Minutes for the Lowell License Commission meeting for Thursday, July 13, 2017 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 Terry McCarthy, Martha Howe, and Joseph Donahue; and Captain Jack Webb of the Lowell Police Department, James Wellock, Assistant City Solicitor, Hannah Pappenheim, Assistant City Solicitor.

Absent: Commissioner Clifford Krieger

The Commission, on the motion by Commissioner Howe, second by Commissioner Donahue, voted to approve minutes for meeting June 22, 2017.

The Commission reviewed the application by Aaronap Cellars LLC, Noel A. Powell, Manager, a Farmer Winery, for a license to sell wine at a Farmer’s Market at the premises of 250 Jackson St., Mill No. 5, 4th floor, Sundays commencing July 2 thru December 31, 2017, 11:00 a.m. to 3:00 p.m. Noel Powell was present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve the license to sell wine at a Farmer’s Market for Aaronap Cellars LLC.

The Commission reviewed applications by L’Aigle D’Or, Inc., all alcoholic beverages restaurant licensee at 645 Pawtucket Blvd., for change in manager to Melissa B. Sopel of Lowell; for change of beneficial interest – addition of new parent shareholder A-B Parent LLC, Michael Angelakis, CEO. Atty. Trish Farnsworth of Boston, representative for L’Aigle D’Or, and Melissa Sopel were present. The Executive Secretary announced a correction had been submitted by Atty. Farnsworth on the 100% shareholder, AMF Bowling Centers, Inc. Ms. Sopel presented copy of her TIPS and Serve/Safe certifications. The Commission, on the motion by Commissioner Howe, second by Commissioner Donahue, voted to approve the application for change of manager, Melissa B. Sopel, and the application for change of beneficial interest with the addition of parent shareholder A-B Parent LLC, Michael Angelakis.

The Commission reviewed the applications for special one-day license to dispense Wines only by Steve Syverson, President, Arts League of Lowell, Inc., 307 Market Street, for the following events:

Artist's reception - "What is Aleppo?" Saturday, August 12, 2017, 5:00 p.m. to 8:00 p.m.;
Reception - Creativity Art Festival, Saturday, September 16, 2017, 4:00 p.m. to 6:00 p.m., and Sunday, September 17, 2017, 4:00 p.m. to 6:00 p.m. Steve Syverson was present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Howe, voted to approve licenses for Steve Syverson for August 12, September 16 & 17, 2017.

The Commission reviewed the applications for special one-day license to sell/ dispense malt beverages & wines only, or either one for Lowell Folk Festival from the following applicants:

Jerry Murphy of Kandon, Inc., d/b/a Old Court, enclosed outdoor area Middle St. @ corner of Central St., Friday, July 28, 2017, 6:00 p.m. to 12:00 a.m., and Saturday, July 29, 2017, 12:00 noon to 12:00 a.m. Jerry Murphy was present.

David Cruz of DCGR, Inc., d/b/a D & G All Star Lounge, an enclosed outdoor area adjacent to 177 Merrimack Street, Saturday, July 29, 2017, 12:00 noon to 12:00 a.m., and Sunday, July 30, 2017, 12:00 noon to 7:00 p.m. David Cruz was present.

Penny K. Hamourgas of Worthen Café, enclosed parking lot at 152 Worthen Street, Friday, July 28, 2017, 7:00 p.m. to 1:00 a.m., and Saturday, July 29, 2017, 5:00 p.m. to 1:00 a.m. Penny Hamourgas was present.

Javier Barazarte of Galeria Café, 366 Merrimack Street, Friday, July 28, 2017, 5:00 p.m. to 10:00 p.m., Saturday, July 29, 2017, 3:00 p.m. to 11:30 p.m., and Sunday, July 30, 2017, 1:00 p.m. to 6:00 p.m. Javier Barazarte was present.

Captain Webb advised the Commission that Lowell Police will open downtown streets Sunday evening after 6:00 p.m., requesting that “outdoor area” on Merrimack Street close at 6:00 p.m. Chairman Descoteaux asked David Cruz if he would amend the application for Sunday from a 7:00 p.m. end time to 6:00 p.m. Mr. Cruz stated yes.

Chairman Descoteaux addressed Mr. Barazarte about understanding the regulations of serving alcohol beverages. Mr. Barazarte stated he understood the regulations.

The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, approved licenses for Jerry Murphy, David Cruz, Penny Hamourgas, and Javier Barazarte.
The Commission reviewed the applications for special one-day license to sell/dispense malt beverages & wines only, or either one.

