

MINUTES OF THE PROCEEDINGS OF THE
LICENSE COMMISSION OF THE CITY OF WORCESTER

MARCH 10, 2016

ESTHER HOWLAND CHAMBER

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

Commission Members Absent: None

Staff Present: Stephen Rolle, Planning & Regulatory Services
Deborah Steele, Planning & Regulatory Services
Alexandra Kalkounis, Law Department
James Foley, Inspectional Services
Lt. James Johnson, Worcester Police Department
Officer Patrick Harrington, Worcester Police Department
Sgt. Thomas Needham, Worcester Police Department
Officer Glenn Stout, Worcester Police Department
Lt. Brian McGurl, Fire Prevention Division
Lt. Jeffrey Dubeau, Fire Prevention Division

CALL TO ORDER – 10:00 am

APPROVAL OF THE MINUTES – February 25, 2016

Upon a motion the Commission voted 3-0 to approve the minutes of February 25, 2016.

OLD BUSINESS

1. International Lounge, 27 Pleasant Street, Violation of Rules #1 (2 counts), Rule #14 (3 counts), 204 CMR 2.05 – Open after hours, manager responsible for premises

Attorney Richard Kalinkowski along with Luiz Ramon appeared to answer to the violation.

Lt. Johnson presented the following:

JANUARY 17, 2016

On January 17, 2016, Officer Shane Marcotte was in the area of 27 Pleasant Street to do a compliance check of the Licensed Premises due to numerous loud music/noise complaints.

At 1:05 a.m. he could hear music coming from inside the Licensed Premises but he was not aware of the 1:00 a.m., restriction on the entertainment license and therefore he did not go inside to notify the manager of the Licensed Premises.

JANUARY 29-30, 2016

On January 29-30, 2016 Officer Glenn Stout received a call from the dispatcher to investigate a loud music complaint at the Licensed Premises.

Officer Stout arrived at 27 Pleasant Street at around 11:15 p.m. and could hear loud music from the other side of the street.

Officer Stout entered the Licensed Premises and met with Luis Roman and advised him to turn down the music. He also advised him that he would be checking back that night to make sure the music stayed at a reasonable level.

Later that evening, at approximately 1:05 a.m. Officer Stout returned to the Licensed Premises and the music was still on and there were approximately 50-60 patrons inside the Licensed Premises dancing and drinking.

Officer Stout notified Sergeant Needham and he responded to the Licensed Premises. Officer Stout and Sergeant Needham entered the Licensed Premises at approximately 1:22 a.m. At this time, the music was still on and there were 50-60 patrons still inside.

Officer Stout observed that several of the patrons had full bottles of beer.

Officer Stout and Sergeant Needham cleared the Licensed Premises of patrons and spoke with Mr. Roman. Mr. Roman apologized and stated that he lost control of the bar and didn't know how to handle it and that he doesn't feel comfortable taking drinks away from the customers.

From November 6, 2015 to December 25, 2015 there have been eight (8) citizen complaints regarding loud music at the Licensed Premises. On November 14, 2015 Worcester Police received a complaint of loud music at the premises at 1:16 a.m.

Attorney Richard Kalinowski, representing the International Lounge, along with Luis Roman, the manager and husband of the owner were present at the meeting. Attorney Kalinowski stated that there is no excuse for the after-hours violations and since the violations Mr. Roman has implemented a 12:30 a.m. last call and all patrons are cleared off the Licensed Premises by 1:00 a.m.

Attorney Kalinowski stated that the International Lounge started out as a restaurant and last fall expanded its hours of operation and entertainment to accommodate its patrons. Since then, Mr. Roman has hired security personnel to maintain control of the crowd and

noise and they are aware that there have been numerous complaints about noise but they believe it has only been one individual complaining. Due to the complaints, Mr. Roman has changed the music system and kept the bass down and has tried to put in some sound proofing. Mr. Roman has also met with the Fire Department about additional things they can do to lower the noise. They believe it is one person targeting their business.

Commissioner Shea stated that he was concerned when reading the police report that Mr. Roman stated that he wasn't comfortable taking control of the establishment and as a license holder he has to be in control of the establishment.

Mr. Roman testified that evening it was his fault and he lost control and his security was not working right that night.

Chair Shea stated that the Commission allowed the expansion of hours for entertainment last fall and the Commission told Mr. Roman at that time that the extension of time was a privilege and Mr. Roman has clearly violated the conditions of the License.

