



# BOARD OF LICENSE COMMISSIONERS

City Clerk's Office, 166 Boulder Drive

Fitchburg MA 01420

(978) 829-1820

Daniel Sarefield, Chair

Donna Pawlak

Glenn Fossa

## MINUTES OF MEETING

*The regular meeting of the Board of License Commissioners was held on February 5, 2018 in the Fitchburg Fire Department Community Room, 33 North St., Fitchburg, and called to order by Commissioner Sarefield at 6:01PM. Commissioner Fossa was present. FPD liaison Capt. Lemay was present. Commissioner Pawlak was absent.*

The agenda consisted of the following:

### **I. REVIEW AND ACCEPTANCE OF MINUTES FROM PREVIOUS MEETING**

*Minutes of the previous meeting were reviewed, approved and signed by Commissioners in attendance.*

### **II. NEW APPLICATIONS**

#### Solicitor Application:

Michael P. Butler – Dvinci Energy

*Mr. Butler was present. Application approved 2/0*

#### Taxi Driver Applications:

Frank C. Davis – City Cab

*Mr. Davis was present. Application approved 2/0*

Dyanara Troche – Twin City Kab

*Ms. Troche was present. Application approved 2/0*

Shawn M. Little – Appeal previous decision/denial – Leominster Taxi

*Mr. Little was not present. Appeal tabled until February 21, 2018 2/0*

Emmanuel Petit-Frere – Appeal previous decision/denial – City Cab

*Mr. Petit-Frere was present. Appeal approved with a six month review 2/0*

Holy Rosary Church for six (6) Special One Day Wine and Malt Beverages licenses for Lenten Fish Fry in the Church Hall near the stage, 118 Theresa Street from 4:00PM to 7:00PM on February 16, 23, March 2, 9, 16, 23, 2018 for 260 people.

*Approved 2/0*

Beers for Good for Special One Day Wine and Malt Beverages license for Annual Winterfest & Beer Garden at Cogshall Park in the proximity of the Stone House, 244 Mt. Elam Road, from 12PM to 5PM on February 10, 2018 for 200-300 people.

*Approved with condition that alcohol sale and consumption be kept off the roadway. Road closure to be worked out as a separate matter. 2/0*

#### **Late Closing Permit for 2018 – 2AM**

Tryst Lounge, Inc. – Sunday to Saturday

*Approved for Tuesday – Sunday 2/0*

**Late Closing Permit for 2018 – 1AM**

River Styx Brewing – Sunday to Saturday

*Approved 2/0*

**Annual Entertainment Permit – Monday through Saturday**

Cogghall Park, Nate LaRose – Recreation Director– Live Acoustic Music, Live Amplified Music, DJ, Dancing

Riverfront Park, Nate LaRose – Recreation Director - Live Acoustic Music, Live Amplified Music, DJ, Dancing

Upper Common, Nate LaRose – Recreation Director - Live Acoustic Music, Live Amplified Music, DJ, Dancing

Tryst Lounge - Live Acoustic Music, Live Amplified Music, DJ, Dancing

*All applications listed above approved 2/0*

**Entertainment Permit – Sundays 1PM to midnight**

Tryst Lounge, Paul Chlebecek-Manager - Live Acoustic Music, Live Amplified Music, DJ, Dancing

Cogghall Park, Nate LaRose – Recreation Director- Live Acoustic Music, Live Amplified Music, DJ, Dancing

*All applications listed above approved 2/0*

**III. HEARINGS**

Café Destare, LLC, 320 Main Street, for Transfer of Ownership of Annual Restaurant, All Alcohol Beverages License #00033-RS-0394 to Tryst Lounge, Inc., 320 Main Street, Paul Chlebecek, Manager

*Heather Silvera, Owner and her husband as well as Christopher Iosua, Destare owner and Paul Chlebecek, Manager were present. Plans for the establishment were discussed. Ms. Silvera stated she plans to spend several hours per day on the business of the establishment as she is currently at home with children and does not have other outside employment. Mr. Chlebecek acknowledged receipt of requested information from the City Clerk regarding responsibilities of Manager of Record.*