For License Commission ratification, license issued July 10, 2017 to Tabatha Garnett, Catering Manager, Aramark, for event at Bellegarde Boathouse, 500 Pawtucket Blvd., Doctoral Residency Program, Monday, July 10, 2017, 3:00 p.m. to 9:00 p.m.

Tabatha Garnett, Catering Manager, Aramark, Tsongas Parking Lot, 300 Martin Luther King Jr. Way, Andover Hockey Tournament, Saturday, August 19, 2017 [rain date Sunday, August 20th], 11:00 a.m. to 7:00 p.m. Tabatha Garnett was present.

Patricia Donahue, Gallery Z, 167 Market St., for the following events:
Performance of "Will Haunt the House", Saturday, July 15, 2017, 8:00 p.m. to 10:00 p.m.;
Acoustic Open Mic, Friday, July 21, 2017, 8:00 p.m. to 10:00 p.m.;
Performance in Café, Saturday, July 29, 2017, 7:00 p.m. to 9:00 p.m.;
Performance by Eddy Dyer, Saturday, August 12, 2017, 8:00 p.m. to 10:00 p.m.;
Open mic acoustic, Friday, August 25, 2017, 8:00 p.m. to 10:00 p.m.

Patricia Donahue was present. The Commission, on the motion by Commissioner Donahue, second by Commissioner Howe, ratified the issuance of the license issued to Tabatha Garnett for the event of July 10, 2017; licenses for Tabatha Garnett for the event of August 19, 2017, and Patricia Donahue for events of July 15, 21, 29, August 12, and 25, 2017.

The Commission reviewed the application by Evelyn Rodriguez for malt beverages & wines only for Festival at JFK Plaza, Arcand Drive, Sunday, August 13, 2017, 12:00 p.m. to 9:00 p.m. Evelyn Rodriguez was present. Ms. Rodriguez stated the event is a Spanish Festival, and she has experience with serving alcohol beverages. There will be several people checking IDs’ to insure that guests requesting alcohol are not under 21 years of age. Commissioner Donahue questioned Ms. Rodriguez. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve the license for Evelyn Rodriguez for the Spanish Festival on August 13, 2017.
The Commission reviewed the special events permit for amplified outdoor public entertainment. The following individuals were present: John Marciano, Sandy McNamara, Joseph Carreiro, Alan Kaplan, Jerry Murphy, Penny Hamourgas, Ted Panagiotopoulos, Ysabel Mansilla, and Molyka Tieng.

John Marciano of Lowell Festival Foundation for the Lowell Folk Festival, Friday, July 28, Saturday, July 29, Sunday, July 30, 2017 - live music, sound system, at Boarding House Park, French & John Sts. / JFK Plaza, City Hall, Arcand Dr. / St. Anne's Churchyard, 8 Kirk St. / Dutton Street Dance Pavilion at NPS parking lot /, Market Street Stage, 246 Market St. / Lee Street Stage @ Lee & John Sts./ The Street Performance Area @ John & Merrimack Sts./ The Family Area at Mack Plaza.

John Marciano of National Park Service for the Lowell Summer Music Series, and Free Fun For Kids, at Boarding House Park, French & John Streets, live music, sound system, July, August, September 2017, Wednesday 10 a.m. to 10 p.m.; Thursday, Friday, Saturday 10 a.m. to 12 a.m.

Sandy McNamara, Centralville Community Coalition, National Night Out, Tuesday, August 1, 2017, 6:00 p.m. to 9:00 p.m., outdoor grounds of 77 Boisvert St., sound system.

Joseph M. Carreiro, Jr. of Mariachi Foods Inc., d/b/a el potro mexican grill, sound system, Saturday, July 29, 2017, enclosed outdoor area in front of 124 Merrimack St.

Alan F. Kaplan of The Middle Street Village, Inc., d/b/a The Village Smokehouse, sound system, Friday, July 28, Saturday, July 29, Sunday, July 30 - 2017, enclosed outdoor area in front of 92-98 Middle St.

Jerry Murphy of Kandon, Inc., The Old Court, sound system, Friday, July 28, Saturday, July 29, 2017, enclosed outdoor area on Middle St. @ corner of Central St.

Penny K. Hamourgas of Worthen House Café, Inc., sound system, Friday, July 28, Saturday, July 29, 2017, enclosed parking area at 152 Worthen St.

