

MINUTES OF THE PROCEEDINGS OF THE  
LICENSE COMMISSION OF THE CITY OF WORCESTER  
DECEMBER 18, 2014

LEVI LINCOLN CHAMBERS

**Commission Members Present:** Karon Shea, Chairperson

**Commission Members Absent:** Anthony Salvidio, Commissioner

Walter Shea, Commissioner

**Staff Present:**

Deborah Steele, Planning & Regulatory Services

Stephen Rolle, Planning & Regulatory

Alexandra Haralambous, Law Department

Lt. James Johnson, Worcester Police Department

Officer Mark Jolin, Worcester Police Department

Officer Ed Saucier, Worcester Police Department

**Approval of the Minutes** – November 13, 2014-Upon a motion the Commission voted 3-0 to approve the minutes of November 13, 2014.  
December 8, 2014 - Not available.

**OLD BUSINESS**

1. Petition: Request for common victualer license

Petitioner: Wingtown Pizza, 153 Stafford Street

Mira Cazares appeared on behalf of the application. Marlyn Feliciano translated.

Ms. Cazares stated she will be opening a new pizza restaurant at 153 Stafford Street.

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

Exhibit A: Application for common victualer license received December 9, 2014 and dated December 9, 2014.

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

Petitioner: Counterpoint, Inc., 90 Commercial Street

Exhibit A: Application for general on premises liquor license received November 12, 2014 and dated November 12, 2014.

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

Petitioner: Counterpoint, Inc., 90 Commercial Street

Items #2, #3 were taken contemporaneously. Lt. Johnson requested items be continued to the next meeting.

Exhibit A: Application for entertainment license received November 12, 2014 and dated November 12, 2014.

### **NEW BUSINESS**

#### **One Day Liquor & Entertainment Requests:**

4. Petition: Request for one day liquor license, January 15, 2015, 7:00 p.m.-9:00 p.m.

Petitioner: EcoTarium, 222 Harrington Way

A representative from Ecotarium appeared on behalf of the item. She stated that this will be for an event at the Ecotarium and they will be selling malt & wine.

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

Exhibit A: Application for one day liquor license received December 8, 2014 and dated December 8, 2014.

#### **Common Victualer License Requests:**

5. Petition: Request for common victualer license

Petitioner: Spiritual Haze, 589 Park Avenue

Victoria Mariano appeared on behalf of the application. She stated that she is moving from her current location on Park Avenue and would like to stay open to 3:00 a.m.

The Commission members and Lt. Johnson stated that they would not recommend staying open past 2:00 am.

Upon a motion the Commission voted 3-0 to approve the common victualer license with condition that it close at 2:00 a.m.

Exhibit A: Application for common victualer license received November 19, 2014 and dated November 19, 2014.

6. Petition: Request for common victualer license

Petitioner: El Patron Mexican Restaurant. 192 Harding Street

Jose Cazares stated that he was applying for a Mexican Restaurant at 189 Harding Street.

Ms. Steele stated that the application lists the address as 192 Harding Street so it would need to be amended.

Mr. Cazares stated that he was wrong and it is the old Ziti's at 192 Harding Street.

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

Exhibit A: Application for common victualer license received November 25, 2014 and dated November 25, 2014.

**Alcohol & Entertainment Permit Applications:**

7. Petition: Request for change of manager

Petitioner: Colwen Management Inc. dba Courtyard by Marriott, 72  
Grove Street

Peter D'Angelo appeared on behalf of the application. Lt. Johnson stated that there was a question with regard to the background check but thinks it just matter of paperwork and Commission could approve subject to police approval.

Upon a motion the Commission voted 3-0 to approve the change of manager subject to police approval.

Exhibit A: Application for change of manager received December 2, 2014 and dated December 2, 2014.

8. Petition: Request for Change of manager, new officer/director, transfer of stock

Petitioner: Jianhui Group, Inc., 50 Southwest Cutoff

Attorney Wei Jia appeared on behalf of the application and stated that this is request for change of manager, new officer/director and transfer of stock.

Upon a motion the Commission voted 3-0 to approve the change of manager, new officer/director and transfer of stock.

Exhibit A: Application for change of manager, new officer director, transfer of stock received November 1, 2014 and dated November 1, 2014.

9. Petition: Request for transfer of restaurant all alcohol license

Petitioner: A&N Restaurants, Inc., 321 West Boylston Street

Attorney Stephen Gaudette along with Andrew & Nick Norton appeared on behalf of the item.

Attorney Gaudette stated that A&N restaurants will be taking over the Wild Willy's location on West Boylston Street

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

Exhibit A: Application for transfer of liquor license received December 2, 2014 and dated December 2, 2014.

