

Minutes for the Lowell License Commission meeting for Thursday, April 12, 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, and Joseph Donahue; and Captain Jack Webb of the Lowell Police Department and Gary Gordon, Assistant City Solicitor.

Absent: Commissioner Martha Howe

The Commission, on the motion by Commissioner Krieger, second by Commissioner McCarthy, voted to approve the minutes for the meeting of March 22, 2018.

The Commission reviewed the application for Public Amusement for Carnival license by Dean & Flynn Inc., dba Fiesta Shows of Seabrook, NH, John A. Flynn, representative, at Welcome/Festival Field, 381-501 Pawtucket Blvd., Fiesta Shows Carnival, May 24, 2018 to June 2, 2018, Hours - Tuesday to Friday 6 p.m. to 11 p.m., Monday and Saturdays 12 p.m. to 11 p.m. John Flynn was present. The Commission, on the motion by Commissioner Krieger, second by Commissioner Donahue, voted to approve the public amusement for carnival license to Fiesta Shows.

The Commission, on the motion by Commissioner Donahue, second by Commissioner Krieger, voted to ratify the issuance of the following licenses:

Special one-day license for malt beverages & wines only, or either one –

License # 22SP2018, issued March 9, 2018 to Meg Harrah for Lowell Kinetics Sculpture Race, for premises at 92 Bolt Street, Unit 7, LKSR Annual Fundraiser, Sunday, March 11, 2018, 2:00 p.m. to 5:00 p.m. Meg Harrah was present.

License # 6SP2018, Tabatha Garnett, Catering Manager, Aramark, ETIC Atrium, 40 University Ave., Technology & Emerging Trends Conference, Thursday, March 15, 2018, 2:30 p.m. to 7:00 p.m., license granted December 14, 2017; amended March 9, 2018; and License # 30SP2018, issued to Tabatha Garnett, Catering Manager, Aramark, University Crossing 260, 220 Pawtucket Street, Honorary Degree Reception, Wednesday, April 11, 2018, 3:30 p.m. to 10:00 p.m. Tabatha Garnett was present.

The Commission reviewed the application by Edward Janeczak of Holy Trinity Parish for special one-day license to sell/dispense all alcoholic beverages for the parish dance, Sunday, April 15, 2018, 1:00 p.m. to 6:00 p.m. at Parish Hall, 330 High St. Edward Janeczak was present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve the license for April 15, 2018 to Edward Janeczak of Holy Trinity Parish.

The Commission reviewed applications for special one-day license to sell/dispense malt beverages and wines only, or either one:

Jennifer Simone of Mill No. 5 for Wedding Bazaar, Saturday, April 28, 2018, 12:00 p.m. to 4:00 p.m. at Mill No. 5, 250 Jackson St., 4th floor. Jennifer Simone was present.

Noel Powell of Aaronap Cellars for Wedding Bazaar, Saturday, April 28, 2018, 12:00 p.m. to 4:00 p.m. at Mill No. 5, 250 Jackson St., 4th floor. Noel Powell was present.

Nicholas Arone of Craft Food Hall Project, Craft Food Hall Project, Crosspoint Towers, Tower 3, Waltham Police & Fire Benefit for One Mission, Saturday, April 28, 2018, 5:00 p.m. to 9:00 p.m. Nicholas Arone was present.

Kesiah Rascom of Offbeet Compost, for Offbeet Birthday Party & Fundraiser, Thursday, April 19, 2018, 5:30 p.m. to 9:00 p.m. at 92 Bolt Street, Unit 7. Kesiah Rascom was present.

Nathan Kilbride of the Lowell Fire Fighters Association, for Lowell Fire Fighters road race, Sunday, June 3, 2018, 11:00 a.m. to 2:00 p.m. within the fence enclosed area outside club premises at 362-364 Fletcher Street, Willie & Cross Sts. Nathan Kilbride was present.

Christopher Glenn Hayes for Points of Light Lantern Celebration, Saturday, April 28, 2018, 6:00 p.m. to 10:00 p.m. at Ecumenical Plaza (near 282 Suffolk). Christopher Hayes was present.