Penny K. Hamourgas of Worthen House Café, Inc., sound system for the alley patio at 141 Worthen St. July thru October 2017, Sunday to Wednesday - 10 a.m. to 10 p.m.; Thursday to Saturday - 10 a.m. to 12 a.m.
Theodore Panagiotopoulos of Athenian Corner Restaurant and Lounge, Inc., sound system for musicians on the patio at 207 Market Street, July thru October 2017, Sunday to Wednesday - 10 a.m. to 10 p.m.; Thursday to Saturday - 10 a.m. to 12 a.m.

Ysabel Mansilla of Galeria Café, sound system for sidewalk area in front of 366 Merrimack St., Friday, July 28, Saturday, July 29, Sunday, July 30, 2017.

Molyka Tieng of the Lowell Community Health Center, sound system for d.j., Health Care Week Lawn Games, Tuesday, August 15, 2017, 10:30 a.m. to 1:30 p.m., at 161 Jackson St.

The Commission, on the motion by Commissioner Howe, second by Commissioner Donahue, voted to approve the special event permits for amplified outdoor public entertainment.

The Commission reviewed the applications by Scott Pelletier of G & AA, LLC, d/b/a Fuse Bistro, for special one-day license to sell/dispense malt beverages & wines only, or either one for Lowell Folk Festival at an enclosed outdoor area Palmer St. @ corner of Middle St., Friday, July 28, 2017, 6:00 p.m. to 11:00 p.m., Saturday, July 29, 2017, 12:00 noon to 11:00 p.m., and Sunday, July 30, 2017, 12:00 noon to 6:00 p.m. Scott Pelletier was present. The Commission, on the motion by Commissioner Howe, second by Commissioner McCarthy, voted to approve license for Scott Pelletier.

The Commission reviewed the applications for Sidewalk Stand licenses from the following applicants:

Patricia Donahue of Gallery Z at 167 Market Street, for a seasonal permit, April to October 2017

Richard E. Bolton Jr. of Cultural Organization of Lowell, for COOL Place, 122 Merrimack Street, for Lowell Folk Festival July 28, 29, 30, 2017

Ysabel Mansilla, d/b/a Galeria Café, 366 Merrimack Street, for Lowell Folk Festival July 28, 29, 30, 2017

Mark Coddaire, d/b/a Marx Running, 118 Merrimack Street, for a seasonal permit, April to October 2017

The applicants, Patricia Donahue, Richard Bolton, Ysabel Mansilla, and Mark Coddaire, were present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to approve licenses for Sidewalk Stand to Patricia Donahue of Gallery Z, Richard E. Bolton Jr. of Cultural Organization of Lowell, Ysabel Mansilla, d/b/a Galeria Café, and Mark Coddaire, d/b/a Marx Running.
The Commission opened the hearing on the allegations of misconduct as charged by William M. Taylor, Superintendent of Police, in a communication to License Commission dated May 8, 2017, alleging misconduct by LCRC, Inc., d/b/a Dudley's, 19 Merrimack St., Matthew J. Murphy, Interim Manager, all alcoholic beverages restaurant licensee at 19 Merrimack St.; and review of manager of record application from April 28, 2016. Matthew J. Murphy and Attorney Michael Zaim, legal counsel for LCRC, Inc., were present. Attorney Zaim stated that LCRC, Inc. is up to date with the Department of Revenue. Attorney Zaim addressed the incident at Dudley’s when a female patron accidentally struck her head inside and became unconscious. Detective Alexander described the stops the patron had made prior to having passed out. Atty. Zaim stated the patron did not buy drinks; the drinks had been given to her. She declined a request to be interviewed by a private investigator. There are no toxicology reports. Lowell Police Officer Bryan Toupin was present at the hearing; he testified that Dudley’s was very crowded April 29, 2017; staff very helpful. Sergeant Michael Prescott of the Lowell Police Department was present to answer questions about the crowd of people inside Dudley’s. Commissioner McCarthy questioned the estimate on the number of people inside. Sgt. Prescott stated an estimate of 800 to 1,000 people. Commissioner Howe asked several questions of Atty. Zaim regarding number of drinks served to the patron; why the capacity exceeded capacity [occupant load 1st floor per COI for 2017: 250 front-bar, 83 rear-bar, 10 employees, and 286 outside courtyard]. Atty. Zaim stated that outside security had everyone out prior to the arrival of Fire Dept. Inspector(s). Atty. Zaim stated a busy night, displaying 38 fake licenses taken off people, a bag of “nips,” and knives; [licensee] running a tight ship. Commissioner Howe asked Mr. Murphy why the capacity goes so over. Mr. Murphy stated it went over about 180, and did not think it was as high as 1,000 people. Commissioner Donahue cites Commission regulation 1.16 too many people, and 204 CMR 2.05(2), goes back to the same problem too many people, and unprepared for the number of people. Atty. Zaim stated that it goes back to the pub crawl. Commissioner Donahue asked Sgt. Prescott about the crowd inside Dudley’s. Sgt. Prescott stated there were a lot of people, [police/licensee] decided to tone things down. Commissioner McCarthy asked if there was a police detail. Atty. Zaim stated there was one police detail officer from 4 p.m. to 8 p.m., paid for by [Dudley’s]; for the past seven years the practice is
Assistant Solicitor Wellock questioned Officer Toupin. Asst. Solicitor introduced Robert Johnson who had been subpoenaed by the City to be present at the hearing. Robert Johnson stated he owns “Whats Poppin.” Asst. Solicitor Wellock took the oath of Mr. Johnson prior to offering his testimony. Mr. Johnson stated his business is tee shirt sales. Chairman Descoteaux stated management was helpful; the female patron received six (6) drinks from three (3) people, no serious [past] issue[s] at Dudley’s, recommending a one (1) day suspension, and to be held in abeyance for six (6) months for violation of Regulation 1.16 of the Alcoholic Beverages Regulations of the Lowell License Commission failure to maintain order and decorum in the premises, second by Commissioner McCarthy, so voted.