Commissioner Salvidio stated that when they first approved this location it was just going to be a restaurant and then the Commission helped out the establishment by allowing the entertainment to go to 1:00 a.m. but 1:00 a.m. means that everyone is out the door by 1:00 a.m. and patrons cannot still be inside. If that means that Mr. Roman needs to have last call at 12:30 and start warning patrons then it is his duty to do that. Commissioner Salvidio explained that he understands this is a hard location with residential units right above the Licensed Premises but Mr. Roman and his wife need to be aware of their neighbors and understand that this is a mixed use, residential and commercial, zone.

Commissioner Salvidio stated that with regard to the 1:05 a.m. complaint he understands how that might have happened and Mr. Roman complied with the police officer that evening but the second incident was much more serious and this shows to Commissioner Salvidio that the establishment is turning into a bar and Mr. Roman is not capable at this time to handle and control a bar. Commissioner Salvidio asked what the plan was going forward to have the proper control of the Licensed Premises.

Attorney Kalinowski stated that after hours will not happen again and Mr. Roman will watch the clock and make sure everyone is out by 1:00 a.m. and will keep the noise down.

Commissioner Salvidio stated that the second incident was a clear violation of the conditions on the license.

Based on the evidence, the Commission finds the Licensee did not violate Rule #1, and #14 on January 17, 2016 but finds that the Licensee violated Rules #1 and #14 of the Worcester License Commission Rules and Regulations for liquor licenses and a violation of 204 CMR 2.05 on January 29-30, 2016 and imposes a one (1) day suspension to be served April 1, 2016.

Exhibit A: Police report dated January 21, 2016

Exhibit B: Police report dated January 30, 2016

NEW BUSINESS

One Day Liquor & Entertainment Requests:

2. Petition: Request for one day liquor license
- April 2, 2016 – 5:00 p.m. – 10:00 p.m.

Petitioner: The EcoTarium, 222 Harrington Way

Carolyn Stempler appeared on behalf of the item. She stated that this will be for a wedding and beer and wine will be served.

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

Exhibit A: Application for one day liquor license dated March 1, 2016 and received March 1, 2016.

3. Petition: Request for one day liquor license
- March 26, 2016 – 7:00 p.m.- Midnight

Petitioner: St. Spyridon Greek Orthodox Cathedral, 102 Russell Street

Michael Dionis appeared on behalf of the application. He stated that this will be for an engagement party.

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

Exhibit A: Application for one day liquor license dated February 23, 2016 and received February 23, 2016.

4. Petition: Request for one day liquor license
- April 30, 2016 – Noon-4:00 p.m.

Petitioner: Preservation Worcester, Worcester Common

Che Anderson from the City Manager's Office appeared on behalf of the item. He stated that is for the craft brew races and it is the second year it is being held. The beer area will be roped off and security as well as off duty police will be present for the event.

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

Exhibit A: Application for one day liquor license received February 29, 2016 and dated February 26, 2016.

5. Petition: Request for one day liquor license
- May 7, 2016 – Noon – 7:00 p.m.

Petitioner: Javier Sanchez, 387 Cambridge Street
Worcester License Commission Minutes

Item was postponed to the March 31, 2016 License Commission meeting.

Exhibit A: Application for one day liquor license received March 4, 2016 and dated March 4, 2016.

- 5a.** Petition: Request for one day entertainment license for car show and DJ
- May 7, 2016 – Noon-7:00 p.m.

Petitioner: Javier Sanchez, 387 Cambridge Street

Item was postponed to the March 31, 2016 License Commission meeting.

Exhibit A: Application for one day entertainment license received March 4, 2015 and dated March 4, 2016.

Common Victualer Requests:

- 6.** Petition: Request for common victualer license

Petitioner: Tarboush Hookah Lounge, 8 Blackstone River Road

Mayen Tayen 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 February 18, 2016 and dated February 18, 2016.

- 7.** Petition: Request for common victualer license

Petitioner: John's Spoodles Deli, 358 Main Street

Christopher Ingel 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 March 3, 2016 and dated March 3, 2016.

- 8.** Petition: Request for common victualer license

Petitioner: Fleet Meat Market, 247 Lincoln Street

Flavino Tolentiono 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 March 3, 2016 and dated March 3, 2016.