*Mr. Peter Cote and Ms. Samantha Squailia spoke in favor of the transfer. Hearing closed and application granted 2/0.*

*To be forwarded to the ABCC for review and final approval.*

**IV. CONTINUED SUMMONS HEARING**

Twin City Kab: Mr. Ken Bergeron Owner and Mr. Shawn Little Taxi Driver regarding FPD incident report #17-45271-OF (Licensee is not required to attend – Board continued the hearing to review the findings of Commissioner Pawlak on her research pertaining to transportation laws/regs in Massachusetts.)

*Continued to March 5, 2018 2/0*

**V. TABLED SUMMONS HEARING**

Beemer's Pub and Grill regarding FPD report #17-47275-A-OF

*Mr. Cote was present. He stated that on the night in question there was a Latino Halloween party going on. He stated that he has been unable to obtain the FPD report because it is still under investigation. He stated that customers routinely have bottles of alcohol in their cars because they find them empty in the parking lot. He states that people leave 3-5 times during the evening and then return back to the bar and he states that he knows that when they return they have been drinking in their car. He stated that there is no videotape of the night in question because the tape recycles every two weeks. The bartenders on duty were requested to come to this hearing but Mr. Cote stated that could not come because they are working.*

*Capt. Lemay noted that the driver of the vehicle involved in the accident had a blood alcohol level of 3 times the legal limit. He stated that a witness to the accident who was driving behind the car that crashed stated that he and the driver had been drinking at Beemer's. Capt. Lemay noted that bar staff are able to stop patrons from leaving and re-entering the establishment and that it is the establishment's responsibility to monitor the parking lot.*

*Mr. Cote responded that he allows patrons to leave twice and return to the establishment.*

*Commissioner Sarefield noted that, upon prior Hearing of an incident that occurred in November 2017 the licensee was ordered to come in in April for a review and that if any further violations had occurred the*

licensee would serve a license suspension. Now with this additional incident he is questioning a pattern of over-service at the establishment that needs to be addressed.

Commissioner Fossa stated that a preponderance of the evidence strongly suggests that over-service occurred resulting in a motor vehicle crash. He noted the difference between preponderance of the evidence vs beyond a reasonable doubt measures.

Commissioner Sarefield agreed that there is sufficient evidence to believe that the establishment was involved, that the person involved in the crash had come from Beemer's, that it may be a case of over-service and a penalty appropriate.

Motion made by Commissioner Fossa and seconded as follows: Enforce the previous penalty of a 1 day suspension on April 19, 2018 with 2 days to be held in abeyance. The 2 days in abeyance will be further reviewed at the previously scheduled review to be held at the first meeting in April 2018.

Motion passed by vote of 2/0

Mr. Cote left in an angry manner and voiced loudly that he would be turning in his license because he can't make any money in Fitchburg if the Board closes him down.

#### MISCELLANEOUS

Correspondence: From MA State Lottery Commission regarding KENO to GO Monitor at Jay's Liquor, 134 River Street.

Correspondence reviewed - no action to be taken 2/0

#### VI. CONTINUED MATTERS

1. Lodging House licensing procedure

*Continued 2/0*

2. BYOB regulations

*Approved 2/0*

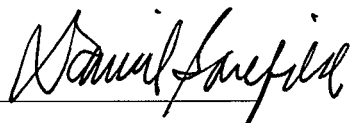
The meeting adjourned at 8:02 PM

Respectfully submitted,

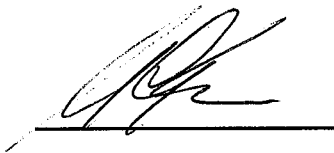


Anna M. Farrell  
City Clerk

Approved:



Daniel Sarefield



Glenn Fossa

NOT PRESENT

Donna Pawlak