

Minutes for the Lowell License Commission meeting for Thursday, March 22, 2018 at 6:00 p.m., held in the City Council Chamber, 2nd floor, City Hall, 375 Merrimack St., Lowell, MA 01852.

Present: John Descoteaux, Commissioner, Chairman, Commissioners Clifford Krieger, Terry McCarthy, Martha Howe, and Joseph Donahue; and Captain Jack Webb of the Lowell Police Department and Adam LaGrassa, Assistant City Solicitor.

The Commission, on the motion by Commissioner Krieger, second by Commissioner McCarthy, voted to approve the minutes for the meeting of February 15, 2018.

The Commission voted to ratify the issuance of the following license for malt beverages & wines only, or either one # 23SP2018, Richard S. Barrett of Kilkenny Pub, enclosed area at parking lot adjacent to Kilkenny Pub, 660 Rogers Street, St. Patrick's Day, Saturday, March 17, 2018, 2:00 p.m. to 11:00 p.m., issued March 16, 2018; Richard Barrett was present. Commissioner Howe made the motion to approve license, second by Commissioner Donahue.

The Commission voted to ratify the issuance of the special events permit for amplification of sound to Richard S. Barrett of Kilkenny Pub, Inc., for sound system band, disc jockey, St. Patrick's Day, Saturday, March 17, 2018, 2:00 p.m. to 11:00 p.m., in an enclosed area at the parking lot adjacent to Kilkenny Pub, 660 Rogers St., issued March 16, 2018. Commissioner Howe made the motion to approve special events permit, second by Commissioner Donahue.

The Commission reviewed application for special one-day license to sell/dispense malt beverages and wines only, or either one by James O'Hearn of Pollard Library Foundation, Pollard Memorial Library, 401 Merrimack St., Meet the Author Night featuring Anita Diamant, Thursday, April 26, 2018, 6:00 p.m. to 8:00 p.m. James O'Hearn was present. Commissioner Donahue stated that he knows Mr. O'Hearn, and that it will not be a conflict for him to vote on the matter of the application. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Howe, voted to approve the license for James O'Hearn of the Pollard Library Foundation.

The Commission reviewed applications for special one-day license to dispense wines only:

Susan Garry, Loading Dock Gallery, 122 Western Avenue, Shared Vision show - artist reception, Saturday, April 7, 2018, 5:00 p.m. to 7:00 p.m. Susan Garry was present.

Barbara Jean Gilbert, Loading Dock Gallery, 122 Western Avenue, Artist Reception, Saturday, June 2, 2018, 5:00 p.m. to 7:00 p.m. Barbara Jean Gilbert was present.

The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve licenses to dispense wines for Susan Garry and Barbara Jean Gilbert.

The Commission reviewed applications for special events permit for amplified outdoor public entertainment by Caitlin LeMay of The Center for Hope and Healing, for the event Take Back the Night, Thursday, April 5, 2018 from 4:00 p.m. to 7:00 p.m. at Arcand Plaza, a sound system to be used. Marta Bobinski was present. Ms. Bobinski stated it will be the 13th event.

Jhonnatha Cheam of Clemente Park Committee, for the Annual Khmer New Year Celebration, Saturday, April 21, 2018 from 11:00 a.m. to 5:00 p.m., Live Band, Traditional Cambodian Orchestra, Amplified Sound with PA Speakers for Announcements at Palin Volleyball Complex at Roberto J. Clemente Park, 803 Middlesex St. rain date Sunday, April 22nd. Jhonnatha Cheam was present. Mr. Cheam stated it will be the 7th annual event.

The Commission, on the motion by Commissioner Krieger, second by Commissioner Howe, voted to approve special events permits for Caitlin LeMay of The Center for Hope and Healing, and Jhonnatha Cheam of Clemente Park Committee.

The Commission opened the public hearing on the application filed by Rex Corp., d/b/a Rex Restaurant Bakery Lounge, Tuananh Van Nguyen, President, for the transfer of the all alcoholic beverages club license from The Gaelic-American Club, Inc., John B. Brady, Manager, for premises at 255-265 Chelmsford Street, and change of license type from club to restaurant. It is requested that Tuananh Van Nguyen be approved as manager of record for Rex Corp. Rex Corp. has requested approval to pledge corporate stock/beneficial interest. Rex Corp. has filed applications for common victualler license, entertainment in a licensed restaurant for live music, disc jockey, juke box, and license for automatic