Alcohol & Entertainment Requests:

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

Petitioner: The Pint LLC, 58 Shrewsbury Street

Attorney Robert Hennigan along with Jon and Marco Tonelli appeared on behalf of the item.

Attorney Hennigan stated that this will be a sports pub and will have a small menu and both Jon and Marco are server trained and the Tonelli's have met with several members of Mt. Carmel and will be as good a neighbor as possible and there is no outside entertainment or patio planned but they do have an application for entertainment and they understand the history of the location but this isn't the same type of bar as in the past this will be more soft tone, quieter location.

Joanne Columbo from Mt. Carmel Apartments stated that they had met with the Tonelli's and were informed that they do not want the Midnight to 2:00 a.m. crowd and expressed concern that the establishment would be open to 2:00 a.m. so the residents of the apartments would request a Midnight closing. They chose to open a bar next to senior housing and the residents would ask that in the future there will be no outside seating, entertainment, no amplification of music, and no karaoke.

Carol Youngstrom from the Mt. Carmel Apartments stated that she would like the License Commission to deny them opening to 2:00 a.m.

Grace Mahoney from the Mt. Carmel Apartments stated that they do not need any trouble on that corner and stated that she moved there a year ago in order to have a peaceful retirement and her windows face the establishment and she doesn't appreciate it.

Ann Desrosier from the Mt. Carmel Apartments stated that she faces the establishment and it is noisy at certain times and enough is enough and wants the elderly to be respected.

Attorney Hennigan stated that he understands the neighbors' concern and Mr. Tonelli understands the problems that happened in the past. His clients will be at the location and having them there will make a great deal of difference on the noise level but it is unreasonable to hold Mr. Tonelli responsible for what happened in the past and he would hope the Commission gives Mr. Tonelli a chance to make this a workable situation.

Commissioner Salvidio asked if the compromise they worked out with the last establishment, Scorz, had worked out with the neighbors. Ms. Columbo stated that it had not worked out and at last License Commission meeting they had about the Scorz establishment they had shown a video of the noise coming from the establishment and they could never come to an agreement and they had to call police several times to tell them to turn the noise down and you also have people who just hang outside between Midnight and 2:00 a.m. and the street is so little.

Commissioner Salvidio stated the biggest thing he hears is that Leo Turo Way seems to be the biggest problem. This is a mixed use area and they are trying to balance the residential and the commercial uses.

Commissioner Salvidio asked if the backdoor could be eliminated. Mr. Tonelli stated that it an emergency door and should have been closed.

Commissioner Salvidio stated that this is a new operator who seems to be responsible and he is inclined to give it try.

Mrs. Columbo stated that will not prevent people front loitering from Midnight to 2:00 a.m.

Commissioner Salvidio stated that if Mr. Tonelli allows people to congregate outside then it is going to be a problem.

Mrs. Columbo stated that for food they don't have a lot.

Commissioner Salvidio stated if the operator is responsible it can work and they have met with the operator and it seems like this applicants want to run a different business.

Ms. Columbo stated that it never worked with Scorz. They just closed.

Commissioner Salvidio stated that if there is a problem they can revist it.

Chair Shea stated that the applicant is more than willing to meet with the residents and asked if they could give the applicant at least six months to give it a try with what he promised and thinks this will be differently run.

Lt. Johnson stated that it shouldn't be the place to go for last call.

Ms. Columbo stated that is why they are asking for a Midnight closing.

Commissioner Salvidio stated that the residents are looking for a responsible operator.

Ms. Columbo stated they really don't want to meet monthly with the license holder. They just want him to run his business and that they be able to live their lives.

Commissioner Salvidio reminded the applicant that the residents of Mt. Carmel would be back before the Commission if there was a problem and the side street is a problem and do not let people congregate there. He stated that he would prefer the group work out the solution themselves and not be back before the Commission.

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 March 10, 2016 and dated March 10, 2016.

9a. Petition: Request for entertainment license for jukebox, tv, radio

Petitioner: The Pint LLC, 58 Shrewsbury Street

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

Exhibit A: Application for entertainment license received March 10, 2016.

10. Petition: Request to amend condition on liquor license

Petitioner: Danana, 387 Cambridge Street

Item was postponed to the March 31, 2016 License Commission meeting.

Exhibit A: Request to amend condition on liquor license received March 1, 2016 and dated March 1, 2016.