The Commission opened the hearing on the allegation from William M. Taylor, Superintendent of Police, to License Commission; dated May 10, 2017 regarding all alcoholic beverages restaurant licensees used a promoter without obtaining a promotion license from the Lowell License Commission, a violation of Rule 2.12 of the Alcohol Beverages Regulations:

The Middle Street Village, Inc., d/b/a The Village Smokehouse, 92-98 Middle St., Alan F. Kaplan, Mgr.
LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill, 76-78 Merrimack St., David E. Heeley, Mgr.
LD Holdings, LLC, d/b/a Revolution, 74 Merrimack St., Sean Brine, Mgr.
LCRC, Inc., d/b/a Dudley's, 19 Merrimack St., Matthew J. Murphy, Interim Manager [communication dated May 8, 2017].

The following individuals were present: Alan F. Kaplan and Timothy Kelleher of The Village Smokehouse, Lauren DiSalvo of LD Holdings LLC and Atty. Travis Jacobs, legal counsel for LD Holdings, Matthew Murphy of LCRC, Inc. and Atty. Michael Zaim, legal counsel for LCRC, Inc., and Robert Johnson of What’s Poppin. Asst. Solicitor Wellock cites that the licensees are charged with utilizing the services of a promoter without obtaining the License Commission license for a promoter, a third party, in violation of Regulation 2.12 of the Alcoholic Beverages Regulations of the Lowell License Commission. Robert Johnson addressed the Commission about the business activity of What’s Poppin, a partnership, previously a limited liability company in good standing. Asst. Solicitor Wellock questioned
Mr. Johnson. Mr. Johnson spoke of the business as selling tee shirts; there is no formal agreement with any licensee. He sells tickets by social media which includes a tee shirt. Mr. Johnson stated that 1,500 tee shirts were sold for the April 29th Cinco D’ Mayo promotion for Lowell. Commissioners Howe and Donahue questioned Mr. Johnson about What’s Poppin corporate status. Mr. Johnson acknowledged the LLC dissolution by the Secretary of the Commonwealth; that it is [now] a business partnership with a second person. Tee shirts were handed out in front of The Village Smokehouse after permission was given to do so by management. Commissioner McCarthy questioned Mr. Johnson’s place of residence; Mr. Johnson stated Stoneham, MA. Assistant Solicitor Pappenheim questioned Mr. Johnson. Mr. Johnson stated that he has used the same five venues on a day we [partnership] feel is a good date. Mr. Johnson stated in answer to Asst. Solicitor Pappenheim question that [we] hold events for 18 plus without alcohol. Chairman Descoteaux recommends that the allegation of misconduct charged for each licensee is placed on file; Commissioner Donahue recommends a letter to the City Manager to suggest support by the License Commission when the City Council reviews the matter of adopting an ordinance for pub crawl type events, second by Commissioner Howe, so voted.