amusement device. The following individuals were present: Tuananh Van Nguyen, and Attorney William Martin, legal counsel for Rex Corp. Commissioner Howe asked Mr. Nguyen about his background. Mr. Nguyen stated he is an Engineer; the restaurant will have function rooms. Employees will be knowledgeable about the restaurant business. Commissioner Donahue asked what experience Mr. Nguyen has in the restaurant business serving alcohol. Attorney Martin stated that the restaurant will be a new venture for Mr. Nguyen. Chairman Descoteaux asked Attorney Martin who will be manager. Attorney Martin stated [Mr. Nguyen] will be manager. Attorney Martin stated that a final lease agreement for Rex Corp. will be submitted to the License Commission. The hearing was declared closed, and the following action taken: The Commission voted, on the motion by Commissioner Krieger, second by Commissioner McCarthy, to approve the license transfer for all alcoholic beverages club from The Gaelic-American Club, Inc. to Rex Corp., for premises at 255-265 Chelmsford St.; to approve change of license type from club to restaurant; to approve Tuananh Van Nguyen as manager of record for Rex Corp.; the pledge of corporate stock/beneficial interest to Washington Savings Bank; licenses for common victualler, entertainment in a licensed restaurant for live music, disc jockey, juke box, and for automatic amusement device for the license year to expire December 31, 2018.

The Commission reviewed the application by NAI Entertainment Holdings LLC, d/b/a Showcase Cinema Lowell, all alcoholic beverages restaurant licensee at 32 Reiss Avenue for change of manager to Mary E. Ordway. The following individuals were present: Mary Ordway, and Sean Judge, Area Manager for Showcase Cinemas. Mr. Judge introduced Ms. Ordway as an experienced employee for Showcase Cinemas, and is T.I.P.S. certified. The Commission, on the motion by Commissioner Howe, second by Commissioner Donahue, voted to approve Mary E. Ordway as manager of record for Showcase Cinema Lowell.

The Commission voted to ratify the issuance of the following license # 25SP2018, Geraldine Morillo Barazarte of Galeria Café, at Galeria Café, 366 Merrimack Street, St. Patrick's, Saturday, March 17, 2018,

7:00 p.m. to 10:00 p.m.; Geraldine Morillo Barazarte was present. Commissioner McCarthy made the motion to approve license, second by Commissioner Krieger.

The Commission reviewed the application for special one-day license to sell/dispense malt beverages and wines only, or either one Michell Addo, wedding reception at UTEC, 35 Warren Street, Saturday, May 12, 2018, 3:00 p.m. to 11:00 p.m., originally granted April 27, 2017; request to credit license fee paid 5-19-2017. Ms. Addo was present. Chairman Descoteaux asked Ms. Addo if she had a license before, to which she stated no, and when asked as to the number of guests, Ms. Addo stated 120 people. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, to amend the license for Michell Addo to the date of May 12, 2018, and to credit the license fee paid in 2017.

The Commission ratified, on the motion by Commissioner Howe, second by Commissioner Donahue, the special one-day malt beverages and wines only licenses issued February 16, 2018 to Scott Pelletier of G & AA LLC, d/b/a Fuse Bistro, for the event Winterfest, Friday, February 23, 2018, 5:00 p.m. to 11:00 p.m. 18SP2018, and Saturday, February 24, 2018, 12:00 p.m. to 11:00 p.m. [19SP2018], service area JFK Plaza.

The Commission opened the hearing on the allegations of misconduct as charged by William M. Taylor, Superintendent of Police against the restaurant licensee for alcoholic beverages LCRC, Inc., d/b/a Dudley's, 19 Merrimack St., Matthew J. Murphy, Manager. The following individuals were present: Matthew Murphy, Attorney Michael Zaim, legal counsel for LCRC, Inc., Officer Richy Chum of the Lowell Police Department, witnesses Felicia Bonvie and Robert Wentzell. Attorney Zaim waived the reading of the Superintendent's communication of the allegations of misconduct. Attorney Zaim stated that he understood that the City had issued subpoenas to witnesses; Officer [Daniel] Kingan of the Lowell Police Dept. is not present. Attorney Zaim proceeded to explain Matthew Murphy's purchase of a hand-held device used at Dudley's that records the information from identification cards, presented by patrons. Commissioner Donahue questioned the ID device spoken of by Attorney Zaim. Chairman Descoteaux questioned Captain Webb about false IDs. Captain Webb stated it is a constant issue for the police to keep

up with [false] IDs. Commissioner Krieger stated the more secure [the review of IDs] will make a difference. Attorney Zaim stated information is stored on software database on the office computer; a list of names held by Attorney Zaim is patrons ID at Dudley's January 26/27, 2018. The names of the witnesses recorded in the police report are not on the list. Commissioner Howe asked Mr. Murphy who handles the device at the door. Mr. Murphy stated Travis Smith, who is not present. Commissioner Howe stated the selling, delivering alcohol beverages under 21 not validated; the second and third counts are proven because of the 22 year old patron who had been "unresponsive" [violation of Regulation 1.16 and 204 CMR 2.05 (2)]. Officer Chum appeared before the Commission to answer questions. Commissioner Donahue requested to hear from eyewitnesses. Chairman Descoteaux requested witnesses Felicia Bonvie and Robert Wentzell to stand at the podium. Both Ms. Bonvie and Mr. Wentzell stated that they plead the 5th amendment from self-incrimination. Commissioner Howe asked questions of Ms. Bonvie about Courtney Morin. Asst. Solicitor LaGrassa stated he had a signed affidavit from witness Randy Camasso [not present]. Attorney Zaim objected to the affidavit being submitted since he had not reviewed the document. Chairman Descoteaux requested of Commissioner Howe her opinion on the matter. Commissioner Howe stated she agreed with Attorney Zaim. Chairman Descoteaux stated that Mr. Murphy has done a good job, but this one kind of got away; made the motion to suspend the alcohol beverages license on a violation of Regulation 1.16 for one (1) day to be held in abeyance for six (6) months, second by Commissioner McCarthy, so voted.