Violation Hearings

11. Maywood Associates, Inc. dba Blarney Stone, 77-79 Maywood Street Violations of #14 and #27 the Worcester License Commission Rules and Regulations for liquor licenses, a violation of 204 CMR 2.05 (2) and a violation of the Fire Safety Code 527 C.M.R. 1.05, §20, 1.5.6.4.- Occupancy Violation - **Postponed April 14, 2016**

Exhibit A: Police report dated January 25, 2016.

12. Lotus & Son Inc. dba London Billiards, 70 James Street Rules #7, #13, #14 (3 counts) and 17 (2 counts) of the Worcester License Commission Rules and Regulations for liquor licenses and a violation of 204 CMR 2.05 (2)- October 11, 2015, October 17, 2015 and January 2, 2016. Violation of Rule #14 – February 14, 2016.

Mr. and Mrs. Chelvan appeared before the License Commission and waived their right to counsel.

Lt. James Johnson presented the following:

OCTOBER 11, 2015

- 1.** On October 11, 2015, at approximately 1:34 a.m., Officer Mark Jolin responded to the Licensed Premises for a report of a large fight.
- 2.** Upon his arrival, the security guard of the Licensed Premises informed the officers that a huge fight had occurred but many of the people had already left.
- 3.** Officer Jolin entered the Licensed Premises and observed that there was no one checking for identification of the patrons as they entered or left the Licensed Premises.
- 4.** Officer Jolin observed that the back room of the Licensed Premises was littered with nip bottles.

5. Officer Jolin spoke with Ms. Uma Chelvan and asked how many employees were working. Ms. Chelvan said that she had a bartender and a doorman.
6. Officer Jolin spoke with the doorman, Larry Harris, who stated that he was only security and he could not keep an eye on every area.
7. Officer Jolin asked Mr. Harris how the Licensed Premises determines if someone is over 21. Mr. Harris told Officer Jolin that if someone is over 21 they receive a green wristband.
8. Officer Jolin observed a younger looking male with a green wristband and asked him how old he was. The underage male stated he was 19 years old.

OCTOBER 17, 2015

9. On October 17, 2015, at approximately 12:56 a.m., Officer Mark Jolin went to the Licensed Premises to follow up on an incident that occurred on October 11, 2015.
10. When Officer Jolin entered the Licensed Premises he observed a young female patron with a green wristband, which indicated she was over 21. Officer Jolin asked the female how old she was and how she obtained the wristband. The female told Officer Jolin that she was 20 years of age and was given the wristband at the door and was never asked for identification.

JANUARY 2, 2016

11. On January 2, 2016 Officers Justin Bennes and Thomas Barney responded to a fight that erupted at the Licensed Premises.
12. The officers recognized several gang members inside the Licensed Premises and observed an unresponsive male being put into a car and being driven off.
13. The officers followed the car and pulled it over and identified the male who was barely conscious and highly intoxicated.
14. Paramedics arrived and brought Mr. Santos to UMass Medical Center.

FEBRUARY 14, 2016

15. On February 14, 2016, at approximately 12:32 a.m. Officer Pat Harrington responded to the Licensed Premises for a report of a large fight outside.
16. Officer Harrington spoke with Officer Reidy upon his arrival who said that a large fight had spilled out of the Licensed Premises and someone may have been struck with a beer bottle.
17. Officer Reidy informed Officer Harrington that numerous officers responded to the area and officers observed that there was a very large crowd inside the Licensed Premises who appeared to be very young.

18. Officer Harrington spoke with Uma Chelvan and asked her what the occupancy for the establishment was. She could not answer and instead got on her cell phone to call someone.
19. Officer Harrington located the occupancy permit and the liquor license which indicated the manager was Thamarai P. Chelvan. Mrs. Chelvan then told Officer Harrington that she was only the bartender and her husband was the manager.
20. At 2:00 a.m. another call was placed to police headquarters informing Officer Reidy that a victim was at the hospital after being struck in the face by a glass beer bottle at London Billiards. Officers spoke with the victim who received stitches to her face and loss of her two front teeth. Officers interviewed the victim who stated that she was at London Billiards with friends and they were approached by a group of gang members and an altercation occurred inside the Licensed Premises and when they tried to leave a fight broke out and she was struck in the face with a beer bottle by a male.