The Commission opened the public hearing in consideration of the License Commission decision June 1, 2017 in accordance with Massachusetts General Laws Section 12, Chapter 138, to decrease the hours during which sales of alcoholic beverages may be made by LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill, located at 76-86 Merrimack Street. The Commission may fix the hours for the sales of alcohol beverages for a licensee before 11:00 a.m. and after 11:00 p.m. during the calendar week (Sunday to Saturday). The following individuals were present: Lauren DiSalvo and Atty. Travis Jacobs. Attorney Jacobs stated there has not been a single issue since the 1:00 a.m. legal closing. The licensee has taken a number of changes, refurbished the establishment, done a re-shift, manager change, and purchased metal wands. Lauren DiSalvo stated that she has combined all the changes, every day for every month, not a single issue since last meeting. Captain Webb stated there has been no police activity; Revolution has been closed. Chairman Descoteaux asked if anyone wished to speak in favor of increase the legal closing time to 2:00 a.m.; there was no to speak in favor. Chairman Descoteaux asked if anyone wished to speak
in opposition to the increase in closing time to 2:00 a.m.; there was no one to speak in opposition. The public commentary portion of the hearing was declared closed. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Howe, voted to increase the legal closing time to 2:00 a.m.

The Commission opened the public hearing in consideration of the License Commission decision June 1, 2017 in accordance with Massachusetts General Laws Section 12, Chapter 138, to decrease the hours during which sales of alcoholic beverages may be made by LD Holdings, LLC, d/b/a Revolution, located at 74 Merrimack Street. The Commission may fix the hours for the sales of alcohol beverages for a licensee before 11:00 a.m. and after 11:00 p.m. during the calendar week (Sunday to Saturday). The following individuals were present: Lauren DiSalvo and Atty. Travis Jacobs. Captain Webb stated that Revolution has been closed. Lauren DiSalvo stated that Revolution closed about four (4) weeks ago for renovations, and a change in staff. Chairman Descoteaux duly noted the changes presented as being in the right direction. Chairman Descoteaux asked if anyone wished to speak in favor of increase the legal closing time to 2:00 a.m.; there was no to speak in favor. Chairman Descoteaux asked if anyone wished to speak in opposition to the increase in closing time to 2:00 a.m.; there was no one to speak in opposition. The public commentary portion of the hearing was declared closed. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted to increase the legal closing time to 2:00 a.m.

The Commission reviewed the application by Henry Hoffens of Boston Acustic Music, d/b/a Y40 Sound, for special events permit for amplified outdoor entertainment for the sound system at Hijos de Borinquen, Sunday, August 13, 2017, 12:00 p.m. to 10:00 p.m., at JFK Civic Center. Henry Hoffens was present. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Howe, voted to approve the special events permit for amplified outdoor entertainment.

The Commission reviewed the application by Lowell Steakhouse, Inc., d/b/a Bob's Bar & Grill, Robes Barboza, Manager, all alcoholic beverages restaurant licensee at 490 Central St. for alteration of premises to add outdoor seating of 590 sq. ft. The Commission, on the motion by Commissioner Howe, second by
Commissioner Donahue, ratified the publication of legal notice July 14, 2017 in local newspaper, and to hold a public hearing for July 27, 2017.

The Commission reviewed the application by Speros & Co., Inc., d/b/a Lowell Burger Company, Nicholas J. Speros, Director, for an all alcoholic beverages restaurant license for premises at 143 Merrimack Street. The Commission, on the motion by Commissioner McCarthy, second by Commissioner Howe, ratified the publication of legal notice July 14, 2017 in local newspaper, and to hold a public hearing for July 27, 2017.

The Commission reviewed the communication from Jonathan C. Webb, Deputy Superintendent of Police, dated July 5, 2017 regarding allegations of misconduct against Alexander LLC, d/b/a Vibe Restaurant and Lounge, Alexi M. Torres, Manager, all alcoholic beverages restaurant licensee at 179 Central Street.

The Commission reviewed the communication from Jonathan C. Webb, Deputy Superintendent of Police, dated July 7, 2017 regarding allegations of misconduct against Alexander LLC, d/b/a Vibe Restaurant and Lounge, Alexi M. Torres, Manager, all alcoholic beverages restaurant licensee at 179 Central Street.

The Executive Secretary presented a third communication from William M. Taylor, Superintendent of Police, dated July 11, 2017 regarding allegations of misconduct against Alexander LLC, d/b/a Vibe Restaurant and Lounge, Alexi M. Torres, Manager, all alcoholic beverages restaurant licensee at 179 Central Street [incident date July 9, 2017]. The Commission, on the motion by Chairman Descoteaux, second by Commissioner McCarthy, voted to schedule three hearings, one on each of the three communications alleging misconduct by Alexander LLC, for Thursday, July 27, 2017 at 6:00 p.m. to be held in the City Council Chamber.

The Commission, on the motion by Commissioner Howe, second by Commissioner McCarthy, voted to adjourn the meeting at 7:45 p.m.

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

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