Tabatha Garnett, Catering Manager, Aramark, University Crossing 260, 220 Pawtucket Street, Difference Makers Pitch Contest, Wednesday, April 25, 2018, 4:00 p.m. to 10:00 p.m. Tabatha Garnett was present.

Marta Rodrigues, Portuguese American Lowell Youth Center, 739 Central St., Dinner/Dance Fundraiser, Saturday, April 28, 2018, 6:00 p.m. to 12:00 a.m. Marta Rodrigues was present.

The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to approve licenses for Jennifer Simone of Mill No. 5 for April 28, 2018, Noel Powell of Aaronap Cellars for April 28, 2018, Nicholas Arone of Craft Food Hall Project for April 28, 2018, Kesiah Rascom of Offbeet Compost for April 19, 2018, Nathan Kilbride of the Lowell Fire Fighters for June 3, 2018, Christopher Glenn Hayes for Points of Light Lantern Celebration for April 28, 2018, Tabatha Garnett of Aramark for April 25, 2018, and Marta Rodrigues of Portuguese American Lowell Youth Center for April 28, 2018.

The Commission reviewed the application for special events permit for amplified outdoor public entertainment by Christopher Glenn Hayes, DIY Lowell/Points of Light Committee, live music, Points of Light Lantern Celebration, Saturday, April 28, 2018, 6:00 p.m. to 10:00 p.m. (sound-check 3 p.m.), Ecumenical Plaza (near 282 Suffolk). Christopher Hayes was present. The Commission, on the motion by Commissioner Donahue, second by Commissioner McCarthy, voted to approve the special events permit for amplification for April 28, 2018.

The Commission opened the public hearing on 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 following individuals were present: Bhumi A. Patel, Hetal J. Patel, and Attorney Thomas T. Truax, legal counsel for B & H Beer N Wine Inc. Attorney Truax addressed the Commission, stating that Bhumi Patel is presently working at Jay's Food Store [166 Gorham St.] which is adjacent to Jay's Beer & Wine. Ms. Hetal Patel has indirect interest in three Massachusetts package stores. Attorney Truax stated Ms. Bhumi Patel is trained to check for identifications. Chairman Descoteaux stated that the Lowell police department and the Commission are concerned about the underage patrons using fake IDs to buy alcohol beverages at retail stores. Attorney Truax suggested his client can [purchase] a carding machine as a means to check for valid IDs. A motion by Commissioner McCarthy to approve the transfer of the malt beverages & wines only package store license was seconded by Commissioner Donahue. Chairman

Descoteaux opened the public hearing for individuals who wished to speak in opposition to the application, hearing none that portion of the hearing was closed. Chairman Descoteaux opened the hearing for individuals who wished to speak in favor of the application, hearing none that portion of the hearing was closed. The Commission voted to approve the transfer of license from Jays Beer N Wine, Inc. to B & H Beer N Wine, Inc., d/b/a Jay's Beer & Wine, and to approve Bhumi A. Patel as manager of record for B & H Beer N Wine, Inc.

The Commission reviewed the application by Global Montello Group Corp., d/b/a Alltown – Lowell, Sean T. Geary, Assistant Secretary, a malt beverages and wines only package store licensee premises at 980 Chelmsford Street, for change in beneficial interest. The following individuals were present: Attorney Jon D. Aieta of McDermott Quilty & Miller LLP, and Katie Bailey, Associate General Counsel for Global Montello. The Commission, on the motion by Commissioner Krieger, second by Commissioner Donahue, voted to approve the application by Global Montello Group Corp. for change in beneficial interest.

The Commission reviewed the application by Belvidere Liquors, Inc., all alcoholic beverages package store licensee at 36 Concord St., for change of manager to Ms. Barbara M. Correia of Tewksbury. The following individuals were present: Barbara Correia and Attorney Robert Kelly, legal counsel for Belvidere Liquors, Inc. Attorney Kelly stated that Mrs. Correia was taking the place of her late husband, Manuel Correia, who recently passed away. Chairman Descoteaux offered condolences of the Commission to Mrs. Correia. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve Barbara Correia as manager of record for Belvidere Liquors, Inc.