Mr. Chelvan testified that on October 11, 2015 he hired private security and thought that would be sufficient. Furthermore, on that night some of the wristbands, which indicate if a patron is over the age of 21, accidentally fell on the floor and that is how the kid was able to obtain one as referred to in the police report. Mr. Chelvan testified that they always ask for identification at the bar, when someone is buying a drink, especially when they look young.

Commissioner Salvidio asked how the nip bottles wound up on the floor in the back room. Mr. Chelvan testified that the band had snuck them in their bags and he did not notice until after.

Commissioner Salvidio asked Mr. Chelvan to talk about the fights and explain why they occur at his establishment.

Regarding the January 2, 2016, incident, Mr. Chelvan testified that a patron attempted to come in and had an argument with the security guard. Mr. Chelvan asked the patron to leave and he did but he came back in to apologize but then started arguing with another patron. Mr. Chelvan testified that because the security guard allowed the patron back in Mr. Chelvan fired the security guard that night. Mr. Chelvan further testified that he had a promoter on January 2, 2016, and the promoter did not tell him what type of event it was going to be and he admitted that it was a booking error on his part and he doesn't book anymore of those shows.

Commissioner Salvidio asked what happened with the intoxicated individual who was seen being dragged into a car. Mr. Chelvan testified that the intoxicated person was never inside the Licensed Premises. He was stopped by security as he was attempting to enter the Licensed Premises because he was intoxicated and was not allowed inside; security escorted him out and put him into a car.

Chair Shea asked what happened with the girl who had been struck by the beer bottle; it appears that the girl was trying to leave the Licensed Premises and she got severely injured. Mr. Chelvan testified that inside the Licensed Premises two

guys started to fight and security threw them out and the fight happened outside, between his patrons and the patrons from the next door establishment.

Officer Mark Jolin testified that the police reports submitted to the Commission today are just some of the fights; there are countless of fights that are reported at the Licensed Premises and require police attention. He further testified that this is becoming a dangerous spot; that people run outside the Licensed Premises with beer bottles, throw beer bottles and get into fights.

Lt. Jim Johnson testified that he is concerned with the escalating severity of the violence at the Licensed Premises and does not want to see anyone get shot and seriously hurt, or even killed.

Commissioner Salvidio expressed his concern with the patrons, and problems and violence they are bringing to the Licensed Premises. Moreover, Mr. Chelvan, as the owner and manager, should be able to control the crowd and know what measures he needs to take and implement to ensure that the patrons of his establishment and the public are safe.

Commissioner Shea acknowledged that the establishment has been in existence for ten years; however, from the police reports and testimony it appears that this recent issue is related to gang activity and increased violence in the city. Commissioner Shea suggests reducing the hours to midnight until Mr. Chelvan can get control back and maybe the early closing will deter the late night crowd which causes the problems.

Based on the evidence and findings of fact the Commission believes that Mr. Chelvan does not have proper control of the Licensed Premises. He testified that he has made booking errors and has allowed crowds to come in that cause a serious threat. There is substantial evidence and testimony that prove that the violations on several different dates ranging from October 2015-February 2016 occurred. Furthermore, the Licensee has not offered any substantial evidence to contradict the police reports and testimony heard at the hearing.

Based on the evidence, the Commission finds the Licensee violated Rules, #7, #13 #14 and #17 of the Worcester License Commission Rules and Regulations for liquor licenses and a violation of 204 CMR 2.05 (2) that occurred at the Licensed Premises on October 11, 2015, October 17, 2015, January 2, 2016 and February 14, 2016, and imposes a five (5) day suspension to be served on April 1, 8, 15, 22, 29, 2016. The Commission also imposed the following conditions on the License:

- One police detail every Friday and Saturday
- Establishment is to close at 1:00 a.m.

When there is a special (or a promoted) event, two police details are required.

Exhibit A: Police report dated October 11, 2015
Exhibit B: Police report dated January 1, 2016
Exhibit C: Police report dated February 14, 2016

OTHER BUSINESS

13. Sting Guidelines

Attorney Kalkounis reviewed amendment to the guidelines.

Exhibit A: Sting guidelines.

14. The Basement LLC, 316 Main Street– Notification from City Treasurer’s Office

Ms. Steele will follow up.

15. G Bar LLC, 62 Green Street-Notification from City Treasurer’s Office

Ms. Steele will follow up.

Communications

None

ADJOURNMENT

Upon a motion the meeting adjourned at 11:50 a.m.