10. Petition: Request for transfer of restaurant all alcohol license & request to have sidewalk dining

Petitioner: Urban Kitchen, LLC, 225-233 Shrewsbury Street

George Voyiatzis appeared on behalf of the application. He stated that this application is for a transfer of ownership and will include outdoor dining.

Upon a motion the Commission voted 3-0 to approve the transfer of ownership including the outdoor dining.

Exhibit A: Application for transfer of restaurant all alcohol license received November 21, 2014 and dated November 21, 2014.

11. Petition: Request for entertainment license for dj, live music, karaoke

Petitioner: JP Alliance, Inc. dba Shangri La, 50 Front Street

Eric Jiang appeared on behalf of the item. He stated he would like to expand his entertainment to include dj, live music, and karaoke.

Upon a motion the Commission voted 3-0 to approve the dj, live music, karaoke.

Exhibit A: Application for entertainment license received via email December 10, 2014 and dated December 10, 2014.

## **VIOLATION HEARINGS**

12. Seven Hills Bay State, Inc., dba Canal 65 Water Street – Violation of Rules #14, #27 - Manager responsible for premises, occupancy violation

Attorney Jonathan Finkelstein along with Elaine Courtney appeared on behalf of the violation.

Lt. Johnson presented the following.

1. On July 13, 2014, Officer Mark Jolin was contacted at 1:40 a.m. via radio by Officer Roger Wiseman to inform him that he was at a fight call at the Canal on Water Street.
2. Officer Wiseman said that the club had at least 150 patrons inside and a large fight broke out.
3. Numerous officers were at the Canal to restore order.
4. Officer Jolin has been receiving many complaints from other officers regarding The Canal.
5. Initially, the business was a restaurant and it has developed more into a night club.
6. The Canal plays dance music inside and has been placing a speaker on the sidewalk playing music extremely loud.
7. Officers working the paid detail at the Perfect Game, across the street from The Canal, have also complained because they have to constantly quell disturbances and solve problems at The Canal.
8. On July 13, 2014, upon officer Jolin's arrival at The Canal he observed multiple staff members picking up broken glass.
9. The street in front of the Licensed Premises was still packed with people.
10. Multiple fights were breaking out while Officer Jolin was inside the Licensed Premises.
11. Officer Jolin met with Elaine Courtney, owner of the Licensed Premises, and confirmed that her occupancy was for 78 patrons.
12. Officer Jolin told Ms. Courtney that she had double the occupancy allowed.
13. Ms. Courtney stated that she noticed the bar was overcrowded and she went to tell the doorman that he had to stop letting people in.
14. When Ms. Courtney went to advise the doorman the bar was too crowded for her to walk through and she had to go out the back door and walk around the outside of the building to the front to tell him.
15. Officer Jolin explained to Ms. Courtney that the noise ordinance states that the noise emitted from the Licensed Premises cannot exceed 10db above ambient noise 20 feet from the building and that the practice of placing the speaker outside and cranking the music was unacceptable.

Attorney Finkelstein stated that Ms. Courtney does not dispute the violation but since then the following measures have been implemented to prevent future violations from occurring:

- The occupancy at the Licensed Premises will be legally increased to 120 by the Inspectional Services Department at the beginning of the New Year.
- Five private security personnel have been hired for Friday and Saturday nights to work the door.
- Staff now carries walkie-talkies to better communicate with each other.
- A metal detector wand is now used at the door.
- A dress code has been implemented.
- Two alcohol intervention classes have been held at the Licensed Premises.
- There is a police detail on Friday and Saturday nights.

Commissioner Salvidio asked that once the occupancy goes to 120 isn't the same problem going to occur (over crowding).

Attorney Finklestein stated that there is a grotto that holds 50 people and two bars so the Licensed Premises can accommodate 120 people.

Lt. Johnson testified currently things have been better at the location but the occupancy is still at 78.

Commissioner Salvidio stated that the more people in the Licensed Premises the harder it is going to be to control the patrons and it is not an excuse for the owner to say she can't control the crowd or her establishment.

Ms. Courtney testified that she understands she is responsible and her patrons now tell her she is the strictest in the city; she takes her business seriously.

Ms. Courtney testified she has increased her security and that has been keeping the bad element/crowd out and she has been strengthening the restaurant element of the establishment.

Commissioner Shea stated that he had concerns that if problem occurs again then it creates a problem with police having to respond and they may get hurt responding to these types of violations.

Commissioner Salvidio stated that the restaurant is in a prime area and it is the Licensee's responsibility to manage their establishment properly and if she doesn't the license will be in jeopardy.

The Commissioners acknowledged the changes the owner has implemented and appreciate those changes however due to the seriousness of the violation they want to impose a suspended sentence.

