohol without providing identification.

At around 1:35 p.m., the underage male entered H&B Liquors and purchased a six pack of Bud Light bottles for \$7.50 and was not given a receipt. The male stated that a Middle Eastern male with black hair sold him the beer without asking for identification.

Sgt. Thomas Needham notified the clerk of the violation.

Mr. Pachani stated that the person beyond the register that day was terminated and he wants to implement a 100 percent ID check for anyone who comes into the store and that way the employees will become used to checking ID's as it no good to of have the equipment in store to check identification if it not being used.

Upon a roll call the Commission voted 3-0 that the violation had occurred and issued a warning.

List of Exhibits: Police Report dated June 27, 2015.

10. The Uma Group, Inc., dba Kelly Square Liquors, 7 ½ Kelly Square

Attorney Catherine Bagas and Kirti Patel appeared to answer to the violation.

Violation of Rules #6, #21, 204 CMR 2.05-Sale to minor

Lt. Johnson read the following:

On June 27, 2015, Officers of the Worcester Police Department Alcohol Unit conducted compliance checks at various package stores throughout the city of Worcester. An underage male accompanied the officers and was instructed to enter a package store and attempt to purchase alcohol without providing identification.

At around 1:17 p.m., the underage male entered Kelly Square Liquors and purchased a six pack of Bud Light bottles for \$7.50 and was not given a receipt. The male stated that a white male with glasses sold him the beer without asking for identification.

Sgt. Thomas Needham notified the clerk of the violation.

Ms. Bagas stated that her client does not sell the Bud Light bottles for \$7.50 and sells them for \$6.35 so they do have issue with the validity of what happened that day but Mr. Patel has owned store for 10 years and thinks he may have had violation in past but it would be over four years ago and Mr. Patel has collected 50 fake identifications this year and has done very well in not selling to people who come in to buy without a license. She stated that the day that his happen there was a Jazz Festival in the area and Mr. PATEL only had one worker working that day and if he had known the Jazz Festival was going on that day he would have put two workers on. She stated that it was very busy that day and the worker that day

has worked there over 25 years and there may have been something that slipped through that day but they are not sure that the case. She stated that since the incident Mr. Patel has put into place having two employees working regardless of how busy the store is to make sure that in case there is a rush there is enough people to cover the store properly.

Commissioner Salvidio asked Ms. Bagas if she was saying violation did not occur or did occur and they were sorry.

Ms. Bagas stated that it probably occurred but not sure all the facts in the report but it was busy.

Mr. Patel stated that usually one person can handle store but wasn't aware of the festival that day and would have put another person on and since that time they have implemented that two employees be present when store is open.

Upon a roll call the Commission voted 3-0 that the violation had occurred and issued a warning.

List of Exhibits: Police Report dated June 27, 2015.

11. Swamishriji Corp dba Boston Discount Liquors, 566 Southwest Cutoff

Violation of Rules #6, #20, #21 204 CMR 2.05-Sale to minor

Attorney David Zurlin along with Jignesh Patel appeared to answer to the violation.

Lt. Johnson reported the following.

On October 8, 2015 at around 8:10 p.m. Officer Edward Saucier of the Alcohol Enforcement Unit responded to Boston Discount Liquors as a male had called reporting that his 16 year old son has purchased alcohol at the store.

Officer Saucier went and spoke with the 16 year old male who told him that he worked at Price Chopper next to the liquor store and was familiar with an 18 or 19 year old male who worked at the liquor store as the older male would come into Price Chopper as a customer. The 16 year old stated that the older male told him he could come into the store anytime he was working and purchase any alcohol he wanted.

The 16 year old male stated that he went into Boston Liquors at around 7:00 p.m. and asked for a half pint of Hennessy Cognac. He gave the manager behind the counter \$10 in cash for the bottle and the man never asked for identification. . The manager behind the counter accepted the \$10 cash and gave him the bottle of Hennessey. The listed price for the Hennessey was \$10.99. The 16 year old's father stated that when he found out about this he went to the store to confront the manager. Officer Saucier went to Boston Discount Liquor to figure out what was going on and met with a male, Signesh Pachani, who appeared to be working. Another male, identified as Emkelejd Hoxha also stated that he worked there. Officer Saucier explained why he was there and Mr. Hoxha stated that he remembered the sale and he was the one who sold the Hennessy to the 16 year old male. Mr. Hoxha stated

that he did not actually work there but was there tonight just to help out. He stated that he helps out there from time to time but doesn't actually get paid money. He stated he takes as 12 pack of beer or whatever whenever he helps out. Mr. Pachani stated that he also did not work at the store was only there because the manager/owner had called him and asked him to respond as there was some type of problem. Mr. Pachani stated that he is a friend of the owner and that he actually owns another liquor store in the city (H&B Liquors). It then became apparent that the store was open without any actual employees present and Officer Saucier advised them it was best to close the store as there were no actual employees present while they waited for the owner to show up.

The owner/manager Jignesh Patel, showed up just before 10:00 p.m. and was advised of what was going on and he verified that he didn't actually pay Emkelejd Hoxha. Officer Saucier asked if any of the cameras pointing at the counter recorded anything and he stated that the recording part of the system didn't work. He stated that he had to leave the store earlier in the day for a family emergency and another employee, Kush Naik, was supposed to be there but also had an emergency and had to leave as well. He stated that Mr. Naik is the only other actual paid employee. Officer Saucier asked to see any server training course certificates for any employees and/or volunteers and he stated that his was at home and that no one else had one and he believed that his has expired and he can't remember ever renewing it.

Mr. Zirlin stated that is what happened and Mr. Patel had received a call that he needed to go home and Mr. Patel had called a part time employee to cover the store and unbeknownst to him that employee had call another person and his son to come cover the store. He stated that the mistake was not closing the store.

Mr. Patel did tell the officer that he thought he had certificate at home and he did have it and it was expired and Mr. Patel took the course and received the certification and will be mailed to him but the course was completed on October 23, 2015.

Mr. Zirlin stated that the store is near Holy Cross and can be difficult to manage and provided copies of false identifications that Mr. Patel had confiscated and displays in the store and Mr. Patel cards 100 percent of the people at the store and Mr. Patel had been before the Commission before when there was a problem with a scanning machine and Mr. Patel had purchased a new scanning machine and is up running but this wasn't a scanning situation.

Mr. Zirlin stated that the young boy was terrified when police came in and ran out the door and Mr. Patel had done his own investigation and found out that the boy had worked out an exchange a goods with the kid from Price Chopper.

Commissioner Salvidio stated that the mistake was trusting someone else who isn't employed by the store and believes that was the mis-judgement.

Upon a roll call the Commission voted 3-0 that the violation had occurred and issued a warning.

List of Exhibits: Police Report dated October 8, 2015.

Communications

- a. Electronic communication from Nikki Clemente dated October 11, 2015 re:
Noise Complaint-Padavano's

The Commission reviewed the email and stated that they would wait to hear back from the City of Worcester on the new proposed noise ordinance.

ADJOURNMENT

Upon a motion the Commission voted to adjourn the meeting at 11:15 a.m.