The Commission opened the hearing on the allegation of misconduct as charged by William M. Taylor, Superintendent of Police against the following restaurant licensee for alcoholic beverages: LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill, 76-78 Merrimack St., David E. Heeley, Manager. Lauren Disalvo, LLC Manager, and Attorney Travis Jacobs, legal counsel for LD Holdings, were present. Lowell Police Officer Richy Chum was present. The Commission opened the hearing on the allegations of misconduct as charged by William M. Taylor, Superintendent of Police against the following restaurant licensee for alcoholic beverages: LD Holdings, LLC, d/b/a Revolution, 74 Merrimack St., Sean K. Brine, Manager.

Attorney Jacobs waived reading of the Superintendent's allegations of misconduct against Bar 74 Lounge & Grill, and Revolution. Attorney Jacobs addressed the Commission about License Commission Regulation 2.03, failure to cease disc jockey entertainment within thirty (30) minutes of the licensed establishment's closing time. Each establishment was cited for violation of Regulation 2.03. Attorney Jacobs stated as for Revolution, cited for obstructing a fire detection device [smoke detector], it was covered by a painter with plastic and tape, and had not been removed when the painter finished. Attorney Jacobs stated that the Building Department [Office of Development Services] inspected the establishment, did not find cause to issue a violation notice. Captain Webb presented a picture of the covered device, recorded by Police Officer Daniel Kingan. Captain Webb stated that he spoke to David Heeley, Manager of Record for LD Holdings Bar 74. Captain Webb stated Mr. Heeley informed him a couple of weeks ago that his employment as manager ended in [November] 2017. Attorney Jacobs objected to the statement that Mr. Heeley is no longer the manager of Bar 74. Chairman Descoteaux stated there was music downstairs and upstairs [after 1:30 a.m.]; the police officer asked Robert Torno, who was acting as manager for both establishments, about the entertainment which was taking place at 1:35 a.m. in Bar 74, and at 1:40 a.m. in Revolution. Attorney Jacobs stated that Regulation 2.03 regarding disc jockey could be presented via *Facebook* website. Commissioner Krieger stated his experience with the review of regulations four (4) years ago, and noted Attorney Jacobs argument specious. Officer Chum testified to his being on patrol with Officer Kingan the morning of January 14, 2018. Commissioner Donahue acknowledged the five minute leeway on the entertainment, but it is compounded by management not taking control, there is mismanagement; and to cover the smoke detector is egregious. Attorney Jacobs had noted what appears to be police taking more interest in the LD Holdings establishments in downtown. Commissioner Howe stated she takes exception to the characterization of police by Attorney Jacobs. Attorney Jacobs stated Mr. Torno's background as general manager, and that there is more than one smoke detector in the establishment [Revolution]. Commissioner Krieger made the recommendation to pass on the failure to comply with the fire code regarding the smoke detector, but on the violation of

Regulation 2.03 for disc jockey entertainment after 1:30 A.M., a motion that each establishment alcoholic beverages restaurant license, license for common victualler, and entertainment be suspended for one (1) day to be served either April 5th or April 12th. Commissioner McCarthy seconded the motion. The Commission voted unanimously on the motion, to be served April 12, 2018.

The Commission reviewed communications from William M. Taylor, Superintendent of Police, dated 3-5-2018, for allegations of misconduct against restaurant licensee for all alcoholic beverages regarding incident 3-4-2018, and dated 3-7-2018 regarding incident 3-6-2018, against LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill, 76-78 Merrimack St., David E. Heeley, Manager, Lauren DiSalvo, Owner. The Commission voted, on the motion by Commissioner Howe, second by Commissioner Donahue, to schedule hearings for Thursday, April 12, 2018 at 6:00 p.m.

The Commission reviewed the application filed by B & H Beer N Wine, Inc., d/b/a Jay's Beer & Wine, Bhumi A. Patel, President, for the transfer of the malt beverages & wines package store license from Jays Beer N Wine, Inc., Yogendra Patel, Manager, for premises at 168 Gorham Street. The Commission voted to schedule a public hearing for Thursday, April 12, 2018 at 6:00 p.m. in the City Council Chamber. A legal notice will be published in the Lowell *Sun* newspaper Friday, March 30, 2018.

The Commission, on the motion by Commissioner Krieger, second by Commissioner McCarthy, voted to adjourn the meeting at 7:15 p.m.

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

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