The Commission reviewed the applications by Lowell Exchange Inc., d/b/a Lowell Jewelry & Loan, Christopher D. McCarthy, for renewal of licenses, and change of business address from 24 Merrimack St. to 749 Lakeview Ave., i.e. Pawnbroker, Old Gold, Silver, & Platinum, and Second Hand Articles. Christopher McCarthy was present. Mr. McCarthy stated there is a pending purchase and sales agreement to buy the building at 749 Lakeview Ave. Chairman Descoteaux inquired with Captain Webb if Lowell

police department had a concern about the change in location. Captain Webb stated police department has no problem with the change in address. The Commission, on the motion by Commissioner Donahue, second by Commissioner Krieger, voted to approve the renewal applications by Lowell Exchange Inc. for change in business address to 749 Lakeview Ave. The Commission agreed that Lowell Exchange may continue to do business at the present location of 24 Merrimack St. until the pending purchase of said property is finalized and renovations are made.

The Commission reviewed the application by David Auto Sales, Inc., Sophea Mao, President, for license for Second Hand Motor Vehicles, Used Car Dealer, Class II, for premises at 93 Chelmsford St., open lot approximately 16,958 sq. ft. with office trailer. Sophea Mao was present. The Commission reviewed the plan of the premises. Chairman Descoteaux asked the number of vehicles for sale and storage. Mr. Mao stated 15 vehicles to be stored for sale. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to approve the license for Second hand Motor Vehicles: Use car Dealer, Class II, to David Auto Sales, Inc., Sophea Mao, President, for premises at 93 Chelmsford St.

The Commission reviewed the application for Lodging House license by Yates Realty, Inc., Paul Yates, Vice President, for premises at 278-280 Central St. The license period will commence May 1, 2018, and expire April 30, 2019. The following individuals were present: Paul Yates and Attorney John J. Hartigan, legal counsel for Yates Realty. The Executive Secretary stated that the second and third floors of property have not been licensed as lodging house since May 1, 2015. The first floor of the building has a restaurant licensed to sell and serve alcohol beverages. Attorney Hartigan explained the recent history of the building as to permitting by the City of Lowell for renovations and maintenance. The City of Lowell Building Commissioner closed the upper floors. Mr. Yates had to find temporary lodging for his tenants, and recently a temporary occupancy permit has been issued to allow tenants to return. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to grant a lodging house license for premises at 278-280 Central Street to Yates Realty, Inc.

Chairman Descoteaux announced that he would recuse himself from the LD Holdings hearing on the advice of the Solicitor's office. Commissioner Krieger presiding, the hearing was opened on the allegations of misconduct as charged by William M. Taylor, Superintendent of Police, in a communication dated 3-5-2018, for allegations of misconduct against restaurant licensee for all alcoholic beverages regarding incident 3-4-2018: LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill, 76-78 Merrimack St., David E. Heeley, Manager, Lauren DiSalvo, Owner. The following individuals were present: Lauren DiSalvo, Attorney Travis Jacobs, legal counsel for LD Holdings, LLC, Courtney Vermette, Attorney Paul Donaghue, legal counsel for Ms. Vermette, Lowell Police Officer Daniel Kingan. Commissioner Krieger asked Attorney Jacobs if he wanted the complaint read into the record. Attorney Jacobs stated no thank you to the reading. Officer Kingan, having been sworn in by Asst. Solicitor Gordon as a witness, proceeded to state his eyewitness account of the March 4, 2018 police response to a report of a fight at 1:00 a.m. outside 29 Central Street. Officer Kingan stated the Old Court bar called in the report of a fight to the Lowell Police department. Lowell police were able to determine that the "disturbance from a violent assault that had taken place inside Bar 74 Lounge & Grill at 76-78 Merrimack St." as the Superintendent of Police wrote in his communication to the License Commission, dated March 5, 2018. Asst. Solicitor Gordon question Officer Kingan. Officer Kingan was not sure who the manager was at the time. Attorney Jacobs questioned the reason why a copy of the incident report he received from the Lowell police department three (3) days ago had redacted information. Captain Webb had no knowledge of the report Atty. Jacobs received, but Captain Webb explained that the report he forwarded to the License Commission on March 6, 2018 had only dates of birth and social security numbers redacted. From further discussion it was determined that Atty. Jacobs, ignoring the report in the communication to Ms. DiSalvo, had directly asked the Police Department to forward a copy of the report, that forwarding having additional information redacted. Courtney Vermette appeared before the Commission as a witness subpoenaed by the City Solicitor's Office. Ms. Vermette was accompanied by Attorney Paul Donaghue. Ms. Vermette announced her 5th amendment right not to answer questions about