Based on the evidence, the Commission finds the Licensee violated Rules #14 and #27 of the Worcester License Commission Rules and Regulations for liquor licenses and 204 CMR 2.05(2) and imposes a three (3) day suspended suspension for one year.

Exhibit A: Police report dated July 13, 2014

**13.** Price Chopper Operating Co of Massachusetts dba Price Chopper, #194, 72 Pullman Street – Violation of Rule #1 – Sales before legal hours.

Bob Murphy & Bob Hewett appeared on behalf of violation and waived right to counsel.

Lt. Johnson presented the following.

1. On September 25, 2014, Bill Kiritsy informed Officer Edward Saucier that he had bought wine at Price Chopper on Sunday, September 21, 2014, before 11 a.m.
2. On September 21, 2014, the law was that alcohol could not be sold before noon on a Sunday.
3. On September 29, 2014, Officer Saucier went to Price Chopper at around 11:00 a.m and attempted to buy a bottle of wine but was unsuccessful.
4. On October 21, 2014, Officer Saucier requested and received a print out of all the sales from 2:00 a.m. to 12:00 p.m. (hours prohibited to sell alcohol) for September 21, 2014 for the 72 Pullman Street Price Chopper location.
5. The print out showed the sale of wine Mr. Kiritsy reported to Officer Saucier at 11 a.m. on Sunday, September 21, 2014.
6. The print out also showed the sale of a 12-pack of Budweiser at 11:58 a.m on September 21, 2014.
7. The print out also showed the sale of a 12-pack of Wachusett beer at 11:59 a.m on September 21, 2014.
8. On September 21, 2014, there were three (3) separate violations regarding the sale of alcohol prior to noon on a Sunday at the Licensed Premises.

Mr. Murphy, store manager, appeared on behalf of the license holder and admitted to the violations. Mr. Murphy testified that generally the entire liquor section is blocked off when sales are not allowed and on the day the violations occurred just the shade covering the Yellow Tail wine was broken and allowed customer access. Mr. Murphy testified since he was made aware of the violations the shade has been fixed. Further, Mr. Murphy testified there is now a sign at the registers, for employees to see, listing what hours the alcohol is legally allowed to be sold.

Commissioners Salvidio and Shea expressed concern with the sale of alcohol going through all fourteen registers and whether the Licensee could properly control the sale of alcohol with that many points of sale. Commissioner Salvidio further stated that this was his original concern at the hearing for the license; that with that many points of sale in a large multi-use store the sale of alcohol would not properly be regulated.

Mr. Murphy testified that the cashier who sold the alcohol violated store policy and was documented and was told that she will be suspended if it happens again.

Commissioner Salvidio asked if the store allowed alcohol to be sold at self-checkout lanes. Mr. Murphy testified they have four self-checkout lanes that are controlled by one central register at which they allow the sale of alcohol; the way it works is that the customer must run their identification through the register in order to purchase alcohol.

The Commissioners all agreed that alcohol could not be properly regulated through the self-checkout lanes.

Commissioner Salvidio asked if there were security caps on the wine. Mr. Murphy responded no.

Chair Shea asked if the curtain had been fixed. Mr. Murphy stated that it had been fixed.

Officer Saucier testified that all other areas were locked up the day he went in and attempted to purchase alcohol prior to noon on a Sunday, October 21, 2014.

Commissioner Shea stated that he favored a single point of sale for alcohol and asked Mr. Murphy what would be the difficulty of having one point of sale. Mr. Murphy testified that there would have one line which would back up and delay the customers.

Lt. Johnson testified that he was unaware that there were four automatic registers and asked if someone actually checks the identification of persons buying alcohol. Mr. Murphy testified that there is one clerk for the four self-checkout registers that checks identification.

Chair Shea suggested that would it be easier if the sale of alcohol was not allowed through the automatic checkout lines. Mr. Hewett, regional manager for Price Chopper, stated that Price Chopper would be amenable to that.

Chair Shea stated that Price Chopper needs to remind their employees what the rules are.

Based on the evidence, the Commission finds the Licensee violated Rule #1 of the Worcester License Commission Rules and Regulations for liquor licenses and M.G.L. c. 138, §34 on September 21, 2014, and imposed the following condition on the License:

- The sale of alcohol is not allowed through the automatic, self-checkout lanes.

Exhibit A: Police report dated October 22, 2014

### **Communications**

ABCC Decision-Northgate Petroleum – Revere, MA– dated 2/8/2012- Attorney Haralambous reviewed the case that had gone before the ABCC-Item filed

### **ADJOURNMENT**

Meeting adjourned at 11:00 a.m.