the police incident report. Commissioner Krieger excused Ms. Vermette from the hearing. Asst. Solicitor Gordon asked the Executive Secretary when the notice of hearing had been sent to the licensee. The Secretary stated March 23, 2018 by email to Lauren DiSalvo and Attorney Travis Jacobs. The notice of hearing included a copy of the communication received from the Superintendent of Police on March 6, 2018. After further discussion, Commissioner Donahue, second by Commissioner McCarthy, the Commission voted to continue the hearing to April 26, 2018.

The Commission opened the hearing on the allegation of misconduct as charged by William M. Taylor, Superintendent of Police, in a communication dated 3-7-2018, for allegations of misconduct against restaurant licensee for all alcoholic beverages regarding incident 3-6-2018: LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill, 76-78 Merrimack St., David E. Heeley, Manager, Lauren DiSalvo, Owner. The following individuals were present: Lauren DiSalvo, Attorney Travis Jacobs, legal counsel for LD Holdings, LLC, and Lowell Police Detective Joseph Borodawka. Attorney Jacobs waived reading of the complaint from the Superintendent of Police. Detective Borodawka, having been sworn in by Asst. Solicitor Gordon as a witness, proceeded to state his eyewitness account of the March 6, 2018 investigation he conducted at Bar 74 as a follow-up to the March 4th disturbance. There was no liquor license on display at Bar 74. Detective Borodawka answered questions from Attorney Jacobs and Asst. Solicitor Gordon. Captain Webb, having been sworn in by Asst. Solicitor Gordon as a witness, spoke of his conversation with David Heeley on March 7, 2018 about his employment as manager of record until the end of 2017, and his recent employment as a doorman at Bar 74. Attorney Jacobs questioned why Mr. Heeley would be doing an inventory of all bottles on the premises if he is not manager. Commissioner Donahue made the motion that the hearing to be continued to April 26th, and that Mr. Heeley be subpoenaed to testify. Commissioner McCarthy seconded the motion, and added that payroll records for David Heeley to be presented to the Commission. Commissioner Donahue seconded the amendment to his motion, so voted.

Chairman Descoteaux returned to preside at the meeting. The Executive Secretary's report was reviewed by the Commission.

Report that the Commonwealth Secretary of State Corporations Division – Involuntary Dissolution by Court 05-31-2007 Costa Verde Corp., Luis Ly, President, all alcoholic beverages restaurant licensee for 2018: 00180-RS-0630, Costa Verde Corp., d/b/a La Pradera, Luis Ly, Manager, 1717 Middlesex Street, Units 6 & 7. The Commission tabled the item as the Secretary stated Mr. Ly is presently working with an accountant for re-instatement of the corporation.

Kevin Bowe of Bump & Feed, LLC appeared before the Commission regarding the public amusement for Show, license # 10PA2018, for Game Time Sports, 1703 Middlesex St., granted January 25, 2018, Chaotic Wrestling, Friday, April 6, 2018, 8:00 p.m. to 11:00 p.m. The Commission voted to amend the license on the motion by Commissioner Krieger, second by Commissioner McCarthy, to wit:

Show, license # 12PA2018, Bump & Feed, LLC, Kevin Bowe, Brian Phillips, Game Time Sports, 1703 Middlesex St., Chaotic Wrestling, event dates of April 27, June 1, July 13, August 24, October 5, November 16 – 2018, 8:00 p.m. to 11:00 p.m., fee \$100.00.

The Commission ratified the amended license per request of Steve Syverson for Wines only, 9SPW2018, Steve Syverson, President, Arts League of Lowell, Inc., 307 Market Street, Artists' reception - Tiny Battles of Random Order, Saturday, March 17, 2018 *, 5:00 p.m. to 7:00 p.m., granted February 15, 2018; amended March 12, 2018 *, * original event date Thursday, May 17, 2018

The Commission, on the motion by Commissioner Krieger, second by Commissioner McCarthy, voted to adjourn the meeting at 7:50 p.m.

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

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